

# Agenda

## Planning and regulatory committee

Date: **Wednesday 9 February 2022**

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Time: **10.00 am**

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

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Notes: Please note the time, date and venue of the meeting. Please access the following link for the live webcast of the meeting:  
[Planning and regulatory committee on Wednesday 9 February 2022, 10.00 am - Herefordshire Council](#)

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](mailto: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**

**Councillor Paul Andrews**  
**Councillor Polly Andrews**  
**Councillor Sebastian Bowen**  
**Councillor Elizabeth Foxton**  
**Councillor John Hardwick**  
**Councillor Tony Johnson**  
**Councillor Graham Jones**  
**Councillor Mark Millmore**  
**Councillor Jeremy Milln**  
**Councillor Felicity Norman**  
**Councillor Paul Rone**  
**Councillor John Stone**  
**Councillor Yolande Watson**  
**Councillor William Wilding**

## Agenda

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<b>PUBLIC INFORMATION</b>	
<b>GUIDE TO THE COMMITTEE</b>	
<b>NOLAN PRINCIPLES</b>	
<b>1. APOLOGIES FOR ABSENCE</b>	
To receive apologies for absence.	
<b>2. NAMED SUBSTITUTES (IF ANY)</b>	
To receive details of any Member nominated to attend the meeting in place of a Member of the Committee.	
<b>3. DECLARATIONS OF INTEREST</b>	
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.	
<b>4. MINUTES</b>	13 - 36
To approve the minutes of the meeting held on 17 November 2021.	
<b>5. CHAIRPERSON'S ANNOUNCEMENTS</b>	
To receive any announcements from the Chairperson.	
<b>6. 200995 - BARNs AT KINGSLAND, SOUTH OF LONGFORD, LEOMINSTER, HEREFORDSHIRE</b>	37 - 70
Proposed conversion of three agricultural buildings to form two dwellings and garaging with associated landscaping and infrastructure.	
<b>7. 204230 - PRIORY FARM, STOKE PRIOR, LEOMINSTER, HR6 0ND</b>	71 - 90
Proposed alterations and development of existing equine facilities to form a new indoor arena, stabling and an essential worker's dwelling.	
<b>8. 214230 - 33 BURDON DRIVE, BARTESTREE, HEREFORD, HEREFORDSHIRE, HR1 4DL</b>	91 - 96
Proposed two storey side extension.	
<b>9. 214263 - 13 THE CRAFT, SUTTON ST NICHOLAS, HEREFORD, HEREFORDSHIRE, HR1 3BZ</b>	97 - 102
The proposal includes a 2 storey side extension comprising of a garage at ground floor level and a new principal bedroom at first floor level, with a further single storey section to provide workshop space in the garage. Also proposed is a balcony with glass balustrade to the rear of the principal bedroom.	
<b>10. DATE OF NEXT MEETING</b>	
Date of next site inspection – 15 March 2022	
Date of next meeting – 16 March 2022	

## **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](http://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 261699 or at [governancesupportteam@herefordshire.gov.uk](mailto: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 Paul Andrews	Independents for Herefordshire
Councillor Polly Andrews	Liberal Democrat
Councillor Sebastian Bowen	True Independents
Councillor Elizabeth Foxton	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 Felicity Norman	The Green Party
Councillor Paul Rone	Conservative
Councillor John Stone	Conservative
Councillor Yolande Watson	Independents for Herefordshire
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 and treat others with respect. They should actively promote and robustly support the principles and 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 17 November 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, Mark Millmore, Jeremy Milln, Paul Rone, John Stone and William Wilding

**In attendance:** Councillor Barry Durkin

**40. APOLOGIES FOR ABSENCE**

None.

**41. DECLARATIONS OF INTEREST**

Councillor John Hardwick declared an other interest in respect of agenda item no. 7, application 202566 – Much Fawley Farm; the applicant was a known associate.

There were two further declarations of interest, please see minute 44 below.

**42. MINUTES**

**RESOLVED:** That the minutes of the meeting held on 20 October 2021 be approved.

**43. 210796 - BASTION MEWS, HEREFORD, HEREFORDSHIRE, HR1 2BT (Pages 11 - 12)**

*(Councillor Jeremy Milln left the committee to act as the local ward member for the next application.)*

The Principal 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 Jay Manning, 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 commented that issues with the application were unusual in terms of the form and material of the development and its location in a sensitive Hereford environment. It was questioned whether the application complied with core strategy policy SS6 to conserve and enhance the existing environment and policy LD1 to positively influence the townscape. A consideration of the acceptability of the impact of the development on the historical environment and heritage asset was required. It was noted that the historic buildings officer had objected to the scheme due to the impact of the shipping containers on heritage assets and the materials used which were deemed to be incongruous.

The committee discussed the application.

The local Ward member was given the opportunity to close the debate. He explained that the proposal was not unique, two more sites utilised shipping containers within the mediaeval city walls. It was noted that the use of shipping containers would minimise ground disturbance and damage to potential archaeological sites.

A motion that the application be approved was moved and was carried unanimously.

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

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

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

2. **The development to the fire damaged area of No.3 Bastion Mews and to No.18 Union Street shall be carried out strictly in accordance with drawing numbers 1694 601 Rev B and 1694 402 Rev C except where otherwise agreed in writing stipulated by conditions attached to this permission.**

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

3. **The siting, layout, scale and external finishes of the of the containers shall be carried out in accordance with the approved plans and the schdeule of materials herein (drawing nos. 1694 308 E, 1694 309 A and 1694 313) unless otherwise agreed in writing by the local planning authority.**

**Reason: To ensure adherence to the approved plans and to protect the character, apperance and amenities of the area in accordance with the requirements of Policies SD1 and LD4 of the Herefordshire Local Plan – Core Strategy and the advice contained within Chapters 12 and 16 of the National Planning Policy Framework.**

4. **The containers hereby permitted (drawing nos. 1694 308 E, 1694 309 A and 1694 313) shall be permanantly removed from the site at such time as they are no longer required for the uses hereby approved and the land restored to its former condition in accordance with details to be agreed in writing by the local planning authority beforehand, unless otherwise agreed in writing by the local planning authority.**

**Reason: The containers hereby approved have been put forward as part of an overall scheme for the site's redevelopment to provide flexibility for occupiers of the units. If they are not required for their original purpose, they shall be removed from the site, in the interests of the character of the area and amenity in accordance with Policies SD1 and LD4 of the Herefordshire Local Plan – Core Strategy and the advice contained within Chapters 12 and 16 of the National Planning Policy Framework.**

5. **With the exception of the uses specified in Condition 20, the development hereby permitted shall be used for purposes within Class E of the Town and Country Planning (Use Classes Order) 1987 (as amended) and for no**

other purpose unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** In order to protect the character and amenity of the locality, to maintain the amenities of adjoining properties and to comply with Policies HD2 and SD1 of the Herefordshire Core Strategy – Local Plan.

**Pre-commencement conditions**

6. 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 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 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 shall be submitted to the local planning authority for written approval.

**Reason:** In the interests of human health and to comply with policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework. This information is required prior to the commencement of development as it relates to human health issues and the proposal is new build and situated on potentially contaminative uses.

7. No phase of development shall commence until a Construction Materials and Site Waste Management Plan has been submitted to and approved in writing by the local planning authority. The approved plan shall thereafter be adhered to throughout the construction period for that phase. The plan shall include, but is not limited to, the following matters:
- site management arrangements, including on-site storage of materials, plant and machinery contractors compounds and other facilities; on-site parking and turning provision for site operatives, visitors and construction vehicles; and provision for the loading/unloading of plant and materials within the site;
  - a detailed construction waste management plan that identifies the main waste materials expected to be generated by the development during construction, together with measures for dealing with such materials so as to minimise waste and to maximise re-use, recycling and recovery

**Reason:** The treatment and handling of any site waste is a necessary initial requirement before any demolition and groundworks are undertaken in the interests of pollution prevention and efficient waste minimization and management so as to comply with the Policy SD1 of the Herefordshire Local Plan - Core Strategy.

8. No work on site shall take place until a detailed design and method statement for the foundation design and all new groundworks has been submitted to, and approved in writing by, the local planning authority. The development hereby approved shall only take place in accordance with the detailed scheme approved pursuant to this condition.

**Reason:** The development affects a site on which archaeologically significant remains survive and a design solution is sought to minimise archaeological disturbance through a sympathetic foundation design in order to comply with the requirements of Policy LD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework. The commencement of development in advance of such approval could result in irreparable harm to any identified heritage asset.

9. No development shall take place until the developer has secured the implementation of a programme of archaeological survey and recording [to include recording of the standing historic fabric and any below ground deposits affected by the works]. This programme shall be in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the local planning authority and shall be in accordance with a brief prepared by the County Archaeology Service.

**Reason:** To allow for recording of the building/site during or prior to development and to comply with the requirements of Policy LD4 of the Herefordshire Local Plan – Core Strategy. The brief will inform the scope of the recording action and the National Planning Policy Framework. The commencement of development in advance of such approval could result in irreparable harm to any identified heritage asset.

10. No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul water. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water shall be allowed to connect directly or indirectly with the public sewerage system.

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

#### **Other Conditions**

11. The Remediation Scheme, as approved pursuant to condition no. (3) 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 policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

12. 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 policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

13. Delivery vehicles larger than a LWB Transit type van shall not enter the site. Deliveries larger than a LWB Transit type van shall take place from the loading bay on Union Street.

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

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

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

15. No noise generating plant nor equipment shall be installed to the exterior of the  proposal  without agreement from the local authority in writing.

**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 and the National Planning Policy Framework.

16. No surface water from any increase in the roof area of the building /or impermeable surfaces shall be allowed to drain directly or indirectly to the public sewerage system.

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

17. All foul water shall discharge to the local Welsh Water mains sewer network managed through the Hereford (Eign) Wastewater Treatment Works 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 and SD4.

18. All surface water created by the development shall discharge to on-site Sustainable Drainage Systems 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 and SD3*

19. Prior to any new construction work above foundation level commencing a detailed scheme and annotated location plan for proposed biodiversity net gain enhancement features including provision of 'fixed' habitat features such as habitat boxes supporting bird nesting (including provision for Swifts), bat roosting features and pollinator homes must be supplied to and approved in writing by the local authority. The approved scheme shall be implemented in full and hereafter maintained as approved unless otherwise agreed in writing by the local planning authority.

**Reason:** To ensure that all protected species are considered and habitats enhanced 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 and Countryside Act 1981, National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy (2015) policies SS1, SS6 LD1, LD2 and LD3.

20. No individual shall reside on site in any accommodation hereby permitted for more than 28 consecutive days and no more than for a total of 140 days in any calendar year.

**Reason:** The local planning authority wishes to control the specific use of any occupation on the land for short term/tourist accommodation and not to introduce permanent residential accommodation within the units hereby permitted, in the interest of highway safety, environmental health, heritage, local amenity, the suitability of the structures for permanent residential occupation and refuse and recycling arrangements and to comply with Policy SS1, SS6, LD4, SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

#### **INFORMATIVES:**

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations, 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 site is within an Area of Archaeological Importance designated under the Ancient Monuments and Archaeological Areas Act 1979. The effects of this are that notice is required of any proposed operations which will disturb the ground. An Operations Notice and accompanying Certificate should be served on Herefordshire Council prior to the commencement of such operations.
3. The applicant is advised that the proposed development affects the site of a Scheduled Ancient Monument. Section 2 of the Ancient Monuments and Archaeological Areas Act 1979 requires the developer to obtain Scheduled Monument Consent from the Secretary of State for Culture, Media and Sport before development commences. The Scheduled Monument Consent Branch can be contacted at 2-4 Cockspur Street, London, SW1Y 5DH. It is an offence to execute or permit to be executed any works resulting in the demolition or destruction of or any damage to a Scheduled Monument.
4. 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 is advised that further advice from a local professional ecology consultant is obtained.
5. The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"-7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com)
6. The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. 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.

*(There was an adjournment at 10:52. The meeting reconvened at 11:05.)*

*(Councillor Jeremy Milln resumed his seat on the committee.)*

**44. 202566 - MUCH FAWLEY FARM, FAWLEY CHAPEL ROAD, FAWLEY, HEREFORD, HEREFORDSHIRE, HR1 4SP**

The Principal Planning Officer gave the 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 the public speaking Mr R Palgrave, local resident, spoke in objection to the application and Mr N Green, the applicant, spoke in support.

In accordance with the council's constitution the local ward member spoke on the application. In summary he explained that the site and its history was complex. The Environment Agency and planning enforcement had been involved on the site with respect to noise and odour issues. The noise that was produced by the combined heat and power unit unreasonably affected residential amenity and provided a reason for refusal of the application. The impact of the site on the water quality in the River Wye was questioned. It was queried whether the wall on the site was lawful or in accordance with previous permissions. It was noted that a number of Local residents and the parish council opposed the application.

Councillor Barry Durkin declared an other interest as a member of the Wye Valley AONB.

Councillor John Hardwick declared an other interest as a member of the Wye Valley AONB.

The committee discussed the application.

A motion that the application be deferred was moved. The motion was later withdrawn following the withdrawal of the seconder.

The local ward member was given the opportunity to close the debate. He explained that the planting on site as mitigation had been a cause of concern for the Landscape officer.

A motion that the application be approved was moved and was carried.

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

- 1. Development in accordance with the approved plans**
- 2. At no time shall more than one CHP unit be in operation and discharging any air emissions within the Much Fawley Farm holding without the prior written approval of the local planning authority.**

**Reason: In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6 and LD2.**

- 3. Should the Anaerobic Digester Plant on site cease to be permanently in operation, the CHP unit and storage container hereby permitted shall be removed permanently from the site.**

**Reason: The nature of the development is such that it is only considered acceptable**

in this location having regard to the authorised Anaerobic Digester Plant on site and Policies SD1 and SD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

4. The CHP hereby approved shall not be used until the timber panel barrier which forms the noise mitigation has been installed in accordance with the details outlined within the Acoustic Note NO1a dated 11th March 2021. Photographic evidence with confirmation of the date of installation shall be submitted and confirmed in writing by to the Local Planning Authority. The approved timber panel barrier and concrete wall as detailed on plan NO1a dated 11<sup>th</sup> March 2021 shall be retained and maintained for the duration of the authorised use of the CHP.

Reason: To development requires the retention on the timber panel barrier and concrete wall to ensure that the amenity of the area with regards to noise is safeguarded and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and National Planning Policy Framework.

- 5 The landscaping scheme as shown on approved Landscape Plan 050-210 rev B shall be completed no later than the first planting season following the date of the decision. A planting zone of minimum 2-2.5m shall be provided, with trees planted at minimum 2.5m from the base of the concrete wall. The landscaping shall be maintained for a period of 10 years in accordance with the details outlined within the Landscape Maintenance and Management Plan by Steele Landscape Design dated November 2021. During this time, any trees, shrubs or other plants which are removed, die or which are seriously damaged 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.

In addition no later than the 1st April in each of the 5 calendar years following the first planting of the hedgerow and trees as shown on plan 050-210 rev B, the operator of the AD plant shall submit to the Local Planning Authority a written statement detailing:

- a) The number, location and species of plants, shrubs and trees which have been planted, in the preceding 12 months;
- b) The number, location and species of plants, shrubs and trees which have died, become diseased or seriously damaged in the preceding 12 month; and
- c) Proposals for the replanting and maintenance of any such failures with plants of similar size and species within the following 6 months.

Reason: In order to maintain the visual amenities of the area and to confirm with policy LD1 of the Herefordshire local Plan – Core Strategy and the National Planning Policy Framework

#### **INFORMATIVES:**

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. 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.

*(There was an adjournment at 12:30. The meeting reconvened at 12:41.)*

**45. 201962 - HOPEFIELD COTTAGE, HAYNALL, LITTLE HEREFORD, LUDLOW, HEREFORD, SY8 4BG (Pages 13 - 14)**

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

The Development Manager, North team, gave a presentation on the application and 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 D Edwards, local resident, spoke in objection to the application and Mr E Thomas, the applicant's agent, spoke in support.

In accordance with the council's constitution the local ward member spoke on the application. In summary he commented there were concerns locally the lodges would become houses for residential use. Local objection concerned: the sustainability of the site; the increase in traffic movements accessing the site; drainage from the site; noise; and the overlooking of existing properties. The application was not in accordance with policy BLH18 of the neighbourhood development plan. Car parking was limited and the noise from the site would impact adversely upon residential amenity. The application would result in greater levels of traffic on local roads. It was noted that alternative tourist facilities existed locally therefore the need for the development was questioned. The sustainability of the site was questioned: there was limited economic and social benefit; and adverse environmental impact on local residential amenity caused by increased noise and light.

The committee discussed the application.

The local ward member was given the opportunity to close the debate. He explained: the application was in open countryside; it would impact on the local highway network; drainage issues had not been clarified; the application did not conform to policy BLH8 and BLH18 in the local neighbourhood development plan; the location was not sustainable; and the impact on residential amenity posed by noise, parking and lighting was unacceptable.

A motion that the application be refused due to: a lack of evidenced need for the development; an unacceptable impact on residential amenity; and insufficient evidence of the sustainability of the application (with reference to policies SS1, SD1, RA6 and E4 of the Core Strategy and policies BLH 8 and 18 of the neighbourhood development plan) was moved and was carried unanimously.

**Resolved – that planning permission is refused due to: a lack of evidenced need for the development; an unacceptable impact on residential amenity; and insufficient evidence of the sustainability of the application (with reference to policies SS1, SD1, RA6 and E4 of the Core Strategy and policies BLH 8 and 18 of the neighbourhood development plan)**

The meeting ended at 1.31 pm

**Chairperson**

**210796 - THE PROPOSED REDEVELOPMENT OF LAND AND BUILDINGS AT BASTION MEWS TO CREATE A MIXED-USE INDEPENDENT QUARTER COMPRISING NEW COMMERCIAL FLOOR SPACE AND VISITOR ACCOMMODATION, ASSOCIATED DEMOLITION, USE OF EXTERNAL AREAS AS EVENTS SPACE AND ASSOCIATED WORKS OF ALTERATION TO NO.18 UNION STREET TO ENABLE A SECOND MEANS OF ACCESS/EGRESS. AT BASTION MEWS, HEREFORD, HEREFORDSHIRE, HR1 2BT**

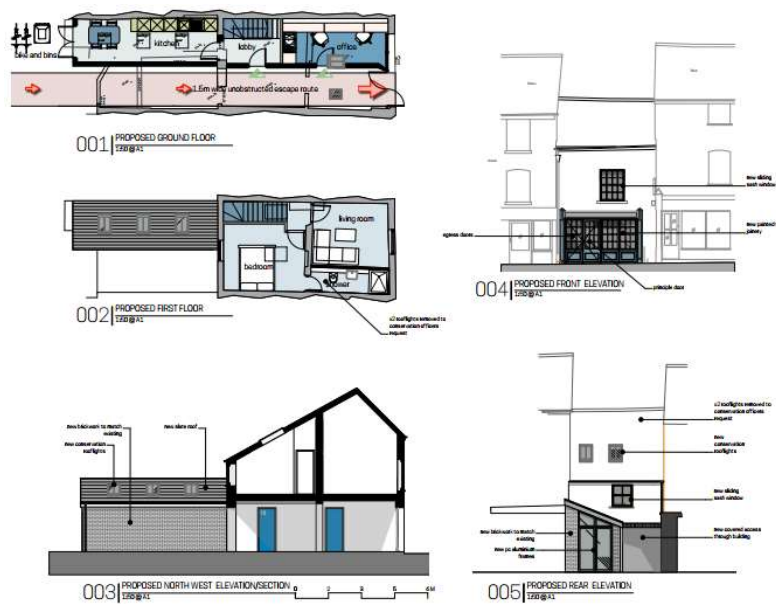
**For: Mr Manning per Mr Ed Thomas, 13 Langland Drive, Hereford, Herefordshire, HR4 0QG**

**OFFICER COMMENTS**

There are two updates to the Committee Report in respect of the above application.

Firstly, Paragraph 1.14 of the Committee Report includes an extract of the plans in respect of the proposals at 18 Union Street. In response to comments made by the Building Conservation Officer, the applicant omitted two of the rooflights. An extract of the updated plan showing only two rooflights to the rear elevation of the building is included below.

**Extract of drawing showing 18 Union Street (Koda Architects – drawing no. 1694 402 C)**



Secondly, the current wording of Condition 5 is such that it limits the use of the containers to purposes within Class E of the Use Classes Order 1987 (As Amended).

Members will note the application documentation and Committee Report refers to the use of some of the containers as short term holiday/visitor accommodation alongside Class E Uses.

The application was assessed on the basis of the acceptability of the proposed Class E Uses and short term holiday/visitor accommodation, however the current wording of Condition 5 would restrict the use to Class E only. As such, the wording of the condition has been amended and also an additional condition added in respect of the short term holiday/visitor accommodation as the below.

#### **CHANGE TO RECOMMENDATION**

There is no change to the recommendation other than an amendment to Condition 5 as per the below and an additional condition in respect of occupancy.

#### Condition 5 amended to read as follows:

5. With the exception of the uses specified in Condition 20, the development hereby permitted shall be used for purposes within Class E of the Town and Country Planning (Use Classes Order) 1987 (as amended) and for no other purpose unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to protect the character and amenity of the locality, to maintain the amenities of adjoining properties and to comply with Policies HD2 and SD1 of the Herefordshire Core Strategy – Local Plan.

#### Additional Condition:

20. No individual shall reside on site in any accommodation hereby permitted for more than 28 consecutive days and no more than for a total of 140 days in any calendar year.

Reason: The local planning authority wishes to control the specific use of any occupation on the land for short term/tourist accommodation and not to introduce permanent residential accommodation within the units hereby permitted, in the interest of highway safety, environmental health, heritage, local amenity, the suitability of the structures for permanent residential occupation and refuse and recycling arrangements and to comply with Policy SS1, SS6, LD4, SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.



**202566 - INSTALLATION OF COMBINED HEAT AND POWER UNIT AND GREEN STORAGE CONTAINER. RETROSPECTIVE. AT MUCH FAWLEY FARM, FAWLEY CHAPEL ROAD, FAWLEY, HEREFORD, HR1 4SP**

**For: Mr Green per Mr James Whilding, Addlepool Business Centre, Woodbury Road, Clyst St George, Exeter, Devon EX3 0NR**

#### **ADDITIONAL REPRESENTATIONS**

Additional representations have been received from Helen Hamilton (Marches Planning) as below:

**10<sup>th</sup> November 2021**

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**Link to representation:**

<https://myaccount.herefordshire.gov.uk/documents?id=8964d813-4640-11ec-ae38-0050569f00ad>

I have read your officer report (OR) and the email exchanges with Thrings in relation to the lawfulness of the AD plant at Much Fawley.

I was advised that the OR would explain why the Council disagreed with Christian Zwart's opinion (attached) that the project as a whole is unlawful. It has not done so. In fact, the legal advice is not even mentioned.

You are under the mistaken understanding that the fact that the plant began operating more than 10 years ago corrected any unlawfulness and that this was evidence of substantial completion of development. This is wrong.

I won't repeat the case law - that is in the opinion - but the basic principles arise from the Pilkington line of cases and Panton & Farmer.

The development was not built in accordance with the plans and was built in a way that meant the plans and conditions could not be complied with. The development then continued to expand over a wider area substantially enlarging the planning unit. In December 2020, a new digestate tank was installed to the north east of the site, despite planning permission having twice been refused for this development. Since then, the applicant has erected a new bund to the north of this tank, expanding the boundary of the site - and so the planning unit - even further.

Consequently, substantial completion - ie the date from which immunity from planning enforcement runs - was not achieved until this year.

Please will you confirm that the legal opinion is set out in the OR in a way that enables members of the committee to understand the issues and arrive at their own judgement.

I have other comments to make about the OR which I will address in a separate representation.

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## Further email on the 10<sup>th</sup> November

### Link to representation:

<https://myaccount.herefordshire.gov.uk/documents?id=e5b666bc-4639-11ec-ae38-0050569f00ad>

Further to my earlier email I have now reviewed your officer report in more detail and would be grateful if you would address the matters detailed below before the committee meeting. In particular, I would be grateful if you would correct the erroneous claim that the concrete walls were required by the Environment Agency. They were not, as the attached evidence shows.

1) At paragraph 1.15 the report advises that the public inquiry into this case will commence on 7th December. It has not explained that the consequence of granting this application would be that the inquiry will be cancelled and the enforcement notices nullified.

Members should be made aware that the Planning Inspectorate has decided that this case is so complex that the inquiry needs to sit for four days to hear evidence. (The Applicant and the Council had asked for a one-day inquiry)

That evidence will relate, among other things, to the question of whether the Anaerobic Digester project as a whole is lawful, the acceptability of the concrete walls in the AONB and the feasibility of the landscape proposals.

The Officer Report has also failed to report the legal opinion of planning barrister Christian Zwaart that the AD is unauthorised and capable of planning enforcement, contrary to the views expressed in the report.

Members should be made aware that they do not have to agree with the judgement of officers as to the lawfulness of either the concrete walls or the AD as a whole, but they have not been provided with the evidence they require to form their own opinion.

The committee could also decide to defer determination of the application so that this difficult case can be considered by a planning inspector through the public inquiry.

I was advised that the Officer Report would explain why officers have chosen to bring this case to committee less than three weeks before the commencement of an inquiry that would determine an application for the same development. Given this planning application was received in August 2020, it is impossible to understand why it was deemed sensible to bring the case to committee now, especially given the inconvenience and wasted cost for all parties. I would be grateful if you would set out officers' reasoning for this decision in an update to the committee.

2) At 4.2 the report cites the Environment Agency's response, which recommends that the Environmental Permit application and the planning application are twin-tracked. Please explain why the Council has not acceded to this recommendation.

3) At 4.4.2, the report provides the landscape officer's recommendations for the screening of the concrete walls. It has not cited the evidence provided on behalf of our clients that the landscaping scheme could not be implemented because of the wide and deep concrete footings to the walls as shown on the Environmental Permit plans and because the ground levels around the site have been raised by several metres with hardcore. Please would you put this evidence before the members of the committee.

4) At 4.5, you have repeated the ecology officer's response but not my comments on it. You will be aware that contrary to the officer's assertion, most of the Wye SAC's qualifying features and ancient woodland are highly sensitive to any deterioration in air quality. The SAC habitat most vulnerable to SO<sub>2</sub> is *Ranunculus fluitans* (water crowfoot), not jelly lichens

as the ecology officer asserted. The River Wye has lost up to 95% of this important habitat in very recent years and the LPA, as a competent authority under the Habitats Regulations, is under a duty to take steps to restore this habitat.

Natural England's conservation objectives for the River Wye require a reduction in air pollutants, including ammonia and nitrogen deposition. The Air Pollution Information System (APIS) shows there is a significant exceedance of the critical loads and levels of these pollutants to this part of the SAC.

5) At 4.6.1, the report says "*the site is permitted by the Environment Agency and ultimately it is the Agency that regulates emissions to air, land and water.*" However, it fails to explain that these emissions are a material consideration in any planning decision.

6) At 5.3 the report cites a letter of objection that the development "*is no longer compliant with how it was originally permitted.*" It has not referred to the legal opinion that it was never compliant with the permission.

Nor has the report explained the concept of "salami-slicing", in which components of a wider project - such as this AD plant - are treated as separate items in order to avoid scrutiny under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and the Conservation of Habitats and Species Regulations 2017. This was explained in the legal opinion and is highly relevant to this application: committee members need to decide whether this application is an attempt at salami-slicing.

7) At 6.3 you advise that a number of changes and additions "*were required under the permit, most notably the addition of a 3m high silage pit wall...*" This is wrong and significantly misleading. I attach a copy of the approved Environmental Permit plan, which shows that the bund was only required to be 0.5m high (Emission Point Q), and a Freedom of Information response from the Environment Agency advising that the EA has NOT asked for any development other than is shown on this plan.

You refer to an "*underground gas holder.*" The gas holder is above ground (although it was probably deflated when you visited the site). It was installed when the AD was built, even though it was not part of the planning application and was not shown on the application plans. A gas holder was shown on a landscaping plan approved in 2011, however it was installed in a different location to this plan. The gas holder is in the location shown on the permit plan. (Emission Point I).

8) At 6.5 the report states "*Officers have not been provided with any evidence that the original permission was not installed and appointed as approved prior to the EA permit application approval.*" We have submitted ample evidence of this, not least the fact that, from the start, the development covered a much larger area than disclosed and so should have been screened under the EIA Regulations; the applicant installed silage pits outside the red line boundary, the tanks and process buildings were not in accordance with the plans; most of the structures were not olive green as required by condition, the hardstanding and drainage precluded the implementation of the landscaping plan and the AD used a slurry pit-outside the red line - for digestate storage (also in breach of the environmental permit).

9) At 6.9 the report says "*the need for the second back up CHP has arisen from changes in the requirements from the EA.*" The EA's FOI response contradicts this. The EA says it has not required any works or equipment beyond what is shown on the permit plan.

10) The report describes the CHP as "*a standalone development.*" By definition it cannot be standalone. Without the AD, there is no requirement for the CHP and without the CHP, there is no requirement for the concrete walls or the proposed extension of them.

11) At 6.14 and 6.16, the report advises that the "*principle of the AD plant is not for consideration.*" This statement contradicts the legal opinion and is a matter of planning

judgement for committee members. If the case proceeds to the inquiry, it will be a question for the Planning Inspector to address.

12) At 6.30, the report says *“it is unclear if the concrete wall was constructed as a noise barrier.”* The applicant has confirmed that it was. See attached extract from a letter he wrote to a neighbour. (The whole letter can be provided if necessary).

13) At 6.33 the report has misquoted NPPF paragraph 174, which refers to *“recognising the intrinsic character and beauty of the countryside.”* This paragraph is about conserving and enhancing the natural environment and makes no reference to rural communities as the report suggests. The report has omitted to cite the NPPF paragraphs most relevant to this application - 176 and 177.

*176 Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.*

*177 When considering applications for development within National Parks, the Broads and Areas of Outstanding Natural Beauty, permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:*

- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;*
- b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and*
- c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.*

14) At 6.35 the report advises that *“the concrete wall is not part of this application”* (and incorrectly claims that the wall was part of the EA permit). The wall is only immune from planning enforcement if it can be determined that it is separate from the AD project and that substantial completion has been achieved. As you are aware, the AD site continues to evolve with the installation of the digestate storage tank last December and the erection of a bund to the north of the site this year.

If this permission is granted, it would require a further extension to the walls, which would mean that the walls themselves are not complete and are not, therefore, immune from planning enforcement even if they could be isolated from the AD project.

Since the CHP is not acceptable without an extension to the walls, further development of the walls is required and must form part of this planning application.

The Applicant has not provided any plans or elevation drawings of the existing and proposed walls.

15) At 6.43, the report advises *“Planning permissions cannot be reversed”*. This is not strictly correct: planning permissions can be revoked, but planning authorities rarely do this because they may have to pay compensation. However, that is not an issue here where a

legal opinion has demonstrated that the development is unlawful and the planning permission invalid.

In a very similar case Vale of Glamorgan Council issued an enforcement notice against a much larger biomass development than this one because it was not built in accordance with the plans:

<https://www.valeofglamorgan.gov.uk/en/our-council/press-and-communications/latest-news/2021/August/Council-takes-enforcement-action-over-Barry-Biomass-Plant.aspx>

Herefordshire Council could and should do the same so that the whole AD project at Much Fawley can be subjected to Environmental Impact Assessment to determine whether the many harmful impacts of this development can be mitigated.

Finally, can officers please explain what is meant by a “*green storage container*” in the application description.

Please confirm that these matters will be addressed in an update to the committee report and that the representations and evidence I have provided in relation to the HRA, heritage and landscape impacts will be put before the committee.

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**The following emails were received from Karen Hartwell Baker on Saturday 13<sup>th</sup> November 2021:**

Dear Rebecca

As you are aware from the numerous historic complaints, this site has caused much distress to neighbours from odour, noise and damage to the riverbanks due to altered drainage and run off. Complaints which could have been dealt with had the site been effectively managed, machinery maintained, planning and EA requirements adhered to.

By separate emails, due to the file size, I will forward 3 documents which you have seen but the Committee members will probably not have seen:

- An EA report regarding noise and odour
- Counsel advice regarding the site
- Helen Hamilton's presentation in March to the Council Officers regarding the breaches and disregard for EA and Planning, historic and current.

The CHP was running for almost 4 years whilst the original engine was being repaired.... During this time reports of noise, and close neighbours being unable to sleep at night with windows open were made, they were ignored. Why was planning only applied for retrospectively?

Likewise, planning for the green digestate storage tank was only sought after it had been built. It stands outside the permitted area of the site.

The CHP cannot be considered on a stand alone basis as the applicant asserts that the concrete walls were built as soundproofing.

If these walls were built as soundproofing, they would have encompassed the CHP and planning should have been sought. It is more probable that the walls were erected for a silage pit as there was a breach of EA permit with the current storage.

I understand there is no enforcement against the concrete walls. Is it normally permissible to alter footpath levels and erect high concrete walls in an AONB without planning?

According to the officer report there is no issue with ground water. Could you explain why the site area is permanently puddled and it flooded at Christmas necessitating pumping the excess polluted water over the field into the Wye?

This case is being taken to committee when an inquiry is scheduled to take place in 2 weeks time. If the planning inspectorate considered it necessary to take four days over this case, how are committee members meant to be able to decide at a Planning Committee meeting?

According to the current operators the AD is running at less than 1% capacity, just to keep it alive whilst a decision is taken in regard to leasing the site to commercial operators. It is therefore not representative of what it has been like in terms of nuisance when running at full capacity.

Should the site be leased to a commercial operator, it will no longer have justification for its original planning permission as an on-farm operation.

Documents submitted via email:

- Environment Agency Report of site visit on the 26<sup>th</sup> May 2021
- Council Opinion from Christiaan Zwart acquired by Marches Planning
- Anaerobic Digester & Plant at Much Fawley & Seabourns Farm presentation by Marches Planning 11<sup>th</sup> March 2021

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#### **Email from Natural England to Mrs Helen Hamilton on the 11<sup>th</sup> November 2021**

Links to correspondence full:

<https://myaccount.herefordshire.gov.uk/documents?id=a3a2ee0b-4642-11ec-ae38-0050569f00ad>

<https://myaccount.herefordshire.gov.uk/documents?id=d91fd477-42f3-11ec-aa16-0050569f00ad>

Dear Ms Hamilton,

Thank you for your email.

I can confirm that Natural England only considered this specific application which was to install another CHP unit to be used as a back-up for the existing one. Our advice is not related to the wider AD project which you have raised concerns around. We did not consider whether the existing relevant permissions were correct and whether the AD plant was installed and run as per the original consents. Our consideration was purely based on the use of another CHP whilst the other was not being used. The planning documents stated that only one would be run at any one time and this was to be secured through condition if planning consent was granted. Our response was based on this statement which is highlighted within the HRA.

Natural England has not commented on the potential impacts on AONB but in general we would recommend the relevant AONB board is contacted for their views when a proposal falls within a protected landscape.

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#### **Comments received from Brockhampton and Much Fawley Parish Council**

The Parish Council wish to support local businesses and to reflect the concerns of the applicant and the local residents adjacent to the proposed site. On balance the Parish Council of Brockhampton with Much Fawley oppose this retrospective application and

request Herefordshire Council withholds planning permission, subject to a full review of the planning and permitting compliance requirements to address the concerns raised.

This retrospective application is for the placement of a Standby CHP Generator installed in a shipping container that appears to be closer to neighbours' homes than the CHP plant approved as part of, or subsequent to, the original application for an AD Plant. Only one CHP plant can generate electricity at any time.

Following installation of the standby, plant that is the subject of this application, it seems that the standby plant has become the primary means of producing electricity and heat for the AD unit and the original system is used as the standby unit now.

The plant that is the subject of this application has raised significant concerns from the residents adjacent to the site, as the noise and emissions from this unit appear to produce a higher level of nuisance than the original equipment and location.

There appears to be some confusion over the proposed mitigation measures to address the issues raised by residents close to the site. Any mitigation measures that might be offered or required must be completed and inspected by the appropriate officer.

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### **Comments received from Sarah Lewis from Historic England**

I can confirm that we rely on the LPA to judge whether consultation in accordance with national guidance is necessary and on the basis that the application relates only to the CHP unit and storage container we would not expect to have been consulted in this instance.

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### **Letter of support from the owners of Tremelza received on the 16<sup>th</sup> November 2021**

Thank you for your time earlier. As discussed on the phone, my property is marked on the preceding planning document as being one of the properties at most risk of the noise impact from the plant.

As discussed I wanted to make my neutrality in this matter clear and that I or my partner are not under legal representation by any of the parties involved currently; who I understand have only detailed they are representing "the community" for the record. As such I wanted to make it clear that this does not include the owners of Tremelza (site mark B).

My views on the site have not been sought by any official body with regard to this whole matter and have only been requested by that of neighbours currently which as a new resident, I am somewhat uncomfortable with given the long history of the plant and strained community relationships.

I will be more than happy to discuss this at an official level given privacy and opportunity to do so.

As such I wanted to make it clear that I have no objection to the installation of sound suppression measures around the site as I was under the impression this was the primary complaint. To which a solution has been identified and can be carried out to reduce the impact of the site on the community and is a potentially curative measure to much of the hostility against the plant. I am more than happy to discuss concerns/issues and our viewpoint with planning office. Mr & Mrs Green (the current owners) and any future leaseholder of the plant to ensure that noise is reduced and production of renewable energy is sustained whilst minimising impact on the local residents.

Just to make it clear I have some wider concerns surrounding the planning review and engagement process. I have been made aware of a number of planning meetings taking place at primary complainants' homes with local councillors in attendance, to which I was

invited but declined as only complainants were represented. This did not give appropriate scope for fair debate on the matter as the owners or future leaseholders we're not present which presents a clear opportunity for bias in decision making. As such I declined to attend these gatherings. Had I been consulted by an official body with representatives of all parties this may have been different. I also wanted to highlight my concerns with regard to council planning officials attending the site and Mr & Mrs Greens farm without prior consent/appointment whilst also not wearing appropriate clothing hi viz jackets and inspecting farm buildings again without prior arrangement which presents privacy , health & safety concerns as well of that of neighbourhood security. I felt I should highlight this to you so you can investigate appropriately

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## **OFFICER COMMENTS**

The legal opinion by Christiaan Zwart's which was acquired by Marches Planning addresses the lawfulness of the whole AD development and need for an EIA. The legal opinion states that the development began in 2012. However the applicant has provided evidence that the AD Plant has been operational since 8 March 2011 when it was first commissioned under the Renewables Obligation regime where Renewable Obligation Certificates are issued to operators of accredited renewable generating stations for the eligible electricity they generate.

I note the comments contained within the representations relating to evidence submitted in respect of works not being undertaken in accordance with approved details. It is acknowledged that since it began operating, changes and amendments have occurred across the site. Officers have carefully considered these varying elements of the development and all the information available to them and concluded that they are immune from enforcement action.

This application deals only with a second CHP unit and storage container. If approved it does not prevent further enforcement action being taken on the wider development if it becomes necessary.

The Officer report has addressed the need for an Environmental Impact Assessment under the 2017 Town and Country Planning Regulations at paragraphs 6.6 – 6.8 of the Officer appraisal.

Whilst Officers appreciate the frustration from locals in relation to the time it's taken to get the application to planning committee, given the sensitive nature of the site and that of the representations received Officers have ensured that all matters which have been raised within representations and which are considered material to that of the proposal have been carefully considered. Where necessary amended plans and further evidence in relation to breaches of planning control have been requested by the applicant and investigated by Officers to ensure that when bringing the application in front of members of the planning committee all material planning considerations which have been identified have been addressed.

Officers can confirm that the Environmental Permit variation application was submitted to the EA on the 4<sup>th</sup> April 2021 and is currently being considered by the National Permitting Service. The variation incorporates the backup CHP unit under consideration under application 202566.

Whilst Officers acknowledge concerns in relation to the proposed landscaping scheme in relation to ground conditions, the Landscape Officer is satisfied with the proposed planting zone and has confirmed that it is not unusual for hedgerow plants to be grown alongside walls. Conditions 5 attached to the recommendation will ensure that that a planting zone of 2-2.5m is provided and that the landscaping is maintained for 10 years in accordance with details outlined within the submitted landscape maintenance and management plan. It is for



the landowner's interest to ensure that the ground conditions do not prevent the survival of the trees.

The site is permitted by the Environment Agency which regulate emissions to air from the site. However air emission are a material consideration in any planning decision and as such the Council Environmental Health Officer which deals specifically with air quality and emission was consulted as part of the application and their comments can be found at paragraph 4.7 of the Officer report.

The concrete wall is not part of this application. From all of the evidence provided by the applicant and Mrs Hamilton, the wall was installed as a secondary containment which was a conditional requirement of the permit. The wall was completed in April 2017.

### **CHANGE TO RECOMMENDATION**

No change to recommendation other than that of the correction to condition 5 which was misprinted within the planning report and should read as follows:

5. The landscaping scheme as shown on approved Landscape Plan 050-210 rev B shall be completed no later than the first planting season following the date of the decision. A planting zone of minimum 2-2.5m shall be provided, with trees planted at minimum 2.5m from the base of the concrete wall. The landscaping shall be maintained for a period of 10 years in accordance with the details outlined within the Landscape Maintenance and Management Plan by Steele Landscape Design dated November 2021. During this time, any trees, shrubs or other plants which are removed, die or which are seriously damaged 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.

In addition no later than the 1st April in each of the 5 calendar years following the first planting of the hedgerow and trees as shown on plan 050-210 rev B, the operator of the AD plant shall submit to the Local Planning Authority a written statement detailing:

- a) The number, location and species of plants, shrubs and trees which have been planted, in the preceding 12 months;
- b) The number, location and species of plants, shrubs and trees which have died, become diseased or seriously damaged in the preceding 12 month; and
- c) Proposals for the replanting and maintenance of any such failures with plants of similar size and species within the following 6 months.

Reason: In order to maintain the visual amenities of the area and to confirm with policy LD1 of the Herefordshire local Plan – Core Strategy and the National Planning Policy Framework



**201962 - PROPOSED ERECTION OF THREE SUSTAINABLE HOLIDAY LODGES  
AT HOPEFIELD COTTAGE, HAYNALL, LITTLE HEREFORD, LUDLOW, SY8 4BG**

**For: Mrs Fletcher per Mr Jim Hicks, Second Floor Offices, 46 Bridge Street,  
Hereford, Herefordshire, HR4 9DG**

**ADDITIONAL REPRESENTATIONS**

The following email has been submitted by the applicant's agent:

We have noted from your committee report for the above application that there was an outstanding matter pertaining to the emergency storage capacity of the proposed effluent pump chamber as raised by the council's land drainage consultant. Though we note there is no objection from land drainage, subject to condition, we thought it prudent to update the drainage strategy to clarify this point.

Please therefore find enclosed the project drainage engineer's amended drainage strategy which now specifies 24 hours emergency storage capacity in the pump chamber, in line with the BBLP comments.

**OFFICER COMMENTS**

The revised drainage strategy can be referred to in the list of approved documents covered by condition 2 of the recommendation.

**CHANGE TO RECOMMENDATION**

No change to the recommendation



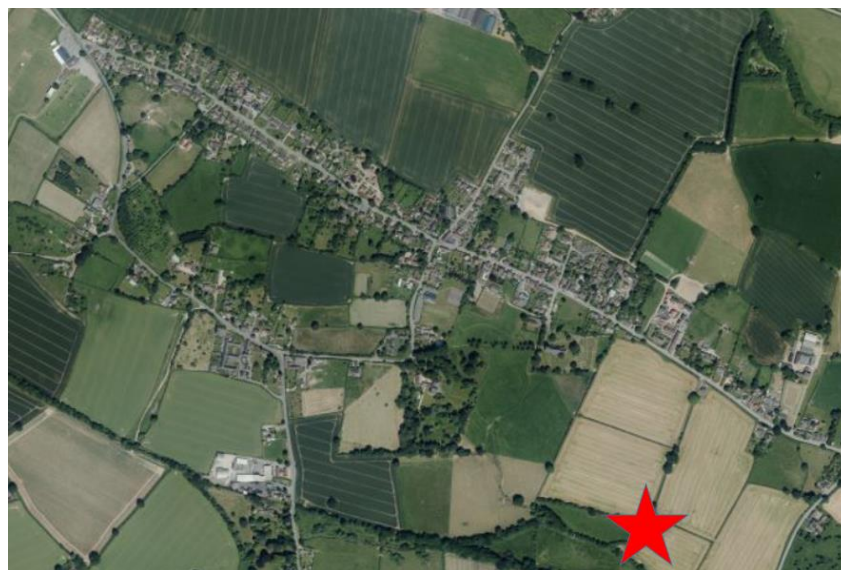
<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>9 FEBRUARY 2022</b>
<b>TITLE OF REPORT:</b>	<b>200995 - PROPOSED CONVERSION OF THREE AGRICULTURAL BUILDINGS TO FORM TWO DWELLINGS AND GARAGING WITH ASSOCIATED LANDSCAPING AND INFRASTRUCTURE AT BARNES AT KINGSLAND, SOUTH OF LONGFORD, LEOMINSTER, HEREFORDSHIRE,</b>  <b>For: Mr Gwatkin per Mr Jim Hicks, Second Floor Offices, 46 Bridge Street, Hereford, Herefordshire, HR4 9DG</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=200995&amp;search-term=200995">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=200995&amp;search-term=200995</a>

**Reason Application submitted to Committee – Redirection**

**Date Received: 25 March 2020      Ward: Bircher      Grid Ref: 344944,261040**  
**Expiry Date: 18 June 2021      Local Member: Cllr S Bowen**

**1. Site Description and Proposal**

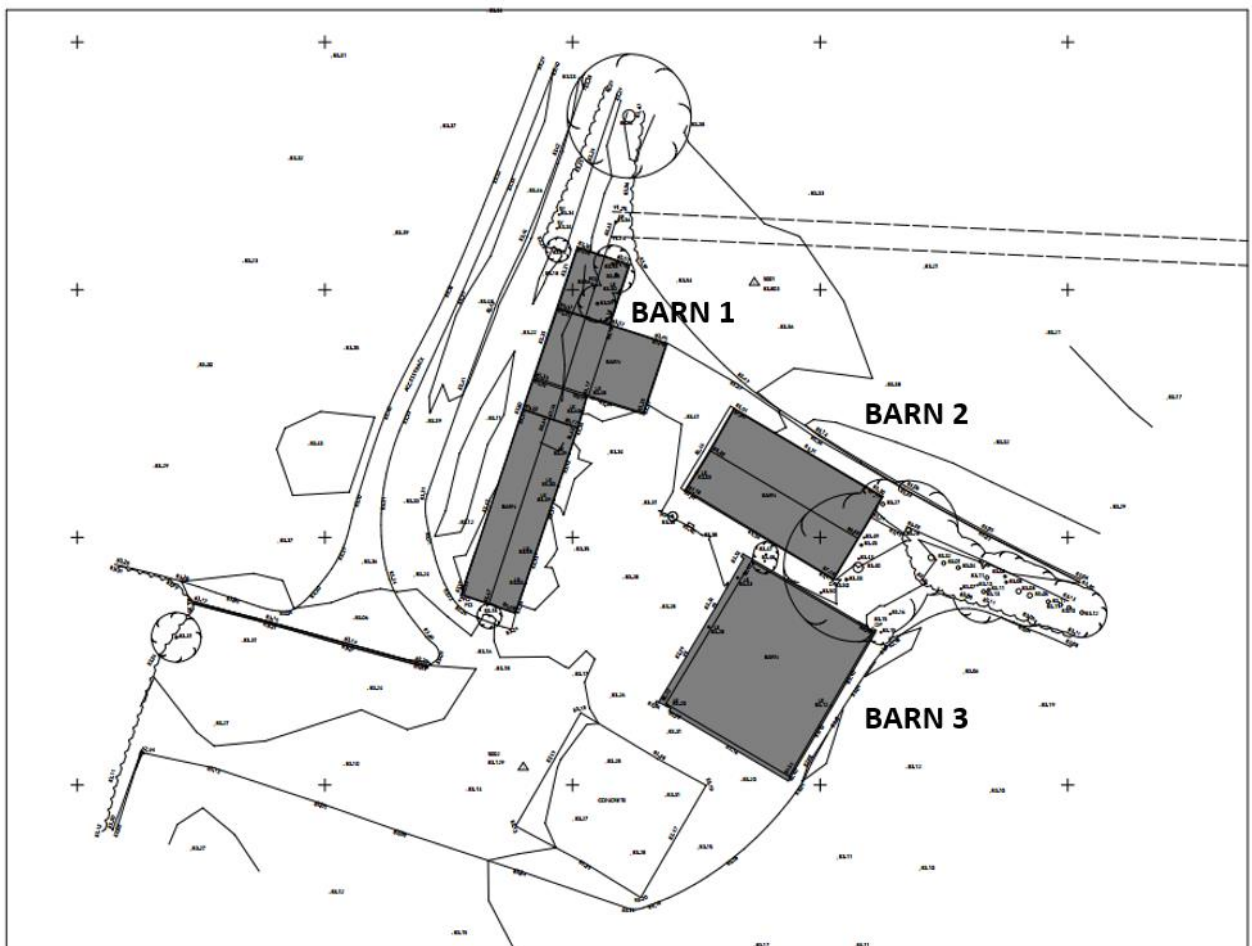
1.1 The application relates to a site near the village of Kingsland in the north west of the county, approximately 5km north west of the market town of Leominster. Kingsland has a strongly prevailing linear settlement pattern with the main ribbon of development being found alongside the B4360 as it runs through the village on a broadly east-to-west axis. The historic core of the village is focused around the central crossroads, with more recent residential development extending along North Road to the north west and Longford to the south east. Development along Longford is mainly confined to the north side of the highway, with the southern side having an open aspect toward undeveloped countryside. The proposal site in this instance is located to the south-east of the village and is denoted by the red star on the map below:



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

1.2 The proposal site lies around 300m to the south of Longford (B4360) and is accessed from the highway by a stoned agricultural track. There is a dwelling known as Pinsely Farm situated adjacent to the highway access and the track runs alongside a hedgerow that includes a number of mature oak and ash trees which are subject to Tree Preservation Orders (TPO). The topography of the area is generally flat with the landscape character defined by large field enclosures. At the end of the track there is a small cluster of agricultural buildings that are loosely arranged around a central courtyard. The buildings are of varying ages and in varying states of repair. A summary is provided below which corresponds to the plan in Figure 2:

- Barn 1 is a timber framed building of traditional rectilinear form that is clad with timber boarding under a corrugated tin roof. The main element of the barn is two storey, with a smaller single storey extension being located on its north side.
- Barn 2 is a modern steel framed building. It has a concrete floor slab and walls are formed of concrete block to a height of approximately 1.5m. Above this, the walls and roof are enclosed by corrugated asbestos sheeting. It is in a good state of repair.
- Barn 3 is a mono-pitched structure which as elements of both steel and timber framing. As a whole, the building is in a poor state of repair with the western portion being particularly degraded; however the portal framed section to the east is in comparatively good condition.

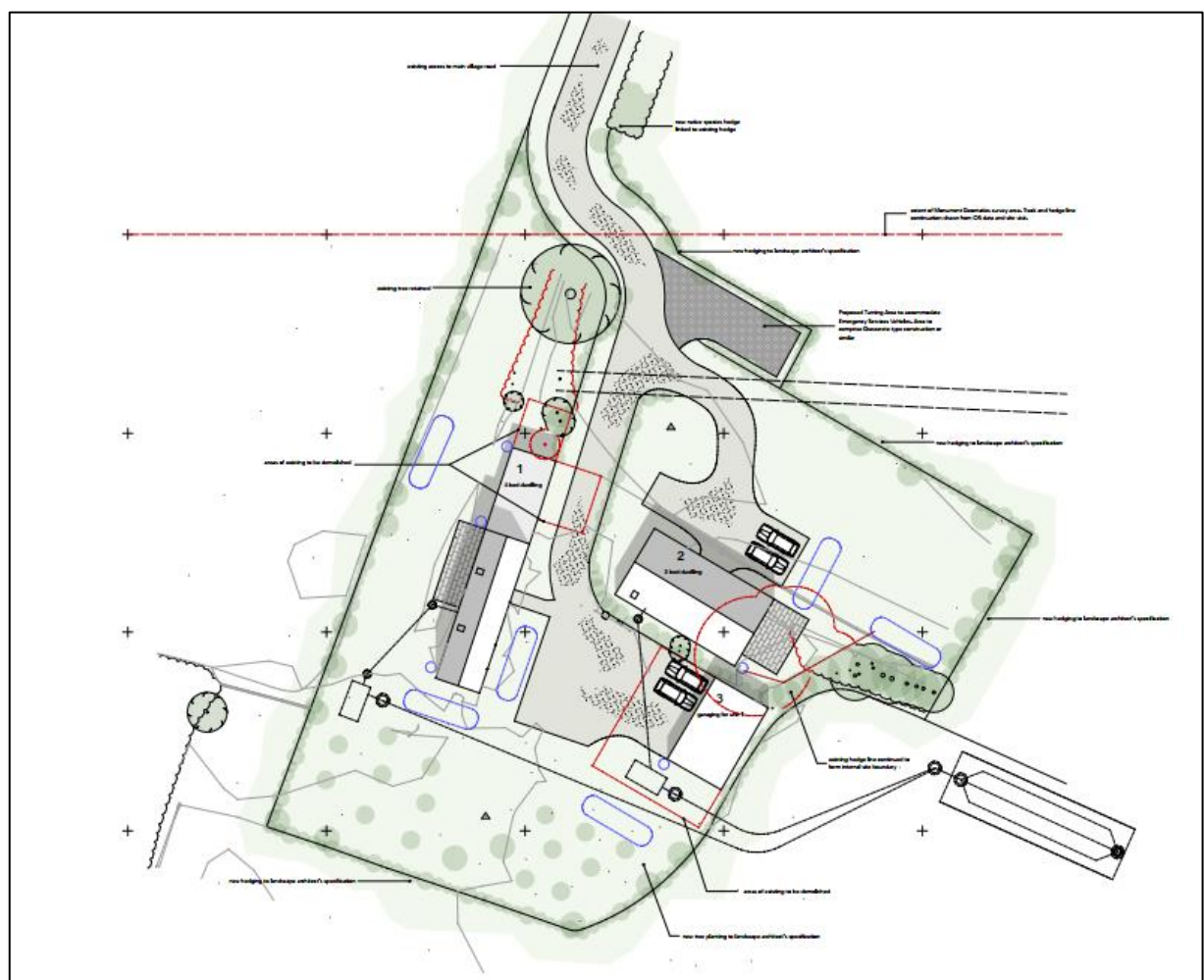


**Figure 2: Existing Site Survey Plan**

1.3 The buildings are located approximately 100m to the north of the Pinsley Brook, which is a tributary of the River Lugg and is a designated a Special Wildlife Site. The buildings are located in Flood Zone 1 (low risk of fluvial flooding) as defined by the Environment Agency's risk map for planning. A public footpath (KL3) runs on the northern banks of the brook and this links to the

centre of the village via KL2, which runs broadly parallel to the access track approximately 250m to the west of the site.

- 1.4 The entirety of the site, including the building and access track, is located within the Kingsland Conservation Area. The buildings themselves are located 300m southeast of the site of Kingsland Castle Scheduled Ancient Monument (SAM). The nearest listed building is the Grade I Church of St Michael approximately 400m to the north west, which also includes a number of monument structures within its curtilage that are individually listed at Grade II.
- 1.5 The application seeks full planning permission for the proposed conversion of Barns 1 and 2 into two residential dwellings. Barn 1 would provide a four bedroom unit, whilst Barn 2 would provide three bedrooms. The dilapidated Barn 3 would be partially demolished and the remaining sound parts of the building would be repurposed to provide ancillary garaging to the dwelling formed from the conversion of Barn 1. The scheme would make use of the existing access track to the highway, however the final part of the track would be realigned in the manner shown on the proposed site layout at Figure 2:



**Figure 2: Proposed Site Layout**

- 1.6 The conversion scheme would make use of a mixed palette of external materials, including horizontal and vertical timber weatherboarding for walls and natural slate or metal standing seam for roofs. Fenestration would be of the low profile kind and a timber-aluminium composite. The full plans are available on the Council's website.
- 1.7 Foul water from the conversions would be managed through the installation of individual package treatment plants with outfall being discharged to a raised drainage mound positioned to the east. Surface water will be managed using shallow infiltrations basins and rain gardens.



1.8 As well as the proposed plans, the application is supported by the following:

- Design and Access Statement by OHA Architecture
- Planning Statement by Tompkins Thomas Planning Ltd (March 2020)
- Structural Condition Report by C2Designs dated (November 2019) plus addendum.
- Structural Engineer Report by Andrew Marcham & Co (February 2019)
- Landscape Statement by John Campion Associated Limited (August 2020)
- Percolation/Infiltration Test Report by William Stokes Consulting (July 2020)
- Ground Water Level Assessment Report by William Stokes Consulting (October 2019)
- Foul Drainage Technical Note 2439-TN01 by Spring Design including amended Drainage Strategy Plan Revision E received 15/9/2021.
- Ecological Assessment by Star Ecology Ref: OHA/2308/19.1

## 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
- SS2 - Delivering new homes
- SS3 - Releasing land for residential development
- SS4 - Movement and transportation
- SS6 - Environmental quality and local distinctiveness
- SS7 - Addressing climate change
- RA1 - Rural housing distribution
- RA2 - Housing in settlements outside Hereford and the market towns
- RA3 - Herefordshire's countryside
- RA5 - Re-use of rural buildings
- H3 - Ensuring an appropriate range and mix of housing
- MT1 - Traffic management, highway safety and promoting active travel
- LD1 - Landscape and townscape
- LD2 - Biodiversity and geodiversity
- LD3 - Green Infrastructure
- LD4 - Historic environment and heritage assets
- SD1 - Sustainable design and energy efficiency
- SD2 - Renewable and low carbon energy
- 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 was confirmed on 9<sup>th</sup> November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application.

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



## 2.2 Kingsland Neighbourhood Development Plan (NDP)

The Kingsland Neighbourhood Development Plan was made on 16<sup>th</sup> October 2017. The following policies from the NDP are considered to be of relevance to the current proposal;

Policy KNDP 1:	Promoting a Sustainable Community
Policy KNDP 2:	Development Strategy
Policy KNDP 3:	Sustainable Design
Policy KNDP 4:	Retaining the Rural Character of Kingsland Parish
Policy KNDP 5:	Protecting Kingsland's Heritage Assets
Policy KNDP 6:	Kingsland Village and Conservation Area
Policy KNDP 7:	Addressing Flood Risk
Policy KNDP 8:	Highways and Transport Infrastructure
Policy KNDP 14:	New Homes in Kingsland Village

The Kingsland 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/3070/kingsland\\_neighbourhood\\_development\\_plan](https://www.herefordshire.gov.uk/directory_record/3070/kingsland_neighbourhood_development_plan)

## 2.3 National Planning Policy Framework

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

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

The NPPF can be viewed here;

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1005759/NPPF\\_July\\_2021.pdf](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 no past planning applications applicable to the site.

## 4. Consultation Summary

### Statutory Consultations

#### 4.1 Natural England – No objections

The application site is within the catchment of the River Wye Special Area of Conservation (SAC), which is a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017, as amended (the 'Habitats Regulations'). The SAC is notified at a national level as the River Lugg Site of Scientific Interest (SSSI).

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

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have<sup>1</sup>. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

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

Your appropriate assessment concludes that the proposal **will not result in adverse effects** on the integrity of the sites in question. Natural England **agrees** with the assessment conclusions.

4.2 **Historic England** – No bespoke comments. Refer to local specialist advice.

Thank you for your letter of 07 April 2020 regarding the above application for planning permission. On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

4.3. **Welsh Water** – No objections

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

**Internal Council Consultations**

4.4 **Transportation Manager** – No Objections

Initial Consultation Response (7<sup>th</sup> March 2020):

The layout of the proposed development is acceptable and includes sufficient parking and turning areas for vehicles associated to the development.

The provision of secure cycle parking is not included within the submission and is required to ensure that residents can make choices about the way they travel. The application of CB2 is recommended to ensure the delivery of this in the event that permission is granted.

The access is demonstrated as acceptable in the submitted drawings that set out both the available visibility and the ability of vehicles to safely turn from and into the access from the B4360. However, the details do not include passing places on the access road to the dwellings as required by Herefordshire Council's Highways Design Guide for New Developments (Shared Private Drive is the appropriate standard for this development). This ensures that vehicles accessing the dwellings will not be encouraged to complete unsafe manoeuvres to avoid each other.

Additionally vehicular accesses that exceed 45m from the highway boundary to the front face of a building should be referred to a building control inspector. In these circumstances access and turning for emergency vehicles may be required (see section 6.7 of Manual for Streets).

The details are unacceptable, but can be made acceptable by reviewing the design of the shared private drive arrangement.

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:

#### Second Consultation Response (14<sup>th</sup> September 2020):

The outstanding highways comments for this application related to the access to the barns. The revised drawings received sets out both an appropriate turning area and vehicle passing bays at appropriate intervals for the alignment of the route. It is recommended that these drawings are included in an appropriate condition in the event that permission is granted. There are no highways objections to the proposal

### 4.5 **Conservation Manager (Historic Buildings and Built Heritage) – No Objections**

#### Recommendation: Approval with Conditions

Reason: The less than substantial harm the proposals would cause to the agricultural character of a traditional farm building is mitigated by the improved viable use of the site and as such is in accord with policies contained within the National Planning Policy Framework (NPPF) and Herefordshire Council's Core Strategy. Further, the proposals preserve the agricultural character of this part of the conservation area by retaining the traditional courtyard site plan.

#### Description & Location of Development

The site at Kingsland comprises three redundant farm buildings arranged in a traditional courtyard plan. While the site is located within the Kingsland Conservation Area, it lies in open fields and is outside the Kingsland village settlement boundary. While the buildings on site are unlisted, the structure on the west of the yard (unit A) is a well preserved example of a traditional agricultural building and can be considered a non-designated heritage asset. The other two structures to the north and east, (units B & C respectively) are more modern in date and are of no architectural or historical value.

There are a number of listed building in the surrounding area of this site. St. Michael's Church, grade I listed, is located about 400m north-west, and "The Elms" farmhouse, grade II, is 330m due east. Other listed buildings are located further away and their setting will not be affected by development at this site.

#### Comments

Change of use: There would be no objection on building conservation grounds to change the use from redundant agricultural to domestic.

Impact on Conservation area and nearby Listed Buildings: By retaining the traditional courtyard layout the proposal would have minimal impact to the settings of the surrounding listed buildings and conservation area. Indeed, the effective reuse of a heritage asset worthy of preservation would be a positive development for the area.

Landscaping: When converting agricultural buildings to domestic dwellings, care must be taken to avoid detracting from the significance of the buildings by introducing overly domestic features. The paved area of the courtyard should be extended in the south-west to form a more regular and traditional shape. The extension of the soft landscaping to form a boundary should be kept to a minimum, and used only in areas where privacy is desired. For example, it should not be placed

around the front entrances of either dwelling. The hedges which line the access roads to both dwellings should not be an imposing height, or should be removed altogether.

Unit A: Unit A is a two storey timber framed traditional barn with timber cladding, two later single storey extensions were added to the north of the main building. There is no objection to the demolition of the lean-to extension to the north east as it does not contribute any significance to the structure. The application proposes separate treatment in terms of cladding and roofing materials in order to provide clear differentiation between the building phases. All original timber cladding should be retained and repairs made where possible. Original openings are retained and reused, any new proposed openings are limited and located away from the main courtyard-facing elevations. The plan makes good use of the existing internal arrangements with minimal intervention in order to facilitate its use as a dwelling

Unit B: This building has no architectural or historic merit. A portal frame building, it is a later post-war addition to the site. The proposed design for conversion retains the generally agricultural character of the building, and its viable reuse would improve the setting of the heritage asset, Unit A.

Unit C: Also a modern portal framed structure, it has become partly dilapidated. The proposal would see its footprint reduced by the removal of redundant material. The conversion of this dilapidated building for garaging and storage improves the viable use of the other buildings as dwellings. By facilitating a space to park cars and store large domestic items such as bins and lawnmowers, it reduces the potential clutter on the site. This would allow for better maintenance of the courtyard plan form which defines the character of the buildings, and their relationship to the conservation area.

Extract fans and Electricity boxes: Care should be taken when considering the placement and colour of external service features such as extract fans and electricity boxes, in order to reduce their visual impact. If placed without proper thought, these services can detract from the agricultural appearance of the buildings, thus effecting their significance.

Insulation: The plans don't specify how the new dwelling is to be insulated. If impermeable lining is to be used, it is recommended a condensation risk calculation is carried out and there is sufficient ventilation to avoid condensation and subsequent damp problems.

#### 4.6 **Conservation Manager (Ecology) – No Objections**

##### Habitats Regulations and Drainage

The amended foul water management system as detailed in plans received 08/09/2021 are noted. These are in principle the same as those subject to an initial HRA in July 2020. To accommodate the updated information now available and changes in HRA processes since July 2020 an updated HRA process is triggered and the completed Appropriate Assessment should be subject to a formal consultation process with Natural England and a 'no objection' response received prior to final grant of planning consent. From the initial HRA discussions it is considered probable that NE will have no objections to this final consultation.

The technical details have now been supplied, the only change is to replace a single shared PTP with individual plot specific PTP units, but the overall outfall remains the same through a shared 'mound' type system that is demonstrated to have sufficient ground percolation below the mound accommodate all flows from the two dwellings proposed. It also ensures the scheme is compliant with the criteria of the Council's Position Statement.

Appropriate Assessment information, discussion and proposed mitigation measures:

- The council's drainage consultants have advised that they have no technical objection to the final schemes proposed for surface water or foul water management from the development.
- The applicant proposed utilising plot specific private Package Treatment Plants to manage foul water from each of the two proposed dwellings.
- The site does not have sufficient percolation capacity or depth to ground water to accommodate a normal soakaway drainage field. A mound soakaway system can be utilised – this will offset the poor percolation and raise the soakaway system at least 2m above actual ground water level.
- The percolation achievable (as demonstrated by supplied testing) beneath the mound is sufficient to provide the required final 'polishing' of the treated effluent to ensure P is managed within the mound and local soils and there are no pathways to ground water or potential for surface leakage of effluent.
- The shared drainage mound will be managed by a relevant legal agreement between the two properties to ensure ongoing management is secured.
- The mound is a flat surface.
- The drainage mound is at least 50m from any watercourse.
- The drainage mound is at least 50m from any habitat with a nature conservation designation.
- The local soils do not offer any geological or other expedited phosphate pathways to any part of the Lugg SAC hydrology.
- There are no other drainage fields within 200m

#### Surface Water:

- The site is an existing developed farm area and any additional surface water created will be minimal.
- All surface water will be managed through soakaway-infiltration features including Sustainable Drainage features such as swales.
- The supplied information confirms that this scheme is possible at this location.

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

The previously suggested conditions to secure the foul water system (and surface water and shared management arrangements) should be updated according to the new system where only the final 'mound' is a shared foul water feature. The reasons for the conditions are also amended to accommodate changes due to Brexit.

*\*\*\*Refer to recommended conditions at the end of this report\*\*\**

The LPA is satisfied that there are no identified Adverse Effects on the Integrity of the River Lugg (Wye) SAC from the proposed development.

#### Protected Species

The previous other ecology comments and suggested conditions from July 2020 remain appropriate and subject to 'brexit updates' remain relevant. The references to Habitat Regulations in the reasons on the conditions should be amended 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') "

The supplied ecology report is noted. This includes details that a Bat roost is identified within one of the barns on the site and thus potential for any works on this 'compact' site to impact or disturb a protected species and their associated activities and core sustenance zones. Further detailed 'optimal period surveys' between mid-May and August (inclusive) are required to full understand

the presence and use of the site by protected species and to provide evidence required to support an appropriate European Protected Species Licence application to Natural England.

If the applicant is willing to accept a pre-commencement condition to secure these required optimal period surveys, submission of the associated report and the updated plans clearly detailing the proposed mitigation and compensation features required then there is case precedence to allow this process. This is only an option in this specific application as the LPA has no reason to believe that the required 'tests' associated with a protected species licence cannot be met within the finally approved development.

If the applicant is not willing to accept a pre-commencement condition then no planning consent should be granted until the required additional surveys, report and amended plans have been supplied to the LPA for consideration and comment.

Suggested pre-commencement condition - subject to acceptance in writing by the applicant:

Any other potential effects on wildlife are managed by the applicant's and their contractor's legal obligations under the Wildlife & Countryside Act and other relevant legislation which is above any planning condition requirements with any breach being a potential criminal offence; and so it is not appropriate for this LPA to include any 'wider' ecology protection condition in this instance.

As identified in the NPPF, NERC Act, Core Strategy LD2 and draft Environment Bill all developments should clearly identify how they are going to achieve enhancement of the local biodiversity values. To secure this a condition is requested. These enhancements are in addition to any mitigation or compensation required to obtain a European Protected Species Licence:

#### 4.7 **Conservation Manager (Arboriculture) – No Objections**

The access is altered slightly from the existing one that appears to be come within the rooting area of the TPO'd Oak tree. This is something that I didn't pick up on my previous comments which I apologise for but the issue must be addressed. This can be done by submitting a tree report with arboricultural impact assessment and method statement via a condition. The addition of the landscape plan is welcomed and don't have any issues with it. Conditions;

- CKB Protection during Construction
- CKC Method Statement
- Prior to the commencement of any works a method statement must be submitted and approved by the local planning authority and the development shall be carried out in accordance with the approved method statement

#### 4.8 **Conservation Manager (Archaeology) – No objections**

Although in a general sense the proposed development would lead to some changes to the setting of Kingsland Castle and Church, the particular nature if the development and the significant distances involved mean these changes would be very minor. I see no other potential archaeological issues here. Accordingly, I have no objection.

#### 4.9 **Conservation Manager (Landscape) - Mixed comments / Conditions recommended**

##### Initial Comments

The following information and comments are based on the application material, desktop study and site visit.

Changing the agricultural buildings into residential buildings result in some concerns, such as design, colour and associated domestic impacts on the visual amenity of the countryside setting

and physical wellbeing of the landscape. The existing buildings are visible from the village and public right of ways surrounding the site (for example the church, refer to figure 1), and the change of use will most likely draw attention to itself. For example, the loss of a large tree (Refer figure 2 and 3), exposes the buildings, and the black will create a stark silhouette (as taken from a view, south of the site). Contrary to national guidance NPPF 12, 170b and c; and local policy (Core Strategy) LD1.

The access track is located within close proximity to a number of significant trees that are protected. The increased vehicle use and potential rigid surface that will most likely be required with increased traffic and wet weather conditions, may influence the health of the trees overtime. Contrary to NPPF 15, 170a and local policy (Core Strategy) LD1, LD3 and SS6.

The change of use, however could be mitigated with careful consideration of the design; colour of the buildings; retention and protection of existing trees (i.e. relocation of track away from protected trees); and enhancement with the right trees, at the appropriate mature size and management conditions.

Minimise the visual impacts and enhance the setting with large trees (This includes from day one). It is good practice to consider the wider landscape, in this instance to propose trees that respond to the local landscape character as seen in the view. This may result in the reconsideration of orchard trees as the main tree strategy, and look to introduce large native trees.

Reduce the visual impact of the development by design, material, colour and finishes. Investigate how the building can blend in with the landscape. Black or Anthracite may be too stark (Refer to figure 3 and 4) Consider earthy colours, such as browns and greys in a matt finish, that are reflective of the mix of colours of the agricultural buildings.

The character of the existing agricultural buildings come with a variation of lines between vertical and horizontal (i.e. the barn with horizontal timber facades and vertical corrugated roof). This same approach may be needed to ensure the new language leads to an enhancement of its setting, not a loose of its inherent qualities. The skylight windows, distract from the original barns objectlessness and may cause unwarranted glare during the day and light impact at night (Refer to figure 5 and 6) and example (Refer to figure 7). This same principle applies for solar panels that are highly reflective.

Reduce the impact on the protected trees by moving the track away from the trees and enforce tree root protection methods. Refer to BS 5037:2012.

Consider these recommendations as part of the following conditions:

- CK3 Landscape Scheme
- CK4 Implementation
- CK5 Maintenance Plan
- CK13 Samples of external materials

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.

\*\*\*Refer to schedule of images available in representation on Council's Website\*\*\*

Further Comments 11<sup>th</sup> September 2020

My previous comments still stand, however I would like to reiterate the focus on colour and provide a recommendation on the landscape layout.

I would like to reiterate the importance of colour in this landscape setting. The preference would be for earthy colours that pick up the subtle nuances of the landscape and the existing buildings, rather than black, that I think is too harsh in this setting. Consider each individual building having a variation in tone. This may breakdown the mass of the development.

Undertake an Environmental Colour Assessment to objectively validate the colour selection. A useful reference is the Malvern Hills AONB Partnership's 'Guidance on the selection and use of colour in development' (Note this can be downloaded from the web). There are useful tips and recommendations for materials and understanding of colours appropriate for the Herefordshire landscape.

Add emphasis on this requirement with the following condition or informative, as taken from CK6, Landscape Scheme, item p): Provide an Environmental Colour Assessment (ECA), to inform the choice of external colour of the development/feature/building.

Consider adding the following to further refine the process:

Provide samples of the proposed external materials and finishes, as per previously outlined condition, C13 Samples of External Materials, and assembled these together on the site, so they can be considered within the contextual landscape colour palettes/s and then adjust if necessary. Ensure to consult with the LPA, so they can be informed of the process.

Layout: This landscape is dominated by a simple geometry of large fields, bound by simple lines of hedgerows, and marked with large hedgerow trees. This simplicity is influenced by a finicky layout that literally follows the functional requirements of the scheme. I have highlighted this on figure 1. A more desirable approach, refer to figure 2, would be to make the boundary of the development respect the landscape scale.

Reason: To safeguard and enhance the character and amenity of the area in order to conform with policy LD1 of the Herefordshire Local Plan - Core Strategy.

#### 4.10 **Building Control Officer – Qualified Comments**

I can confirm that the access arrangements proposed would satisfy Building Regulations Requirement B5 (Access and Facilities for the Fire Service) and appear to be as previously discussed by myself with the agent; Jim Hicks of OHA.

In terms of the structural reports, the respective conclusions reached would appear to me to be reasonable and typical of the majority of agricultural building conversions carried out. The steel portal framed building in particular offers a relatively simple conversion from a technical perspective. The timber framed barn presents a more complex process in terms of repair and upgrade but from the evidence supplied appears to be suitable for conversion, with its current condition being similar to or better than many I have overseen in recent years.

#### 4.11 **Land Drainage Engineer – No Objection**

The comments provided below should be read in conjunction with versions 1, 2, 3 and of 4 Land Drainage comments, dated 21st May 2020, 20th November 2020, 26th January 2021 and 30th March 2021 respectively (available on the Council website). The final comments are provided in final response to the 'Amended Drainage Strategy Plan Revision E'.

##### Fluvial Flood Risk



Review of the Environment Agency's Flood Map for Planning (Figure 1) indicates that the site is located within the low risk Flood Zone 1. In accordance with Environment Agency standing advice, the planning application is not supported by a Flood Risk Assessment (FRA) undertaken in accordance with National Planning Policy Framework (NPPF) and its supporting Planning Practice Guidance.

#### Surface Water Flood Risk

Review of the EA's Risk of Flooding from Surface Water map indicates that the site is not at risk of surface water flooding.

#### Other Considerations and Sources of Flood Risk

Review of the EA's Groundwater map indicates that the site is not located within a designated Source Protection Zone or Principal Aquifer

#### Surface Water Drainage

The applicant proposes a surface water drainage strategy that makes use of rainwater butts, rain gardens and an overflow infiltration basin. This is acceptable.

#### Foul Water Drainage

Following previous comments and amendments to the requirements of the River Lugg position statement the applicant now proposes the use of individual package treatment plants and pump systems for each property. These systems will discharge to opposite ends of a single drainage mound, each discharging to a different brake chamber and an individual set of pipework per property. The PTPs, pumps and drainage mound have all been sized in line with current guidance and are acceptable.

We note that previous versions of these comments requested two separate drainage mounds to be constructed, however as the requirements of the position statement changed during the design process the requirement for individual mounds was removed to fit the position statement and two sets of pipework within the mound was proposed. Land drainage accept this strategy at this site.

## **5. Representations**

### **5.1 Parish Council – Objection**

#### Initial Comments

Kingsland Parish Council met online earlier this week and decided to object to planning application 200995 - Barns at Kingsland for the following reasons:

- The condition of the barns is such that they are effectively a new build rather than a conversion as stated in the description of the planning application.
- As a new build, the proposal represents unjustified unsustainable new residential development in an open countryside location, outside of the defined settlement boundary within the Kingsland Village Neighbourhood Development Plan. It is contrary to Policies SS1, SS7, SD1, RA2 and RA3 of the Herefordshire Local Plan Core Strategy, together with Kingsland Neighbourhood Development Plan Policies KNDP1 and KNDP2.
- Development of the proposed site would adversely impact the conservation area in this area, which protects the fields and landscape towards St Michaels Church, the scheduled monument and Longford. As such, the proposal would result in material harm to the landscape and setting of the village, and would urbanise country land and unacceptably extend the built form into the open countryside. In doing so, the development is contrary

to Policies SS6 and LD1 of the Herefordshire Local Plan – Core Strategy and Policies KNDP1 and KNDP4 of the Kingsland Neighbourhood Development Plan.

- The site is close to Pinsley Brook and the proposed package treatment plant runs the risk of polluting the watercourse with phosphates to the detriment of local wildlife and well-being. Further, the risk of flooding and surface water run-off is considered to make the proposal unsustainable.
- The housing need has not been demonstrated. The NDP at Kingsland has more than delivered on the guidance for development in the core strategy, and there are believed to be some 20 new build properties presently on the market.

For these reasons the parish council respectfully urges that the planning authority refuse the planning application

#### Second Comments (Amended Plans) 14<sup>th</sup> October 2020

Kingsland Parish Council met online earlier this week and considered the amended and additional plans or documents for planning application 200995 Barns at Kingsland. The parish council acknowledges that some issues have been addressed, however the fundamental problems with the site remain, as set out below:

- The proposal represents unjustified unsustainable new residential development in an open countryside location, outside of the defined settlement boundary within the Kingsland Village Neighbourhood Development Plan. It is contrary to Policies SS1, SS7, SD1, RA2 and RA3 of the Herefordshire Local Plan Core Strategy, together with Kingsland Neighbourhood Development Plan Policies KNDP1 and KNDP2;
- Development of the proposed site would adversely impact the conservation area in this area, which protects the fields and landscape towards St Michaels Church, the scheduled monument and Longford. As such, the proposal would result in material harm to the landscape and setting of the village, and would urbanise country land and unacceptably extend the built form into the open countryside. In doing so, the development is contrary to Policies SS6 and LD1 of the Herefordshire Local Plan – Core Strategy and Policies KNDP1 and KNDP4 of the Kingsland Neighbourhood Development Plan;
- The housing need has not been demonstrated. The NDP at Kingsland has more than delivered on the guidance for development in the core strategy, and there are believed to be some 20 new build properties presently on the market.

Kingsland Parish Council respectfully requests, on the grounds of public interest, that the planning application is decided by Herefordshire Council's planning committee

#### Third Consultation Response (11<sup>th</sup> May 2021)

Kingsland Parish Council considered the latest re-consultation on amended plans or documents for planning application 200995 Barns at Kingsland. The parish council wishes to highlight once again the fundamental constraints of the proposed site:

- The condition of the barns is such that they are effectively a new build rather than a conversion as stated in the description of the planning application. As a new build, the proposal represents unjustified unsustainable new residential development in an open countryside location, outside of the defined settlement boundary within the Kingsland Village Neighbourhood Development Plan. It is contrary to Policies SS1, SS7, SD1, RA2 and RA3 of the Herefordshire Local Plan Core Strategy, together with Kingsland Neighbourhood Development Plan Policies KNDP1 and KNDP2.
- Development of the proposed site would adversely impact the conservation area in this area, which protects the fields and landscape towards St Michaels Church, the scheduled monument and Longford. As such, the proposal would result in material harm to the landscape and setting of the village and would urbanise country land and unacceptably

extend the built form into the open countryside. In doing so, the development is contrary to Policies SS6 and LD1 of the Herefordshire Local Plan – Core Strategy and Policies KNDP1 and KNDP4 of the Kingsland Neighbourhood Development Plan.

- The site is close to Pinsley Brook and immediately adjacent to areas prone to flooding. The proposed treatment plants if flooded will pollute the watercourse with phosphates to the detriment of local wildlife and well-being. The risk of flooding and surface water run-off is considered high due to climate change and sufficient to make the proposed development unsustainable.

## 5.2 **Letters of Objection** have been received from **ten individuals**. They are summarised as:

- The proposal is contrary to policies KNDP1, KNDP2, KNDP4, KNDP6 and KNDP9 of the Kingsland Neighbourhood Plan, policies RA3, RA5, LD1 and RA5 of the Herefordshire Core Strategy and the principles of the National Planning Policy Framework
- The site is outside of settlement boundary for Kingsland as defined by the NDP and there is an absence of special justification for the principle of new housing development to be supported in the open countryside
- The nature of the existing buildings is such that scheme constitute ‘rebuilt’ rather than true conversions (having regard to Hibbitt principles in the context of Class Q permitted development)
- Scheme would domesticate a cluster of rural buildings, creating a node of development which is harmful to landscape character.
- The scheme would be harmful to the Kingsland Conservation Area and approval would fail to fulfil the LPA’s duties under Section 72 of the Planning (Listed Buildings and Conservation Areas Act) 1990.
- Harm to setting of listed buildings (Kingsland House II\*, Kingsland Church of St Michael I, memorials associated with church) and Scheduled Ancient Monument of Kingsland Castle. Approval would fail to fulfil the LPA’s duties under Section 66 of the Planning (Listed Buildings and Conservation Areas Act) 1990.
- Fails to respect the ‘open area to the south of Longford’ which is protected by KNDP6.
- Unsustainable location to access services in village. Increased car dependency.
- Drainage scheme has the potential to adversely impact upon water quality in the nearby Pinsley Brook, and consequently on the River Lugg and River Wye SAC, through phosphate discharge in foul water and other construction impacts.
- Drainage mounds are incongruous feature within the landscape
- Inadequate provision for storage and collection of rubbish.
- The significant level of housing already delivered in Kingsland is such that there is no unmet need to deliver further housing above that planned for in the NDP.
- Disruption to rural setting and tranquillity of footpath network along Pinsley Brook
- Harmful impact to character caused by upgrade and formation of new roadway
- Dwellings at risk of fluvial flooding from Pinsley Brook

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=200995&search-term=200995](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=200995&search-term=200995)

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:

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

*“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 comprises the Herefordshire Local Plan – Core Strategy (CS) and the Kingsland Neighbourhood Development Plan. The latter was made part of the statutory development plan in October 2017. The National Planning Policy Framework (NPPF) is also a significant material consideration.
- 6.3 A range of CS policies are relevant to development of this nature. Strategic policy SS1 of the CS sets out the presumption in favour of sustainable development, which is reflective of the positive presumption that lies at the heart of the NPPF. Policy SS1 confirms that proposals which accord with the policies of the Core Strategy (and, where relevant, other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise.
- 6.4 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy was made on 9<sup>th</sup> November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application. In this case, the most relevant policies of the CS – which are considered to relate to promoting sustainable rural housing, protecting heritage assets and features of environmental value – have been reviewed and are considered to be consistent with the principles established by the NPPF. As such, it is considered that they can still be attributed significant weight.
- 6.5 The NPPF sets out that all planning decisions should apply the presumption in favour of sustainable development. The manner in which this should be applied is defined at Paragraph 11 of the NPPF. Paragraph 11 c) directs that proposals which accord with an up-to-date development plan should be approved without delay. At 11 (d), the framework states that where the policies most important for determining the application are ‘out-of-date’ planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or the application of the policies in the framework provides a clear reason for refusing the proposal. At footnote 8, it is confirmed that a failure to demonstrate a five year supply of housing and requisite buffer in accordance with paragraph 73 will render policies relevant to delivering housing out-of-date.
- 6.6 The most recent Annual Monitoring Report for Herefordshire was published in July 2021. This sets out that the supply figure for Herefordshire currently stands at 6.9 years, with the current delivery test being 106%. The Council is therefore currently able to demonstrate well in excess of a five year supply of housing land. This means that the policies of the Herefordshire CS and the Kingsland NDP are considered to be up-to-date and can be afforded full weight in the decision making process.
- 6.7 In the context of a proposal involving the delivery of housing, the CS sets out the spatial strategy and policy RA1 states that Herefordshire’s rural areas will deliver a minimum of 5,300 houses across the plan period. RA2 goes on to identify the settlements which are to be the focus of new housing. At figure 4.4, Kingsland is identified to be a main focus for proportionate housing growth. As a rural settlement, the village is comparatively well served with a range of services and facilities such as a primary school, a GP surgery and two public houses. The policy states that new development will be supported within or adjacent to the built up form of the settlement or, where a neighbourhood plan is advanced, within settlement boundaries (or any reasonable alternatives).

- 6.8 The development strategy for Kingsland parish is set out at policy KNDP2 of the NDP. This sets out that the identified settlements of Kingsland, Cobnash and Shirlheath will be the main focuses with new housing being delivered within the defined settlement boundaries. Bullet d) of the policies that the development outside of the identified settlements should be exceptional and located in accordance with relevant policies in the development plan including in Herefordshire Core Strategy, in particular but not exclusively, Policy RA3, and the Neighbourhood Plan.
- 6.9 The settlement boundary for Kingsland runs along the north side of Longford road. The site in question is located around 300m to the south of this and is hence located outside of the defined boundary. The principle of new residential development here is hence not ordinarily supported by RA2 or KND2 a).
- 6.10 With the site being outside of the settlement in the countryside, it then falls to be considered against Core Strategy policy RA3. This states that in rural areas new residential development will be limited to proposals which satisfy one or more of a number of criteria. The criteria reflect those set out at Paragraph 80 of the NPPF, which directs that planning decisions should avoid the development of isolated homes in the countryside unless there are special circumstances. Amongst other things, the policy supports the sustainable re-use of rural buildings where the proposals would (i) comply with the requirements of policy RA5 and (ii) lead to an enhancement of its immediate setting.
1. design proposals respect the character and significance of any redundant or disused building and demonstrate that it represents the most viable option for the long term conservation and enhancement of any heritage asset affected, together with its setting;
  2. design proposals make adequate provision for protected and priority species and associated habitats;
  3. the proposal is compatible with neighbouring uses, including any continued agricultural operations and does not cause undue environmental impacts and;
  4. the buildings are of permanent and substantial construction capable of conversion without major or complete reconstruction and
  5. the building is capable of accommodating the proposed new use without the need for substantial alteration or extension, ancillary buildings, areas of hard standing or development which individually or taken together would adversely affect the character or appearance of the building or have a detrimental impact on its surroundings and landscape setting
- 6.11 As a starting point, the suitability of the subject buildings for conversion is assessed with reference to the requirements of RA5 4) and 5). It is noted that a number of the representations received, including from the Parish Council, cast doubt as to whether the barns are capable of accommodating a residential use without needing works that would be tantamount to a new build rather than a true conversion. Being mindful of the requirements of RA5, the application is supported by two structural reports examining the buildings proposed for the change of use. In relation to Barn 1, the main core of this is formed from a structural hardwood frame which is believed to originate from the second half of the 19<sup>th</sup> century – axiomatically indicating that the building is of a permanent construction. Although showing some signs of decay, the frame is on the whole considered to be in reasonable condition and in need of relatively minor remedial works before alterations could be undertaken to bring the building to a hospitable standard. The northern single storey element of the building is a newer introduction and is comprised of a softwood frame on a concrete plinth. Although of less architectural merit than the main part of the building to the south, the core of the northern part is found to still be of permanent construction that is suitable for conversion to residential use – although some poorer standard peripheral elements are identified for demolition. In relation to Barn 2, this is a utilitarian agricultural building comprising a steel frame, concrete floor slab and block work walls. Although not of any merit, it is clearly of permanent and substantial construction. The supplied engineer's report considers the building to be suitable for conversion, with the frame capable of supporting the loads associated with the new mezzanine floor and the existing block work walls providing a basis for the new external envelope. Whilst I have no reason to doubt the veracity of the supplied reports, the buildings have

also been inspected by a Building Surveyor from the Council's Buildings Regulations Service and the professional opinion offered by that Officer accords with the supplied reports. Both buildings are considered to be suitable for conversion and the works required are typical of the majority of agricultural building conversions carried out (Section 4.10 of this report). Moreover, neither building requires substantial alteration, extension or new buildings in order to facilitate a residential use. Although Barn 3 has not been subject to a survey and is evidently in a poor state of repair, this is not proposed for conversion to residential uses and it is logical to make use of the sound parts for the structure to provide ancillary garaging. Viewing the scheme holistically therefore, I consider the evidence submitted adequately demonstrates that the buildings in question are capable of being converted with regards to the requirements of RA5 4) and 5).

### **Design, Landscape Character and Heritage**

- 6.12 In terms of the design of the conversion scheme, RA5 1) requires that schemes respect the character and significance of any redundant or disused building. Policy SD1 also requires that development proposals take into account the local context and site characteristics. Moreover, new development should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials whilst making a positive contribution to the architectural diversity and character of the area. Policy KNDP3 also sets out a range of principles which are applicable to the pursuit of sustainable design, whilst KNDP6 requires that proposals in Kingsland village should conserve or enhance the landscape setting or character or appearance of Kingsland village and reinforce its local distinctiveness. KNDP 4 and KNDP5 also set out requirements which seek to ensure historic and traditional rural buildings and farmsteads are conserved.
- 6.13 With regards to Barn 1, the main core of this comprises a traditional timber frame which is considered to have historic significance on account of its age and the quality of the surviving historic fabric which is a reflection of past building techniques and agricultural practices. Although not subject to any formal designations, it is considered to be a non-designated heritage asset. Paragraph 203 of the NPPF is therefore pertinent insofar as it directs that the effect of an application on the significance of a non-designated heritage asset should be taken into account. In weighing the application, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. LD4 sets out similar principles.
- 6.14 The proposal for Barn 1 is considered to represent a sympathetic and minimally intrusive conversion scheme. The design seeks to make use of the existing internal spaces and features within the barn, and likewise existing openings are utilised for fenestration. Where new openings are needed, they are set to avoid original fabric and positioned in a manner which respects the agrarian character. The use of materials is also appropriate and the variation of this throughout the building helps to reinforce the differentiation between the original part of the barn and the newer single storey element to the north. Approval of final materials and finishes will be secured by condition. Specialist advice has been sought from the Council's Conservation Officer for Historic Buildings and no adverse comments have been offered in respect of the treatment of Barn 1. Indeed, it has been advised that the scheme would deliver heritage benefits in so far as it would secure the preservation of a non-designated heritage asset that is no longer fit for modern agricultural practices.
- 6.15 With regards to Barn 2, the proposed conversion scheme generally respects the agrarian and utilitarian character of the building. Its simple form and singular massing is maintained without any substantial alteration or extension, whilst a similar palette of materials is used to Barn A. The arrangement of fenestration is coherent with the character and ensures the origins of the structure remains perceivable. As such, I do not consider the design creates any policy tension.
- 6.16 The reuse of part of Barn 3 for ancillary garaging is logical and the retention of a building in this location helps to ensure that the courtyard layout of the site is preserved. The simple mono-pitched form also ensures the scheme maintains reference to its agricultural origins.

- 6.17 As is standard practice for barn conversions, conditions are recommended to restrict permitted development rights so that future alterations, extensions and other minor works such as boundary treatments can be adequately controlled. This is considered necessary in order to ensure the character of the scheme is maintained and in order to ensure due scrutiny can be exercised over any changes that may have the potential to affect the character of the locale or the Conservation Area.
- 6.18 In considering the wider landscape impacts beyond the confines of the buildings themselves, it must be noted that the site lies in an area of heritage sensitivity. It is within Kingsland Conservation Area and proximal to a number of listed buildings, the nearest of which The Elms to the east and the Grade I church of St Michael 400m to the north west. In such areas the Planning (Listed Buildings and Conservation Areas) Act 1990 places additional statutory duties upon the local planning authority. These are as follows;
- Section 66 (1) states that in considering whether to grant permission for development which affects a listed building or its setting, the local planning authority should “have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”.
  - Section 72(1) states that “with respect to any buildings or other land in a conservation area... special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”.
- 6.19 In exercising its heritage duties, the advice set out at Chapter 16 of the NPPF is also relevant. Paragraph 199 requires that great weight be given to the conservation of a designated heritage asset. The more important the asset, the greater the weight should be. Paragraph 200 goes on to advise that any harm to, or loss of, the significance of designated heritage assets should require clear and convincing justification. At paragraph 201, it states that where substantial harm is identified local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Paragraph 202 goes on to state that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 6.20 The Council’s heritage duties are manifested in the development plan through numerous policies. 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 historic environment and heritage assets. In this regards policy LD4 of the Core Strategy is also of relevance, which requires amongst other things to ensure that new developments ‘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’. LD1 is also relevant to landscape consideration in so far as it requires the schemes to demonstrate that the character of the landscape has positively influenced the design, site and site selection, as well as the protection and enhancement of settlements and the settings of designated areas. It also sets out that scheme should seek to conserve and enhance the natural, historic and scenic beauty of important landscapes such as Conservation Areas.
- 6.21 At a local level, policy KNDP1 sets out a range of sustainable development principles which includes under point a) that proposals should give high priority to the conservation and enhancement of the rural character and local distinctiveness, particularly in relation to the preservation of the Kingsland Conservation Area and its associated character, landscape and views. Policy KNDP4 also sets out a range of principles which should be observed to ensure development contributes positively to the area’s rural character, such as e) ensuring that key landscape features of important views should be able to be continued to be enjoyed and that f)



the character and setting of historic and traditional rural buildings are conserved. KNDP5 then sets out a range of considerations to ensure that the parish's heritage assets, including those not yet identified, and its local historic character and distinctiveness are conserved or enhanced. In the context of development in the Conservation Area, KNDP6 applies and states that development here should conserve or enhance the landscape setting or character or appearance of Kingsland village and reinforce its local distinctiveness. It states that development proposals will only be permitted where they i) preserve or enhance the character and appearance of the Kingsland Conservation Area and ii) do not adversely affect the significance of heritage assets and their settings within the village. Part 1 of the policy also highlights a number of characteristics that are particularly valued by the community, which includes under point A) the approach into Kingsland from the south along the B4360 and b) the open aspect the south of Longford.

6.22 The buildings proposed for conversion lie to the south of Longford and approximately 300m away from the main built up edge of Kingsland. This undeveloped nature of the intervening land is such that they do not read as being a component part of the main village and are instead experienced as a cluster of agricultural buildings in a rural setting, which is not untypical of what one would expect to find in this context. However, the relative close proximity to Kingsland is such that they do have a visual relationship with the settlement and are a feature in views both into and out of the settlement. This is promoted by the extensive and evidently well used local footpath network, which effectively encircles the site on all sides. It is noted that the Applicant has provided a detailed Landscape Appraisal which has assessed the potential impacts of the scheme from key viewpoints along the footpath network. In my view, the most sensitive vantage points in respect of landscape character and the setting of the Conservation Area are as shown in figures 3 and 4 below:



**Figure 3:** View to the east at intersection of footpath KL2 and informal path to Church





**Figure 4:** View from footpath KL3 looking north west

- 6.23 As illustrated above, the subject barns are already features within the landscape from these vantage points. As the scheme entails the conversion of the existing structures however and does not seek to construct any new buildings, there would be no additional built form introduced into these vistas which would alter the relationship between the site and the surrounding key views. The massing of buildings and particularly the form of their roofscape, which is arguably the most defining feature of the buildings within the landscape, would be largely unaltered. Indeed, from the south west perspective (Figure 4) there would actually be a beneficial reduction in built form on account of the partial demolition of the dilapidated Barn 3 which can be seen in the right of the image. Although there would inevitably be a change in the character of the buildings and their immediate setting as a result of the residential conversion and the domestic paraphernalia associated with this, the fact that views of the site from surrounding footpaths are typically gained from a longer range of between 200m and 400m lessens the impact in this sense as the finer details of the buildings appearance are not readily discernible at these distances. I hence do not share the concerns that have been expressed by the Council's Landscape Officer in this regard. It is noted however that his final comments have made recommendations with regards to material finishes and colour, and I would agree that it is critical to ensure that these are suitably recessive to help the buildings continue to assimilate positively with the landscape. It is hence recommended to attach conditions to secure approval of materials prior to their installation.
- 6.24 Following on from this, it is not considered that the scheme would lead to any harm to the special characteristics of Kingsland that policy KNDP6 of the NDP seeks to protect. The location of the site, natural screening and absence of any new buildings is such that there would be no demonstrable impact upon the approach to Kingsland from the south on the B4360. Similarly, the absence of new buildings and natural screening is such that the scheme would have a barely tangible impact when experienced from Longford and would not lead to any erosion of the open aspect to the south of this which contributes positively to the area's character.

- 6.25 The scheme maintains existing trees and hedgerows where valuable to amenity and has put forward a scheme of landscaping which includes a range of new boundary hedgerow and tree planting. Whilst this is acceptable in principle and offers further landscape mitigation, it is considered that the layout of hedgerows in particular could benefit from refinement and simplification to better reflect surrounding field patterns as recommended by the Landscape Officer. Again it is recommended that these details are secured by condition.
- 6.26 It is noted that in order to be supported by RA3 and Paragraph 80, the scheme is also required to deliver an enhancement of the building's immediate setting. Whilst the scheme would lead to a degree of domestication of the immediate vicinity of the site, this is something of an inevitability with any residential conversion and in my view any harm that would occur in this regard would be demonstrably offset by the removal of features that do not currently contribute positively to the setting of the buildings – such as the removal of the dilapidated parts of Barn 3 and the removal of the large areas of concrete hardstanding to the south of this. The removal of these would generally improve the character of the immediate area, whilst preserving the courtyard layout of the site and allowing for a greater appreciation to be gained of Barn A in particular as a non-designated heritage asset. The planting brought forward as part of the landscaping scheme also provides betterment over the current situation. Taken together therefore, it is my view that the scheme achieves an enhancement of the building's setting as required by RA3 and Para 80.
- 6.27 With regards to potential for impact upon the Kingsland Conservation Area, the appraisal set out at Section 6.23 of this report is largely transferable in this regard as the nature of the scheme, entailing the sensitive conversion of existing buildings, is such it would inherently cause minimum intrusion to the special character of the designated area. Again, specialist advice has been sought from the Council's Conservation Manager and it has been advised that by retaining the existing and traditional courtyard layout the scheme preserves the character and significance of this part of the Conservation Area. No objections to the scheme in heritage terms are hence offered from this consultee. That being said however, I am conscious that the scheme does introduce a new residential use into a peripheral and rural part of the Conservation Area that is currently devoid of such uses, and hence a degree of domestication to its otherwise rural character would inevitably occur. In my view, this constitutes harm to significance of the asset – however the details of the scheme mitigate the effect and ensure that this is very minor and at the lower end of the 'less than substantial' spectrum. This should be taken into account by the decision maker.
- 6.28 With regards to the setting of listed buildings, the closest and most pertinent of these is the Grade I Church of St Michael and ancillary listed monuments within its grounds. Although the barns are visible within views eastwards from the edge of the churchyard and in views towards the church from the footpath to the south-east, this experience would not change a great deal given the scheme proposes the sympathetic conversion of the existing structures and does not introduce any new built form to the vistas. The same conclusion can be drawn for the Grade II The Elms, which is found to east, and similarly there would not be any detriment to the setting of the Scheduled Ancient Monument of Kingsland Castle. The specialist advice from the Council's Conservation Officer has not identified any harm to the significance of the listed buildings and I would concur with that conclusion. It is also noted that no adverse comments have been received from Historic England as a statutory consultee in relation to the setting of the church as SAM. As such, no harm is found to the significance of any listed buildings and there is no tension with the heritage policies of the development plan in this regard.
- 6.29 With some harm to a designated heritage asset in the form of the Conservation Area having been identified, Paragraph 202 of the NPPF requires that this be weighed against the public benefits of the scheme. As above, it is considered that the harm in this case is minor and sits at the lower end of the 'less than substantial' scale. In terms of benefits, it has been identified that the timber framed Barn 1 in particular has historic value and significance to the extent that it is considered a non-designated heritage asset. The nature of the building however is clearly such that it is no longer suitable for use as part of modern agricultural practices, and in light of this functional redundancy the proposal scheme would secure a viable alternative use for the barn which

ensures its longer term preservation. This is a tangible public benefit in favour of the scheme, which also aligns with the aspirations set out at KNDP4 f) and KNDP5 d) to broadly ensure that traditional rural buildings are farmsteads within the parish are preserved. The delivery of additional housing is also a social benefit in favour of the scheme, albeit one that attracts only limited weight given there is not current shortfall in the five year supply. Taken together however, it is my view that the public benefits of the scheme outweigh the limited harm that has been identified to the significance of the Conservation Area. The test prescribed by the NPPF is therefore passed and, consequently, the scheme does not cause any tension with the heritage orientated policies of the plan under LD4, LD1, KNDP5 or KNDP6.

### **Residential Amenity**

- 6.30 Policy SD1 of the CS requires that development proposals safeguard residential amenity for existing and proposed residents. In the context of barn conversions, RA5 also requires that proposals are compatible with neighbouring land uses, including any ongoing agricultural operations. KND14 f) also requires that development of new housing should not unduly harm the amenity of any neighbouring property. This accords with the principles set out by the NPPF with regards to securing good standards of amenity for all existing and future occupants of land and buildings.
- 6.31 The absence of any proximal neighbouring dwellings to the barns in this case is such that the scheme would not lead to any detriment to the amenity of existing residents. The design of the scheme also ensures that good standards of amenity are secured for future occupants of the barns themselves and, apart from the typical cultivation of fields, there would not no ongoing agricultural operations close the site that have the potential to detrimentally affect living standards. As such, no conflict with policies SD1, RA5 or KNDP14 has been identified.

### **Sustainable Design and Energy Efficiency**

- 6.32 SS7 of the CS also sets the strategic objective for all development proposals to include measures which help mitigate the impact upon climate change. This includes locating development in the most sustainable locations; reducing the need to travel; and designing development to reduce carbon production and promote the efficient use of resources. Policy SD1 also states that development will be supported where it utilises physical sustainability features such as orientation of buildings, water conservation measures; cycle storage and renewable energy generation. Policy KNDP3 of the NDP also seeks to secure similar measures as part of a coordinated design package.
- 6.33 The proposal in this case involves the conversion of existing buildings, some of heritage value, and the limitations in this regard must be recognised in terms of the feasibility of utilising techniques such as building orientation or passive solar gain. The application has completed the Climate Change and Ecology measures checklist introduced following the declaration of these emergencies by the Council in these terms. It sets out that the conversions would be delivered to high standards of energy efficiency with air source heat pumps being used to provide underfloor heating. The drainage scheme also makes use of rainwater harvesting through water butts and rain gardens to improve water quality and biodiversity potential, which is further enhanced by the new planting proposed. On the whole therefore, I am satisfied that the scheme has taken reasonable effort to implement sustainable design practices and I do not identify any conflict with SS7, SD3 or KNDP3.

### **Sustainability of Location**

- 6.34 It is noted that a number of representations received have raised concerns with regards to the sustainability of the site location in terms of access to services. However, it is noted that policies

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

RA5 and RA3 do not contain any locational tests in this regard. They are essentially 'exception' policies that set out limited circumstances where development in the countryside may be justified and it is inherently accepted that these policies may result in dwellings that are relatively divorced from the services and facilities otherwise found in settlements. However, it is not considered that this would be the case here. Whilst the barns are located outside the settlement boundary, they are spatially relatively close to Kingsland and the services it provides. Facilities such as the school, doctor's surgery and public houses could all for instance be accessed through a 10 minute walk on footpaths or pavements across level terrain. As such, it is not considered that it could reasonably be argued that the site is so divorced from services that this alone would render the proposed conversions to be unsustainable.

### **Highways and Access**

- 6.35 In respect of matters pertaining to highways safety Core Strategy policy MT1 is applicable, and this requires that proposals 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. It also requires under (4) that developments are designed and laid out to achieve safe entrance and exit and have appropriate operational and manoeuvring space, having regard to the standards of the Council's Highways Development Design Guide. At a local level policy KDNP 8 sets out similar requirements, which includes that developments should ensure there is safe access onto adjacent roads and that adequate on-site parking for residents and visitors is provided within each dwelling or development curtilage and if appropriate. Similarly KND14 requires that development proposals in Kingsland villages should not impair the free flow of traffic or highway safety and shall provide appropriate parking.
- 6.36 The scheme would make use of the existing track and access which emerges onto the B4360 and is shared with the dwelling at Pinsely Farm. The highway in this location is subject to a 30mph speed limit and has a straight geometry which benefits from a wide verge. As such, it offers good levels of visibility with splays in excess of 130m being achievable in both directions. The existing access is therefore adequate to support the proposed development without causing any detriment to the safe and efficient operation of the village highways network. Conditions are recommended to secure the splays, as well as a condition requiring the first section of the access to be laid out to a specification which prevents loose material from the stone track migrating into the main carriageway. Internally, the existing track would be utilised with a number of new passing places provided in order to avoid conflict between opposing vehicle movements. The layout of the site in the vicinity of the barns also makes adequate provision for parking and maneuvering, which includes a dedicated area for larger vehicles (such as the emergency services) to turn if required. The Transportation Manager has not offered any adverse comments in respect of the access arrangements and hence no conflict with the aforementioned policies has been identified.

### **Ecology and Protected Species**

- 6.37 In the context of proposals involving the conversion of rural buildings, policy RA5 of the CS requires that schemes make adequate provision for protected and priority species and associated habitats. Policy LD2 reinforces this in so far as it required that all development proposals should conserve, restore and enhance biodiversity assets, particularly protected species. Policy KNDP4 of the Kingsland NDP also requires that developments contribute towards the ecological network of the area with measures to support the biodiversity value of wildlife sites. These policies reflect the principles established at Chapter 15 of the NPPF.
- 6.38 The application is supported by an Ecological Assessment by Star Ecology. The report finds that Barn A, the traditional timber framed barn, provides good bat roosting potential and evidence of roosting activity within the building was observed as part of the survey. The report advises that the remaining modern buildings do not provide such potential and no evidence of protected species usage was found within these structures. The report recommends that at least two nocturnal surveys should be carried out of the timber framed barn within the optimal seasonal

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periods prior to any works commencing in order to more accurately understand the usage of the barn and subsequently implement appropriate mitigations measures. The LPA Ecologist is supportive of this approach and has recommended pre-commencement conditions to secure the surveys being undertaken and supplied for approval before any works on site begin. The Applicant has confirmed they are happy for such conditions to be imposed in accordance with the Planning (Pre-commencement Conditions) Regulations 2018. Conditions will also be attached to secure a scheme of biodiversity enhancements, which will also be supplemented by the habitat potential associated with new landscape planting. On this basis, it is considered that the scheme has made adequate provision for protected species and the LPA's duties in this regard are fulfilled. There is no conflict identified with the relevant parts of RA5, LD2 and KND4.

### **Green Infrastructure and Trees**

- 6.39 In respect of trees and green infrastructure, policy LD3 is relevant in so far as it requires that schemes should protect, manage and plan for the preservation and provision of green infrastructure. They should also achieve the objectives of protecting value trees and hedgerows. LD2 is also relevant in so far as it relates to the biodiversity value offered by such assets, whilst LD1 states that development should seek to maintain and extend tree cover where they are important to amenity. From the NDP, policy KNDP4 states that development should retain important natural assets of the parish including landscape features such as trees, woodlands, wide grass verges, orchards and hedgerows unless the need for, and benefits of, the development in that location clearly outweighs the loss or deterioration in irreplaceable habitat. KNDP6 also requires that trees and hedgerows should be an integral part of any new development as essential components of the rural character of Kingsland Village.
- 6.40 The large field enclosures and the mature hedgerows and trees at their boundaries are a defining characteristic of the landscape south of Longford. The existing access track to the site is located alongside one such hedgerow and this is interspersed with a number of oak trees that at subject to Tree Preservation Orders (TPO). The TPO designations are a reflection of their value and the positive contribution they make to the character of the landscape and the Kingsland Conservation Area. The scheme makes use of the existing track and, whilst it is proposed to add a number of passing places, these are positioned in order to avoid development within the protected trees rooting area. Elsewhere within the site, works are proposed to a section of hedgerow to the north of the barns as part of the realignment of the access road however the losses would be minimal and the large deciduous tree to the north of the timber barn would remain. A large conifer found in close proximity to barn two would also be removed, however this is not considered to be of high value and can be adequately compensated for elsewhere. The views of the Council's Arboriculture Officer have been sought and no objections have been offered concerning the potential for impact on existing trees and hedgerows. It is recommended that conditions be attached to any permission to secure protection measures during the construction phase and a scheme of working methods, which are considered to be appropriate with regards to the relevant tests of the NPPG. The Applicant has agreed for these to be secured by way of pre-commencement condition. The scheme has also put forward an outline landscaping strategy, which included substantive new hedgerow, tree and orchard planting. In the longer term, this will ensure any loss of green infrastructure is adequately mitigated for an subsequently enhanced. Again, full details of the scheme will be secured by condition. Subject to this, no conflict with LD1, LD2, LD3, KNDP4 or KNDP6 is identified.

### **Foul and Surface Water Management**

- 6.41 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. Policies KNDP9 of the Kingsland NDP reflects these requirements.

- 6.42 The separation of the site from the main village of Kingsland is such that it does not benefit from a proximal mains sewer. It is therefore proposed to manage foul water through the use of individual package treatment plants within the curtilage of each unit. This accords with the hierarchal approach endorsed by SD4. Extensive testing of ground conditions has been undertaken at the site and this has shown the land to not be suitable for the use of conventional below ground soakaway features, however good infiltration rates have been observed in shallower surface soils. It is therefore proposed to manage outfall from the treatment plants through discharge to a raised drainage mound feature to the east of the site. The mound would be constructed of filter gravel and sand, with treated effluent being pumped to spreaders at the top of the mound to dissipate through the various layers to the natural soils below. Visually, the feature would appear as a grassed knoll that rises to approximately 1.3m above the natural ground level. The Council's Land Drainage Engineer has collaborated with the Applicant's consultant to design the feature and subsequently has confirmed that it represents a suitable arrangement for the management of foul water which ensures there would be no detriment to the local environment. Implementation of the scheme will be secured by condition. On this basis, it is considered the scheme accords with policies SD4, LD2 and KNDP9.
- 6.43 In respect of surface water, policy SD3 of the Core Strategy requires measures for sustainable water management to be an integral element of new development in order to reduce flood risk and avoid an adverse impact upon water quantity. From the NDP, policy KNDP7 sets out that environmentally sensitive measures to reduce the effect of flooding and surface water runoff will be actively promoted. It also states that where the management of surface water drainage needs to be addressed, developers should utilise sustainable drainage systems (SUDs) where this is practicable, including measures to support biodiversity.
- 6.44 Again, extensive infiltration tests have been undertaken at the site in accordance with BRE365 methodology and these have shown varying results across the site. The land to the north east of the site however has been observed to be suitable to support a shallow infiltration basin that will be used to manage surface water runoff from the buildings. The rainwater management system will also include rainwater harvesting through a series of water butts, with the infiltration basins also being delivered as 'rain gardens' to provide secondary treatment and enhance biodiversity value. Permeable surfaces will be used for the access, manoeuvring and parking areas. The Council's Land Drainage Engineer has confirmed that the proposed arrangements are acceptable and it is noted that, bearing in mind that the barns are existing features with extensive areas of hardstanding around them, the implementation of the drainage scheme will achieve a net reduction in runoff rates relative to the current situation. Implementation of the scheme will be secured by condition and, on this basis, no conflict with SD3 or KNDP9 is found.

### **Flood Risk**

- 6.45 It is noted that a number of representations refer to the risk of flooding on account of the location proximal to Pinsley Brook, however the site is identified by the Environment Agency mapping to be in the low risk Flood Zone 1 (>0.1% annual chance). The site is also not identified to be at risk from surface water flooding, and the Council's Land Drainage Engineer has not offered any adverse comments in terms of flood risk. The location of the site is hence suitable one for residential use in terms of flooding and there is no conflict found with SD3 or KNDP7.



## Habitats Regulations Assessment

- 6.46 With respect of the Council's duties under the Conservation of Habitats and Species Regulations, the site here lies within the catchment of the River Lugg which, in turn, is a sub-catchment of the River Wye Special Area of Conservation (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 that they would have a neutral impact upon the integrity of the designated site.
- 6.47 The proposal in this case would lead to the generation of additional phosphates contained in foul water created as a consequence of residential occupation. Although this would be managed through a package treatment plant, treatment methods are not effective at fully removing phosphate and hence the outfall from the plant will still contain residual nutrients in this sense. The discharge of this to the local environment is such that there is a potential pathway for the development to have a 'likely significant effect' on the integrity of the designated site which requires appropriate assessment in accordance with Section 63 of Habitats Regulations.
- 6.48 For the purpose of determining planning applications, the LPA is the competent authority in the application of the Habitats Regulations. In response to the failing status of the River Lugg, it has published a number of position statements setting out the approach to be taken towards proposed development within this catchment which is informed by the advice of Natural England as the relevant statutory body. As above, the broad thrust of the advice is that development can only be permitted where it can be shown with certainty to have a neutral effect upon the integrity of the designated site:
- <https://www.herefordshire.gov.uk/downloads/file/22149/position-statement-update-april-2021>
- 6.49 With regards to proposals that utilise package treatment plants with discharge to drainage fields within the Lugg catchment area, the guidance sets out that these would have a low risk of phosphorus having any effect on the designated site provided certain criteria are met. These criteria apply in the case of small discharges (less than 2m<sup>3</sup>/day) and are as follows:
- a) The drainage field is more than 50m from the designated site boundary (or sensitive interest feature) and;
  - b) The drainage field is more than 40m from any surface water feature e.g. ditch, drain, watercourse, and;
  - c) The drainage field is in an area with a slope no greater than 15%, and;
  - d) The drainage field is in an area where the high water table groundwater depth is at least 2m below the surface at all times and;
  - e) The drainage field will not be subject to significant flooding, e.g. it is not in flood zone 2 or 3m and;
  - f) There are no other known factors which would expedite the transport of phosphorus for example fissured geology, insufficient soil below the drainage pipes, known sewer flooding, conditions in the soil/geology that would cause remobilisation phosphorus, presence of mineshafts, etc and;
  - g) To ensure that there is no significant in combination effect, the discharge to ground should be at least 200m from any other discharge to ground.
- 6.50 The scheme in this case has sought to provide a foul water management system which complies with the criteria above. The proposal for two dwellings means the development would generate foul water discharges below the 2m<sup>3</sup>/day threshold and the management system has been

designed specifically to avoid conflict with any of the relevant requirements. The Land Drainage Engineer has advised that they consider the scheme to acceptable from a technical standpoint and that in their professional opinion it would meet all of the criteria. The Council's Ecologist is however ultimately responsible for assessing the proposal with regards to the Habitats Regulations and he has completed an Appropriate Assessment as required by Section 63 of the regulations. The assessment has regard to the information and evidence supplied by the Applicant, as well as GIS data supplied to the Council by Natural England. The assessment concludes that the scheme as presented would comply with the relevant criteria and hence there would be no pathway for foul water generated by the development to have an adverse impact on the integrity of the River Lugg and River Wye SAC. Likewise, the surface water management arrangements are appropriate to ensure there is no pathway for impact by this means either.

- 6.51 This assessment has been subject to consultation with Natural England and their response (Section 4.1 of this report) 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**

- 6.52 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.
- 6.53 The ability to demonstrate a five year housing land supply is such that the policies of the development plan can be afforded weight for decision making. The site in this case is located outside of an identified settlement where new residential development is ordinarily supported by the spatial strategy of the plan, however the preceding appraisal has established that the scheme would entail the sustainable reuse of a pair of redundant agricultural buildings in a manner which accords with the provisions set out at policy RA5 of the Core Strategy. The principle of the development in this location can therefore be supported, as it meets one of the circumstances under which new homes in the countryside are acceptable in accordance with policy RA3, KNDP2 d) and Paragraph 80 of the NPPF.
- 6.54 With regards to the details of the scheme, it is noted in the first instance that some very minor less than substantial harm to the significance of the Kingsland Conservation has been identified. However, the balancing exercise required by Paragraph 202 of the NPPF has been undertaken and it is considered that the public benefits of the scheme, which accrue as a result of the scheme securing a viable new use to secure the preservation of Barn A as non-designated heritage asset and general contribution to housing supply, would demonstrably outweigh the minor harm that would occur. As such, it is considered that the LPA's heritage duties are fulfilled and there is no conflict identified with policies LD4, LD1, KNDP5 and KNDP6 of the development plan.
- 6.55 The wider details of the scheme do not give to any other material harms or conflicts with the policies of the development plan. The application represents a proposal for the sustainable reuse of redundant rural buildings and the scheme has been articulated in a sensitive manner which avoids detriment to local character, heritage assets, amenity and features of environmental value – thus ensuring compliance with policies RA3, RA5, LD1, LD4 and SD1 of the Core Strategy, policies KNDP2, KNDP3, KNDP4, KNDP5 and KNDP6 of the Kingsland NDP. No objections have been received from any technical ail consultees that suggest refusal would be justified.



6.56 Overall therefore, the scheme is considered to accord with the policies of the development plan and is hence found to be representative of sustainable development. The scheme benefits from the positive presumption and it is recommended that permission be granted, subject to the conditions set out below.

## **RECOMMENDATION**

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

**That planning permission be granted subject to the following conditions:**

1. C01 - Time limit for commencement (full permission)
2. C06 - Development in accordance with approved plans

Reason: To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policies RA3, RA5, SD1, LD1 and LD4 of the Herefordshire Local Plan – Core Strategy, policies KNDP2, KNDP3, KNDP4, KNDP5 and KNDP6 of the Kingsland Neighbourhood Development Plan and the National Planning Policy Framework.

### **Pre-Commencement Conditions**

3. No site clearance, demolition or construction works associated with this development shall commence until further appropriate Optimal Period bat surveys have been carried out and a complete report, including fully detailed revised plans and details of mitigation measures and compensation features required and details required to obtain any relevant European Protected Species Licence (Bats) have been submitted to the local planning authority for written approval. The approved scheme, with approved protected species licence if required, shall be implemented in full and hereafter maintained unless otherwise approved in writing by the local planning authority and Natural England as regards the European Protected Species Licence. No external lighting shall illuminate any ecological feature within the immediate or wider site or any adjacent habitat or boundary feature; and all lighting shall support the Dark Skies principles.

Reason: To ensure that all protected species are considered and habitats enhanced having regard to the 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 amended), Policy SS6 and LD2 of the Herefordshire Core Strategy, policy KNDP4 of the Kingsland Neighbourhood Development Plan and the National Planning Policy Framework, National Planning Policy Framework (2019) and NERC Act 2006.

4. The development hereby permitted shall not commence until a tree works method statement and tree protection plan in accordance with BS5837:2012 has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the agreed method statement and the approved protection measures shall be implemented in full prior to the commencement of works on the site. Thereafter they shall be maintained for the duration of the construction phase, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To safeguard all retained and protected trees during development works and to ensure that the development conforms with Policies LD1 and LD3 of the Herefordshire Local Plan – Core Strategy, policies KNDP3, KNDP4 and KNDP6 of the Kingsland Neighbourhood Development Plan and the National Planning Policy Framework.

## Conditions Requiring Discharge

5. With the exception of site clearance and groundworks, no development shall take place until details pertaining to the following matters have been submitted to and approved in writing by the Local Planning Authority:
- a) Details and/or samples of wall cladding (including colour and finishes informed by Environmental Colour Assessment)
  - b) Details and/or samples of roof materials (including colour and finishes)
  - c) Details and or samples of rainwater goods ((including colour and finishes)
  - d) Details of all windows, doors and roof lights (to include measured drawings though the frames and any glazing bars at 1:2 or 1:5 scale).
  - e) Details of any new flues or means of ventilation

The work shall subsequently be carried out in full accordance with such approved details.

Reason: To ensure the scheme is carried out in accordance with details that are conducive with securing a high quality development which respects the character and amenity of the area in accordance with policies RA3, RA5, SD1, LD1 and LD4 of the Herefordshire Local Plan – Core Strategy, policies KNDP1, KNDP3, KNDP4, KNDP5 and KNDP6 of the Kingsland Neighbourhood Development Plan and the National Planning Policy Framework.

6. Prior to the first occupation of either of the dwellings hereby approved, a construction specification for the access track, passing places and internal manoeuvring spaces shall be supplied to and approved in writing by the Local Planning Authority. The works shall subsequently be carried out in accordance with the approved details prior to the occupation of the dwellings.

Reason: In the interests of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy, policies KNDP8 and KNDP14 of the Kingsland Neighbourhood Development Plan and the National Planning Policy Framework.

7. Prior to the first occupation of the dwellings hereby approved, the vehicular access onto the B4360 shall be upgraded to a construction specification which has first been agreed to in writing by the Local Planning Authority and at a gradient not steeper than 1 in 12.

Reason: In the interests of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy, policies KNDP8 and KNDP14 of the Kingsland Neighbourhood Development Plan and the National Planning Policy Framework.

8. Prior to the first occupation of the development hereby approved, a fully detailed and specified Biodiversity Enhancement Plan including a relevant location plan with the scale, nature and location of the provision of fixed habitat features - including as a minimum provision for additional bat roosting, bird nesting, hedgehogs and pollinating insect homes shall be provided to the planning authority for approval. The approved scheme shall be implemented in full and hereafter maintained unless otherwise agreed in writing by the planning authority. No external lighting should illuminate any biodiversity net gain enhancement feature.

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, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations') (as amended), Policy SS6 and LD2 of the Herefordshire Core Strategy, policy KNDP4 of the Kingsland Neighbourhood Development Plan and the National Planning Policy Framework, National Planning Policy Framework (2019) and NERC Act 2006.

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

Reason: In order to 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.

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

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

11. With the exception of site clearance and groundworks, no further development shall commence until a revised landscape scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include a scaled plan identifying:
- a) All trees and hedgerow to be retained, setting out measures for their protection during construction, in accordance with BS5837:2012.
  - b) Trees and hedgerow to be removed.
  - c) All proposed planting, accompanied by a written specification setting out; species, size, quantity, density with cultivation details.
  - d) All proposed hardstanding and boundary treatment.

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, policies KNDP4 and KNDP6 of the Kingsland Neighbourhood Development Plan and the National Planning Policy Framework.

12. Before the development is first occupied, a schedule of landscape maintenance for a period of 10 years shall be submitted to and approved in writing by the local planning authority. Maintenance shall be carried out in accordance with this approved schedule.

Reason: To ensure the future establishment of the approved scheme, in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy, policies KNDP4 and KNDP6 of the Kingsland Neighbourhood Development Plan and the National Planning Policy Framework.

### **General Compliance Conditions**

13. 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 Schedule 2; of Class A Part 2 Schedule 2; or Class A of Part 14 Schedule 2 shall be carried out.

Reason - To ensure the character of the original conversion scheme is maintained in the interests of preserving the character of the landscape and Kingsland Conservation Area as required by policies RA5, LD4, LD1 and SD1 of the Herefordshire Local Plan – Core Strategy, policies KNDP4 and KNDP5 and KNDP6 of the of the Kingsland Neighbourhood Development Plan and the National Planning Policy Framework.

14. Neither of the dwellings shall be occupied until the scheme of works for the management of foul and surface water have been completed in accordance with the details set out on approved plan 2439-500-RevE (and supporting specifications). Thereafter these arrangements shall be maintained in perpetuity.

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

15. Before any other works hereby approved are commenced, visibility splays, and any associated set back splays at 45 degree angles shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 160 metres to the south east and 133 metres to the north west along the nearside edge of the adjoining carriageway in accordance with the details set out on supplied plan 2439-550 Rev A. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.

Reason: In the interests of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy, policies KNDP8 and KNDP14 of the Kingsland Neighbourhood Development Plan and the National Planning Policy Framework.

16. All foul water shall discharge through connection to new dwelling specific private foul water treatment systems (Package Treatment Plants) discharging to a shared mound type drainage field located on land under the applicant's control as detailed in the supplied Surface and Foul Water Drainage Strategy by Spring Design dated 8th September 2021 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 and SD4.

17. All surface water shall be managed through a Sustainable Drainage Scheme as detailed in the supplied Surface and Foul Water Drainage Strategy by Spring Design dated September 2021 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 and SD3.

18. 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 with Policies LD1 and LD3 of the Herefordshire Local Plan – Core Strategy, policies KNDP3, KNDP4 and KNDP6 of the Kingsland Neighbourhood Development Plan and the National Planning Policy Framework.

19. All planting, seeding or turf laying in the landscaping scheme approved pursuant to Condition 11 shall be carried out in the first planting season following the occupation of the building or the completion of the development, whichever is the sooner. Any trees or plants which die, are removed or become severely damaged or diseased within 10 years of planting will be replaced in accordance with the approved plans.

Reason: To ensure implementation of the landscape scheme approved by local planning authority in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy, policies KNDP3, KNDP4 and KNDP6 of the Kingsland 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. 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.

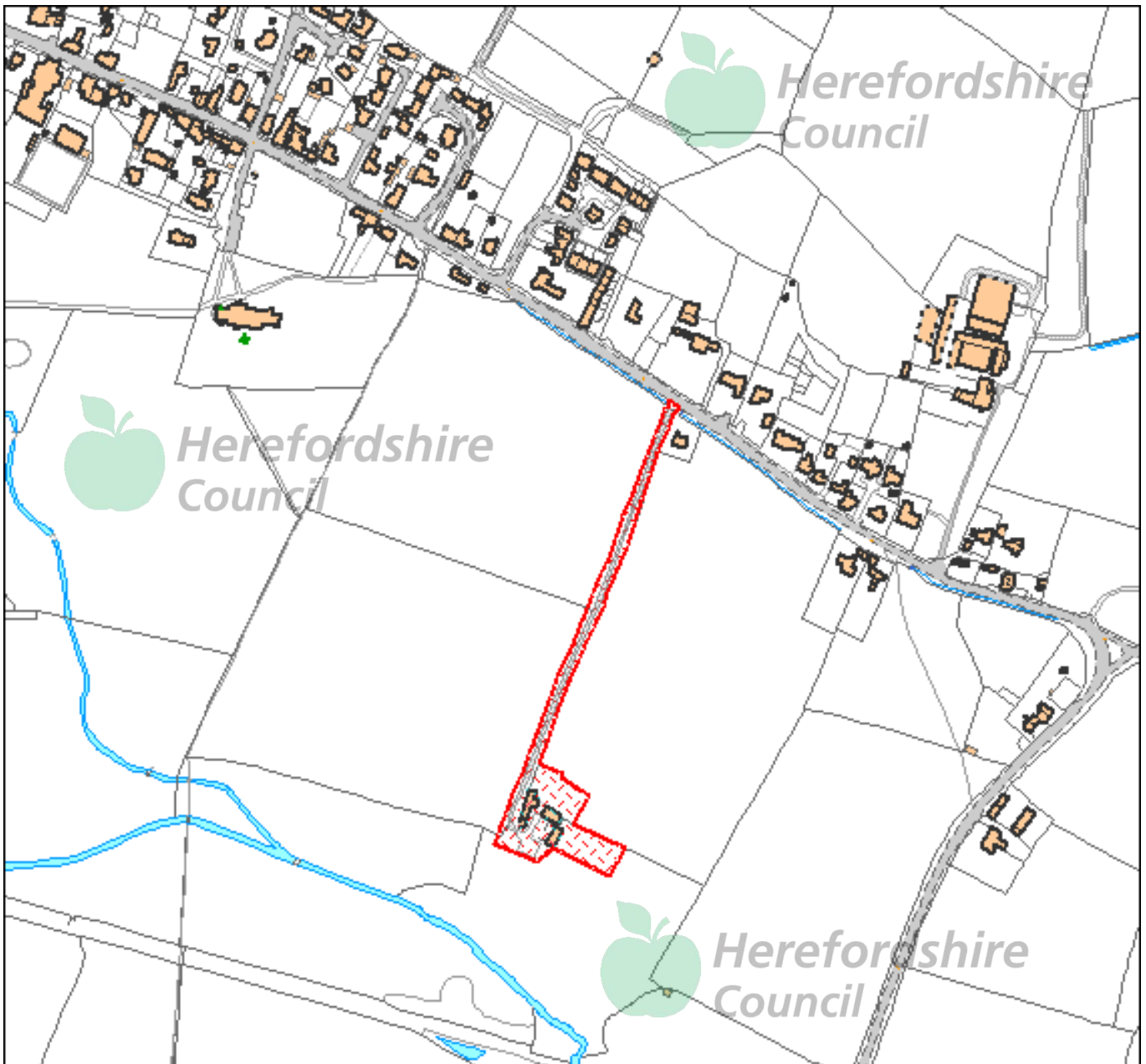
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 200995

**SITE ADDRESS :** BARNs AT KINGSLAND, SOUTH OF LONGFORD, LEOMINSTER, HEREFORDSHIRE

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

<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>9 FEBRUARY 2022</b>
<b>TITLE OF REPORT:</b>	<b>204230 - PROPOSED ALTERATIONS AND DEVELOPMENT OF EXISTING EQUINE FACILITIES TO FORM A NEW INDOOR ARENA, STABLING AND AN ESSENTIAL WORKER'S DWELLING AT PRIORY FARM, STOKE PRIOR, LEOMINSTER, HR6 0ND.</b>  <b>For: Mr &amp; Mrs Pearson per Mr Garry Thomas, Ring House Farm, Fownhope, Hereford, Herefordshire HR1 4PJ</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=204230">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=204230</a>
<b>Reason Application submitted to Committee – Re-direction</b>	

Date Received: 2 December 2020

Ward: Hampton

Grid Ref: 352268,256775

Expiry Date: 23 April 2021

Local Members: Cllr J Harrington

## 1. Site Description and Proposal

- 1.1 The application site relates to a parcel of land comprising an equestrian yard to the north of the village of Stoke Prior and is associated with Priory Farm, which lies 350 metres to the south and within the village. The site, together with land and buildings at Priory Farm itself, is used in connection with the operation of the Priory Farm Equine Centre; a rural enterprise which offers livery and a range of training and tuition to a broad range of clientele requirements. There are 8.47ha of owned land with a further 4.05ha rented, the latter situated to the immediate northeast of the yard.
- 1.2 The yard comprises a large steel portal framed building which is used as stabling facility. It is set within an extensive area of hardstanding which serves as an equine yard and clamp yard. There is a static caravan stationed on the site although this does not benefit from a residential use and is instead use for office, storage and support for the general operation of the yard. The applicant confirms that this is connected to an existing private foul drainage system. There are a number of other transient lock-up type containers positioned on the site.
- 1.3 The yard is situated upon a shelf which overlooks the village of Stoke Prior. It is bound by post fencing and is generally well screened by hedgerow and deciduous tree species. The land to the south is characteristic of equine pasture, laid to grass and slopes notably towards Priory Farm. Within this land holding, a stoned access road provides access to the yard through Priory Farm and is taken from the C1112.

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Further information on the subject of this report is available from Mr Ollie Jones on 01432 260504

- 1.4 This application is made in full and seeks planning permission for the re-development and enhancement of the existing yard. The proposal includes erecting a portal framed lean-to building to the front (northern elevation) of the existing stable building, the provision of an indoor riding arena measuring 24 metres by 12 metres, sitting under a pitched roof with a ridge height of 6.3 metres. A stable is also proposed to the western side of the site, occupying the area currently laid to hardstanding and used as a clamp yard.
- 1.5 The second element of the proposal includes the erection of a seminar room, together with a one bedroom equine workers dwelling which would attach to the eastern elevation of the existing stable building. It would be a single-storey building essentially providing 'studio' accommodation which along with the neighbouring seminar room, would provide w/c and shower facilities.

## 2. Policies

### 2.1 Herefordshire Local Plan – Core Strategy

The following policies are considered to be relevant to the application; -

- 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
- RA1 - Rural housing strategy
- RA2 - Housing in settlements outside Hereford and the market towns
- RA3 - Herefordshire's countryside
- RA4 - Agricultural, forestry and rural enterprise dwellings
- RA6 - Rural economy
- MT1 - Traffic management, highway safety and promoting active travel
- LD1 - Landscape and townscape
- LD2 - Biodiversity and geodiversity
- LD3 - Green infrastructure
- LD4 - Historic environment and heritage assets
- SD1 - Sustainable design and energy efficiency
- SD3 - Sustainable water management and water resources
- SD4 - Wastewater treatment and river water quality

### 2.2 National Planning Policy Framework (NPPF)

1. Introduction
2. Achieving sustainable development
4. Decision-making
5. Delivering a sufficient supply of homes
6. Building a strong, competitive economy
9. Promoting sustainable transport
12. Achieving well-designed places
15. Conserving and enhancing the natural environment
16. Conserving and enhancing the historic environment

### 2.3 Humber, Ford and Stoke Prior Neighbourhood Development Plan (HFSPNDP)

The plan was 'adopted' on 18 August 2016 and therefore, it now forms part of the development plan. The following policies are considered to be relevant to the application; -

- HFSP1 - Promoting a sustainable and thriving community



HFSP2	-	Development strategy
HFSP3	-	Meeting housing needs
HFSP4	-	New homes in Stoke Prior
HFSP8	-	Design criteria for housing and sites
HFSP11	-	Highways and transport infrastructure
HFSP12	-	Developing and supporting local business
HFSP16	-	The natural environment
HFSP17	-	Protecting local heritage

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 confirmed on 9th November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application. In this case, the relevant policies have been reviewed and are considered entirely consistent with the NPPF and therefore can be attributed significant weight.

### **3. Planning History**

- 3.1 183431/F - Proposed change of use of land for the siting of a mobile home (for an equestrian worker) (Retrospective) and the erection of two new stable buildings. Appeal – Split Decision (the erection of two new stable buildings allowed; mobile home dismissed).

### **4. Consultation Summary**

#### Statutory Consultations

#### **4.1 Welsh Water – no objection**

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.

#### **4.2 Forestry Commission England – standing advice**

#### Internal Council Consultations

#### **4.3 Transportation Manager**

##### **10 February 2021 – further information required**

It is noted that the proposal is to provide a redevelopment of the site to include a new indoor arena, stabling and a dwelling associated to the workforce of the site. In highways terms the movements associated to the proposals are a key consideration and movement numbers have not been supplied. This is an important factor in developments such as this so the cumulative impact on the highway network can be appropriately assessed in accordance with the NPPF.

In terms of the workers facilities it is beneficial if cycle parking is provided for both the dwelling and for staff and visitors making journeys to the facility, to ensure this is provided condition CB2 is recommended in the event that permission is granted.

The Design and access statement makes mention of an alternative access for larger vehicles. Clarification on the need for this is required to ensure that that additional access point is either considered as part of this application or set out as not required.

Following provision of traffic movement forecasts against current levels as a result of the site redevelopment and clarification on the alternative access, the LHA will finalise a comment on 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.

#### **22 April 2021 – no objection**

The provided information is considered appropriate to address the previous highways query and the data is considered acceptable to indicate the proposed usage of the facility. There are no highways objections to the proposal.

Condition CB2 should be applied to deliver the required secure cycle parking to allow active travel trips to and from the facility for users as required.

#### **4.4 Conservation Manager (Ecology)**

##### **Objection**

The application site lies within the catchment of the River Lugg SAC (Lugg- Lower Lugg), which comprises part of the River Wye Special Area of Conservation (SAC); a habitat recognised under 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 the levels of phosphates in the River Lugg exceed the 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 Local Planning Authority) is required to consider all potential effects (either alone or in combination with other development) of the proposal upon the European site through the Habitat Regulations Assessment process.

Permission can only be granted if there is scientific certainty that no unmitigated phosphate pathways exist and that the HRA process can confirm 'no adverse effect on the integrity of the River Lugg (Wye) SAC'. Natural England; the statutory nature conservation body, advise 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 proposal here is for ONE new permanent dwelling with associated creation of additional foul water flows. The application also includes development to support the intensification of horse stabling and horse numbers held on the site.

The following notes refer:

- A connection to an existing septic tank is proposed in the supplied D&A – but no further details have been supplied in support of the application.
- The LPA does not have any detail or supporting evidence to provide the legal and scientific certainty required by the HRA process.
- The applicant has not supplied a professional drainage report to confirm the existing system has capacity with relevant BS6297 percolation and ground water testing – and associated detailed plan of foul water proposal and location of testing sites in relation to soakaway drainage field.
- The drainage report should also clearly demonstrate the proposed system is fully compliant with the ‘6 criteria’ in respect of drainage systems in the Lugg SAC as detailed in the council’s guidance on their website:  
[https://www.herefordshire.gov.uk/downloads/download/2039/development\\_in\\_the\\_river\\_lugg\\_catchment](https://www.herefordshire.gov.uk/downloads/download/2039/development_in_the_river_lugg_catchment)
- The proposed development would appear to support a significant intensification of the equine holding and number of horses potentially present on site. This intensification would generate additional manure which is a source of nutrients, including phosphates that could enter the Lugg SAC hydrological catchment.
- A fully detailed manure management plan should be supplied – including details of how the manure will be stored and managed such that there is no additional leaching or run-off into the Lugg catchment at any time.
- A detailed, legally securable scheme for disposal of the manure such that it is clearly demonstrated there are no pathways for any additional phosphates to enter the River Lugg SAC hydrological catchment under any circumstances (nutrient/phosphate neutrality).

Once the additional information on foul water management and how additional manure will be managed such as to demonstrate complete nutrient neutrality within the Lugg SAC catchment the LPA can look to progress the required HRA process. The required ‘full’ appropriate assessment will require a formal ‘no objection’ consultation response from Natural England PRIOR to any grant of planning consent.

The LPA as the competent authority is at this time and based on supplied information only able to conclude that there would be an adverse effect of the integrity of the River Lugg (Wye) SAC.

Therefore at this point in time on the basis of the information provided I find that the proposed development would harm - have an adverse effect on the integrity – of a designated ‘higher status’ nature conservation site and would therefore conflict with policy SD4 of the Core Strategy which seeks to ensure that development does not undermine the achievement of water quality targets for rivers within the county and policy LD2 which states that development should conserve, restore and enhance biodiversity and geodiversity.

At this time there is an Ecology OBJECTION raised as the application does not demonstrate compliance with Core Strategy SD4 (SS1, SS6 and LD2 also apply); 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’); NPPF; Wildlife & Countryside Act (1981 amended) and NERC Act considerations.

Further ecology comments subject to satisfactory outcome of required HRA.

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Further information on the subject of this report is available from Mr Ollie Jones on 01432 260504

The proposed works and changes to the access are not identified as likely to have any significant ecological effects and 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 both the building works and changes to the existing farm access 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.

#### Wildlife Protection Informative

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

As identified in supporting information and as identified in the NPPF, council's core strategy policies and ethos of the soon to be enacted Environment Bill all development should clearly demonstrate how it will deliver a secured, net gain in local biodiversity potential. A detailed plan showing locations and detailing the specification of all biodiversity net gain features including but not limited to enhancing Bird nesting and Insect populations should be secured through condition.

CNS based on Std condition CKR (modified to Brexit) is relevant  
To obtain Biodiversity Net Gain

Prior to first use of any part of the development works approved under this planning decision notice, evidence of the suitably placed installation within the site boundary or on other land under the applicant's control of 'permanent' Bat roosting, bird nesting, hedgehog home and pollinating insect breeding enhancements and full specifications, maintenance and management arrangements of all proposed planting and soft landscaping, should be supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority. All tree and shrub planting associated with the development must only consist of locally characteristic, native species and demonstrate climate change and pest-pathogen resilience.

Reason: To ensure Biodiversity Net Gain as well as species and habitats enhancement 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 LD1, LD2 and LD3.

#### 4.5 **Conservation Manager (Landscapes)**

##### **No objection subject to conditions**

This is a desk based response. The site falls within the landscape character type timbered plateau farmlands. The area of woodland to the west is known as Croft Gate Coppice, an ancient and semi-natural woodland. This, together with a smaller woodland block to the south, is also a deciduous woodland priority habitat. A public right of way runs from the south west to the north east of the site. The landform rises noticeably from the village, including part of the main Priory Farm, up to the proposed site and continues to rise slightly to the north east.

Landscape character – Comparing the existing and proposed site plan, the area of hard standing will not be increased. The amount of built form will increase, but this is balanced with the removal of ‘cluttered’ small scale elements that are not of rural character. The fencing required to define paddocks will alter the character of the field. The new indoor arena building is considered to be large scale and will certainly extend the built form into open countryside. The location, however, benefits from the existing access and infrastructure and will not be isolated. The increase in built form should be offset by other landscape character enhancements, such as the tree and hedgerow planting that is briefly mentioned in the Design and Access Statement (DAS). It is a shame that the existing site plan does not show any of the existing hedgerows or trees or confirm that they will be retained. The Council’s aerial photograph from 2015 shows a small woodland block to the northwest corner of the site, however the proposals plan show this area as a paddock. Overall, with suitable retention and management of existing trees and hedgerows, together with mitigation planting, it is not considered that this increase of built form or introduction of paddocks is extensive enough to adversely affect the overall landscape character.

Visual impact – The surrounding woodland and sloping topography means that the site is fairly well screened from public viewpoints, other than the nearest public footpath. It is not clear how the public footpath will be accommodated across the proposed paddocks, for example whether gates or styles would be required within any fencing. It is agreed that the proposed buildings are of a suitable agricultural appearance and therefore will not have a significant negative visual impact, however consideration of planting to the west of the large arena may help to soften views of it.

Mitigation / conditions – Section 8 of the DAS confirms that adjacent trees and hedgerows will not be lost and that new trees will be planted. It is a shame that none of these details have been included in the plans or given any further details. The proposals should be linked to the biodiversity enhancement scheme. The whole landholding should be considered, such as reinforcing the orchard or woodland character along the south end of the access track, as well as new native hedgerows with oak tree planting as recommended for the landscape character type. If the application is to be approved then conditions are requested to address this (CK3, CK4 and CK5), such as:

- Protection for trees and hedgerows during construction, in accordance with BS5837:2012.
- A soft landscape scheme, showing the location of all planting on plan and a written specification of details.
- A hard landscape scheme, detailing all proposed hard surfaces, boundary treatments, gates and other infrastructure including lighting (which should be minimal to respect local dark skies).
- Implementation to be carried out in the first planting season.
- A maintenance plan for 10 years to ensure establishment and overall objectives are met.

Conclusion – I agree with the inspector’s decision about the site in September 2019 (appeal ref: APP/W1850/W/19/3226137) that the proposed stables courtyard, with the now suitably designed accommodation building, would not have an unacceptable effect on the character and appearance of the area. I find that the new indoor arena does considerably extend built form in the immediate area, but with mitigation planting this would be seen as an extension of the existing infrastructure. These comments are provided with reference to Core Strategy Policies LD1 on landscape character and LD3 on green infrastructure.

#### 4.6 **Building Conservation Manager**

## **No objection**

I made a visit to this site to consider the application for a new equestrian, arena stables and workers dwelling.

The site is remote from the village and the nearest listed building and is well screened by tree planting so there will be no adverse impact on any heritage assets and therefore no reason for me to object to the proposed development on heritage grounds.

### **4.7 Public Right of Way Manager**

#### **No objection**

Providing public footpaths SP1 and SP2 are not affected/obstructed, PROW will not object to the application.

### **4.8 Land Drainage Engineer**

#### **No objection subject to conditions**

##### Flood Risk

Review of the Environment Agency's Flood Map for Planning (Figure 1) indicates that the site is located within the low probability Flood Zone 1.

In accordance with Environment Agency standing advice, the planning application should be supported by a Flood Risk Assessment (FRA) undertaken in accordance with National Planning Policy Framework (NPPF) and its supporting Planning Practice Guidance.

The FRA should clarify the extent and depth of fluvial flood risk within the site boundary and consider the potential effects of climate change. The FRA should also identify how flood risk to the proposed development has been minimised, how the development has been made safe, and how the impacts of the development on people and property elsewhere have been avoided. The Applicant should also give consideration to any minor watercourses that could pose flood risk to the development as well as anecdotal evidence.

The provided FRA has considered all sources of flood risk and has demonstrated that the risk of flooding to the proposed site is low. There has been some risk of flooding to the access road identified.

The small watercourse crossing the access road at the south of the site has not been included in the EA Flood Map for Planning, which does not consider the potential risk associated with watercourses with small catchments. The FRA has made use of the Surface Water Flood Map as a proxy to identify the potential risk posed by this small watercourse. The risk is currently associated with the small watercourse passing through an existing culvert beneath the access road. When the capacity of this culvert is exceeded water could back up and spill over the access road. In the 1 in 100 year surface water scenario, the access road could flood to depths of 300mm – 900mm. Will affect access and egress to the site. The effect of larger flood events on access and egress should be considered. It may be necessary to consult Herefordshire Emergency Planners where safe access cannot be achieved or where the development may place an additional burden on the emergency services.

The FRA promotes a maintenance approach to mitigate flood risk to the access road through regular checks of the culvert to ensure the free flow of water under the access road and for blockages to be removed when identified, however it is recognised that this will not remove the risk of flooding in this location.

This guidance is in accordance with requirements of the NPPF and Policy SD3 of the Core Strategy. Guidance on the required scope of the FRA is available on the GOV-UK website at <https://www.gov.uk/planning-applications-assessing-flood-risk>.

### Surface water flood risk

Review of the EA's Risk of Flooding from Surface Water map indicates that the site of the proposed development is not at risk of surface water flooding, however see previous section for details of surface water risk identified to the access road.

### Other considerations and sources of flood risk

The FRA prepared to support the planning application has included an assessment of risk associated with all sources of flooding, in accordance with the NPPF. The risk of flooding to the identified development is low.

Local residents may have identified other local sources of flood risk within the vicinity of the site, commonly associated with culvert blockages, sewer blockages or unmapped drainage ditches.

If topography within the area of the proposed development is steeply sloping, we would require the Applicant to demonstrate consideration of the management of overland flow and any necessary protection to the proposed dwellings and surface water drainage systems.

Review of the EA's Groundwater map indicates that the site is not located within a designated Source Protection Zone or Principal Aquifer.

### Surface water drainage

The Applicant should provide a surface water drainage strategy showing how surface water from the proposed development will be managed. The strategy must demonstrate that there is no increased risk of flooding to the site or downstream of the site as a result of development between the 1 in 1 year event and up to the 1 in 100 year event and allowing for the potential effects of climate change. Note that in February 2016 the EA updated their advice on the potential effects of climate change and that a range of allowances should be considered to understand the implications: <https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances>.

All new drainage systems for new and redeveloped sites must, as far as practicable, meet the Non-Statutory Technical Standards for Sustainable Drainage Systems and will require approval from the Lead Local Flood Authority (Herefordshire Council).

In accordance with the NPPF, Non-Statutory Technical Standards for Sustainable Drainage Systems and Policy SD3 of the Core Strategy, the drainage strategy should incorporate the use of Sustainable Drainage (SUDS) where possible. The approach promotes the use of infiltration features in the first instance. If drainage cannot be achieved solely through infiltration due to site conditions or contamination risks, the preferred options are (in order of preference): (i) a controlled discharge to a local watercourse, or (ii) a controlled discharge into the public sewer network (depending on availability and capacity). The rate and volume of discharge should strive to provide betterment be restricted to the pre-development Greenfield values as far as practicable. For brownfield developments, a betterment of at least 20% is considered appropriate. Reference should be made to The SUDS Manual (CIRIA C753, 2015) for guidance on calculating runoff rates and volumes.

The Cranfield University Soils Map identifies the soils within the proposed development area to be 'freely draining, slightly acid loamy soil' thus the use of infiltration techniques may be a viable option for managing surface water. On-site testing undertaken in accordance with

BRE365 should be undertaken to determine whether the use of infiltration techniques are a viable option. Where site conditions and groundwater levels permit, the use of combined attenuation and infiltration features are promoted to provide treatment and reduce runoff during smaller rainfall events.

It should be noted that soakaways should be located a minimum of 5m from building foundations, that the base of soakaways and unlined storage/conveyance features should be a minimum of 1m above groundwater levels and must have a half drain time of no greater than 24 hours.

For any proposed outfall to an adjacent watercourse, the Applicant must consider the risk of water backing up and/or not being able to discharge during periods of high river levels in the receiving watercourses. Discharge of surface water to an ordinary watercourse may require Ordinary Watercourse Consent from Herefordshire Council prior to construction.

The drainage system should be designed to ensure no flooding from the drainage system (which can include on-the-ground conveyance features) in all events up to the 1 in 30 year event.

The Applicant must confirm the proposed adoption and maintenance arrangements for the surface water drainage system. The Drainage Layout plan should reflect the ownership of the respective drainage components.

#### Foul water drainage

The applicant proposes the removal of an existing caravan and for the new workers accommodation and seminar room toilets to be connected to the existing septic tank. The expected flows to the new septic tank will need to be calculated using British Flows and Loads and confirmation that the septic tank has the capacity to manage those flows will need to be provided.

As there is not a foul public sewer in this area, the Applicant will be required to complete a Foul Drainage Assessment (FDA) form and submit this as part of any forthcoming planning application. The FDA form can be found on the GOV.UK website at this link: <https://www.gov.uk/government/publications/foul-drainage-assessment-form-fda1>

The Applicant should demonstrate that proposals are compliant with the general Binding Rules and are in accordance with the Building Regulations Part H Drainage and Waste Disposal.

The Applicant should undertake percolation tests in accordance with BS6297 to determine whether infiltration techniques are a viable option for managing treated effluent (see Section 1.32 of Building Regulations Part H Drainage and Waste Disposal).

If infiltration testing results prove soakage is viable, the following must be adhered to for Package Treatment Plants:

- The drainage field should be located a minimum of 10m from any watercourse, 15m from any building, 50m from an abstraction point of any groundwater supply and not in any Zone 1 groundwater protection zone. The drainage field should be sufficiently far from any other drainage field, to ensure that overall soakage capacity of the ground is not exceeded.
- Drainage fields should be constructed using perforated pipe, laid in trenches of uniform gradient which should not be steeper than 1:200. The distribution pipes should have a minimum 2m separation.
- Drainage fields should be set out in a continuous loop, i.e. the spreaders should be connected. If this feature is missed, it will gradually clog with debris and the field will become increasingly ineffective.



- If infiltration testing results prove soakage is not viable, outfall to a watercourse or ditch with a non-seasonal constant flow may be permitted following approval from an ecology representative in relation to phosphate levels.

In accordance with Policy SD4 of the Core Strategy, the Applicant should provide a foul water drainage strategy showing how it will be managed. Foul water drainage must be separated from the surface water drainage. The Applicant should provide evidence that contaminated water will not get into the surface water drainage system or any nearby surface watercourses/features.

### Overall comment

In principle we do not object to the proposals, however we recommend that the following information is provided within suitably worded planning conditions:

- Provision of a detailed drainage strategy that demonstrates that opportunities for the use of SUDS features have been maximised, where possible, including use of infiltration techniques and on-ground conveyance and storage features;
- A detailed surface water drainage strategy with supporting calculations that demonstrates there will be no surface water flooding up to the 1 in 30 year event, and no increased risk of flooding as a result of development between the 1 in 1 year event and up to the 1 in 100 year event and allowing for the potential effects of climate change;
- Evidence that the Applicant is providing sufficient on-site attenuation storage to ensure that site-generated surface water runoff is controlled and limited to agreed discharge rates for all storm events up to and including the 1 in 100 year rainfall event, with an appropriate increase in rainfall intensity to allow for the effects of future climate change;
- Results of infiltration testing undertaken in accordance with BRE365 and confirmation of groundwater levels to demonstrate that the invert level of any soakaways or unlined attenuation features can be located a minimum of 1m above groundwater levels in accordance with standing advice.
- A detailed foul water drainage strategy showing how foul water from the development will be disposed of.

## **5. Representations**

### **5.1 Humber, Ford and Stoke Prior Parish Council**

Strongly support the application. Council noted that the proposals would improve the appearance of the site beyond its current state and that the buildings would be finished in typical agricultural style but with good quality materials. In particular past concerns regarding mobile home would be resolved as the mobile home would be removed as part of these proposals.

Concerns about flooding are paramount in Stoke Prior. The flood risk assessment submitted as part of the application contains a number of recommendations which Council expects will be made conditions should Herefordshire decide to grant consent.

Council sought re-assurance that the traffic load and timing would not be significantly increased by these proposals. The applicant was able to confirm that the scale of equine operations would be much lower than in the recent past so deliveries of hay, fodder etc. would not increase much beyond current levels and would be lower than in former operations. Council is also aware that the nearby school has a daily, rather intense, traffic pattern which it would be ideal if deliveries to the site could avoid these school pick-up/drop off times.

In previous applications Council had strongly supported the growth of this important rural business and, given the improvements in this application, would again strongly support the application. Such development is encouraged under Policy HFSP12 in the Neighbourhood Development Plan.

5.2 To date, a total of 22 letters of support have been received. The comments can be summarised as follows; -

- Important to support local enterprise and new jobs
- Improving equine safety by 24 hour surveillance
- Appearance of the yard would be improved
- Demand for new stables
- Would not impact upon the residents of Stoke Prior
- Need for extra housing for younger people
- Lack of facilities and one is needed which is equidistant from Ledbury, Ludlow and Hereford

5.3 In addition, 1 letter of objection has been received. The comment can be summarised as follows; -

- Proposal would be intrusive within the surrounding landscape
- Not in accordance with policies as stated within the refusal of previous application and appeal
- Impact on the local highway network
- Application if approved would be used to justify a new, larger dwelling at a later date

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=204230](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=204230)

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

### Principle of development

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

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

6.2 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy and the adopted Humber, Ford and Stoke Prior Neighbourhood Development Plan (HFSPNDP). The National Planning Policy Framework (NPPF) is also a significant material consideration.

6.3 Excluding a very small amount of the application site (the access via Priory Farm off the C1112), the application site lies outside of the settlement boundary for Stoke Prior as prescribed by policy HFSP4 of the HFSPNDP. Indeed, the area for where development is proposed, including the new equine workers dwelling, is situated approximately 320m north of the main, built-up part of the village. Therefore, in planning terms, the site is considered to be open-countryside whereby new, market housing is not supported in accordance with the requirements of Core Strategy policy RA2 and policies HFSP2 and HFSP4 of the HFSPNDP.

- 6.4 Of particular relevance is Paragraph 80 of the NPPF which states that planning decisions should avoid the development of isolated homes in the countryside unless one or more of the listed circumstances apply, as set out within the Council's Core Strategy at policy RA3. In order for the Local Planning Authority (LPA) to assess whether or not there is an 'essential need', evidence must be provided to demonstrate a need in order to qualify for a rural worker's dwelling. This echoes the tenets of Policy RA3 which lists exceptions to new residential development in an open-countryside, including dwellings for rural workers, where they would support an established rural enterprise and would accord with Policy RA4.
- 6.5 The rural enterprise in question relates to the Priory Farm Equine Centre which is understandably very different in nature and character to more common rural workers dwellings that are predicated on an often larger, agricultural enterprise. As such, the enterprise here is somewhat unique and therefore, comparisons cannot easily be made with other similar rural enterprises.
- 6.6 However, it is understood that the enterprise is well-established and following the retirement of the applicant, the day-to-day responsibility of the running of the business falls to the groom manager, who presently lives in rented accommodation elsewhere within the village of Stoke Prior.
- 6.7 The enterprise operates as one, using facilities at Priory Farm and at the yard. According to the submitted details, the business currently has provision for the stabling of 16 horses. The proposal looks to increase the provision of stabling at the yard by up to 12 horses that would come forward instead of the stabling for 8 horses as approved following the Inspector's decision in respect of P183431/F. On this basis, there would be provision for 21 horses at the yard along with the provision that stands in and around Priory Farm itself.
- 6.8 It is accepted that the applicant is now retired from the business and therefore is no longer actively involved in the day-to-day operation of the business and, that they reside at Priory Farmhouse, away from the yard where an increase in stabling provision is proposed. The position of the applicant which are corroborated by the received letters of support is that an on-site dwelling is required in order to attend to sick and injured horses, foaling and other emergencies as exemplified in some of the received comments.
- 6.9 Great regard is given the Inspector's decision for 183431/F where the provision of a temporary dwelling for the groom manager was dismissed. It was concluded that given the groom manager would be on site during the day, checks on animals prior to departure in the evening would be sufficient to limited medical issues. The Inspector was also unconvinced that systems could not be put in place to monitor the site out of hours, allowing the responsible worker to respond in an expedient manner during the night.
- 6.10 The nature of the enterprise is somewhat changed from the time of previous consideration. In the first instance, reduced weight can be attributed to the reliance of supervision afforded through Priory Farmhouse since the applicant is now retired from the day-to-day operation of the enterprise. Additionally, the land holding has increased since the consideration and determination of the previous application and notwithstanding the increased stabling provision proposed for the yard, the enterprise will have increased capacity in respect of animal numbers.
- 6.11 To this end, agricultural advice previously provided to officer's set out that that 1.5 acres of land is required for the first horse and then an acre per horse thereafter, plus an acre or two enable reseeded and resting/rotation for good pasture management. On the basis that the holding has increased by 13 acres since the previous application was considered (from 17 – 30 acres), the enterprise benefits from capacity for around 8 additional horses (in line with the increased stabling provision allowed at the previous appeal). Therefore, it can roughly be estimated that the enterprise has capacity for 24 horses.

- 6.12 Noting this rather limited expansion in the enterprise, officers remain unconvinced that the essential need of the business cannot continue be met by the groom manager who lives in accommodation, albeit temporary but within Stoke Prior itself meaning they are always within 5 minutes of the site. Furthermore, the aid of security/monitoring systems have not been properly discounted or proven to be insufficient by the applicant.
- 6.13 Notwithstanding the above however, policy RA4 of the Core Strategy requires consideration be given to any other accommodation that could meet any identified essential need to be close to the operating business. It is acknowledged that the applicant is retired and that case law concludes it unreasonable to expect the applicants to move out of their matrimonial home to give way for the required rural worker. However, Priory Farmhouse is subdivided (NC2005/0839/F refers). At the time of considering the previous application, the unit of accommodation was subject to a short-term occupancy agreement and the Inspector corroborated the view of the Council insofar that it could not be easily discounted as being unsuitable to meet the essential need. Since the decision of the Inspector and the submission of this application, the applicant confirms that their son has moved into the dwelling as to live separately to them. On the basis that the Inspector found that a presence at Priory Farm to be suitable to meet the needs of the enterprise and aware of the applicant's obvious dissatisfaction of the current housing arrangements of the groom manager (static caravan within village), it must be questioned as to why consideration was not given to placing them here or if it was, what concluded it as not being suitable. Also of note is that as the groom manager would be responsible for both sites, wherever the dwelling is situated would mean that they are not 'on-site' out of hours in the other location.
- 6.14 As such, on the basis of the existing provision of stabling at both locations (taking account of extant permission), having regard to the existing size of the land holding and noting the availability of suitable accommodation within the existing holding which has been found to be situated as such that it can meet the needs of the rural enterprise, the case for a new dwelling within the open-countryside is wholly unsubstantiated. The principle of the new dwelling is therefore contrary to Core Strategy policy RA3 and RA4 and policies HFSP2 and HFSP4 of the HFSPNDP.
- 6.15 In respect of the wider redevelopment of the yard which includes further stabling and arena facilities, policy RA6 lends its support to land based enterprises, recognising that they may be located outside settlements and within open-countryside, as per this case. At the local level, policy HFSP12 states that the development of rural businesses will be supported. The economic benefits of the existing enterprise are appreciated although given the extent of the land holding, the existing stabling facilities and the view that the needs of the business can be met in existing accommodation, the proposal is unlikely to accrue any notable further benefits in the social and economic sphere. Indeed, whilst the provision of the enhanced training facilities at the yard would enhance the overall quality of the offering provided by the training centre, there is not considered to be any convincing justification for a further four stables (over the already allowed 8) when taking into account the availability of land to support such horse numbers.

### **Impact on residential amenity**

- 6.16 The yard area where development is proposed is situated circa 130 metres to the north of the nearest residential property (Grovefields) and given the existing development and operations on the site, it is not considered that the relatively modest intensification and small residential use would result in any alterations to the amenity of the property. Therefore, no conflict with policy SD1 of the Core Strategy or policy HFSP8 of the HFSPNDP is identified.

### **Siting, scale and design**

- 6.17 Policy HFSP8 of the HFSPNDP builds on the requirements of Core Strategy policy SD1 insofar that proposals should incorporate locally distinctive features and traditional materials. Proposals should be appropriately scaled to respond positively to surrounding development.

- 6.18 In this case, the proposed new buildings would be consolidated within the existing parcel of land and the area of hardstanding would not increase in size. The scale of the proposed buildings is, in general terms, considered to be appropriate and the design, whilst functional, would be befitting of its intended function and not particularly uncommon for equine establishments in rural settings. For instance, the stables would be low in height and constructed from timber boarding, clearly reading as a building purposes for the housing of horses. The proposed studio and dwelling would be attached to the existing stable building/proposed portal framed lean-to and would appear subservient in scale. Therefore whilst not possessing a domestic character per se, it would not be visually offensive within this specific context of an operational equine yard.
- 6.19 Therefore, the proposed buildings whilst rather uninspiring in respect of their design, would not be out of character when having regard to the existing development on the site and they would be situated as to visually relate to one another. Therefore, no conflict with policies HFSP8 and SD1 of the development plan is identified in this respect.

### **Impact on landscape**

- 6.20 Together with the requirements of Core Strategy policy SD1, policy HFSP12 of the HFSPNDP sets out that proposals for new business development should be in scale with the character of the area and settlement and should not adversely affect landscape character. It also specifies amongst other things that proposals should avoid obtrusive external storage and paraphernalia. Policy HFSP16 of the HFSPNDP requires proposals to not adversely affect landscape character through where appropriate, including measures to conserve, restore or enhance sites.
- 6.21 As set out in the comments made by the Council's Landscape Officer, the proposal would increase the built form of the site notably; this largely being as a result of the proposed sizeable indoor riding arena to the north of the existing buildings. However, despite the site's elevated position which sits above Stoke Prior, it does benefit from established tree and hedgerow infrastructure which helps to reduce the overall prominence of the site. The submission makes reference to the retention of all trees and hedgerows on and bounding the site together with further planting and although limited details of this have been supplied, it is considered that this could be appropriately secured through appropriately worded planning conditions appended to any approval.
- 6.22 Officers also recognise that the existing site suffers from a number of temporary containers/lock-ups (including static caravan) which adds clutter to the site and sits rather negatively within the surroundings. The removal of this paraphernalia through the provision of purpose built buildings should negate the need for the presence of these articles, enhancing the appearance of the site.
- 6.23 Furthermore, given the suitably designed nature of the proposed buildings which would be distinctly agrarian/equestrian in character, the increase in built form, even in the absence of enhanced screening, would not appear out of character in the rural surroundings.
- 6.24 With the above in mind, the proposals are not considered to be such which would result in any undue impact on the otherwise open and attractive landscape character, according with the requirements of Core Strategy policy LD1 and policy HFSP12 and HFSP16 of the HFSPNDP.

### **Impact on heritage assets**

- 6.25 Along with the expectations of policy LD4 of the Core Strategy, policy HFSP12 of the HFSPNDP sets out that proposals for new business development should affect heritage assets. The site in this case is notably distant from the nearest heritage assets; Grade II listed Pear Tree Cottage which lies circa 250 metres to the southwest and Grade II listed 'The Priory' (Priory Farmhouse) which lies circa 330 metres to the south of the site. Noting the comments of the Council's Conservation Officer, it is not considered that the proposals would result in any harm to these or the wider historic environment.

## **Access and highway safety**

- 6.26 Policy MT1 of the Core Strategy and NPPF policies require development proposals to give genuine choice as regards movement. NPPF paragraph 105 requires local planning authorities to facilitate the use of sustainable modes of transport and paragraph 110 refers to the need to ensure developments generating significant amounts of movement should take account of whether safe and suitable access to the site can be achieved for all people and whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development.
- 6.27 Policy RA6 of the Core Strategy sets out that proposals which relate to the diversification of the rural economy should ensure that traffic movements can be safely accommodated within the local highway network, re-iterated at the local level through policy HFSP12 of the HFSPNDP. Indeed, the principle is well established within the NPPF where it sets out that development should only be prevented or refused on transport grounds where there would be an unacceptable impact on highway safety or where 'the residual cumulative impacts of development are severe' (NPPF para. 111).
- 6.28 Given the proposal includes increased and enhanced facilities at the site together with the provision of a new dwelling, the Transportation Manager requested further details in respect of vehicular movements to and from the site, as to be able to ascertain the cumulative impacts of the proposal. The details submitted by the applicant also provided clarity to a second point of access off the C1112 which is suitable for larger vehicles, rather than negotiating the track via the Priory Farm point of entrance. Having reviewed the submitted details, taking account of the relatively modest increase in the scale of the enterprise and noting the comments from the Transportation Manager, it is not considered that proposal would result in any unacceptable impact on the local highway network in accordance with the above mentioned policies and the principles as found within the NPPF.

## **Ecology and drainage**

- 6.29 Policy HFSP16 of the HFSPNDP states that proposals should contribute towards the ecological network and green infrastructure of the area with measures to support the biodiversity value of designated and local sites and also to add to the extent of local natural and wildlife assets where possible, generally echoing the requirements of Core Strategy policy LD2.
- 6.30 The Planning Ecologist has reviewed the submission and considers that the proposed development would not result in any significant ecological effect on general wildlife within the locality and protected species. The applicant would be reminded of their legal duty of care to wildlife protection. Furthermore, as required by Core Strategy policy LD2 and the NPPF, biodiversity net gain can be secured through appropriately worded planning conditions appended to any approval.
- 6.31 The site in this instance also lies within the catchment of the River Lugg which, in turn, is a sub-catchment of the River Wye Special Area of Conservation (SAC). The River Wye SAC is an internationally important conservation site which has been designated for its special features of ecological and biodiversity value. Under the Conservation of Habitats and Species Regulations 2017, Herefordshire Council has a legal duty to assess the potential impact of new developments in this area by undertaking an 'Appropriate Assessment' (AA) which must be able to determine with scientific certainty that there would be no 'likely significant effects' upon the designated site. The obligations are embodied with Core Strategy policies LD2 and SD4 along with policy HFSP14 of the HFSPNDP, as well as the guidance established within the NPPF.

- 6.32 The River Lugg, which is a tributary of the River Wye and forms part of the SAC designated site, is currently failing its conservation targets on phosphate levels. This as a result of water pollution from 'point' source, particularly sewage outlets, and 'diffuse' source, particularly from agricultural run-off. As such, with limited exceptions, it is not currently possible to allow further development which results in the increased generation of phosphates.
- 6.33 In this case, the proposal would look to deal with foul water generated by the development through a connection to an existing private system which is believed to involve a septic tank. However, no professional drainage report has been supplied which confirms that the existing system has capacity and that the soakaway drainage field conforms with the criteria as set out within the latest Herefordshire Council position statement in respect to development within the River Lugg catchment.
- 6.34 Furthermore, the proposed development would support an intensification of the equine holding and the number of horses on the site which would, in turn result in an increase amount of horse manure. No details have been supplied with respect as to how this would be managed and therefore, together with the absence of details about foul drainage, it is not possible to conclude that there would be no likely significant effects on the River Lugg/Wye SAC.
- 6.35 Technical matters relating to foul and surface water drainage have not been supplied at this stage. However, in line with the comments made by the Council's Land Drainage Engineer, it is considered that these matters could be secured through safeguarding conditions appended to any planning approval to ensure accordance with Core Strategy policy SD3 and SD4.

### **Flood Risk**

- 6.36 The applicant has submitted a Flood Risk Assessment (FRA) and although it is noted that the site proposed for development is located within Flood Zone 1, part of the access through Priory Farm is within Zones 2 & 3. The FRA sets out maintenance to ensure regular checks of the culvert to prevent any blockages which may impeded the free flow of water under the road, especially during periods of heavy rainfall. On the basis that access can also be achieved from the C1112 close to The Woodhouse, it is not considered that the proposal is unacceptable in flood risk terms.

### **Conclusion**

- 6.37 The proposal is for a new dwelling and enhanced equine facilities and stabling at land associated with Priory Farm, Stoke Prior. There are no overriding identified issues in respect of the expansion of the site since it would support a rural land based enterprise with there being no adverse impacts on the surrounding landscape.
- 6.38 However, noting the site includes the provision of housing, the site is divorced from the nearest settlement (Stoke Prior) which has been identified as an appropriate location for new housing growth within the Core Strategy and a settlement boundary prescribed by the HFSPNDP. The site is therefore considered as being unsustainable in a locational sense for open market housing, and the application consequently falls to be considered against the exceptional circumstances set out by Core Strategy Policies RA3 and RA4 and at Paragraph 80 of the NPPF.
- 6.39 The application has been made on the premise that the new dwelling is required to satisfy sustained essential functional need to have a rural worker live permanently on the site to manage the existing and proposed enlarged equestrian centre. However, since it has been found that the site can be managed from Priory Farm, no substantive evidence has been supplied to

demonstrate why the groom manager has not or could not be placed within the separate dwelling formed through the subdivision of the house. Further, as the applicant is retired from the day-to-day running of the business, the groom manager would be responsible for both sites and therefore notwithstanding the view that the enterprise can indeed be managed during the day with checks last thing in the evening aided by security systems, it is considered that the proposal fails to address the very reasons for which the application is predicated on i.e – having an out of hours presence close to the animals. The application therefore fails to accord with Core Strategy policy RA3 and RA4 and policy HFSP2 and HFSP4 of the HFSPNDP.

6.40 Insufficient information has been submitted to demonstrate that the proposal would not have an adverse impact upon the integrity of the River Lugg / River Wye SAC through the generation of additional phosphates through foul water. This adverse impact would be contrary to the requirements of the Conservation and Habitats and Species Regulations 2017 and policies LD2 and SD4 of the Core Strategy and policy HFSP14 of the HFSPNDP.

**RECOMMENDATION**

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

1. **The application site lies within the River Lugg sub-catchment of the River Wye Special Area of Conservation (SAC) and the nature of the proposal triggers the requirement for a Habitat Regulations Assessment to be undertaken. Under the Regulations there is a requirement to establish with certainty, and beyond all reasonable scientific doubt, that there will not be any adverse effect on the integrity of the River Wye SAC. The River Lugg sub-catchment however suffers from the effects of point source and diffuse water pollution and phosphate levels in the river have already exceeded conservation objectives. The proposal in this case would add to this through the generation of additional foul water / phosphates and an intensification of the equine enterprise which could result in increased amounts of manure and as such on the basis of the insufficient level of information supplied, the Local Planning Authority is unable to conclude that that the development would not have an adverse effect on the integrity of the River Lugg / River Wye SAC. As a result, the proposal cannot be positively progressed through the Habitat Regulations Assessment process as required by The Conservation of Species and Habitats Regulations 2017 and is hence contrary to policies LD2 and SD4 of the Herefordshire Local Plan Core Strategy, policy HFSP14 of the Humber, Ford and Stoke Prior Neighbourhood Development Plan and the Natural Environment and Rural Communities (NERC) Act 2006 and the guidance set out within the National Planning Policy Framework.**
2. **The proposal looks to introduce a permanent, rural workers dwelling at the existing yard which is proposed, as part of this application, for expansion. It is considered that the needs of the enterprise can be met through an on-site presence during the day, combined with evening checks and/or security systems, the latter having not been discounted as an option. Additionally, no demonstration has been given as to why the separate dwelling at Priory Farm is not suitable for the rural worker, especially since they would be responsible for managing the entirety of the site. Therefore, the proposed new dwelling is representative of unjustified development within the open-countryside, failing to accord with policy RA3 and RA4 of the Herefordshire Local Plan – Core Strategy, policy HFSP2 and HFSP4 of the Humber, Ford and Stoke Prior Neighbourhood Development Plan and the National Planning Policy Framework, namely paragraph 80.**

Decision: .....

Notes: .....

.....

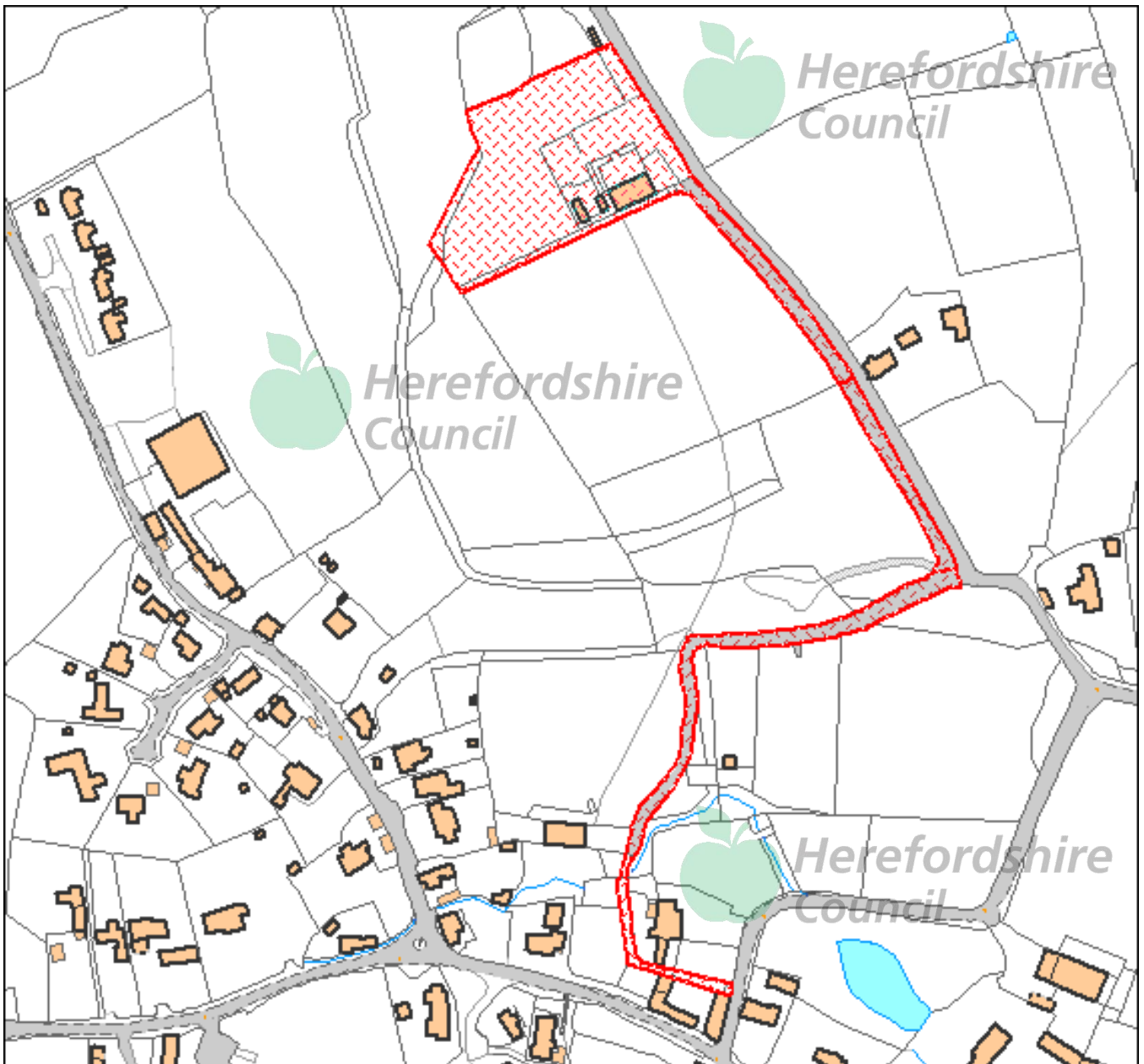
**Background Papers**

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Further information on the subject of this report is available from Mr Ollie Jones on 01432 260504



Internal departmental consultation replies.



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**APPLICATION NO:** 204230

**SITE ADDRESS :** PRIORY FARM, STOKE PRIOR, LEOMINSTER, HEREFORDSHIRE, HR6 0ND

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Further information on the subject of this report is available from Mr Ollie Jones on 01432 260504

<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>9 FEBRUARY 2022</b>
<b>TITLE OF REPORT:</b>	<b>214230 - PROPOSED TWO STOREY SIDE EXTENSION AT 33 BURDON DRIVE, BARTESTREE, HEREFORD, HR1 4DL</b>  <b>For: Mr &amp; Mrs Price per Mr Julian Scriven, 5 Overbury Road, Hereford, Herefordshire, HR1 1JE</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=214230&amp;search-term=214230">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=214230&amp;search-term=214230</a>
<b>Reason Application submitted to Committee - member of staff</b>	

**Date Received: 17 November 2021      Ward: Hagley      Grid Ref: 356070, 241431**  
**Expiry Date: 27 January 2022**  
**Local Member: Cllr Paul Andrews**

## 1. Site Description and Proposal

- 1.1 This application relates to a suburban semi-detached dwelling located within an established residential area in the village of Bartestree. It is situated within a street scene of similarly designed houses that form a semi-formal, perimeter block of development. The existing house is constructed of brick under a Double Roman concrete tiled roof.
- 1.2 This full householder application proposes the erection of a two-storey side extension, with an existing lean-to being demolished. The extension would be constructed in matching external facing and roofing materials and a side access path to the rear garden would be maintained. The proposal would result in the provision of an extra bedroom, resulting in a 4-bed dwelling.

## 2. Policies

### 2.1 Herefordshire Local Plan – Core Strategy

SS1	–	Presumption in favour of sustainable development
SS6	–	Environmental quality and local distinctiveness
LD1	–	Landscape and townscape
SD1	–	Sustainable design and energy efficiency
SD3	–	Sustainable water management and water resources
SD4	–	Waste water treatment and river water quality

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

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

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Further information on the subject of this report is available from Mr Simon Rowles on 01432 260238

2.2 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<sup>th</sup> October 2015 and a review was required to be completed before 15<sup>th</sup> October 2020. The decision to review the Core Strategy was made on 9<sup>th</sup> November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application. In this case, the relevant policies have been reviewed, are considered entirely consistent with the NPPF and therefore attributed significant weight.

2.3 Bartestree with Lugwardine Neighbourhood Development Plan (NDP)

BL2 – Extensions to properties

BL4 – Settlement boundaries

BL12 – Transport and highways

2.4 National Planning Policy Framework (July 2021)

Section 2 – Achieving sustainable development

Section 4 – Decision making

Section 12 – Achieving well-designed places

The NPPF, together with relevant documents and revisions, can be viewed via the link below:

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

2.5 Planning Practice Guidance (PPG) - This can be accessed through the following link:

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

### 3. **Planning History**

3.1 There is no relevant planning history.

### 4. **Consultation Summary**

4.1 No consultation responses received at the time of writing this report (07/01/22).

### 5. **Representations**

5.1 *Bartestree with Lugwardine Group Parish Council* – We wish to unanimously support this application as it complies with NDP Policy BL2.

5.2 The consultation responses can be viewed on the Council's website via the following link:-

[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=214230&search-term=214230](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=214230&search-term=214230)

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 and the 'made' Bartestree and Lugwardine Neighbourhood Development Plan (NDP). The National Planning Policy Framework (NPPF) is also a significant material consideration.

6.3 The principle of extensions, alterations and additions to existing lawful dwellings and their curtilages are accepted in general terms by the policies found within the development plan. In particular, Policy BL4 of the NDP defines a settlement boundary for Bartestree and states that within this boundary, development will be supported in principle. For this application, the principle of development is acceptable subject to the scale, design and siting of the extension respecting the character and appearance of the host dwelling, as well as ensuring that there would be no unacceptable impact on any neighbours' amenity.

6.4 Policy BL2 of the NDP states that planning applications will be supported for extensions within the neighbourhood area provided that:-

- i. overall design, size, appearance, scale, height and mass remain subservient to the main dwelling;*
- ii. the external facing materials should match or complement the materials in the host dwelling;*
- iii. the extension will not result in significant adverse impact on the amenity of neighbouring properties.*

6.5 The proposed extension would be set back from the principal elevation and set down in ridge height, thereby achieving a suitably subservient appearance. Its width, relative to that of the existing semi-detached property, would be in proportion and its fenestration and details such as eaves and verge construction would mirror that of the host dwelling. An unduly dominant appearance would be avoided and the first criterion is thereby satisfied.

6.6 Turning to proposed materials, these would be matching and thereby ensure assimilation of the extension with its host and the wider street scene. There would also be no significant adverse effects on the residential amenity of nearby residential occupiers, by reason of the separation distances involved (in excess of 13m) and the siting of the extension relative to neighbouring dwellings. In particular, the immediate outlook, and degree of privacy afforded to the rear garden, of 32 Wilcroft Park would be fundamentally maintained. The second and third criterions of the NDP policy are thereby satisfied.

6.7 The proposal is also considered to compliant with relevant design and environmental policies contained within the Core Strategy, including SS6 and SD1. The applicant has completed the Climate Change checklist and confirmed that the extension will be constructed in thermally efficient materials to meet Building Regulations requirements, which given the nature of the application is considered acceptable. Turning to surface water drainage, whilst there would be a modest increase in impermeable area, the rainwater from new roof area would be taken to a soakaway sited at least 5m away from the dwelling, in line with Part H of the Building Regulations. Foul water would continue to discharge to the main sewer. Given the negligible increase in phosphate levels, no 'significant effects' arise for the River Wye Special Area of Conservation (Lugg catchment). The proposal is thereby screened out for the purposes of assessment under the Habitat Regulations 2017 (as amended).

- 6.8 In relation to parking provision the site plan reflects the availability of three spaces, involving the partial loss of a small lawned area. This is considered to be acceptable having regard to the benefit of off-street parking in compliance with the Highway Design Guide. To satisfy policies concerning biodiversity net gain, it is proposed to install a bird box on the new gable, which can be conditioned for compliance purposes.
- 6.9 In summary, the proposed development is considered to accord with the development plan when read as a whole, which is not outweighed by any other material considerations. The extension would improve the existing housing stock within the village and increase utility of use to existing and future occupiers through additional accommodation over two floors.

## **RECOMMENDATION**

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

- 1. 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 hereby approved shall be carried out strictly in accordance with the approved plans (drawing no. JS/140/21/1 and JS/140/21/2 Rev. C) and the schedule of materials indicated thereon.**

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

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

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

- 4. Prior to first use of the development approved under this planning permission, the RSPB bird box shown on the approved plans shall be installed on the east elevation. Hereafter, the bird box shall be maintained as approved unless otherwise agreed in writing by the local planning authority.**

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

## **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.**

Decision: .....

Notes: .....

.....



Herefordshire  
Council



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**APPLICATION NO:** 214230

**SITE ADDRESS:** 33 BURDON DRIVE, BARTESTREE, HEREFORD, HEREFORDSHIRE, HR1 4DL

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Further information on the subject of this report is available from Mr Simon Rowles on 01432 260238



<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>9 FEBRUARY 2022</b>
<b>TITLE OF REPORT :</b>	<p><b>214263 - THE PROPOSAL INCLUDES A 2 STOREY SIDE EXTENSION COMPRISING OF A GARAGE AT GROUND FLOOR LEVEL AND A NEW PRINCIPAL BEDROOM AT FIRST FLOOR LEVEL, WITH A FURTHER SINGLE STOREY SECTION TO PROVIDE WORKSHOP SPACE IN THE GARAGE. ALSO PROPOSED IS A BALCONY WITH GLASS BALUSTRADE TO THE REAR OF THE PRINCIPAL BEDROOM. AT 13 THE CRAFT, SUTTON ST NICHOLAS, HEREFORD, HR1 3BZ</b></p> <p><b>For: Mr. &amp; Mrs. Ward per Mrs Charlotte Knott, 48 Hinton Avenue, Hereford, Herefordshire, HR2 6AW</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=214263&amp;search-term=214263">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=214263&amp;search-term=214263</a>
<b>Reason Application submitted to Committee – Staff application</b>	

**Date Received: 19 November 2021      Ward: Sutton Walls      Grid Ref: 353282,245406**  
**Expiry Date: 14 January 2022**  
 Local Member: Cllr Ms K S Guthrie

## 1. Site Description and Proposal

- 1.1. 13 The Craft is a detached two-storey property located at the end of a cul-de-sac in the Parish of Sutton St Nicholas. There is a public right of way located down the north-eastern side of the property which provides pedestrian access from the cul-de-sac to the Church of St Nicholas and the U72600 found to the south. The property has a large front and rear curtilage with the rear garden extending to the east. Bounding to the rear boundary of the property (south) is an open field. The entirety of the property is located within the Conservation Area.
- 1.2. The proposal includes a two storey side extension comprising of a garage at ground floor level and a new principal bedroom at first floor level, with a further single storey section to provide workshop space in the garage. Also proposed is a balcony with glass balustrade to the rear of the principal bedroom.

### 1.3. Existing elevations



### 1.4. Proposed elevations



## 2. Policies

2.1. The Herefordshire Local Plan Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council’s website by using the following link:- <https://www.herefordshire.gov.uk/downloads/file/1788/core-strategy-sections-combined>

Herefordshire Local Plan – Core Strategy Policies:  
 SS1 – Presumption in favour of sustainable development  
 SD1 – Sustainable design and energy efficiency  
 LD1 – Landscape and townscape

2.2. Sutton St Nicholas Neighbourhood Development Plan [Adopted 2017] can be viewed on the Council’s website by using the following link: <https://www.herefordshire.gov.uk/directory-record/3107/sutton-st-nicholas-neighbourhood-development-plan>

Policy 1 – Settlement Boundary  
 Policy 6 – Landscape  
 Policy 7 – Building Design

### 2.3. NPPF

Chapter 2 – Achieving sustainable development  
 Chapter 12 – Achieving well-designed places

2.4. The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the

plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy 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.

### 3. Planning History

3.1. None relevant

### 4. Representations

4.1. Sutton St. Nicholas Parish Council support the application

4.2. Public Right of Way officer has no objection

4.3. No representations were received from the Press/Site Notice

4.4. 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=214263&search-term=214263](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=214263&search-term=214263)

4.5. Internet access is available at the Council's Customer Service Centres:  
<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

### 5. Officer's Appraisal

5.1. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows: "*If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.*"

5.2. In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS) and the 'made' Sutton St Nicholas Neighbourhood Development Plan (NDP). At this time the policies in the NDP can be afforded weight as set out in paragraph 48 of the National Planning Policy Framework, which itself is a significant material consideration.

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

5.4. The principle of residential extensions is considered acceptable, as written in SD1 of the CS, subject to the enlargement respecting the scale, height, massing and proportions of the existing dwellings and ensuring that that it causes no harm to the amenity of neighbours through the loss of light, overshadowing or through overlooking. The extension is subservient with the host dwelling appearing to remain as the dominant feature. The extension has a height to ridge sited below that of the host dwelling, emphasising the subservience to the host. The contrast in external materials aids in reading the extension as a later addition. The proposal has been designed in a manner that reflects the host dwelling, with the extension respecting the scale, height, massing and proportions of the host dwelling. This design approach ensures that the existing design of the dwelling is respected, harmonising with the residential character

of the dwelling and wider locale. Although the material proposed contrasts with the host, it is considered that this material choice complements the host dwelling and ensures that the addition is read as a later addition. Due to the appropriate design also it is not considered that the proposal would harm the character or appearance of the Conservation Area. As such, the scheme is of an appropriate scale, design and appearance and is in adherence with LD1, LD4 and SD1 of the CS and Policies 6 and 7 of the NDP.

5.5. Whilst no concerns have been raised with regards to the impact the extension would have on the amenity of neighbouring dwellings by way of overlooking, loss of light and outlook and sense of overbearing scale, I must give this due consideration. The side extension would be located 8.25 metres from the neighbouring property to the north east (from dwelling to dwelling over the PROW). This is considered sufficient distancing to alleviate concerns for overlooking, overshadowing or overbearing effects. Moreover, given that the property is bounded by an open field to the rear (south east facing) it is not considered that the proposal would give rise to overlooking, overshadowing or overbearing effects to the rear. The balcony would be located on the south-east elevation (rear facing) therefore given that this outlooks over the field it is not considered that this feature would give rise to overlooking of neighbouring properties. No concerns with regards to residential amenity are therefore found, thus no conflict with SD1 of the CS is found.

5.6. In assessing the application it is considered that the proposal accords with the provisions of the Herefordshire Local Plan – Core Strategy and NDP together with the overarching aims and objectives of the National Planning Policy. It is therefore my recommendation to grant planning permission subject to the below conditions

## **RECOMMENDATION**

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

### **1. 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. Development in accordance with the approved plans**

The development shall be carried out strictly in accordance with the approved plans (drawing nos. 178-07; 178-06; 178-05B; 178-04; 178-03; 178-02; 178-01), except where otherwise stipulated by conditions attached to this permission.

Reason. To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policies SD1 and LD1 of the Herefordshire Local Plan – Core Strategy, Policies 1, 6 and 7 of the Sutton St Nicholas Neighbourhood Development Plan and the National Planning Policy Framework

## **INFORMATIVES:**

### **1. Application Approved Without Amendment**

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

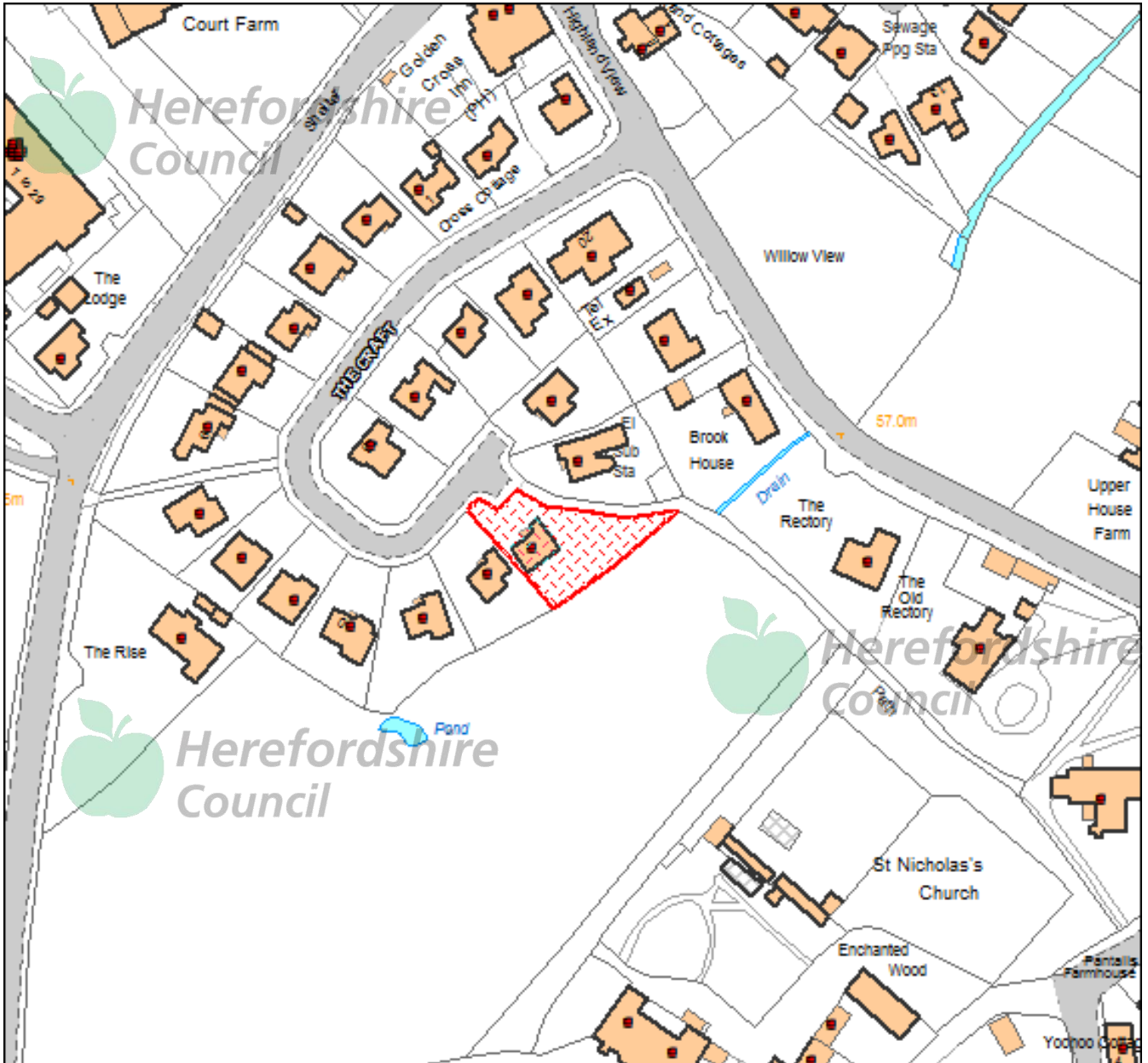
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 214263

**SITE ADDRESS :** 13 THE CRAFT, SUTTON ST NICHOLAS, HEREFORD, HEREFORDSHIRE, HR1 3BZ

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