

# Agenda

## Planning and regulatory committee

Date: **Wednesday 10 August 2022**

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Time: **10.00 am**

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Place: **The Conference Room, Herefordshire Council Offices,  
Plough Lane, Hereford, HR4 0LE**

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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 - Wednesday 10 August 2022 10.00 am - YouTube](#)

For any further information please contact:

**Matthew Evans, Democratic Services Officer**

Tel: 01432 383690

Email: [matthew.evans@herefordshire.gov.uk](mailto:matthew.evans@herefordshire.gov.uk)

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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**

<b>Chairperson</b>	<b>Councillor Terry James</b>
<b>Vice-chairperson</b>	<b>Councillor Paul Rone</b>
	<b>Councillor Paul Andrews</b>
	<b>Councillor Polly Andrews</b>
	<b>Councillor Dave Boulter</b>
	<b>Councillor Sebastian Bowen</b>
	<b>Councillor Clare Davies</b>
	<b>Councillor Elizabeth Foxton</b>
	<b>Councillor John Hardwick</b>
	<b>Councillor Tony Johnson</b>
	<b>Councillor Mark Millmore</b>
	<b>Councillor Jeremy Milln</b>
	<b>Councillor Felicity Norman</b>
	<b>Councillor Ann-Marie Probert</b>
	<b>Councillor Yolande Watson</b>

## Agenda

	Pages
<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 29 June 2022.	
<b>5. CHAIRPERSON'S ANNOUNCEMENTS</b>	
To receive any announcements from the Chairperson.	
<b>6. 204443 - LAND ADJACENT TO THE OLD KILNS, CHURCH LANE, HOWLE HILL, ROSS-ON-WYE, HR9 5SP</b>	37 - 60
Outline application with all matters reserved for the residential development of 3 dwellings.	
<b>7. 220369 - HEREFORD LEISURE CENTRE, 37-39 HOLMER ROAD, HEREFORD, HEREFORDSHIRE, HR4 9UD</b>	61 - 84
Installation of a new 1.03km closed circuit cycle track with associated external works including perimeter fencing, learn to ride areas, skill based off road areas and perimeter lighting. The installation of a social hub comprising of three individual reused shipping containers with associated outdoor seating area.	
<b>8. 221777 - RHYSTONE COTTAGE, LUGWARDINE, HEREFORD, HR1 4AP</b>	85 - 94
Change of use of land from agricultural to equestrian and construction of small stable block.	
<b>9. DATE OF NEXT MEETING</b>	
Date of next site inspection – 30 August 2022	
Date of next meeting – 31 August 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 Herefordshire Council office at Plough Lane is located off Whitecross Road in Hereford, approximately 1 kilometre from the City Bus Station. The location of the office and details of city bus services can be viewed at:

<http://www.herefordshire.gov.uk/downloads/file/1597/hereford-city-bus-map-local-services>,

### 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 Rone (Vice Chairperson)	Conservative
Councillor Paul Andrews	Independents for Herefordshire
Councillor Polly Andrews	Liberal Democrat
Councillor Dave Boulter	Independents for Herefordshire
Councillor Sebastian Bowen	True Independents
Councillor Clare Davies	True Independents
Councillor Elizabeth Foxton	Independents for Herefordshire
Councillor John Hardwick	Independents for Herefordshire
Councillor Tony Johnson	Conservative
Councillor Mark Millmore	Conservative
Councillor Jeremy Milln	The Green Party
Councillor Felicity Norman	The Green Party
Councillor Ann-Marie Probert	Conservative
Councillor Yolande Watson	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 service director, regulatory, raises issues around the consistency of the proposal, if approved, with the adopted development plan
- (f) the application, in the reasonable opinion of the service director, regulatory, 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 service director, regulatory, 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 chairperson'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 chairperson 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 The Conference Room, Herefordshire Council Offices, Plough Lane, Hereford, HR4 0LE on Wednesday 29 June 2022 at 10.00 am**

**Present:** Councillor Terry James (chairperson)  
Councillor Paul Rone (vice-chairperson)

**Councillors:** Paul Andrews, Dave Boulter, Clare Davies, Elizabeth Foxton, John Hardwick, Mark Millmore, Jeremy Milln, Felicity Norman, Tim Price, Probert, John Stone, Kevin Tillet and Yolande Watson

**In attendance:** Councillors Pauline Crockett, David Hitchiner and Peter Jinman

**Officers:** Senior Lawyer and Lead development manager

**8. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Polly Andrews, Sebastian Bowen and Tony Johnson.

**9. NAMED SUBSTITUTES (IF ANY)**

Councillor Kevin Tillet acted as a substitute for Councillor Polly Andrews  
Councillor Tim Price acted as a substitute for Councillor Sebastian Bowen  
Councillor John Stone acted as a substitute for Councillor Tony Johnson

**10. DECLARATIONS OF INTEREST**

Councillor Mark Millmore declared a schedule one, pecuniary interest in respect of agenda item no. 7, application 214046 – Land at Lyde Court and would leave the meeting room during consideration of the item.

Councillor Dave Boulter declared an other interest in respect of agenda item no. 7, application 214046 – Land at Lyde Court and agenda item no.9 – Magnolia Farm; the agent for both applications was a known associate.

Councillor Jeremy Milln declared an other interest in respect of agenda item no. 7, application 214046 – Land at Lyde Court and agenda item no.8 – Ladygrove Cottage; applications 212673/212674 – the applicants for both applications were known associates.

Councillor John Hardwick declared an other interest in respect of agenda item no. 7, application 214046 – Land at Lyde Court and agenda item no.8 – Ladygrove Cottage; applications 212673/212674 – the applicants for both applications were known associates.

**11. MINUTES**

**RESOLVED:** That the minutes of the meeting held on 24 May 2022 be approved.

12. **211678 - LAND SOUTH EAST OF GREYHOUND CLOSE, LONGTOWN, HEREFORD, HEREFORDSHIRE** (Pages 13 - 14)

The development manager, majors team gave a presentation on the application and the updates/representations received following the publication of the agenda as provided in the update sheet and appended to these minutes.

In accordance with the criteria for public speaking Mr Jones spoke on behalf of Longtown Parish Council, Mr Arthur, local resident, spoke in objection to the application and Ms Sgueglia, planning agent, spoke in support of the application.

In accordance with the council's constitution the local ward member spoke on the application. He explained that the redirection of the application had been undertaken due to the level of public interest. The Longtown Neighbourhood Development Plan (NDP) would be tested by the application; the NDP had established what development the local community required to thrive and grow. The current application was not in accordance with the requirements as set out in the NDP; the houses were of the wrong height and wrong size. The sustainability of the application was questioned and it was noted at the local school was oversubscribed. Issues concerning the capacity of the sewage treatment works were raised and problems with the water supply and water pressure in the village generally. Both issues required resolution prior to any development in Longtown, similar to that proposed in the current application.

The committee discussed the application.

The local Ward member was given the opportunity to close the debate. He explained that the application was speculative development and not in-keeping with the locality, contrary to the NDP. The capacity of the local sewage treatment works was inadequate and the problems affecting the water supply to the village should be dealt with comprehensively rather than focused singularly on the proposed development site. The committee was urged to refuse the application in its current form.

A motion that the application be refused due to: unacceptable housing mix and scale of development proposed in the application (contrary to RA2 of the core strategy and LGPC2 of the Longtown NDP) was proposed by Councillor Yolande Watson and seconded by Councillor John Hardwick. The motion was put to the vote and was carried by a simple majority.

**Resolved - that planning permission is refused due to: unacceptable housing mix and scale of development proposed in the application (contrary to RA2 of the core strategy and LGPC2 of the Longtown NDP).**

*(Councillor Mark Millmore left the meeting at 11:11 a.m.)*

*(Councillor Tim Price left the meeting at 11:11 a.m.)*

*(There was an adjournment at 11:11 a.m.; the meeting reconvened at 11:28 a.m.)*

13. **214046 - LAND AT LYDE COURT, LYDE CROSS, HEREFORD, HEREFORDSHIRE, HR1 3AE** (Pages 15 - 16)

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

The chairman outlined a change to the procedure for public speaking. He explained that he had used his discretion to allow extra time and speakers for the parish councils,

objectors and supporters. In accordance with this change to the criteria for public speaking Mr Cooper, spoke on behalf of Holmer and Shelwick Parish Council, Mr Marron spoke on behalf of Wellington Parish Council and Mr Paske, spoke on behalf of Pipe and Lyde Parish Council. Dr Williams and Mr Hanks spoke in objection to the application. Mr Waring, the applicant, spoke in support of the application.

In accordance with the council's constitution the local ward member spoke on the application. She explained that the application had been redirected due to the high level of public interest. It was noted that work on the site had already started. There was significant concern in the local communities and the application did not comply with a number of core strategy policies including SS7, SS6 and SS4. A high number of objections to the application had been received including from the six surrounding parish councils. The report contained 41 summarised concerns and issues raised in the objections. It was noted there were also 25 letters of support. The need to exercise judgement and balance in consideration of the application was highlighted.

The committee discussed the application.

The local ward member closed the debate and explained although it was considered that the application would only result in minimal impacts on local communities it was still unacceptable.

A motion that the application be approved consistent with the case officer's recommendation and with the addition of a condition requiring a logbook to be kept and to be made available for inspection by the council was proposed by Councillor Paul Rone and seconded by Councillor Kevin Tillett. The motion was carried by a simple majority.

**RESOLVED – that planning permission be granted subject to the following conditions, the addition of a condition requiring a logbook to be kept and the be made available for inspection by the council and any other further conditions/amendments 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 shall be carried out strictly in accordance with the approved plans except where otherwise stipulated by conditions attached to this permission.**

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

- 3. Details of any floodlighting, external lighting proposed to illuminate the development shall be submitted to and approved in writing by the local planning authority before the use hereby permitted commences and the building is brought into use Development shall be carried out in accordance with the approved details and there shall be no other external illumination of the development.**

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

4. **The ecological protection, mitigation, compensation and working methods scheme including recommended Biodiversity Enhancement as recommended in the Phase 1 Ecological Survey by Heritage Environmental Contractors (2021) and the Landscape and Habitat Biodiversity Enhancement Scheme by Heritage Environmental Contractors (2021) shall be implemented in full as stated, and hereafter maintained, unless otherwise approved in writing by the local planning authority and Natural England as relevant to the protected species licence.**

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

- 5.

**The airstrip hereby approved shall remain unsurfaced at all times and no aircraft or aviation paraphernalia shall be permanently sited in the open at the site other than the existing pole-mounted windsock and small 6ft x 4ft wooden shed housing the flight log-book and fire extinguisher.**

**Reason: In order to safeguard the visual amenities of the area and the wider landscape in accordance with policies SD1 and LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

6. **Within 3 months of the date of the permission hereby granted, details shall be submitted to and approved in writing by the Local Planning Authority of the type and location of signage in place to warn users of rights of way about aviation from the site. Signage shall be installed on public right of way PL3 within 3 months of the date of this permission and retained in accordance with the details so approved at all times.**

**Reason : In the interests of the safety and amenity of nearby rights of way users in accordance with Policy MT1 of the Herefordshire Local Plan – Core Strategy.**

7. **The use of aircraft will be restricted to fixed wing single engine piston aircraft of less than 3175kg in weight.**

**Reasons: In order to protect the amenity of occupiers of nearby properties so as to comply with Policy SS6 and SD1 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.**

8. **Use of helicopters be restricted to no more than 2 flights (inbound and outbound) per week.**



**Reasons: In order to protect the amenity of occupiers of nearby properties so as to comply with Policy SS6 and SD1 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.**

**9.**

**There shall be no use of twin engine aircraft, jets, turbo-props nor flex-wing microlights.**

**Reasons: In order to protect the amenity of occupiers of nearby properties so as to comply with Policy SS6 and SD1 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.**

**10.**

**No flights are to take place outside the hours of 08:00 and 21:00 and there shall be no night flying.**

**Reasons: In order to protect the amenity of occupiers of nearby properties so as to comply with Policy SS6 and SD1 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.**

**11.**

**The site of the proposal shall not be used for flying training, gliders, aerobatics nor Touch and Go procedures.**

**Reasons: In order to protect the amenity of occupiers of nearby properties so as to comply with Policy SS6 and SD1 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.**

**12.**

**Between 10:00am and 3:00pm a maximum no of 3 flights (inclusive of take-off and landing) in any one hour period.**

**Between 08:00am to 10:00am and 3:00pm and 9.00pm weekdays only maximum 10 flights per day.**

**On weekends and bank-holidays there shall not be in excess of 15 flights per day.**

**The cumulative week (Sunday to Saturday) shall not be in excess of 35 flights per week**

**Reasons: In order to protect the amenity of occupiers of nearby properties so as to comply with Policy SS6 and SD1 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.**

**13.**

**All aviation paraphernalia and the structures hereby granted permission shall be removed from the land and the site restored to its original agricultural condition should the use of the site for aviation cease for longer than 12 months.**

**Reason: In order to safeguard the visual amenities of the area in accordance and surrounding landscape in accordance with Policy SD1 and 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 12:50 p.m.; the meeting reconvened at 1:05 p.m.)*

**14. 212673 & 212674 - LADYGROVE COTTAGE, MORDIFORD, HEREFORD, HR1 4LT**

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

The senior planning officer gave a presentation on the application.

In accordance with the criteria for public speaking Mr Tucker, the applicant, spoke in support of the application.

In accordance with the council's constitution the local ward member spoke on the application. He explained the applicant had lived locally for a long time and had renovated many houses. The applicant had sought advice from experts and officers and his proposal was a sound conservation project to preserve a building in Herefordshire's vernacular Style. The applicant had the support of the local parish councils.

The committee discussed the application.

The local member closed the debate.

A motion to delegate to officers to approve both the applications pending the submission of further detail and conditions to be agreed with the chairman, proposer and seconder was proposed by Councillor Felicity Norman and seconded by Councillor Elizabeth Foxton. It was considered that the public interest/benefit in the restoration of the Cottage outweighed the 'less than substantial' harm to the building as raised by the heritage buildings officer. The motion was put to the vote and carried by a simple majority.

**Resolved – that the applications are delegated to officers to approve pending the submission of further detail and conditions to be agreed with the chairman proposer and seconder. The public interest/benefit in the restoration of the Cottage outweighed the 'less than substantial' harm to the building as raised by the heritage buildings officer.**

*(There was an adjournment at 1:40 p.m.; the meeting reconvened at 1:45 p.m.)*

*(Councillor John Hardwick resumed his seat on the committee)*

**15. 220366 - MAGNOLIA FARM, CANON BRIDGE, HEREFORD, HR2 9JF (Pages 17 - 24)**

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

In accordance with the criteria for public speaking Mrs Fortescue, local resident, spoke in objection to the application and Mr Thomas, planning agent, spoke in support.

In accordance with the council's constitution the local ward member provided a statement which was read to the committee. In the statement the local ward member explained that the application sought to increase the size of the units on the application site. It was noted that a future application concerning the landscaping of the site was likely to come to committee. The current application had been redirected to committee due to the level of public interest. Local objections to the application concerned the potential over-development of the application site. There were concerns locally about the retention of the Dutch barn on site and the potential for its conversion into extra accommodation. The objectors urged the committee to uphold the original, approved scheme and reject the proposed variation.

The committee discussed the application.

The local ward member closed the debate and referred to the Landscape scheme which was likely to be considered by the committee at a later date.

A motion to approve the application consistent with the case officer's recommendation was proposed by Councillor John Hardwick and seconded by Councillor Paul Andrews. The motion was put to the vote and carried by a simple majority.

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

1. The development shall be carried out strictly in accordance with the approved plans (drawing nos. 339.21.LD 01 Rev B, MG-FM-21-01 C, MAG-FM-21-04 Rev B, MAG-FM-21-3 Rev D, MAG-FM-21-02 Rev D, MAG-FM-21-07 Rev E, MAG-FM-21- 08 Rev E) and the schedule of materials indicated thereon.

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

2. Unless otherwise approved by this permission, the materials to be used externally on walls and roofs shall be in accordance with the approved details submitted and discharged under reference P212020/XA2.

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

3. The finishes to be used for all external joinery, timber, plaster and masonry surfaces shall be carried out in accordance with the approved details submitted and discharged under reference P212020/XA2.

**Reason: To ensure that the work is finished with materials, textures and colours that are appropriate to the safeguarding of the special architectural or historical interest of the building and to comply with the requirements of Policy LD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework**

**4. Details of the guttering, down pipes and all associated fittings shall be carried out in accordance with the approved details submitted and discharged under reference P212020/XA2.**

**Reason: To ensure that the rainwater goods are of an appropriate form in the interests of the safeguarding of the special architectural or historical interest of the building and to comply with the requirements of Policy LD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

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

**Reason: To ensure the character of the original conversion scheme is maintained and to comply with Policy RA5 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

**6 Any new access gates/doors shall be set back 5 metres from the adjoining carriageway edge and shall be made to open inwards only.**

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

**7 Prior to the first occupation of the dwellings hereby approved the driveway and/or vehicular turning area shall be consolidated and surfaced at a gradient not steeper than 1 in 8. Private drainage arrangements must be made to prevent run-off from the driveway discharging onto the highway. Details of the driveway, vehicular turning area and drainage arrangements shall be submitted to and approved in writing by the local planning authority prior to commencement of any works.**

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

**8 The development hereby permitted shall not be brought into use until the access, turning area and parking facilities shown on the approved plan have been properly consolidated, surfaced, drained and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority and these areas shall thereafter be retained and kept available for those uses at all times.**

**Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

**9 Parking for site operatives and visitors shall be retained as discharged under reference no 212020/XA2 and kept available during the remaining construction of the development.**

**Reason: To prevent indiscriminate parking, with immediate effect, in the interests of highway safety and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

**10 The covered and secure cycle parking facilities shall be carried out in strict accordance with the approved details discharged under reference no 212020/XA2 and available for use prior to the occupation of any of the dwellinghouses 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.**

**11 The approved CEMP discharged under reference no 212020/XA2 shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have been finally removed.**

**Reason: In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), NPPF (2018) and Herefordshire Council Core Strategy (2015) policy LD2.**

**12 All surface water from the dwellings approved under this decision notice will be managed through a Sustainable Drainage Scheme on land under the applicant's control as stated in the planning application form and drainage report by HYDROGEO dated July 2018, and this scheme shall be maintained hereafter as approved, unless otherwise agreed in writing by the Local Planning Authority. In compliance with Council Policy at no point shall any part of any soakaway drainage field be constructed closer than 50m to the river bank or boundary of the River Wye SSSI.**

**Reason: In order to comply with Habitat Regulations (2017), National Planning Policy Framework, NERC Act (2006) and Herefordshire Council Core Strategy (2015) policies LD2 and SD3.**

**13 All foul water from the dwellings approved under this decision notice shall discharge through individual Package Treatment Plants with soakaway drainage fields located in the garden of each dwelling as stated in the planning application form and drainage report by HYDROGEO dated July 2018; unless otherwise agreed in writing by the Local Planning Authority. In compliance with General Binding Rules and the Council Policy at no point shall any part of any soakaway drainage field be constructed closer than 50m to the river bank or boundary of the River Wye SSSI.**

**Reason: In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), NPPF (2018), General Binding Rules, and Herefordshire Council Core Strategy (2015) policies LD2, retained Biodiversity SPG and SD4.**

**14 At no time shall any external lighting illuminate the gardens or area between the dwellings approved under this decision notice and the River Wye SAC (SSSI) without the prior written approval of this local planning authority. This**

is to ensure there is no detrimental impact on bat, nocturnal bird and small mammal commuting and foraging in the locality and to help ensure the security of local 'Dark Skies'.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 2017 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework (2018), NERC 2006. NPPF-DEFRA Dark Skies Guidance 2013 (2018).

15 The soft and hard landscaping details submitted and discharged under 212020/XA2 should be carried out as per these details.

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

16 The soft landscaping scheme approved under condition 15 shall be carried out concurrently with the development hereby permitted and shall be completed no later than the first planting season following the completion of the development. The landscaping shall be maintained for a period of 5 years. During this time, any trees, shrubs or other plants which are removed, die or are seriously retarded shall be replaced during the next planting season with others of similar sizes and species unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5-year maintenance period. The hard landscaping shall be completed prior to the first occupation of the development hereby permitted.

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

17 Within six months of any of the solar photovoltaic panels hereby permitted becoming redundant, inoperative or permanently unused, those panels and all associated infrastructure shall be removed and re-used, recycled, the materials recovered, or be finally and safely disposed of to an appropriate licensed waste facility, in that order of preference.

Reason: To ensure a satisfactory form of development, avoid any eyesore from redundant plant, prevent pollution, and safeguard the environment when the materials reach their end of life, in accordance with Policies SD1 and SD2 of the Herefordshire Local Plan – Core Strategy 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.**

**16. 214297 - BROOK HOUSE BUNGALOW, KIMBOLTON, LEOMINSTER, HR6 0EJ**

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

The senior planning officer gave a presentation on the application.

In accordance with the criteria for public speaking Mr Rollings, spoke on behalf of Kimbolton Parish Council, Mr Ferguson, local resident, spoke in objection to the application and Mr Duggan, applicant, spoke in support.

In accordance with the council's constitution the local ward member spoke on the application. He explained that permission for an entrance to the field had been granted in 2014 which had now lapsed. There were now significant differences since 2014 including the implementation of the neighbourhood development plan, a significant number of objections regarding the new proposal and highway safety concerns. There was concern that the new access increased the risk to safety on the highway and that the proposed hardstanding presented a flooding risk to nearby residential dwellings through water runoff. It was noted that the field, to which the new access would be attached, had not been used for agricultural purposes for a lengthy period of time and the future use of the field was questioned. The proposal posed an unacceptable impact on the landscape through the removal of the hedgerow.

The committee discussed the application.

The local ward member closed the debate and explained that the loss of the hedgerow and subsequent impact on local wildlife was a significant concern. The impact of the new entrance on highway safety was a concern and it was felt that the current access to the field was safer than that proposed in the application.

A motion that the application be refused due to the unacceptable impact of the proposal on the Landscape, in particular the removal of the hedgerow, was proposed by Councillor Jeremy Milln and Seconded by Councillor Felicity Norman. The removal of the hedgerow was contrary to: the council's declaration of a climate and ecological emergency; policies LD1 LD2 and LD3 of the core strategy; and policy K10 of the Kimbolton neighbourhood development plan. The motion was put to the vote and carried unanimously.

**Resolved – that planning permission is refused due to the unacceptable impact of the proposal on the Landscape, in particular the removal of the hedgerow. The removal of the hedgerow is contrary to: the council's declaration of a climate and ecological emergency; policies LD1 LD2 and LD3 of the core strategy; and policy K10 of the Kimbolton neighbourhood development plan.**

**17. DATE OF NEXT MEETING**

Noted.

The meeting ended at 2.55 pm

**Chairperson**





## SCHEDULE OF COMMITTEE UPDATES

**211678 - PROPOSED RESIDENTIAL DEVELOPMENT OF 6 NO. DWELLINGS WITH ASSOCIATED ACCESS, PARKING AND LANDSCAPING. AT LAND SOUTH EAST OF GREYHOUND CLOSE, LONGTOWN, HEREFORD, HEREFORDSHIRE,**

**For: Ms Price per Miss Katherine Dowdall, Office 16 House 1, 2nd Floor, The Maltings, East Tyndall Street, Cardiff, CF24 5EA**

### ADDITIONAL REPRESENTATIONS

Local Ward Member Councillor Peter Jinman has provided the photograph below, together with the following text:

*The reason for sending this picture was as a result of this morning's site visit and the request that I send this as evidence of the lack of functionality of the sewage plant at Longtown to cope even now with the current output. It shows quite clearly the notable overflow from the plant which will be referred to by Parish Councillors as well as by me tomorrow at the hearing. The system is not fit for purpose now and any further building in the village should only occur after the infrastructure has been dealt with to meet any increase in demand.*





**214046 - PROPOSED CHANGE OF USE OF LAND, AS AN AERODROME CONSISTING OF THE CONTINUED USE OF A GRASS AIRSTRIP, RE-USE OF AN EXISTING BARN AS HANGARAGE AND FOR MAINTENANCE AND ASSOCIATED LANDSCAPING. AT LAND AT LYDE COURT, LYDE CROSS, HEREFORD, HEREFORDSHIRE, HR1 3AE**

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

#### **ADDITIONAL REPRESENTATIONS**

Further correspondence from the Ministry of Defence (MOD) was received on 22 June and further confirms they have no objections to the proposal.

An additional representation was received from the applicant's agent on 27 June which was sent to all members of this committee, including named substitutes for today's meeting. The representation attempts to respond to a number of frequently raised concerns received through letters of objection.

#### **OFFICER COMMENTS**

The additional representations have been reviewed and are not considered to raise any new planning considerations which are not otherwise considered in the report.

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



**220366 - PROPOSED VARIATION OF CONDITION 2 AND 4 FOLLOWING GRANT OF PLANNING PERMISSION. 183083/F (CHANGE OF USE OF AGRICULTURAL BUILDINGS AND LAND TO RESIDENTIAL DEVELOPMENT (USE CLASS C3). INCLUDING DEMOLITION, CONVERSION AND EXTENSIONS OF AGRICULTURAL BUILDINGS TO FORM 3 NO. DWELLINGS) AT MAGNOLIA FARM, CANON BRIDGE, HEREFORD, HR2 9JF**

**For: Mr Kirk per Mr Jethro Kirk, The Cart House, Canon Bridge Madley, Hereford, Herefordshire HR2 9JF**

## ADDITIONAL REPRESENTATIONS

*From Mr & Mrs Fortescue, R Williams & C Jenkins*

### **‘REPRESENTATIONS PLANNING REPORT 220366**

*We ask members of the Committee to consider the following representation from the majority of the residents of Canon Bridge who support the existing plan, 183083, for the development of the Magnolia Farm site. The following refers to the headings and numbering in the Planning Officers Report and the two should be viewed in conjunction.*

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

##### **1.2 Condition 4. states that:**

*‘Before work commences on the features identified in this condition, details of the finishes to be used for all external joinery, timber, plaster and masonry surfaces shall be submitted to the local planning authority. The work shall subsequently only be carried out in accordance with details approved in writing by the local planning authority’*

*This condition was discharged on 6<sup>th</sup> Jan 2022 as part of application 212020. As it no longer exists, we assume it cannot be varied. In any event, it would appear to have no bearing on this application for a large extension to unit 2 and fundamental changes to the landscape plan. The latter was a requirement of condition 16: it was in the same application as condition 4, and was discharged on June 6<sup>th</sup> 2021. It is the **existing landscape plan** and is not listed in drawings for this application. The committee therefore has no point of reference for the changes that are being proposed. There are a number of other landscape plans listed in this application, none of which have been approved: but the existing landscape plan can only be found in application 212020. This has led to confusion as evidenced in the comments in 4.2 of the **Consultation Summary in the Planning Report** for this application. In view of this, we would ask the committee to discount any comments made in 4.1, 4.2, and 4.3.in the Report.*

##### **Condition 2. states that:**

*‘The development shall be carried out strictly in accordance with the approved plans (drawing nos. 113765-001B, 11375-013B, 113765-14B and 113765-015C), except where otherwise stipulated by conditions attached to this permission.’*

Drawing 113765, the '**block plan**', would need to be removed, not varied, in order to approve the landscape plan proposed in this application, otherwise the two would be in conflict. The existing landscape plan, approved and discharged June 6<sup>th</sup> 2021, as noted in the previous paragraph, has been discharged and no longer exists, therefore a new plan would be required. It's difficult for the Committee to assess this as neither the existing block plan nor the existing landscape plan are in the drawings that support this application. Also, a building belonging to the adjacent property is shown in the garden of unit 3 on the site and the location drawings that support the application.

Any variation to drawings 13765-14B (the floor plans) and 113765-15C (the elevations) in **condition 2**, would conflict with **condition 6**, in the existing permission. Condition 6 states that:

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

The condition prevents further development where the original application was for a change of use. There is an important point to be made here in relation to the **description** in the original permission granted for 183083. The permission states that it's for '**change of use of agricultural buildings to residential development**'. If an application to change or remove **condition 6** is made, it would be a change to the description of the permission granted, and that would require a new application.

The appropriate sections in the Town and Country Planning Act are as follows:

## SCHEDULE 2

Permitted development rights

### PART 1

Development within the curtilage of a dwellinghouse

Class A – enlargement, improvement or other alteration of a dwellinghouse

#### Permitted Development

A. The enlargement, improvement or other alteration of a dwellinghouse.

#### Development not permitted

A.1 Development is **not permitted by Class A** if—

(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use)

The same applies to sections B and C roofs, D porches and external doors, E enclosures incidental to the enjoyment of the dwelling house, eg car ports. In any event, the extension would not meet the size, height or distance criteria in schedule 2 of the Act.

A.1 Development is not permitted by Class A if—

(f) subject to paragraph (g), the enlarged part of the dwellinghouse would have a single storey and—

(i) extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse, or

(g) until 30th May 2019, for a dwellinghouse not on article 2(3) land nor on a site of special scientific interest, the enlarged part of the dwellinghouse would have a single storey and—

(i) extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a dwellinghouse, or 6 metres in the case of any other dwellinghouse, or

(ii) exceed 4 metres in height;

(h) the enlarged part of the dwellinghouse would have more than a single storey and—

(i) extend beyond the rear wall of the original dwellinghouse by more than 3 metres, or

(ii) be within 7 metres of any boundary of the curtilage of the dwellinghouse opposite the rear wall of the dwellinghouse;

(j) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would—

(i) exceed 4 metres in height,

(ii) have more than a single storey, or

(iii) have a width greater than half the width of the original dwellinghouse.

**Condition 6.** Also requires compliance with Policy RA5 of the Herefordshire Local Plan that states:

*‘Any planning permission granted pursuant to this policy (**Re-use of rural buildings**) will be subject to a condition restricting permitted development rights for future alterations, extensions and other developments.’*

Approval of a variation to **condition 2** also conflicts with **conditions 13 & 14** requiring surface and foul water drainage to be managed through the Scheme proposed in the Flood Report that supported the original Local Authority Application (183083) and, conformity with the council’s policy that

*‘at no point shall any part of any soakaway drainage field be constructed closer than 50 meters to the river bank or boundary of River Wye SSSI’*

The boundary runs along the top of the high bank and includes the riparian zone and area of annual flooding below it.

The conflict with 13 and 14 arises because:

1. the additional roof area created by the proposed extension and indefinite retention of the large freestanding dutchbarn, together with new parking areas and the absence of water butts would increase surface water runoff. As stated in the Flood Risk Assessment for application 183083:

*‘The alteration of natural surface water flows through the development can lead to problems elsewhere, for example the replacement of vegetated areas with roofs and paved areas.’*

2. The drainage pond in the proposed new landscape plan would not be permitted because it’s within the 50 metre SSSI boundary.

3. The substantial reduction in size of the garden of unit 3 to accommodate the new gardens surrounding the dutch barn in the proposed new landscape plan, is not wide enough for a foul drainage system compliant with current regulations and would fail to conform to regulations on the proximity of foul water drainage to dwellings, boundaries and mains water supply to other properties.

The gates to the new parking area for unit 1 are next to the right-angle junction on the single track road, and this conflicts with **condition 7**.

**1.3** *The extension unit referred to has no footprint, it was an overhanging roof without hardstanding or masonry support. The Structural Report in 183083 states 'The support structure to the curved metal roof sheets to the roof of Barn B is limited. It is basically relying on the curvature of the roof and the steel braces to hold its shape. This is sufficient for an agricultural barn but would be inadequate for residential loading.'*

*It would be a new build, and permission for new buildings in rural Herefordshire is restricted. A new build for a single storey garage block adjoining unit 3 was approved in the original plan, in preference to an extension to unit 3. It was stated in point 6.17 of the Consultation Summary that:*

*'The alterations proposed to the buildings, along with the extensions, were considered to tip the scheme over the point that cumulatively impinged on the agricultural character of the site. As a result, the extension to the Dutch barn (of unit 3) has been removed'.*

### **The Drawings**

*The site plan on drawing 1.6 is correct but does not match that on the front page of the website, which is incorrect. Because the application includes fundamental changes to the existing, approved landscape plan the site boundary needs to reflect this and include the area between the proposed dwellings and the boundary of the SSSI.*

*Drawing 1.7, 'Previously approved plans' was not shown in the drawings submitted with the application: A drawing labelled 'Block A Existing Plans and Elevations' is shown, dated 23.01.2022. It is incorrect and not the existing plan but a derivative of a Fisher German drawing from 2017 that can be referenced in application 183083. The original drawing does not have an extension on the first floor of block A, as shown in the drawing for this application.*

### **2. Policies**

**2.1** *It is for the Planning Committee to assess the inconsistencies between this application and the Herefordshire Local Plan. At a glance, policies SS1, RA2, RA3, RA5, MT1, LD4, SD1, SD3 and SD4 would appear to be affected.*

**2.3** *Not relevant as the plan as needs to have been in place for more than two years to influence the decision for this application. As noted in 6.2*

**2.4** *Disagree with the last sentence 'The policies relevant to the determination of this application remain entirely consistent with NPPF and as such can be afforded significant weight.'*

*From a quick review, as this is a weighty document, the following are inconsistent or raise issues of inconsistency:*

**Chapter 2.** *Point 8 (last bullet point), Point 9, Point 11 a, b(i) and b(ii), and for decision taking d(i) and d(ii), Point 12.*

**Chapter 4** *43, 48a, 48b and 48c. 58*

**Chapter 15.** *174a, 174d, 174e, 175, 179b, 180a, 180b, 180d, 181a, 181c, 182, 185a, 185b and 185c.*

*Chapters 5, 9, 12 and 16 relate primarily to new developments and plans and/or urban sites, significant routes and are of little relevance to this application.*

### **3. Planning History**

**3.1** *There is no mention of application 212020 that discharged conditions 3, 4, 5, 10, 11, 12 and 16 attached to planning permission 183083: note the inclusion of 4 and 16.*



*It is of note here that 183083, 153633 and 213345 (also excluded from the list) were largely unopposed, despite taken together they tripled the number of dwellings in Canon Bridge.*

#### **4. Consultation Summary**

*4.1 At this stage Welsh Water have only linked the communal water main to the site, to which the developers attached five links to service for 3 approved dwellings.*

*4.2 See first paragraph under 1.2*

#### **5. Representations**

*5.1 This is misleading as it gives the strong impression that Madley Parish council actively support the application when 'support' is the **default** position rather than 'no comment'. They did not enter into and discussions with developers or residents in the two meetings. They can only comment on issues such as flooding, overlooking, crowding and environmental issues. They would have discovered the errors in information on the website or the existing landscape plan. Also, the drainage plan that accompanies the proposed new landscape plan is contained in a second application in progress for an additional dwelling at the Magnolia Farm development (application 214677). They are therefore unable to make valid comments on **flooding** or **environmental** issues. The **crowding** issue is also contained in the 2<sup>nd</sup> application and **overlooking** is not an issue. We would ask that this point in the Planning Report is not used as evidence of support.*

*5.2 The consultation responses reflect the omissions and inaccuracies in this application. As to members of the public: those who object are aware of the implications of the new proposals as documented in this representation. They are the majority of the community. Those in support are primarily from outside the community and/or have a vested interest.*

#### **6. Officer's Appraisal**

*6.1 The new proposals are material considerations.*

*6.2 Agreed, but they do not support approval of this application. The point on the Madley plan is irrelevant as a plan needs to be in place for more than 2 years before it can influence a planning decision. (NPPF section Chapter 2. 14(a))*

*6.3 See previous comments on conditions.*

*6.4 Disagree strongly with second sentence for the reasons given in this representation.*

*6.5 As changes were not clearly shown on the website because of the omission of the existing elevations, representations from those who are in receipt of the Planning report and papers prior to the Planning Meeting have based their representations on insufficient/ inaccurate information.*

*6.7 Misleading and inaccurate: the Committee should be aware of the whole comment to which this refers.*

*'The existing permission sought the removal of open sided curved roof projection from the north extension of unit 2. This was presumably sought on two grounds, the first being that it is open sided and would require significant works to incorporate into the habitable accommodation of unit 2 that would breach Policy RA5, and secondly to provide a visual gap between unit 2 and the ancillary building proposed between units 2 and 3.'As part of a revised scheme that splits unit 3 into two units, incorporating this element of the existing barn into habitable accommodation for unit 2 would be supportable in the context of the whole proposal and noting the visual benefits that would derive from its retention.'*

*The Historic Buildings Officer did not in any sense advise on the design proposal for any extension. His view was only sought for the proposed conversion of the large freestanding dutch barn that has been retained on the river side of the development, into dwellings. His comments were :*

*'The heritage value of the structure is not as imagined on site, it does not appear to be original and was rebuilt at some point using elements of the original structure. As such the benefit of the scheme is unlikely to outweigh the policy conflict in regards to not being a genuine conversion and inhabiting an open countryside location, making the conversion to a residential use unsupportable.'*

*In the drawings that support the existing permission the barn has been demolished to accommodate the gardens of the three approved dwellings. The new landscape plan in this application retains the barn indefinitely, and this has implications for the drainage plans as noted earlier.*

**6.8 Inaccurate:** *see page 2 regarding effect on conditions 13 and 14 in the existing plan. Also, the significant reduction in size of the garden of unit 3 to accommodate the new gardens surrounding the dutch barn, prevents the installation of a foul drainage system compliant with current regulations and would fail to conform to regulations on the proximity of foul water drainage to dwellings, boundaries and mains water supply to other properties. It would not comply with NPPF 2018, Habitat regulation 2016, NERC Act 2006 and Herefordshire core strategies LL2 and SD3. The proposed split of unit 3 into two units exacerbates the problem as the two units would share this small strip of garden. The drainage system that supports the application for a fourth dwellings (214677) is, for the most part, within the restricted zone 50m from the SSSI boundary that has been positioned incorrectly on the drawings in the drainage report.'*

## **OFFICER COMMENTS**

Unfortunately a number of representations were missed in the initial preparation of the report and these are set out below for Councillors consideration.

A total of 18 objections and 6 supportive representations have been received

### *Objections:*

- *Misinterpretation of plans*
- *Extension to unit 2 being dominant*
- *Additional unit creating traffic to area*
- *New access track for Dutch barn*
- *Retention of Dutch barn having a detrimental impact on community*
- *Potential to increase phosphates in River*
- *Changes harm nearby heritage aspects*
- *Removal of hedgerows*
- *Cramped accommodation*
- *Noisy on site*
- *Use of Dutch barn for holiday let*
- *Intensification of site*
- *Potential of holiday lets on site*
- *Incorrect plans*
- *Drainage issues*
- *Overdevelopment*

### *Support:*

- *No objection to the design, sympathetic and in keeping*
- *Do not agree that it is cramped development*

- *Planting of plants evident*
- *Pond beneficial for environment*
- *Addition of orchards, meadow pond and tree planting enhancement*
- *Brings a derelict site back into positive use improving visual appearance*
- *Does not create overdevelopment*
- *Reintroduction of flora and fauna on site*

Further to the above, the plan numbers references set out in condition 1 are incorrect and should read as in accordance with drawings no's (339.21.LD 01 Rev B, MG-FM-21-01 C, MAG-FM-21-04 Rev B, MAG-FM-21-3 Rev D, MAG-FM-21-02 Rev D, MAG-FM-21-07 Rev E, MAG-FM-21-08 Rev E)

Furthermore following receipt of an updated landscape plan condition 15 should be amended to read as follows:

*'The soft and hard landscaping plan submitted under drawing no (339.21.Ld01 Rev B) shall be carried out as per the approved details, unless otherwise agreed in writing with the local planning authority.'*

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

Overall it is considered that a number of the concerns raised during the consultation process as mentioned above have been addressed by way of amended drawings and documents submitted to the LPA. Councillors are advised that a number of the representations relate directly to a separate application (Reference 214677) which remains undetermined and that consideration of the impacts and acceptability of this application must be limited to those specific variations to the approved plans. This application is simply to vary condition 2 and 4 of the extant planning permission. Concerns related to the freestanding Dutch barn to the rear of the site, drainage matters and the subdivision of unit 3 into 2 units are not material to this application and will be addressed through the determination of the separate application for full planning permission which is currently awaiting determination.

#### **CHANGE TO RECOMMENDATION**

Amend condition 2 as per update to refer to the correct drawing numbers

Amend condition 15 as per update to refer to updated landscaping proposals



<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>10 AUGUST 2022</b>
<b>TITLE OF REPORT:</b>	<b>204443 - OUTLINE APPLICATION WITH ALL MATTERS RESERVED FOR THE RESIDENTIAL DEVELOPMENT OF 3 DWELLINGS AT LAND ADJACENT TO THE OLD KILNS, CHURCH LANE, HOWLE HILL, ROSS-ON-WYE,</b>  <b>For: Mr Jordan per Ms Victoria Poole, John Poole Arts And Study Centre, Main Street, Bishampton, WR10 2LX</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=204443&amp;search-term=204443">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=204443&amp;search-term=204443</a>
<b>Reason Application submitted to Committee - Redirection</b>	

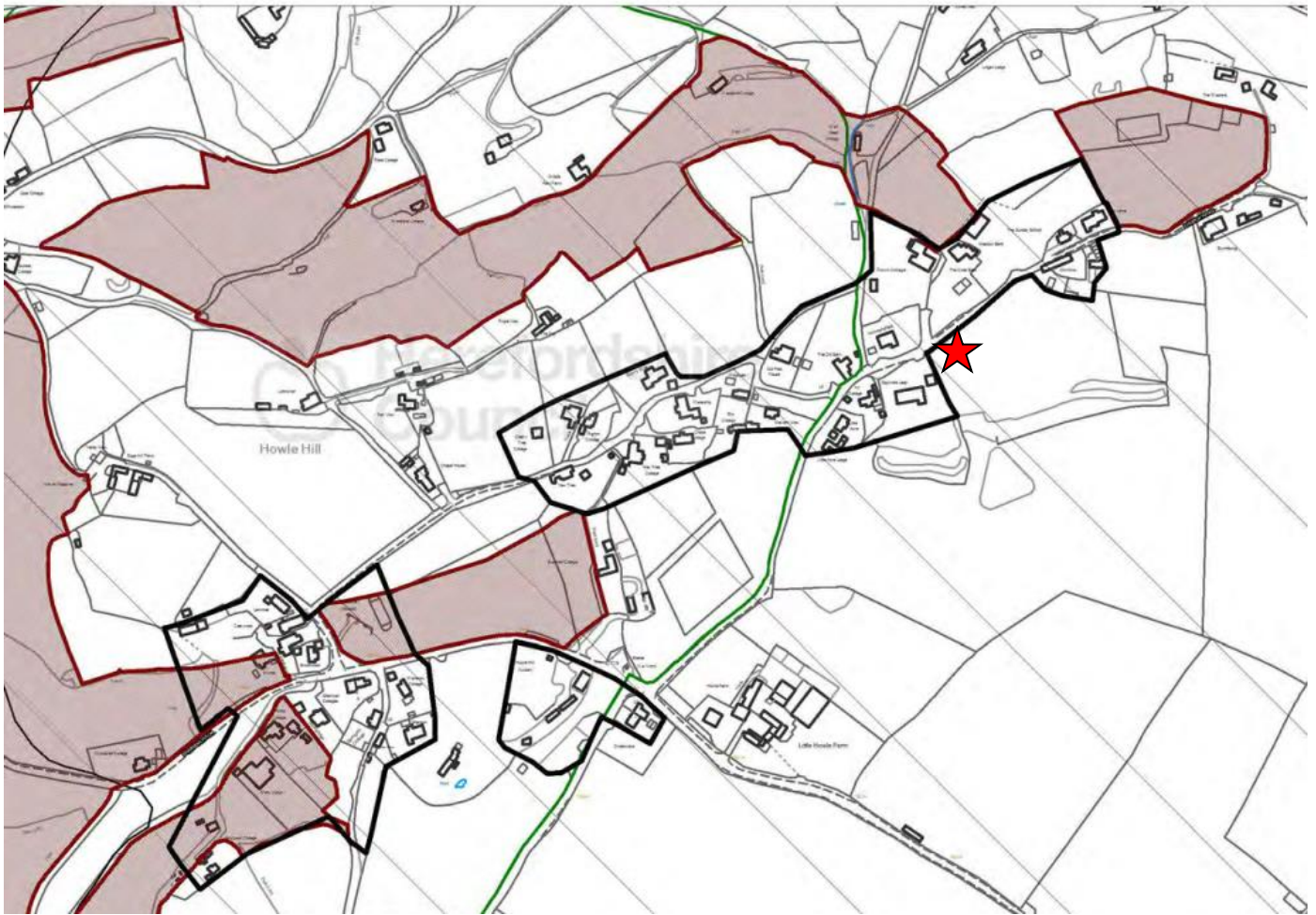
**Date Received: 16 December 2020    Ward: Kerne Bridge    Grid Ref: 360850,220688**

**Expiry Date: 30 July 2021**

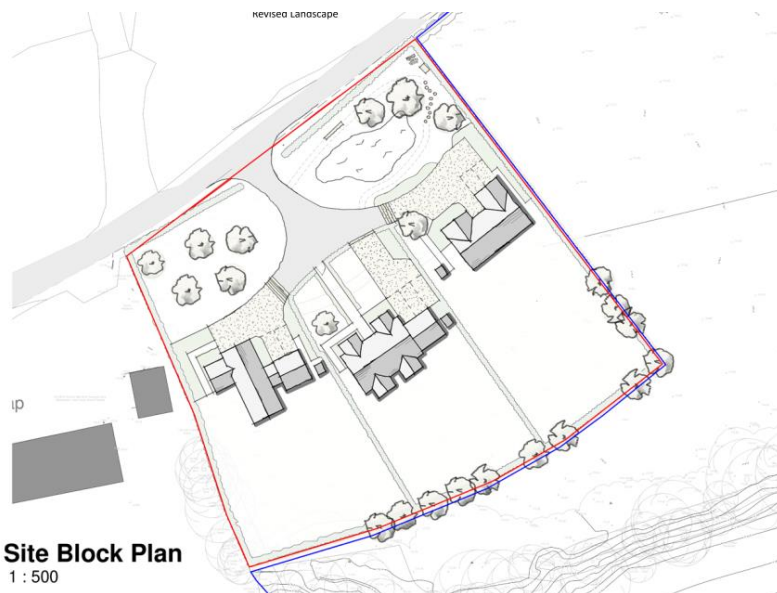
Local Members: Cllr Yolande Watson

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

- 1.1 The application site comprises part of a field lying at the western edge of a larger field parcel. The site is to the south east of the U70414 (Church Lane), which is a dead end past the site only serving a few properties, with mature hedgerow adjacent to the road. There is an existing gateway from the road providing access into the site. To the rear of the site, but outside of the site boundary is an area of deciduous woodland.
- 1.2 The site is currently used as grazing land, the eastern part of the wider field comprises of old kilns, which are also not part of this application.
- 1.3 The site area is approx. 1.45 hectares. The land undulates and generally slopes from the south east in a north-west direction, with a raised portion of ground in the location of the old kilns.
- 1.4 There are existing residential properties immediately to the north and west and slightly further east of the site.
- 1.5 The map below shows the location of the site (marked by the red star) within the settlement and in relation to the surrounding properties.



- 1.6 The site is not located within an Area of Outstanding Natural Beauty, although the boundary of the Wye Valley AONB lies to the north west of the site. It is not within in a Conservation Area. There are no Listed Buildings within the immediate vicinity. There are no other designations on site.
- 1.7 This application seeks outline permission, with all matters reserved, for three dwellings. Indicative site layout plan was submitted as below:



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

- 1.8 It should be noted that through the course of this application, the proposed number of dwellings has reduced from five originally to three, this was altered on 28<sup>th</sup> June 2021 to take into consideration comments made from the Case Officer, local residents and the Councils' Landscape Manager.
- 1.9 Although landscaping is a Reserved Matter, a landscape strategy and landscape supporting statement were provided on 28<sup>th</sup> June 2021.
- 1.10 A drainage statement and preliminary ecology appraisal were also submitted.

## 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:-

SS1	-	Presumption in favour of sustainable development
SS2	-	Delivering new homes
SS3	-	Releasing land for residential development
SS4	-	Movement and transportation
SS6	-	Environmental quality and local distinctiveness
SS7	-	Addressing climate change
RA1	-	Rural housing distribution
RA2	-	Housing in settlements outside Hereford and the market towns
MT1	-	Traffic Management, highway safety and promoting active travel
LD1	-	Landscape and townscape
LD2	-	Biodiversity and geodiversity
LD3	-	Green Infrastructure
SD1	-	Sustainable design and energy efficiency
SD3	-	Sustainable water management and water resources
SD4	-	Waste water treatment and river water quality

The Herefordshire Local Plan Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-  
[https://www.herefordshire.gov.uk/info/200185/local\\_plan/137/adopted\\_core\\_strategy](https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy)

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

- 2.2 NPPF  
 Chapter 2 - Achieving sustainable development  
 Chapter 4 - Decision making  
 Chapter 5 - Delivering a sufficient supply of homes  
 Chapter 6 - Building a strong, competitive economy  
 Chapter 8 - Promoting healthy and safe communities  
 Chapter 9 - Promoting sustainable transport  
 Chapter 11 - Making effective use of land

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

Chapter 12 - Achieving well designed places  
Chapter 14 - Meeting the challenge of climate change, flooding and coastal change  
Chapter 15 - Conserving and enhancing the natural environment

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

2.3 Walford Parish Council are currently preparing a Neighbourhood Development Plan, the Regulation 16 draft plan consultation was submitted to Herefordshire Council on 27 June 2022. The Consultation period is running from 6<sup>th</sup> July 2022 until 31<sup>st</sup> August 2022. At this time the policies in the dNDP can be afforded weight as set out in paragraph 48 of the National Planning Policy Framework 2019, which is considered to be limited weight. Relevant policies within the NDP are:

Policy WALF1: Promoting Sustainable Development  
Policy WALF2: Development Strategy  
Policy WALF4: Conserving the Landscape and Scenic Beauty of the Parish  
Policy WALF5: Protecting Important Views within the Parish and the Settings of its Settlements  
Policy WALF6: Enhancement of the Natural Environment  
Policy WALF8: Wastewater Drainage  
Policy WALF10: Sustainable Design  
Policy WALF12: Highway Design Requirements  
Policy WALF17: Design and Appearance  
Policy WALF20: Housing Development in Howle Hill

### 3. Planning History

3.1 DCH942711/F – Portal Steel Framed general purpose agricultural building – approved December 1994

### 4. Consultation Summary

Statutory Consultations

#### 4.1 Welsh Water

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

#### 4.2 Natural England

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

#### 4.3 Forestry Commission

No comments to make

Internal Council Consultations

#### 4.4 Principal Natural Environment Officer (Landscape) comments received 26 March 2021

The site was visited 24<sup>th</sup> March 2021. I have reviewed the pre-application advice, together with the submitted Design and Access Statement (DAS) and the Landscape Supporting Statement (LSS).



The site falls just outside of the Wye Valley Area of Outstanding Natural Beauty. The landscape character type is forest small holdings and dwellings. The location is typical of the character type in terms of "dense settlement pattern with a complex matrix of narrow intersecting lanes fringed by wayside cottages interspersed with small hedged pastures and pockets of rough grazing". The site itself is unusual, being an historic quarry and now appearing more like an undulating paddock. Views into the site are largely from the roadside gateway, with native hedge along the roadside.

The application is outline but specifies for 5 dwellings.

#### Landscape Character

The LSS incorrectly identifies the site as part of Principal settled farmlands landscape character type (para 3.7). This therefore leads to some confusion about the settlement pattern being in clusters of development, however this is not characteristic of principal settled farmlands or forest small holdings and dwellings. The Herefordshire Landscape Character Assessment for forest small holdings and dwellings settlement pattern specifically states "*clustered groups of new housing as typically proposed by developers would not be sympathetic to the landscape character*". It also goes on to say that '*additional **individual** dwellings may be appropriate in some circumstances where the **scale** of the original settlement would not be compromised*'.

The proposal for residential development on this site will alter the character of the site completely. This is true of any greenfield site, however the proposal for 5 dwellings, with associated infrastructure, leaves no space to reflect the unique quarry setting or retain any reference to the undulating ground. No topography survey has been provided, which could have allowed the new boundaries to meander slightly to follow the unusual ground forms. In order to deliver the amount of building and hard surfacing it is assumed that the site would be levelled.

While local stone is illustrated in the DAS for the built form, there is no reference to its use for boundary walls, gate posts or any other external character elements. Splitting the rear of the site into five garden strips is completely different to the surrounding setting where most properties are set in irregular shaped plots. The east boundary will form a harsh line and random new corner in the wider historic quarry setting.

#### Visual amenity

It is agreed with the LSS (para 5.8) that the general visibility of the location is limited to the immediate setting only. It is also agreed that development on the site should not be hidden and that high quality design should link to the village. In this case, however, it is considered that a row of four new buildings, with the infrastructure of five dwellings, will appear as a complete anomaly in the area.

#### Details

The site may be more suitable to 1 or 2 dwellings that could be arranged more organically with less hard standing and less suburban layout. Ideally this application would be made in full rather than outline so that site specific details and landscape scheme could be included, which is vital to ensure that new development on this site integrates appropriately into its surroundings. At reserved matters details on the filtration area / play area / dewpond / biodiversity proposed to the front of the site would be required, together with the wildlife corridor / biodiversity area to the rear. These areas would also require management and maintenance plans, clearly identifying how they will develop in the long term and who will be responsible for them.

#### Conclusion

The proposed site may be suitable for residential development, but the proposal for five units would not significantly enhance its immediate setting and does not fit in with the overall form and layout of the surrounding settlement. This is contrary to the requirements of Core Strategy Policy LD1, which requires proposals to demonstrate that the character of the landscape has positively influenced the design, **scale**, nature and site selection of the development (bullet point 1).

### ***Additional comments received following amended plans – received 8 July 2021***

I have reviewed the updated documents, of particular importance is the reduction from five dwellings to three and the Landscape Strategy.

#### *Landscape character*

It is accepted that the three houses, individually designed, with gaps between, better reflects the rural character and overcomes the urban compactness of the previous scheme. This is a more suitable scale of development for the site.

#### *Visual amenity*

The proposed layout of the three dwellings being staggered and slightly random, with attached garages and parking immediately adjacent, will create softer views from the adjacent highway than the previous scheme.

#### *Details*

The Landscape Strategy is particularly welcome to demonstrate how the new development can suitably integrate into its surroundings. My main suggestion would be that the roadside hedgerow may benefit from incorporating a large tree (away from the access) which would enhance the public amenity along the road and biodiversity of the site.

#### *Conclusion*

It is considered that the updated proposals are in accordance with Core Strategy Policy LD1 as they better demonstrate that the character and scale of the development is suitable to the setting.

#### *Conditions*

If the application is to be approved then at reserved matters stage details on the important and welcome features of a water basin / fruit trees / hedgerows and biodiversity proposed to the front of the site would be required, together with the wildlife corridor / biodiversity area to the rear. These areas would also require management and maintenance plans, clearly identifying how they will develop in the long term and who will be responsible for them. This would be covered by the standard conditions on a hard and soft landscape scheme and a management plan.

#### **4.5 Principal Natural Environment Officer (Ecology)**

The site is within the Bailey Brook catchment of the River Wye SAC which comprises part of the River Wye Special Area of Conservation (SAC); a habitat recognised under the Habitats Regulations, (The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations')) as being of international importance for its aquatic flora and fauna.

The LPA must complete a relevant Habitat Regulations Assessment process and have legal and scientific certainty that there are no adverse effects on the integrity of the designated site PRIOR to any grant of a planning consent. The LPA must as required submit any HRA appropriate assessment for formal consultation and approval by Natural England prior to any planning consent being granted.

The LPA requires legal and scientific certainty in order to complete the HRA process.

Notes in respect of HRA process:

- The proposal creates three new residential dwellings with associated new foul water flows.
- A new package treatment plant is proposed but no supporting BS6297 percolation and ground water testing have been supplied to demonstrate that the proposed foul water system can be actually achieved and relevant sized drainage field accommodated within the development boundary.

- The shared foul and surface water ‘Sustainable Drainage Scheme systems finally approved will be subject to a Reserved Matters condition to legally secure a responsible body and the ‘in perpetuity’ management and maintenance of all shared aspects of the systems, as required to provide required certainty for the HRA process.

Once this additional detailed drainage testing and certainty that the proposed foul water system can be achieved the LPA can progress the required HRA process.

At this time due to legal and scientific uncertainty and phosphate neutrality not secured there **is an identified Adverse Effect on the Integrity** of the River Wye Special Area of Conservation (a European Site, ‘National Network Site’ or ‘Higher Status’ nature conservation site). There is an Ecology OBJECTION raised as the application does not demonstrate compliance with Core Strategy SD4 and SD3 (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; and NERC Act obligations..

*Additional ecology comments:*

The Preliminary Ecological Appraisal by Naturally Wild dated November 2020 is noted and refers.

The development does not include the area of identified Habitat of Principal Importance (deciduous woodland) that is located south of the proposed development site. The supplied plans indicate that this woodland is retained and enhanced as a “wildlife corridor-biodiversity area”

From available data and information the LPA has no reason to consider that the proposed development will have any significant effect on local protected species populations and other wildlife subject to the ‘intrinsically dark landscape that benefits local amenity and nature conservation’ is considered and maintained through the use of a condition to ensure all external lighting is minimised and designed with wildlife and dark skies considered. This can be secured through a relevant Reserved Matters condition.

The LPA has no reason to consider that there could be any direct or significant effects of the proposed dwellings to protected species, although there are known local bat populations and nesting birds should be considered. An advisory note to remind the applicant and their contractors of their own legal obligations to considering and protecting all wildlife is requested.

As identified in supporting information and as identified in the NPPF, Council’s Core Strategy polices, declared Climate Change & Ecological Emergency and ethos of the soon to be enacted Environment Bill all development should clearly demonstrate how it will deliver/has delivered and secured, net gain in local biodiversity potential – this ‘net gain’ should be clearly detailed and secured through condition.

***Additional comments received following amended plans – received 14 January 2022***

The site lies within the catchment of the River Wye SAC and a Habitat Regulations Assessment process is triggered by this application. The appropriate assessment completed by the LPA should be subject to consultation with Natural England prior to any final grant of planning permission.

Notes in respect of HRA process

- The proposed development is for THREE new residential dwellings with associated foul water flows.
- This development is within the ‘English’ Lower Wye catchment of the Wye SAC.

- Natural England have not currently advised this LPA that this catchment area is failing its conservation status.
  - The proposal is to install a shared foul water and surface water management system with the applicant becoming legally responsible for all future management and maintenance of all parts of the shared system.
  - The shared FW system will comprise of a single suitably sized Package Treatment Plant.
  - The PTP will discharge to a soakaway drainage field on land within the development site that remains under the applicant's legal control.
  - The supplied BS6237 compliant drainage report and additional supporting information by Link Engineering confirms that a suitably sized soakaway drainage field can be achieved at this location.
  - No nutrient-phosphate pathways are identified subject to the proposed scheme being implemented.
- Any additional clean surface water created by the development can be managed by through a suitably sized sustainable drainage system that will remain under the control and management of the applicant.
- The agreed foul and surface water management systems and the ongoing maintenance and management by the Applicant of all shared systems can be secured by conditions on any planning permission granted.

Subject to a no objection response from Natural England to the HRA appropriate assessment completed by the LPA suggested conditions have been made.

All previous ecology comments and suggested informatives and conditions remain valid

#### 4.6 Neighbourhood Planning Manager

The Walford NDP has reached its Reg16 consultation stage. The consultation is underway from 6 July to 31 August 2022.

With regards to para 48 of the NPPF and Planning Practice Guidance set out the weight that may be given to relevant policies in emerging plans, including NDPs, and indicated that weight may be given to relevant policies in emerging NDPs according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

Taking each of these criteria in turn:

- 1) As the Regulation 16 consultation is still underway, the material weight is adjudged from the post Reg14 position. This is because subsequent representations could be received during the ongoing consultation period.
- 2) Although the LPA does not see the Reg14 representation directly, the Consultation Statement which accompanies the submission Reg16 Walford NDP does outline the representations received. A number of comments were made to the Reg14 plan some of which have resulted in a change to the plan and some which have not. Therefore at this stage (during the consultation period) there could be some continuing unresolved objections as a result.

- 3) Strategic Planning team have confirmed conformity of the draft Reg14 NDP with the adopted Core Strategy. Comments have yet to be received regarding the conformity of the revised Reg16 NDP with the adopted Core Strategy.

Therefore the current weight of the Walford NDP, in accordance within para 48, would be **limited**. This may change following the conclusion of the consultation period on 31 August 2022.

For information, so far 7 comments have been received to the ongoing Reg16 consultation:

- Resident - object to the proportion of development in Bishopswood compared to other areas of the parish
- Resident – support Policy WAL6
- Resident – objection Howle Hill is not a village, priority habitats should be recognised on the map and under Policy WAL6
- Resident – Policy WAL17 should include privacy criteria regarding no overlooking windows
- Environment Agency – No concerns at this time
- Primary Care – support proposals for high speed broadband allowing access to healthcare services in rural areas
- Planning Agent – Settlement boundary should include sites with existing planning permission

We are anticipating that the Walford NDP progressing towards Examination in September 2022.

#### 4.7 **Team Leader Area Engineer**

It is noted that this application is for the principle of the development at this stage. The highways aspects of the development are access and layout. The proposal includes sufficient details to demonstrate that both of these factors can be accommodated on the site with regard for the relevant standards.

There are no highways objections to the principle of the development at this point, acknowledging that more detailed submissions on access strategy and layout will follow in the event that this application is granted.

#### ***Additional comments received following amended plans – received 30 June 2021***

No objections to the proposed plan changes

#### 4.8 **Land Drainage Consultant**

*Numerous comments / correspondence have been received through the application process with many alterations to the drainage strategy. The following comments are the most recent and up to date comments received on 7 June 2022:*

Our knowledge of the development proposals has been obtained from the additional sources following our previous comments in December 2021, February 2022 and May 2022:

- Email Correspondence with Andy Powick 1.6.22;
- Amended Drainage Strategy – provided via Email (Ref: C100 Rev B);
- Drainage Technical Note 28.04.22 – provided via Email.

#### *Flood Risk*

##### *Fluvial Flood Risk*

Review of the Environment Agency's Flood Map for Planning indicates that the site is located within the low risk Flood Zone 1. As the proposed development is less than 1ha and is located within Flood Zone 1, in accordance with Environment Agency standing advice, the planning application does not need to be supported by a Flood Risk Assessment (FRA).

##### *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. Small areas of surface water ponding are identified adjacent to the southwest corner of the site.

#### *Other Considerations and Sources of Flood Risk*

There may be a risk of surface water flooding from higher land. The Applicant would need to consider the likely flow routes in the vicinity of the proposed development site. It may be necessary to raise the threshold levels slightly to prevent ingress. 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*

Following our request, we note that additional infiltration testing has been undertaken at the site by a professional, third-party company. One trial hole was excavated to 1.7mBGL and three tests were conducted. The average infiltration rate recorded was 0.187m/hr which equates to  $5.19 \times 10^{-5}$  m/s. This is an acceptable rate. A groundwater level assessment was also undertaken and confirmed that no groundwater was encountered at 2.5mBGL.

The Drainage Layout has been amended whereby the infiltration basin is now proposed for the northwestern site corner. We previously addressed concerns regarding the infiltration being oversized. Within the Drainage Technical Note, an amended Drainage Strategy drawing has been provided. The labelling states that the infiltration basin will have a base area of 25m<sup>2</sup> and a depth of 1m. Furthermore, the MicroDrainage calculations have been revised whereby the average infiltration rate of 0.187m/hr has been used for the infiltration coefficient when sizing this feature. Consequently, the required area and depth for the basin, as stated above, are more appropriate for the size of the proposed development.

We are now aware of the Applicant's intention for the drainage infrastructure to be jointly owned and managed between the three dwelling owners. This is a favourable arrangement. We acknowledge a 6m offset between the infiltration basin and the adjacent highway should be sufficient.

#### *Foul Water Drainage*

Additional percolation testing has also been undertaken at the site whereby two trial pits were excavated to approx. 1mBGL. The slowest Vp rate obtained was 25.6s/mm which is acceptable. We note that a shared package treatment plant is proposed to serve all three dwellings before discharging to a shared drainage field. The Drainage Technical Note states that a package treatment plant will be sized for a population of 15. We agree with this figure as the potential population used to size the drainage features should be 16 (2 x 5p and 1 x 6p) multiplied by a scaling factor of 0.9. The proposed sizing for the shared drainage field  $15 \times 25.6 \times 0.2 = 76.8\text{m}^2$ .

From the Drainage Strategy drawing, the current proposed location of the shared package treatment plant is less than 10m from the nearest dwelling. In accordance with the Building Regulations Part H Drainage and Waste Disposal guidance, a 10m offset distance must be achieved between the package treatment plant and nearest building.

The amended Drainage Strategy drawing confirms a 17m offset distance between the proposed drainage field and nearest dwelling. An 11m offset distance can be accommodated between the package treatment plant and nearest dwelling. The proposed layout allows a 5m offset between the adjacent highway and the drainage field which is more than the required 2m.

As above, we now note proposals for all drainage infrastructure to be jointly shared between the three dwelling owners. Also, we understand that it is the Applicant's intention, once all three dwellings are completed, to establish a management company to whom the dwelling owners will equally pay, for the maintenance of both the surface and foul water drainage infrastructure.

Due to foul flows being greater than 2m<sup>3</sup> but less than 15m<sup>3</sup> and outside an SPZ, a standard Environmental Permit must be acquired.

#### *Overall Comment*

We hold no objections to the proposed development, subject to conditions. Should the proposed site layout be amended at Approval of Reserved Matters, which affects the proposed layout of the surface water and foul water drainage layout, then we ask that Land Drainage is reconsulted. Should any surface water or foul water drainage details be amended at Approval of Reserved Matters, then we ask that Land Drainage is reconsulted

#### 4.9 **Environmental Health Manager – Contaminated Land**

Because the site, according to our records, encroaches a former quarry, which is later recorded as an area of 'unknown filled ground' I'd recommend a condition be appended to any approval to ensure the site is safe and suitable for its intended residential use

#### 4.10 **Principal Planning Officer – Minerals and Waste**

I can confirm that the site is identified under saved HUDP Policy M5 for the safeguarding of minerals.

However, given the scale and nature of the proposal, and the relative abundance of hard rock reserves across the county, I have no objection to this application

### 5. **Representations**

#### 5.1 **Walford Parish Council – comments received 18 February 2021**

Object to the subject planning consultation for the following reasons: -

- Whilst Howle Hill has been identified as a settlement, in reality it is a hamlet comprising a scatter of dwellings and this proposed development would represent a density that would be completely out of keeping with the area
- The services and amenities that qualified Howle Hill as a settlement no longer exist and have long since been turned into private dwellings e.g. the pub and church, therefore, it would not be a sustainable development and would be contrary to Core Strategy policy RA2
- The proposed site is not in a sustainable location with access being via unlit, steep, narrow and winding country lanes. Church Lane located off Howle Hill road, is a narrow dead-end single track with no pavements or verges which struggles to cope with the current level of traffic
- The siting and urban style of houses being proposed is not in keeping with the character of the hamlet and would be contrary to Core Strategy policy RA2
- There would be a significant increase in light pollution arising from these dwellings
- Herefordshire Council has recently rejected a planning application at Waters Edge P190316F which is located in very close proximity to this application. Many of the reasons for refusing the Waters Edge application apply equally in this case

#### ***Additional comments received following amended plans – received 22 July 2021***

Despite the applicants reduction in quantity of proposed dwellings, Walford Parish Council still object to the subject planning consultation for the following reasons:

- Whilst Howle Hill has been identified as a settlement, in reality it is a hamlet comprising a scatter of dwellings and this proposed development would represent a density that would be completely out of keeping with the area
- The services and amenities that qualified Howle Hill as a settlement no longer exist and have long since been turned into private dwellings e.g. the pub and church, therefore, it would not be a sustainable development and would be contrary to Core Strategy policy RA2
- The proposed site is not in a sustainable location with access being via unlit, steep, narrow and winding country lanes. Church Lane located off Howle Hill road, is a narrow dead-end single track with no pavements or verges which struggles to cope with the current level of traffic
- The siting and urban style of houses being proposed is not in keeping with the character of the hamlet and would be contrary to Core Strategy policy RA2

- There would be a significant increase in light pollution arising from these dwellings
- There is no public transport therefore the development is not sustainable (contrary to Policy SS1)

5.2 In response to the public consultation a total of 61 objectors commented on the application throughout the process, this includes additional comments made following amended plans, the objections detailed the following points:

- Should allow 60 days for proper consultation
- Church Lane is a narrow, no through road with no verges
- Adjacent property owners will not grant new wayleaves to Western Power Distribution for moving any overhead lines
- Howle Hill should not be defined as a village
- Additional 5 houses will cause issues on the highway network
- No services in the village, all journeys need to be made by car to Ross
- Shouldn't replace scenery, trees and hedges with brick and mortar
- 5 dwellings would be out of keeping here and cramped on site
- Will impact the ecology of the area, and the ancient woodland to the rear
- Construction traffic will cause issues for local residents
- Applicant/ agent never undertook community consultation as stated in the D&A statement
- Drainage is a concern, particularly surface water run off
- No affordable housing to be provided, looks to be high value
- Is there any heritage value on the site?
- Has the site been subject to landfill
- No job opportunities in the village
- Plot 5 is up against the boundary of the adjacent property impacting residential amenity
- Impact upon walkers/ cyclists/ horse riders on narrow roads
- Additional noise and pollution from the development
- Suburban form of development of 5 dwellings in cul de sac arrangement- unacceptable and harmful impact upon the character of the Wye Valley AONB and Howle Hill
- Impact on dark skies
- Not well related to built up area of village
- Poor design of houses
- Limestone has been extracted all over the site so site is likely to be unstable
- Ecology report has missed nearby ponds
- Target for new housing has been met
- Water pressure low in the area
- Highway safety from the access on narrow lane and limited visibility splays
- Removal of green fields will increase flooding
- Impact on local bee hives adjacent to the site
- Potential for cumulative development

Further comments of objection raised following amended plans:

- Still lack of facilities in the village
- Isolated site outside of settlement boundary
- Access is narrow and all roads are single track
- Topography of the site is unusual
- Could create precedent for more development
- Already met housing target for the area
- Will overlook adjacent properties
- Area is characterised by single plot, low density with large gardens
- Still in linear arrangement
- Houses further north on site so likely more flood risk to the area
- Woodland to the rear will still be impacted



- Still represents cluster development
- Landscaping is forest small holdings and dwellings
- Plot C all windows now overlook neighbouring properties
- Both iron kilns and limestone quarry on the site
- Likely to impact the River Wye SAC
- Surface water will still run off to road and impact houses to the north
- Levelling the land could disturb contamination
- Proposed houses will be visible from windows of nearby houses
- Wildlife will be impacted and lost
- Church Road is a no through road
- Herefordshire Council can now supply a five year housing land supply
- Broadband speed is limited / no mobile signal
- Likely to disrupt natural springs that are behind the site
- The overhead power cable is likely to need to be moved / put underground this could make the site unviable

5.3 8 letters of support were received raising the following points:

- Would benefit the community, ensuring housing is in keeping with the landscape
- In accordance with planning policy
- Need similar affordable homes – 2 beds
- Design is in keeping with surrounding housing
- Sited adjacent to main cluster of houses on the hill
- Need more houses in smaller developments rather than large schemes
- Allows opportunity for local people to buy in the area
- Ideal infill site to build on
- Reduction from 5 houses would likely to alleviate most of the concerns raised
- Not met housing target as some applications in the area now lapsed
- Younger generation can get onto property ladder
- Surface water flooding already erodes the surface of the roads in the area

Further comments of support raised following amended plans:

- Main objections were due to number of dwellings the amended plans now show a reduction
- Limited supply of properties available at Howle Hill
- Highways state they have no objection
- Plans states the dwellings will be done in local stone
- Planning is only outline with all matters reserved so objections shouldn't focus on design
- Issues with flooding been mentioned yet Welsh Water no objection and drainage statement submitted
- The Ancient woodland is not part of the site
- Change can be good for community
- No technical objections
- Be good to get more families into the area

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=204443&search-term=204443](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=204443&search-term=204443)

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

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

### *Policy context and Principle of Development*

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:  
*“If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”*
- 6.2 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS). The National Planning Policy Framework (NPPF) is also a significant material consideration. It is also noted that the site falls within the Walford Neighbourhood Area, which published a draft Neighbourhood Development Plan (NDP) for Regulation 16 consultation on 6 July 2022.
- 6.3 Policy SS1 of the Herefordshire Local Plan – Core Strategy (CS) sets out that proposals will be considered in the context of the ‘presumption in favour of sustainable development’ which is at the heart of national guidance contained within the NPPF. This policy states:

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

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

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

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

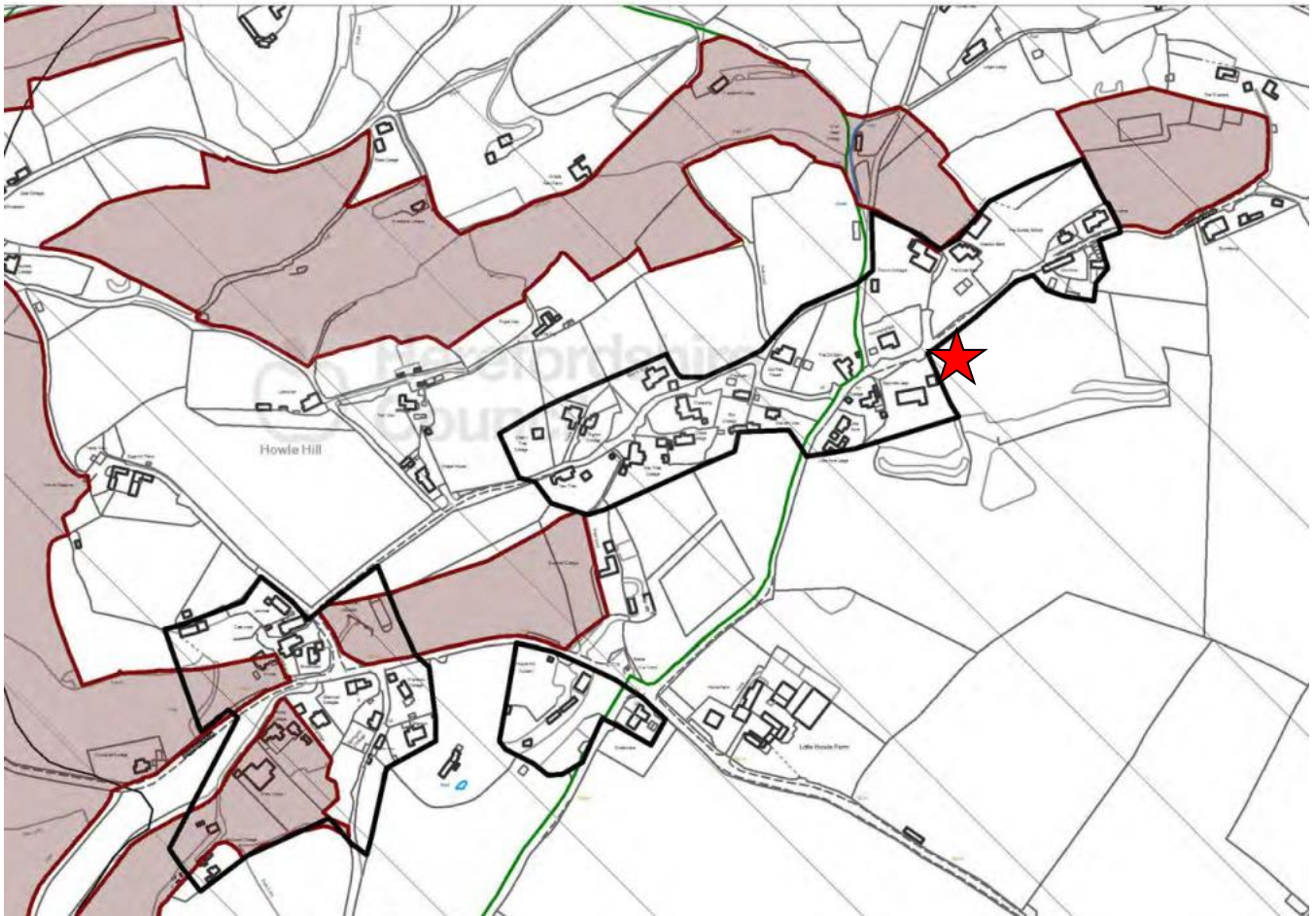
- 6.4 Following the recent publication of the 5 year housing land supply, it is confirmed that the Council is now able to demonstrate a five year housing land supply (6.19 years), the result of which is that the tilted balance set out at Paragraph 11d of the Framework no longer applies. Development proposals should now be considered more simply in relation to their compliance with the Development Plan and other material considerations:

### *Location of residential development*

- 6.5 In locational terms, paragraph 79 of the Framework seeks to restrict development in isolated locations, but does acknowledge in rural locations it may be the case that development in one village supports the services in another village nearby. That said, the adoption of the Core Strategy represents a shift in policy that recognises proportionate growth is required in rural areas for social and economic purposes. It is with this in mind that the proposal is assessed under the CS policies alongside the Framework, notwithstanding the out of date nature of the policies.
- 6.6 Policies SS2 (Delivering new homes) and SS3 (Releasing land for residential development) of the CS clearly set out the need to ensure sufficient housing land delivery across the County. In order to meet the targets of the CS the Council will need to continue to support housing growth by granting planning permissions where developments meet with the policies of the CS, (and, where relevant with policies in other Development Plan Documents and Neighbourhood

Development Plans). Policy SS2 states that a supply of deliverable and developable land will be identified to secure the delivery of a minimum of 16,500 homes in Herefordshire between 2011 and 2031 to meet market and affordable housing need. 6,500 of these will be in Hereford, where it is recognised that there is a wide range of services and consequently it is the main focus for development.

- 6.7 Outside of Hereford City, and the market towns, CS Policy RA1 identifies that Herefordshire Rural areas will need to find a minimum of 5,300 new dwellings between 2011 and 2031 to contribute towards the county's housing needs. The dwellings will be broadly distributed across the seven Housing Market Areas (HMA's). Howle Hill is within the Ross-on-Wye HMA, which is earmarked for an indicative 14% indicative housing growth and is listed in Figure 4.15 under policy RA2 as a settlement where proportionate housing is appropriate. This percentage increase translates to 91 dwellings being required across the parish of Walford in the plan period.
- 6.8 Policy RA2 states that for smaller settlements identified in figures 4.15 of the Core Strategy, *'proposals will be expected to demonstrate particular attention to the form, layout, character and setting of the site and its location in that settlement'*.
- 6.9 In addition, the preamble to Core Strategy Policy RA2 states that NDPs will be the principal mechanism by which new rural housing will be allocated. As stated above, the Walford NDP is currently undertaking the Regulation 16 draft plan consultation which will conclude on 31 August 2022. The Neighbourhood Planning Manager has provided a helpful summary of the up-to-date position regarding the responses received the the plan but it is important to note that the consultation period does not expire until 31 August 2022. In this regard the NDP can only be afforded limited weight.
- 6.10 Within the draft NDP Policy WALF2 and WALF20 states that proposals for new market housing will be supported within one of the identified settlement boundaries in Howle Hill. Howle Hill is defined by three separate clusters of built up areas. Although the proposed settlement boundaries only currently have limited weight, it does demonstrate the clusters clearly for the settlement as a whole. The following map includes the black line of the settlement boundaries with the site being indicated by the red star:



- 6.11 The map clearly demonstrates that the site is directly adjacent to the largest of the main clusters of built form in Howle Hill, and whilst shown to be outside of the proposed settlement boundary the settlement boundary runs immediately along the west and northern boundaries of the site and continues past the edge of the site to existing dwellings further to the east. It is considered that this demonstrates how the site could also be considered as a form of infill development due to its siting between existing development directly to the west and further to the east beyond the wider field boundary.
- 6.12 In light of the above and the up to date advice provided by the Neighbourhood Development Manager, and having regard to the relative weight to be attached to the adopted Development Plan, the principle of this proposal is considered acceptable and in accordance with planning policy RA2. The following sections will go on to consider whether there are any other material considerations of such weight and magnitude that might lead to a conclusion that the proposal represents an unsustainable or unacceptable form of development.

*Ecology and trees*

- 6.13 Policies LD2 and LD3 of the Core Strategy are applicable in relation to ecology and the impact on trees. These state that development proposals should conserve, restore and enhance the biodiversity and geodiversity asset of the County and protect, manage and plan for the preservation of existing and delivery of new green infrastructure.
- 6.14 The application is accompanied by a Preliminary Ecological Assessment. The Council's Ecologist has viewed this and is content with the findings and recommendations, subject to these being conditioned on any approval. With the site falling within the River Wye Special Area of Conservation (SAC) catchment, a Habitat Regulations Appropriate Assessment (HR AA) has been undertaken. This identified Likely Significant Effects upon the SAC but that these are

capable of being mitigated. The HR AA has been sent to Natural England for their approval and they have confirmed they have no objections to the proposal.

- 6.15 The development does not include the area of identified Habitat of Principal Importance (deciduous woodland) that is located south of the proposed development site. The supplied plans indicate that this woodland is retained and enhanced as a “wildlife corridor-biodiversity area”, and therefore will not have a direct impact upon the woodland.
- 6.16 From available data and information there is no reason to consider that the proposed development will have any significant effect on local protected species populations and other wildlife subject to the ‘intrinsically dark landscape that benefits local amenity and nature conservation’ is concerned. It is considered that this can be mitigated and maintained through the use of a condition to ensure all external lighting is minimised and designed with wildlife and dark skies considered.
- 6.17 In addition a relevant informative note will be recommended highlighting the applicant’s responsibilities and duty of care in relation to the Wildlife and Countryside Act and other relevant legislation.
- 6.18 The proposal is found to comply with the aims of policies LD2, LD3, SD3 and SD4 and all reasonable and responsible measures have been taken such as to ensure the LPA legal duty of care has been exercised.

#### *Drainage*

- 6.19 Policy SD3 of the Core Strategy states that measures for sustainable water management will be required to be an integral element of new development in order to reduce flood risk, avoid an adverse impact on water quality, protect and enhance groundwater resources and to provide opportunities to enhance biodiversity, health and recreation and will be achieved by many factors including developments incorporating appropriate sustainable drainage systems to manage surface water. For waste water, policy SD4 states that in the first instance developments should seek to connect to the existing mains wastewater infrastructure. Where evidence is provided that this option is not practical alternative arrangements should be considered in the following order; package treatment works (discharging to watercourse or soakaway) or septic tank (discharging to soakaway).
- 6.20 Foul water will be disposed off using shared package treatment plants with outfall into a soakway drainage field to the north east corner of the site. All surface water from the three properties will be disposed of via a surface water pipes into an infiltration basin on the North West Corner of the site adjacent to the road. This system will prevent any additional surface water from the site flowing onto the road. In addition, the proposed parking and turning areas are to be permeable surface to reduce the level of run off created by the development.
- 6.21 To ensure full management and ongoing maintenance of the drainage system, once the dwellings have been completed, a management company would be established which the 3 owners would equally pay into for the maintenance of the drainage infrastructure. This is detailed within the Drainage Technical Note received by the Local Authority on 1 June 2022. A maintenance schedule is also set out on page 4 and 5 of the attached Technical Note, which will ensure the continued performance on the proposed drainage
- 6.22 The Council’s Land Drainage Consultant, has had significant on going discussions with the agent in regards to the drainage on this site, and following receipt of revised details and an amended drainage strategy received 1 June 2022, subject to conditions, is content with the proposal and has no objections. As such, it is considered that the requirements of Policies SD3 and SD4 would be satisfied subject to suitably worded conditions.

#### *Landscape*

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

- 6.23 The site falls just outside of the Wye Valley Area of Outstanding Natural Beauty, which is to the north-west. It does nevertheless contribute to the character and setting of the settlement of Howle Hill. The landscape character type is forest small holdings and dwellings. The location is typical of the character type in terms of "dense settlement pattern with a complex matrix of narrow intersecting lanes fringed by wayside cottages interspersed with small hedged pastures and pockets of rough grazing".
- 6.24 The site itself is unusual, being an historic quarry which now appears more like an undulating paddock. Views into the site are largely from the roadside gateway, with native hedge along the roadside.
- 6.25 The proposal for residential development on this site will undoubtedly alter the character of the site, however it is considered that the revised indicative proposal for three houses, individually designed, with gaps between, better reflects the rural character and overcomes the urban compactness of the previous scheme of 5 dwellings.
- 6.26 The proposed layout of the three dwellings, whilst being acknowledged as being indicative at this stage, is staggered and slightly random with attached garages and parking immediately adjacent, which will create softer views from the adjacent highway than the previously submitted scheme layout.
- 6.27 The Landscape Strategy submitted demonstrates how the new development can suitably integrate into its surroundings. The Principal Natural Environment Officer (Landscape) has confirmed no objections to a scheme of three dwellings subject to recommended conditions for hard and soft landscaping, its maintenance and management to be provided in a Reserves Matters application.

*Other matters*

- 6.28 A number of other concerns were raised through local objections and these will be covered below.
- 6.29 The access road is single track to the site, as are the majority of rural roads within the area, however this does not preclude further development from taking place. The application is in outline form with all matters reserved, including detailed access matters. The proposal includes sufficient details to demonstrate that both the means of access and the internal layout can be accommodated on the site with regard for the relevant standards. The Team Leader Area Engineer does not have any objections to the principle of the development at this point, acknowledging that more detailed submissions on access strategy and layout will follow in the event that this application is granted.
- 6.30 In terms of the hierarchy matrix that was used to determine the settlements for proportionate growth under policy RA2, the Core Strategy is adopted and therefore forms part of the Development Plan for the County. Any concerns relating to the inclusion of Howle Hill as a RA2 settlement should have been submitted during the consultation of that document. This does not represent a reason to refuse a planning application now being considered.
- 6.31 The housing targets within the settlement are a minimum. Considering the 14% indicative growth required across the Ross on Wye Housing Market Area, a total of 91 new houses are required within the Parish between 2011 and 2031. As of April 2021 there was a total of 14 completions and 39 commitments, and a further 9 approved since April 2021, meaning that the parish requires a further 29 dwellings required in the Parish over the plan period.
- 6.32 There has been significant objections regarding the design and layout of the proposed dwellings. The plans that have been submitted with this application are only indicative and could be subject to change prior to a Reserved Matters application. This application is for outline with ALL matters

reserved and therefore it is the principle of development that is being considered rather than the siting, layout and design of the properties, which would be considered at a Reserved Matters stage.

- 6.33 In regards to the site encroaching a former quarry, the Environmental Health Officer – Contaminated Land has identified that the land has later been recorded as an area of 'unknown filled ground' and therefore has recommend a pre-commencement condition be appended to any approval to ensure the site is safe and suitable for its intended residential use

#### *Conclusion*

- 6.34 The application is for outline permission with all matters reserved, and therefore it is only the principle of development that is to be assessed. The revised and reduced scale of development is considered capable of being accommodated on the site but the detail of this is not currently under consideration.
- 6.35 The Walford NDP is currently undergoing a Regulation 16 consultation and therefore the proposed policies only currently have limited weight and as such the proposal falls principally to be considered under Policy RA2 of the Core Strategy at this time. There are three clusters which would be considered as built up parts of the village and the site lies adjacent to one of the largest clusters of built up residential areas within Howle Hill. The proposed settlement boundary within the NDP concurs with this, as the settlement boundary runs along the western and northern edge of the site and the eastern edge of the wider field, continuing past the site to the east. A scheme of three dwellings on this site set within fairly large plots and providing spacing between the dwellings will maintain the character of the area in accordance with Core Strategy policies RA2 and LD1 and therefore the principle of development is accepted.
- 6.36 The local concerns are acknowledged, but there is now a satisfactory drainage strategy submitted to overcome the surface water flooding concerns and many of the other concerns will be addressed at the Reserved Matters stage.
- 6.37 Given the lack of objection from highways, ecology, landscape, Natural England, Welsh Water and most recently land drainage, the proposal is found to be technically compliant with all policies.
- 6.38 In assessing the three indivisible dimensions of sustainable development as set out in the CS and NPPF, officers are of the opinion that the scheme is representative of sustainable development. The scheme will bring forward three policy compliant dwellings with the associated economic and social benefits that small developments in rural settlements support.

## **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. Time limit for submission of reserved matters (outline permission)**
- 2. Time limit for commencement (outline permission)**
- 3. Approval of reserved matters**
- 4. Development in accordance with the approved plans**

5. **Efficient use of water**
6. **Restriction of hours during construction**
7. **With the exception of any site clearance and groundwork, submission of detailed proposed foul and surface water design / constructions plans with the following information:**
  - **Pipe diameters**
  - **Invert levels**
  - **Cross sections**

**Shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the first use of any of the buildings hereby permitted.**

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

8. **No development shall take place until the following has been submitted to and approved in writing by the local planning authority:**
  - a) **a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice**
  - b) **if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors**
  - c) **if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed shall be submitted in writing.**

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

**Reason: In the interests of Human health**

9. **The Remediation Scheme, as approved pursuant to condition 8 above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted and agreed in writing before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.**

**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**



10. **Landscape Implementation**
11. **Landscape Management**
12. **All foul water shall discharge through connection to a new shared private foul water treatment system (Package Treatment Plant) discharging to a suitably sized soakaway drainage field located on land under the applicant's control. The applicant shall undertake all future management and maintenance of the shared foul water systems. The scheme shall be implemented and hereafter maintained as approved 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.**

13. **All surface water shall discharge through connection to a new shared Sustainable Drainage System located on land under the applicant's control. The applicant shall undertake all future management and maintenance of the shared surface water-Sustainable Drainage System. The scheme shall be implemented and hereafter maintained as approved 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.**

14. **Prior to any new construction commencing a detailed lighting and illumination report – including consideration for all external lighting and internal light transmission – shall be supplied to the LPA. The report shall detail all relevant luminaire specifications, locations and any other recommended mitigation features. The approved scheme shall be implemented in full and hereafter maintained as approved unless otherwise agreed in writing by the local planning authority.**

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

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

15. **Prior to any construction work above damp proof course 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 bat roosting, bird nesting, hedgehog home, hedgehog 'highways' through all solid boundary 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. Compliance with council's declared Climate Change and Ecological Emergency

16. **Prior to the first occupation of the dwellings hereby permitted a scheme to enable the charging of plug in and other ultralow emission vehicles (e.g provision of cabling and outside sockets) to serve the occupants of the dwellings hereby approved shall be submitted to and approved in writing by the local planning authority.**

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

#### **INFORMATIVES:**

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
2. **Contaminated Land Assessment is required to be undertaken in accordance with good practice guidance and needs to be carried out by a suitably competent person as defined within the National Planning Policy Framework 2019.**

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

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

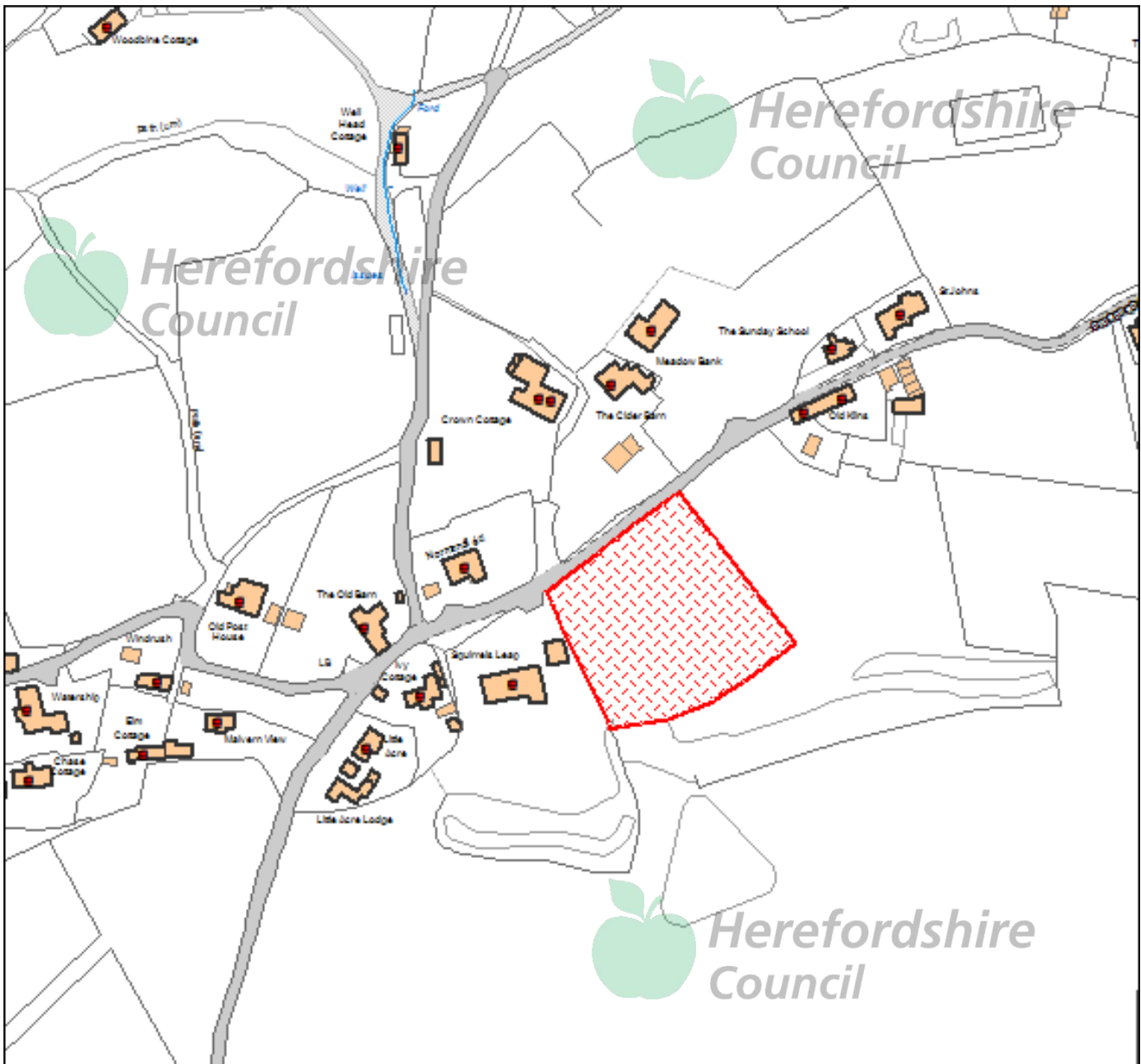
3. **The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended), with enhanced protection for special "protected species" such as all Bat species, Great Crested Newts, Badgers and other wildlife that are present and widespread across the County. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it advised that further advice from a local professional ecology consultant is obtained.**

Decision: .....

Notes: .....

.....

**Background Papers – non identified**



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

**APPLICATION NO:** 204443

**SITE ADDRESS :** LAND ADJACENT TO THE OLD KILNS, CHURCH LANE, HOWLE HILL, ROSS-ON-WYE

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

<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>10 AUGUST 2022</b>
<b>TITLE OF REPORT:</b>	<b>220369 - INSTALLATION OF A NEW 1.03KM CLOSED CIRCUIT CYCLE TRACK WITH ASSOCIATED EXTERNAL WORKS INCLUDING PERIMETER FENCING, LEARN TO RIDE AREAS, SKILL BASED OFF ROAD AREAS AND PERIMETER LIGHTING. THE INSTALLATION OF A SOCIAL HUB COMPRISING OF THREE INDIVIDUAL REUSED SHIPPING CONTAINERS WITH ASSOCIATED OUTDOOR SEATING AREA AT HEREFORD LEISURE CENTRE, 37-39 HOLMER ROAD, HEREFORD, HEREFORDSHIRE, HR4 9UD</b>  <b>For: Mr Preece per Mr George Lucas, 10 South Parade, Leeds, LS1 5QS</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=220369&amp;search-term=220369">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=220369&amp;search-term=220369</a>
<b>Reason Application submitted to Committee – Council Land</b>	

**Date Received: 4 February 2022**

**Ward: Widemarsh**

**Grid Ref: 350317,241562**

**Expiry Date: 27 July 2022**

Local Member: Cllr Polly Andrews

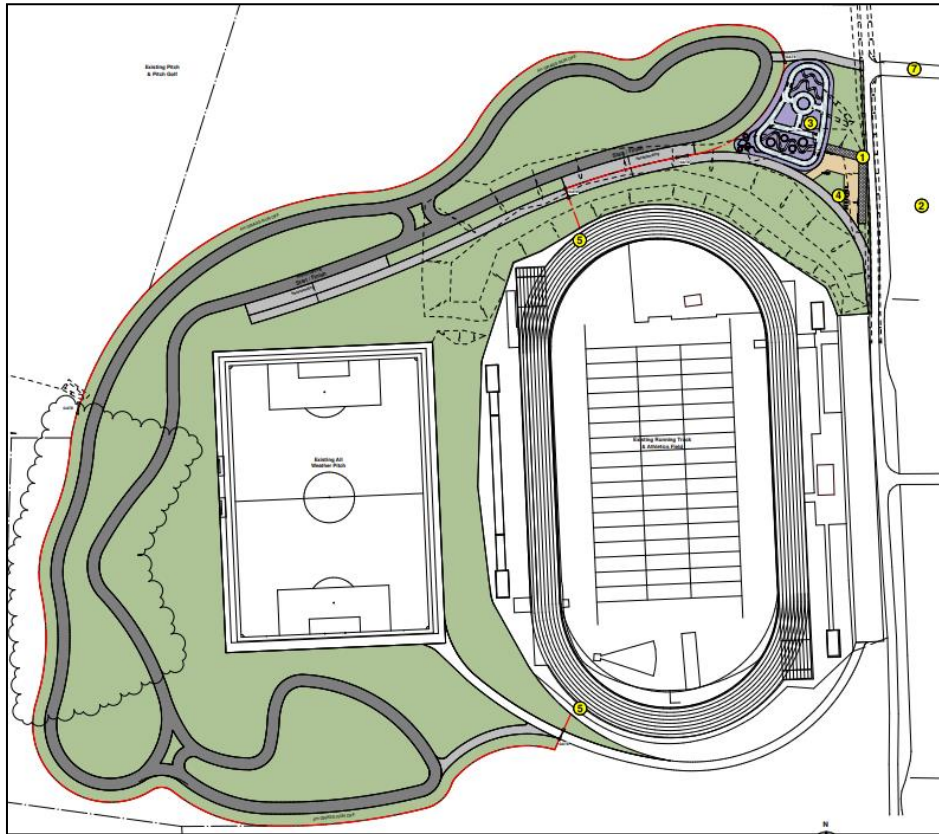
## 1. Site Description and Proposal

- 1.1 The 3ha site comprises land within the Hereford Racecourse, set inside the horse racing track. It forms part of the Hereford Leisure Centre, a wider sporting complex.
- 1.2 The subject land sits alongside existing recreational facilities all contained inside the race track, including the Halo Golf Course, Hereford Athletic Track, an all weather sports pitch together with various natural grassed sports/playing fields. To the east is the Halo Leisure Centre which fronts Homer Road (A49). The Hereford Skate Park is north of the Leisure Centre. South of the Leisure Centre is the Holmer CE Academy. Residential development is located to the north, west and south of the site, beyond the race track, with the Spurs Retail Park located to the east, beyond Holmer Road.
- 1.3 Pedestrian access is gained via traversing the horse racing track.
- 1.4 The application seeks full planning permission to develop the land with a 1.03km closed circuit cycling facility that will be managed by Halo Leisure Services Limited. The undulating 6m wide circuit is designed to British Cycling Standards and features three internal loops, technical elements and flatter faster areas with sections to suit all cyclist levels and abilities. The circuit is located between the golf course and the all weather sports pitch and athletics track.
- 1.5 The proposed cycle facility comprises four principal areas, described by the applicant as follows:
  - Off-road Skill Areas - These areas will include a variety of natural based elements which will gradually improve the riders of all skill levels and abilities.

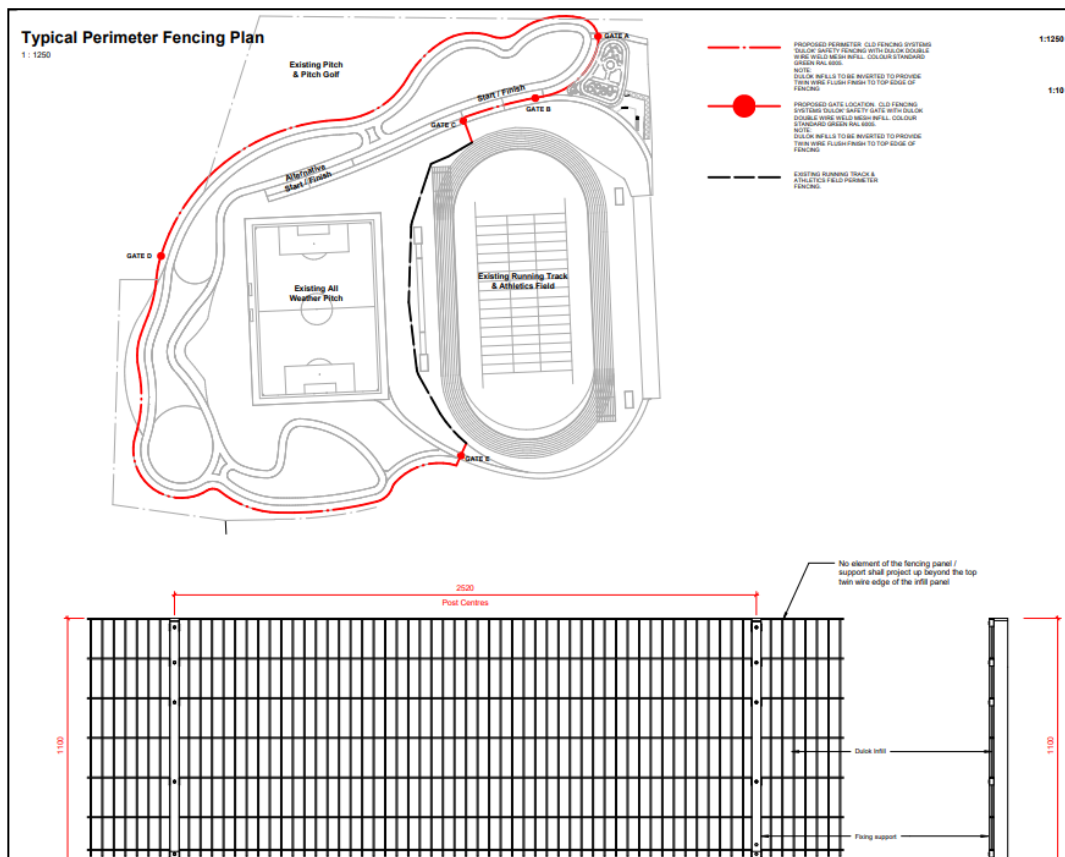
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Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

- General Pathways – Improved pathways run throughout the site to allow people to easily navigate across the cycle circuit and trails. It also provides access for those using the existing all weather sports pitch.
  - Learn to Ride – Two large areas which include mini road layout with road junctions, roundabouts and crossing, balance bike area and confidence routes.
  - The Social Hub will provide a social area with additional kitchen area open to the public as well as users of the facility, and includes opportunities for training and volunteering.
- 1.6 The cycle facility has been sited in a manner that allows for three full size football pitches and one 7 side football pitch to be accommodated on the balance of the grassed playing field land should they be required in the future. The development results in the loss of one full size playing pitch.
- 1.7 A social hub is proposed to the north-eastern corner of the site, north of the athletics track. The hub features three shipping containers extending to 77sqm floor area, repurposed for use as a seating/social space, site changing facilities and bike storage facility. External timber decking surrounds the containers and will accommodate external seating. The containers are externally treated with vertical timber cladding with new openings finished in dark grey aluminium joinery.
- 1.8 Patrons of the facility will rely on the existing Leisure Centre car park for vehicle parking. Pedestrian and cycle access is via the existing pedestrian access. No new pedestrian/cycle access points are proposed.
- 1.9 A 1.1m high, wire weld mesh perimeter fence finished in green, including gates where appropriate, is proposed for security and safety barrier reasons. The existing athletics track fencing is retained and will serve as the eastern perimeter enclosure to the facility.
- 1.10 A large mound, located just north along the athletics track will be removed to create a relatively flat entrance and final straight for the track.
- 1.11 External lighting is proposed, with fifty 8m high lighting columns set behind the perimeter fencing or a minimum 3m from the cycle track.
- 1.12 The application is supported by a Community Use Agreement, Impact Assessment and Statement – Loss of Playing Field Provision, Mode of Transport and Patronage to Access Report, Flood Risk Assessment, Intrusive Ground Investigation Report, Design and Development Guide and draft Method Statement.
- 1.13 The proposed site plan, images of the social hub and fencing details are provided overleaf.



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



## 2. Policies

### 2.1 Herefordshire Local Plan Core Strategy (CS)

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

- SS1 - Presumption in favour of sustainable development
- SS4 - Movement and transportation
- SS6 - Environmental quality and local distinctiveness
- SS7 - Addressing climate change
- SC1 - Social and community facilities
- MT1 - Traffic Management, highway safety and promoting active travel
- LD1 - Landscape and townscape
- LD2 - Biodiversity and geodiversity
- LD3 - Green Infrastructure
- SD1 - Sustainable Design and energy efficiency
- SD3 - Sustainable water management and water resources
- SD4 - Waste water treatment and river water quality

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



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

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

## 2.2 National Planning Policy Framework 2021

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

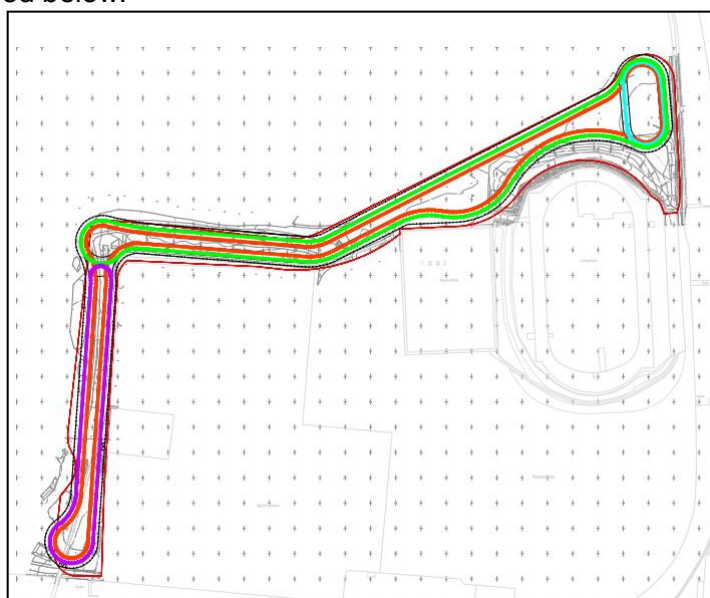
1. Introduction
2. Achieving sustainable development
3. Plan-making
4. Decision-making
6. Building a strong, competitive economy
8. Promoting healthy and safe communities
9. Promoting sustainable transport
11. Making effective use of land
12. Achieving well-designed places
14. Meeting the challenge of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

The revised National Planning Policy Framework (NPPF) sets out government's planning policies for England and how these are expected to be applied. The NPPF, as most recently revised in July 2021, can be viewed using the following link:

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

## 3. Planning History

- 3.1 P163552/F - Formation of a macadam enclosed cycling circuit and associated works including boundary fence and street lighting – granted 31 May 2017. This permission has not been implemented and has since lapsed.
- 3.2 The approved development comprised a 1.55km cycle track sited in a location not dissimilar to the current proposal. The approved circuit would be illuminated with approximately 70 LED lighting columns (5m high) and included 1.25m high protective boundary fencing. The approved site plan is detailed below.



## 4. Consultation Summary

### Statutory Consultations

#### 4.1 Sports England

Many thanks for re-consulting Sport England on this application. A meeting was held with the applicant to discuss Sport England's objection, and in particular discussions have taken place to address the two substantive points raised. Additional information has now been submitted, by way of an additional pitch layout plan, and a statement to provide a commitment to submitting for approval a community use statement. I have commented below on the additional information submitted:

#### **Pitch layouts**

Drawing 15671-DB3-S01-XX-DR-A-90013 Rev B (site football pitch locations) now acceptably demonstrates that the proposed closed road cycle track will have an acceptable relationship with the remainder of the playing field, maintaining the capacity to provide 3 adult football pitches and a 7v7 pitch.

This acceptably addresses the first point raised and reflects the discussions that have taken place, and so this can be agreed.

#### **Community Use**

The submitted document provides a written commitment to agree to formalising community use for the proposed cycle track, which is important for the proposal to be agreed under Exception E5 of Sport England's Playing Fields Policy. Whilst the statement is generally acceptable, Sport England would wish to comment that the length of time of the commitment to community use being 10 years is a relatively short period of time. We would normally seek for a community use agreement to be in perpetuity. The commitment to an annual review is good. Overall, Sport England are happy with what has been provided, and subject to the imposition of the following condition to secure the community use statement, we would wish to remove our objection to this application:

*The Use of the cycle track and its associated facilities shall not commence until a community use statement, prepared in consultation with Sport England and shall been submitted to and approved in writing by the Local Planning Authority. The Community Use Statement shall be based upon the document dated \* submitted on \*, which provides a commitment to providing a community use statement for this facility. The Community Use Statement shall address the items listed and shall include details of pricing policy, hours of availability, timetable and programme of use for access by community clubs/other community users, management responsibilities and a mechanism for review. Once agreed, the development shall not be used otherwise than in strict compliance with the approved statement. Reason: To secure well managed safe community access to the sports facility/facilities, to ensure sufficient benefit to the development of sport to outweigh the loss of playing field, and to accord with Development Plan Policy \*\*.*

Given the above assessment, Sport England wishes to remove our objection to this application as it is now considered to meet exception 5 of the above policy. The absence of an objection is subject to the above condition(s) being attached to the decision notice should the local planning authority be minded to approve the application. Should condition recommended above not be imposed on any planning consent, Sport England would consider the proposal to not meet exception 5 of our playing fields policy, and we would therefore object to this application.

## 4.2 Environment Agency

Comments 13/07/22:

We are satisfied with the amended fencing proposal ('Response relating to comments ref Fencing and Flood Risk', dated 13th April 2022) and the amended cycle track levels (ref: 15671-DB3-S01-XX-DR-A-90005, dated 24th June 2022). We note that the latest amendment to the cycle track levels plan removes the previously proposed land raising to the west of the site which is located within Flood Zone 3. The Plan states that 'All track levels are to be equal to or below existing site levels'. This clarifies that no land will be raised within Flood Zone 3, therefore we would not seek flood storage compensation as previously stated. This was further clarified in the attached email from Richard Preece (dated 11th July 2022). We therefore remove our previous objections and wish to make no further comments.

Comments 21/04/22:

Flood Risk:

The site is predominantly located in Flood Zone 3, the high risk Zone, on the Flood Map for Planning (Rivers and Sea) as defined in Table 1 of the Planning Practice Guidance (Paragraph 065). Eastern portions of the site are located in Flood Zones 2 and 1, the medium and low risk zones respectively. As the Environment Agency has no model for the watercourse, Flood Zone designations are based on a national, generalised flood mapping technique called JFLOW and is best available data.

The watercourse that is culverted under the golf course is Ayles Brook and designated 'ordinary watercourse' and therefore regulation falls to Herefordshire Council as the lead Local Flood Authority (LLFA). The flood zones are based off LiDAR measurements of the topography, so demonstrate the route that the floodwater would be expected to follow in the event of a culvert blockage at the upstream end.

Flood Risk Assessment (FRA):

No model is supplied as part of the Flood Risk Assessment (FRA) by Brown Fisher Environmental (Report Ref: 215729FRA). Due to the scale and nature of the proposed development, and its classification as 'water compatible', we would recognize that producing a model would not be proportionate in this instance.

The Environment Agency holds no information on Environment Agency assets or third End 2 party-maintained assets in the vicinity of the site.

Whilst we have no fundamental concerns with the proposed development we do require some clarity on proposed elevations as the FRA states that the proposed track is 'at or slightly below ground level so it will not displace flood water or cause an obstruction to flood flows'. However, the site plan (ref: Proposed Site Plan, Appendix 1) indicates an area in the western extent, approximately 2,250 m<sup>2</sup>, that will be raised by approximately 2-3 m (ref: Proposed Track Sections, Appendix 2). Although the area of raised land forms a relatively small area of the total site, it is located in Flood Zone 3 and there is a possibility this could affect localised flood water flows and storage. We would therefore request further information regarding the volume of raised area, identification of any risks associated with its location in the flood plain and mitigation measures that would reduce this risk (flood storage compensation). Alternatively, the raised land could be moved to an area of the site that is located in Flood Zone 1 where any risk will be reduced.

The proposed development includes the installation of a perimeter fence. To ensure that the risk of the fence blocking and diverting flood water is minimised, we would request mesh fence with spacing of at least 100mm be utilised. This will bring the design in line with Environment Agency

guidance of installing fencing in a floodplain. A maintenance plan should also be in place detailing the clearing of debris from the fence following a flood event.

#### 4.3 **National Highways**

No objection.

#### 4.4 **Welsh Water**

We would request that if you are minded to grant Planning Consent for the above development that the Conditions and Advisory Notes provided below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets. Condition No surface water from any increase in the roof area of the building /or impermeable surfaces within its curtilage 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

#### 4.5 **Cadent Gas**

No objection.

#### 4.6 **Natural England**

No response.

#### Internal Council Consultations

#### 4.7 **Ecology**

The site is within the River Wye SAC catchment. This proposed development triggers the legal requirement for a Habitat Regulations Assessment process to be carried out by the LPA, the final HRA 'appropriate assessment' completed by the LPA must be formally approved by Natural England PRIOR to any future planning consent being granted.

Sufficient and detailed information will be required to be submitted with any future outline or full applications to allow the authority to assess the proposal through its Duty of Care under NERC Act and Habitat Regulations. Natural England will also need to be a statutory consultee and will require sufficient information, like ourselves, to formally undertake a Screening Assessment for 'Likely Significant Effects' and then subsequently undertake a relevant Appropriate Assessment to determine and recommend relevant and appropriate Conditions to secure that the development(s) will have NO 'likely significant adverse effects' on the relevant SAC.

This HRA process needs to be completed based on all current requirements and considerations and on information supplied in support of this specific application and that is sufficiently detailed to allow any relevant conditions to be secured.

The HRA process must be completed with legal and scientific certainty and using a precautionary approach.

#### *Notes in respect of HRA*

The proposal is for a new closed circuit cycle track with supporting infrastructure

No facilities creating any additional foul water flows are proposed under this development. There is no change in nutrient flows created by this development and this potential effect can be considered as 'screened out' from requiring any further consideration or assessment.

All additional surface water can be managed through onsite Sustainable Drainage Systems and no additional surface water flows in to the local mains sewer network are proposed. There is no change in nutrient flows created by this development and this potential effect can be considered as 'screened out' from requiring any further consideration or assessment.

With no identified effects from the project/development alone there are no in-combination or cumulative effects identified.

The project can be screened out at Phase 1 of HRA appropriate assessment and no full appropriate assessment is triggered. No formal consultation on HRA with Natural England is triggered.

#### *Other ecology comments*

The wider site is known to support reptiles and amphibians – including protected species – slow worms and Great Crested Newts. The LPA has no reason to consider that the proposed development will impact these local populations of protected species. The applicant and their contractors would have their own legal obligations to wildlife protection and consideration as afforded under the Wildlife & Countryside Act that lies above the planning process, and if breached would be potential wildlife crime investigated and enforced by West Mercia Police. A relevant advisory note is suggested to remind the applicant/contractors of their obligation.

#### *Wildlife Protection Informative*

The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended), with enhanced protection for special "protected species" such as Great Crested Newts, all Bat species, Otters, Dormice, Crayfish and reptile species that are present and widespread across the County. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it is advised that advice from a local professional ecology consultant is obtained.

The supplied lighting and illumination plan is noted. This supports the consideration that the development will not have a significant effect on the local illumination levels. It is unclear if the lighting will be used permanently during the whole night or only when the track is open for use and being used. It would be hoped that for benefit of carbon reduction and ensuring minimum impact on the dark skies of the City that the lighting will only be operational during 'operating hours' or for maintenance purposes.

#### **4.8 Landscape officer**

Comments 20/04/22:

In consultation with my colleague and in reference to his previous comments (dated 18/03/2022), we are disappointed that no green infrastructure can be added, however accept the reasoning at this point in time. No further information or landscape conditions are therefore required. Ideally green infrastructure, planting and biodiversity could be revisited for Halo on a site wide approach in the future, in order to work with the Council towards the Climate and Biodiversity Emergency action plans.

Comments 25/02/22:

In principle I support the development, as the existing land use is focused on recreation and leisure, and this development 'fits' into this land use.

I do think there could be an improvement in terms of green infrastructure, and enhancement of the landscape as an integrated system, that 'grounds' or connects the development with the surrounding landscape 'nature' areas and trees (Refer to figure 1).

The development seems to 'land' onto the site without considering the relationship with its surroundings. Refer to the figure 2 (the orange circle), where the development cuts the 'natural' area and leaves a gap of maintained grass, that will be difficult to maintain and mow. It is recommended to consider linking and integrating the 'natural' areas into the development, and plant trees (i.e. around the 'hub' that will link with other trees. As the site is relatively open, trees will assist in providing shelter from the wind, and in summer shade.

My other comment relates to the fence. I understand there may functional, security and safety reasons for the perimeter fence, however the fence is within close proximity to the track, and it may feel uncomfortable, or perhaps mundane riding along this fence for most of the track. Can there be variation in the width between the fence and the track; planting added to create variation; or are there alternatives, such as hedgerows; or is the fence needed at all?

Apart from the fence, that requires substantiation, conditions such as the provision of a soft landscape plan (with written specification, outlining species, heights and planting conditions) with a management plan, and maintenance schedule for a period of 10 years would be suffice to address the landscape comments.



Figure 1: Landscape 'nature' areas and trees within the maintained grass field.



Figure 2: Consider drawing in, or introducing landscape 'nature' areas, and trees within the development area.

#### 4.9 **Transportation**

Further to the previous highways comments on this application an assessment has now been provided of parking capacity for the leisure centre car park and details of the anticipated transport modes to the proposed facility. The detail is considered appropriate for the parking provision from a local highway authority perspective, taking into account the content of Herefordshire Council's Highways Design Guide.

In terms of the detail of the access to the site, this should be commented on by National Highways as the A49 is part of the national strategic road network under their control.

There are no objections to the proposal from the local highway authority.

#### 4.10 **Land Drainage**

We have no objections to the proposed development and note that a new FRA will not be required. As previously requested, under the original planning application (163552), we request that infiltration test results are submitted in order to correctly size the infiltration SuDS features.

#### 4.11 **Environmental Health (Noise)**

No objection.

#### 4.12 **Minerals and Waste Officer**

No objection.

#### 4.13 **Environmental Health Contamination**

Our records indicate that the development may encroach an area of land previously subject to consideration of risks from contamination. With a precautionary approach in mind, it would be therefore be appropriate to undertake a review of the available information to understand whether these records are relevant to the application. As such, the standard contamination/remediation condition should be appended with a recognition that it may be obviated by submission of appropriate authoritative information.

### 5. **Representations**

#### 5.1 **Hereford City Council**

No response.

#### 5.2 **Hereford Racecourse**

The following represents the comments, representations and objections by Hereford Racecourse on the above planning application for the Proposed Development that is currently out for consultation. Hereford Racecourse occupy the land and operate a successful business adjacent to the site of the Proposed Development. We have had the benefit of legal advice and are aware that you are confined to considering (in addition to policy) material planning considerations of which is the current NPPF and of course the NPPG. We are aware of your statutory obligation to determine planning applications in accordance with the development plan unless material considerations indicate otherwise. Hereford Racecourse has a number of concerns (business and practical) relating to the Proposed Development being built in the centre of Hereford Racecourse and the impact that this will have on the business. The objections and observations on the planning application for the Proposed Development are as follows:

##### Drainage

Hereford Racecourse has lost five fixtures (racedays) in the past three years due to waterlogging on the racecourse. The impact of water on the racing surface cannot be underestimated as it can cause false / dangerous ground that leads to the abandonment of a raceday (and loss of lucrative media rights) on grounds of safety. The Proposed Development will therefore need to either be of a permeable surface material or at the minimum be able to absorb and store/discharge the resulting water (be it rain or otherwise) within the site of the Proposed Development. It is clear from the NPPF at paragraph 167 that, when determining a planning application, you should ensure that flood risk is not increased elsewhere and that development should only be allowed in areas at risk of flooding (which this is) where it can be demonstrated that it (at a minimum) incorporates sustainable drainage systems and risk of flooding can be managed.

We no doubt don't need to remind you (as we will add to below) of the Agent of Change principle at paragraph 187 of the NPPF which states:

'187. Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.'

This in our view applies not just to noise and sound but also to flooding and other impacts. The Proposed Development should fit with the existing business at Hereford Racecourse and not be a burden or cause any detriments to the business or running of Hereford Racecourse. The



Proposed Development needs to deal with its own water and nuisances that come from the site and as Local Planning Authority it is your obligation (if you were minded to approve) to add sufficient and robust planning conditions/obligations to deal effectively with drainage and its long-term maintenance to ensure no water is discharged off the site or has an impact on the business of Hereford Racecourse.

The area of track nearest to the cycle track naturally lies wet and is a challenge for Hereford Racecourse staff to manage, even before this Proposed Development.

There needs to be an understanding that no water should fall outside of the site of the Proposed Development and sustainable drainage features/conditions/obligations need to be in place if the Local Planning Authority are minded to approve this.

A failure to deal with this and take into consideration of the NPPF on drainage and the Agent of Change principle could lead to the subsequent decision being challenged in the Courts via Judicial Review.

### Crossings

Woodchip crossings over the Hereford Racecourse are more complex and critical than some understand. Their below-ground structure and drainage is critical to ensure horses can gallop safely over the woodchip without risk of injury, and likewise the strips of ground either side of the crossings must be maintained to ensure safe, consistent, sound 'going.'

Woodchip on the crossings is generally replaced every couple of seasons at a cost of circa E2.5K per crossing (three crossings on site) with Halo usually agreeing to contribute half of the amount for the crossing they use for golf course machinery and pedestrian access. However ironically the reality with their existing crossing is that it is their usage over it (not ours) that compromises its quality for us and as footfall and machinery has increased, and will continue to do, the below surface structure is failing and needs improvement; new drain, tarmac and lining before woodchip added on top.

We currently 'manage' this but investment will soon be needed and the increased usage in this area will have a significant impact on our business. If investment is not made to strengthen and support the increase in footfall and traffic then it will degenerate and potentially risk losing us fixtures. We therefore make reference again to the Agent of Change principle as this Proposed Development should not have an adverse impact on the business at Hereford Racecourse and the Local Planning Authority has the ability to condition schemes prior to implementation of the development that can deal with matters adjacent to the site. These being in the form of Grampian conditions (i.e. not to occupy/use/take some step in the development unless and until...).

We ask that our representations on the crossings are fully considered in the determination and safeguards put in place to prevent further damage as a result of the Proposed Development.

### Main Road Access

We have considerable concerns as to the construction traffic and method for the Proposed Development as it will be over Hereford Racecourse and you will see our comment above regarding crossings. This needs careful consideration and at a minimum (if it were minded to be granted) a construction scheme condition to be approved by the Local Planning Authority prior to commencement of the Proposed Development. This needs to be carefully prepared and approved not to have any impact on the business of Hereford Racecourse or any race meetings.

The 'tracks' we have in place are basically hardcore and not intended for heavy machinery or day to day usage and will become damaged. We use them 14 days a year for racedays and our concern is that the Applicant for the Proposed Development is requesting access which would open up our site access considerably.

There would be a cost to our business to prevent degeneration of the access from Grandstand Road and a risk of open site access seeing an increase in trespass and antisocial behaviour on track and in our enclosures. This will again impact on the business and of course new development cannot do that. A greater volume of footfall is to be expected and public will then naturally use the open site as a cut through walking to town, have access into Groundsman barns during our operating hours leading to security risk.

An open site increases the risk of Travellers which is why we operate a locked down site day to day. The cost of removing Travellers from our site last year was £14,000. Any open vehicle gates pose an increased and unwelcome risk to our site from this community.

#### Footfall Horse

Racing at Hereford Racecourse can only operate with a safe, level and non-compacted racing surface for horses to gallop on.

The increased footfall in centre course see more people walk on our track, cut corners on our track and cause wear and tear and compaction (as experienced with other stakeholders like City Sports). This is already a problem with golfers and dog walkers as flagged to Halo and risks us losing fixtures due to waterlogging, compaction or frozen ground due to no grass cover.

Investment will be needed as a result of the Proposed Development to ensure critical parts of the track are protected and centre course users only able to access on agreed access areas.

This is of course an impact on Hereford Racecourse which should in principle be an issue for the Applicant of the Proposed Development rather than the operator of a current successful business. This is what is set out in the NPPF.

The increase in footfall also increases the challenges of us maintaining our site safely with machinery usage such as mowing and watering. This impact on our business is substantial in terms of increase Health and Safety risk and ensuring the racing surface does not become compromised through unsolicited usage and unofficial walkways. Solutions will need to be efficient also for our Grounds team and not add significantly to the amount of time it takes them to prepare the track through moving barriers, fencing etc as a direct result of this proposed cycle track.

Current centre course usage does not cause us significant challenges. However, any increase in footfall from the reasons aforementioned will impact on our business and it is unfair to expect Hereford Racecourse to change its ways of operating due to the proposed development.

By way of summary the concerns of our business (Hereford Racecourse) are:

- Drainage
- Crossings
- Compromise in racing surface
- Site access

### 5.3 Hereford and District Wheelers Club

This application for a cycle track at Hereford Leisure Centre, will provide an amazing facility for cyclists, of all ages, to ride, learn to ride and improve their riding skills in a traffic free environment. This facility will also offer the opportunity for local, regional and national cycle track competitions to come to Hereford, thus promoting the sport at a local level through its accessibility.

## 5.4 Hereford Triathlon Club

I am writing on behalf of The Hereford Triathlon Club, in my role of Club Secretary, to give the Club's full support for this planning application. The proposed closed circuit cycle track will not only enhance the existing recreational facilities available via Holmer Road but will also provide much needed safe cycling opportunities, facilities and support for the local community and throughout Herefordshire. The cycle track design, including social hub building and skills area, and the perimeter fencing have all been extremely well thought out and the overall finish will be aesthetically pleasing. There will be low impact on green space and habitats, low noise and disturbance, with the raised grass areas and the cycle track being sited within an existing area of recreational activities. As parking and vehicle access already exists into area of the proposed site, there will be little travel impact to the community and surrounding areas. We fully support and endorse this application.

5.5 14 supporting representations have been received. Grounds of support are summarised as follows:

- Resurgence in healthy living
- Enhance the profile of the sport
- Greater awareness of using roads safely
- Benefit to various groups – children, new and potential cyclists, those with disabilities, established cyclists

5.6 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=220369&search-term=220369](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=220369&search-term=220369)

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

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

## 6. Officer's Appraisal

### *Policy Context and Principle of Development*

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

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

6.2 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS). The National Planning Policy Framework (NPPF) is also a significant material consideration.

6.3 Policy SC1 supports development proposals that enhance existing social and community infrastructure. NPPF paragraph 120 states that planning decisions should recognise that some undeveloped land can perform many functions including recreation. NPPF paragraph 99 states that existing sports land should not be built on unless, amongst other scenarios, the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use. NPPF paragraph 93 seeks to provide social and recreational facilities the community needs, to improve the health, social and cultural wellbeing for all sections of the community.

- 6.4 There is clear local and national planning policy support for the proposed cycle facility. The facility, co-locating with other well-established sporting and recreational facilities, will enhance local community infrastructure, giving direct effect to CS Policy SC1. Co-locating the facility with the existing leisure centre is an effective and efficient use of land, consistent with the NPPF. The proposal represents an alternative sports and recreational option, broadening the local recreational offering. The applicant has demonstrated that the facility can be accommodated whilst providing for three full sized football pitches and one 7 v 7 football pitch. The proposed social hub represents a significant social benefit for the local community. As indicated in the supporting representations, the facility will substantially improve the health and social wellbeing of many, through increasing participation in cycling. The impact on existing facilities at the Leisure Centre are minimal, essentially limited to the loss of one football pitch, and this is outweighed by the health and social wellbeing benefits associated with the enhanced opportunities for cycling, compliant with NPPF paragraph 99(c).
- 6.5 Sport England are a key statutory consultee. Following initial concerns raised, the applicant met with Sport England and provided additional information. Sport England has subsequently retracted its original objection, subject to a condition requiring the submission of a community use statement. The applicant has signalled their intent to provide a full and detailed community use statement.
- 6.6 For the reasons above, and noting permission has previously been granted for a similar cycling facility at the subject location and is therefore a material consideration, the principle of the proposed development is accepted.

#### *Landscape Character*

- 6.7 CS Policy LD1 seeks to ensure development proposals demonstrate how the character of the landscape and townscape has positively influenced the design, scale, and nature and site selection of the proposal. Development should be integrated appropriately through the use of landscape schemes and their management. This policy also states that development should make a positive contribution to the architectural diversity and character of the area including, where appropriate, through innovative design.
- 6.8 The site forms part of a well-established leisure centre. The existing facilities, including athletics track and all weather sports pitch, are floodlit. Additional external lighting will therefore have a relatively minimal visual impact. Owing to the nature of the development, with the exception of the social hub built form, the proposed works are of a very low profile, largely utilising the existing site topography. The facility requires relatively limited landform modification. Whilst greater tree planting would be welcomed, it is appreciated that landscape planting opportunities are limited owing to horse racing sightline restrictions and existing ground elevations. This said, there is opportunity for lower level soft landscaping and these details, together with matters relating to landscape management/maintenance, can be secured by planning conditions as recommended by the Landscape Officer.
- 6.9 Given the central siting of the works within the racecourse facility and the track's low profile, the circuit will be barely visible from vantage points external to the racecourse. The social hub buildings, referred to as the 'container combo', are modest and unobtrusive single storey structures of contemporary appearance. There is no definitive architectural style characterising the area. The site is not a sensitive one in built and landscape character terms; it is able to absorb a contemporary design approach without adversely impacting local character. The proposed fencing is low level and is not out of keeping with the recreational character of the area, noting its consistency with the existing perimeter fencing that extends around neighbouring facilities. The proposed green colour finish to the fencing is visually recessive and appropriate.

- 6.10 Subject to conditions, the development is considered to effectively assimilate into the existing leisure centre visual environment and in so doing deliver an appropriate landscape and built character outcome, in accordance with CS Policy LD1.

#### *Residential Amenity*

- 6.11 CS Policy SD1 requires development proposals to safeguard residential amenity for existing and proposed residents.
- 6.12 The facility is set a substantial distance away from the nearest residential properties, separated from them by the horse racing track. The light spill plan demonstrates that light spill will be limited to the cycling circuit only, with no light spill beyond the wider site. Given the non-motorised nature of pedal cycling, noise is unlikely to present as a nuisance. Noteworthy in this regard is the absence of objection from Environmental Health (Noise).
- 6.13 Given the site context and nature of the proposed use, the proposal will not unduly compromise the amenity of the nearest neighbouring residents and the requirements of CS Policy SD1 are satisfied.

#### *Highway Safety*

- 6.14 CS Policy MT1 seeks to ensure that developments, amongst other matters, are sited, designed and laid out in a manner which ensures the safe and efficient flow of traffic, safe entrance and exit and have the appropriate operation manoeuvring space to accommodate all modes of transport. Generally, the principles of the development plan are consistent with the advice set out within the NPPF.
- 6.15 The facility is to be served by the existing vehicle access from Holmer Road with no changes proposed. It also relies on the existing car park serving the Halo Leisure Centre. Users will park in this car park and access the facility on foot via the two existing pedestrian access points which access the inside of the horse racing track.
- 6.16 The Highways Engineer does not object to the scheme, noting the quantum of parking available in the Halo Leisure Centre is deemed appropriate to serve the intended use. Highways England does not object to the scheme. The application accords with CS Policy MT1.
- 6.17 The concerns of the Hereford Racecourse regarding construction traffic and potential impacts on racecourse infrastructure, and day to day operations, are noted. In particular are the concerns raised regarding potential damage to the wood chip crossings. In response, the applicant has submitted a draft Method Statement. It outlines that all construction traffic will be via the existing northern access point, between the Leisure Centre car park and Skate Park. The site compound will be located at the northern end of the site, north of the proposed social hub. To fully protect the woodchip crossing the statement proposes using aluminium panels ([www.trackwaysolutions.co.uk](http://www.trackwaysolutions.co.uk)). The method would be as follows:
1. Take up the existing wood chip/ bark surface, with a rubber tracked excavator, and remove.
  2. Take up geotextile membrane, if there is one under the woodchip, and set aside for re-use.
  3. Provide and install aluminium trackway to the crossing to spread the weight of all site traffic entering the works to protect the ground beneath.
  4. The trackway would be installed via a hi-ab lorry to ensure the lorry only drives on the trackway laid in front of it.
  5. The trackway would be laid with the smooth side against the soil.
  6. If there is a racing fixture within the timescale for the project, the trackway will be lifted 48 hours prior to the race fixture and set aside for re-use and reinstate the area as it was found using new woodchip.
  7. We would then repeat the sequence of operations 1,2 and 3 to continue the work.

The above methodology, including access point, compound location and track protection system, is considered suitable and appropriate. It is recommended that the submitted method statement is incorporated into a broader construction management plan and that this is required by planning condition. As noted by the applicant, construction activity within the racecourse centre has been undertaken previously, including the athletics track construction (1988), all weather surface track construction (1991), and the Racecourse's construction of a canterdown in 2000. Clearly there is scope to provide for further construction activity without negatively impacting the racecourse infrastructure or operations.

### *Ecology*

- 6.18 Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. Policy LD2 of the CS seeks the conservation, restoration and enhancement of biodiversity and geodiversity assets.
- 6.19 The site is within the River Wye SAC catchment. As noted by the ecologist, there is no change in nutrient flows created by this development and all additional surface water can be managed through onsite Sustainable Drainage Systems and no additional surface water flows into the local mains sewer network are proposed. The ecologist confirms the development can be screened out at Phase 1 of the HRA appropriate assessment and no full appropriate assessment is triggered. No formal consultation on HRA with Natural England is required.
- 6.20 There is no evidence or indicators to suggest that the development will adversely impact protected species in the wider site, including slow worms and Great Crested Newts.
- 6.21 As noted above the light spill plan demonstrates very limited light spill from the proposed lighting columns. To minimise the impact on the dark skies of the city, it is recommended that the proposed external lighting is limited to operational times only. This can be addressed by planning condition.
- 6.22 There is no identified conflict with CS Policy LD2.

### *Flooding and Drainage*

- 6.23 The Hereford Racecourse raises concern regarding drainage and the need to incorporate sustainable drainage features.
- 6.24 Parts of the site are within Flood Zones 2 and 3 although the proposed development would fall within the definition of "water compatible" so there is no fundamental objection to the proposal in the context of managing flood risk. The application is supported by a Flood Risk Assessment which has been reviewed by Council's drainage consultant and the Environment Agency. Neither consultee raise an objection to the scheme. The drainage consultant requests infiltration testing in order to correctly size the infiltration SuDS features. This can be addressed by planning condition to ensure full compliance with CS Policy SD3.

### **Conclusion**

- 6.25 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.
- 6.26 The relevant policies of the development plan are afforded full weight for decision making. In this case, the adopted development plan comprises the Core Strategy.

- 6.27 Although now lapsed, the site did benefit from a previous planning permission for the development of a 1.55km cycle circuit. The provision of a cycle circuit enhances the quality of sporting provision at the existing leisure centre site whilst not compromising the use of existing facilities and pitches. Co-locating recreation facilities has numerous benefits, not least being an efficient use of land. The significant increase in cycling participation will deliver health and social wellbeing benefits that outweigh the more modest disbenefit of losing one full sized football pitch. The development accords with the social dimension of sustainable development. The proposal gives positive effect to CS Policy SC1 and the NPPF. Noteworthy is the absence of objection from Sport England, a key statutory consultee.
- 6.28 The development can successfully assimilate into the established leisure centre environment, maintaining landscape character. More comprehensive landscape planting would usually be a requirement, however the horse racing sightline requirements heavily restrict landscaping opportunities and for this reason only low level planting is to be required by condition. Residential amenity, highway safety and biodiversity impacts are negligible. Conditions can adequately manage outstanding matters in relation to drainage, noting the absence of objection from the Environment Agency and drainage consultant. Managing the construction process is a critical element of the scheme given the integral relationship of the site with the racecourse and other facilities and this too can be addressed by condition. Contamination is satisfactorily addressed by standard conditions.
- 6.29 The Hereford Racecourse raises a number of concerns, some of which are appropriately addressed by planning conditions. Other matters are considered more operational rather than a reasonable condition requirement given the particular site context, noting the intimate physical relationship between the course and the leisure centre.
- 6.30 Having regard to the site's planning history, the general support from statutory consultees, the way in which the design responds to the site's constraints and opportunities, together with the significant health and social wellbeing benefits that will result, overall the scheme is considered to accord with the relevant policies of the development plan. The proposal represents sustainable development 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:**

**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 no's:**

- **15671-DB3-S01-XX-DR-A-90013 received 24.06.22**
- **15671-DB3-S01-XX-DR-A-90006 received 24.06.22**
- **15671-DB3-S01-XX-DR-A-90005 received 24.06.22**
- **15671-DB3-B01-XX-DR-A-90003 received 24.06.22**
- **15671-DB3-B01-XX-DR-A-90002 received 24.06.22**

- 15671-DB3-S01-XX-DR-A-90001 received 24.06.22
- 15671-DB3-B01-00-DR-E-63001 received 13.04.22
- 15671-DB3-B01-00-DR-E-63002 received 13.04.22
- 15671-DB3-S01-XX-DR-A-90007 received 11.4.22
- 15671-DB3-S01-XX-DR-A-90004 received 11.4.22
- 15671-DB3-S01-XX-DR-A-90000 received 11.4.22
- 15671-DB3-S01-XX-DR-A-20301 received 11.4.22
- 15671-DB3-S01-XX-DR-A-20202 received 11.4.22
- 15671-DB3-S01-XX-DR-A-20201 received 11.4.22
- 15671-DB3-S01-XX-DR-A-20200 received 11.4.22
- 15671-DB3-S01-XX-DR-A-20000 received 11.4.22
- 15671-DB3-S01-00-DR-A-20100 received 11.4.22

except where otherwise stipulated by conditions attached to this permission.

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

### 3. Landscaping Plan

With the exception of site clearance and groundworks, no further development shall commence until a landscape scheme is submitted to and approved in writing by the local planning authority. The scheme shall include a scaled plan identifying:

- a) 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 and the National Planning Policy Framework 2021.

### 4. Landscaping Implementation

The hard and soft landscape works shall be carried out in accordance with the approved details (insert drawing no if appropriate) before any part of the development is first occupied / brought into use in accordance with the agreed implementation programme.

The completed scheme shall be managed and /or maintained in accordance with an approved scheme of management and/ or maintenance.

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



**5. Landscape Maintenance Plan**

Before the development is brought into use, 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 and the National Planning Policy Framework 2021.

**6. Surface Water Drainage Works**

No development approved by this permission shall be commenced/occupied until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the first use of the development hereby approved. The scheme shall detail infiltration testing results in order to correctly size the infiltration SuDS features.

Reason: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal and to comply with Policy SD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

**7. Community Use Statement**

The use of the cycle track and its associated facilities shall not commence until a community use statement, prepared in consultation with Sport England, has been submitted to and approved in writing by the Local Planning Authority. The community use statement shall be based on the document titled 'Hereford Cycling Circuit' received by the Local Planning Authority on 24.06.22 which provides a commitment to providing a community use statement for this facility. The community use statement shall address the items listed and shall include details of pricing policy, hours of availability, timetable and programme of use for access by community clubs/other community users, management responsibilities and a mechanism for review. Once agreed, the development shall not be used otherwise than in strict compliance with the approved statement.

Reason: to secure well managed safe community access to the sports facility, to ensure sufficient benefit to the development of sport to outweigh the loss of playing field and to accord with Policy SC1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework 2021.

**8. External Lighting Hours**

The external lighting hereby permitted shall be restricted to use only during the operation and maintenance periods of the cycle facility. No external lighting, except for security lighting, shall operate out of business/maintenance hours.

Reason: To ensure that all species and Dark Skies are protected having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan - Core Strategy policies SS6, LD1, LD2 and LD3 and the Dark Skies initiative (DEFRA-NPPF 2013/18).

## **9. Construction Management Plan**

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

- A method for ensuring mud is not deposited onto the Public Highway
- Construction traffic access location
- Parking for site operatives
- Construction Traffic Management Plan
- Incorporation of the undated draft Method Statement received 18.07.22.

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

Reason: In the interests of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework 2021.

## **10. Contamination**

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

- a) a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice
- b) if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors
- c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed shall be submitted in writing. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

Reason: In the interests of human health and to comply with policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

## **11. Contamination Remediation Scheme**

The Remediation Scheme, as approved pursuant to condition 10 above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted and agreed in writing before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.

Reason: In the interests of human health and to comply with policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

## 12. Unexpected Contamination

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. Surface Water

No surface water from any increase in the roof area of the building /or impermeable surfaces within its curtilage 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.

### INFORMATIVES:

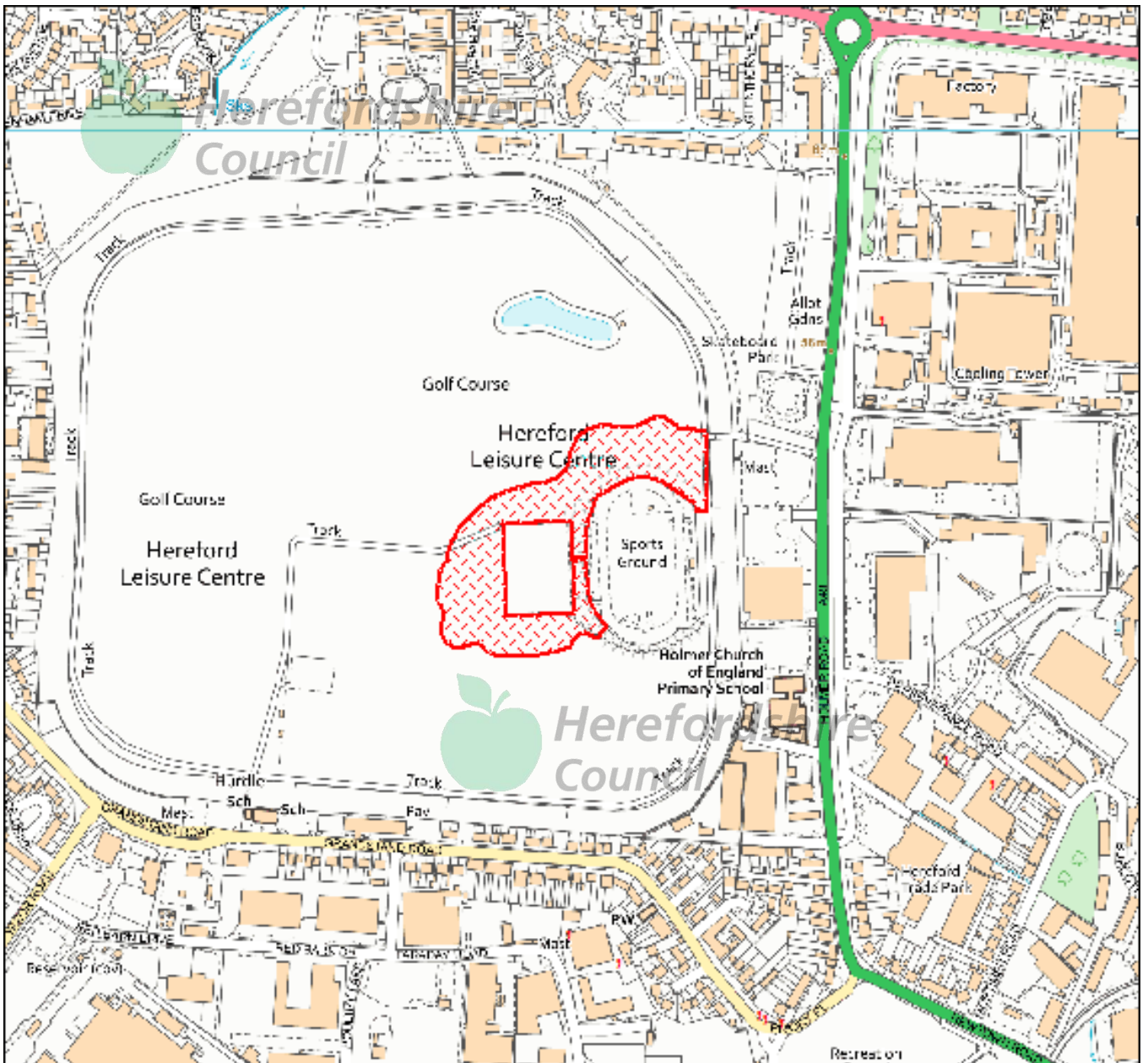
1. The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended) and the Habitats and Species Regulations (2019 as amended), with enhanced protection for special “protected species” such as all Bat species, Great Crested Newts, Otters, Dormice, Crayfish and reptile species that are present and widespread across the County. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it advised that advice from a local professional ecology consultant is obtained. If any protected species or other wildlife is found or disturbed during works then all works should stop and the site made safe until professional ecology advice and any required ‘licences’ have been obtained. Any additional lighting should fully respect locally dark landscapes and associated public amenity and nature conservation interests.
2. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Decision:

Notes:

### Background Papers

None identified.



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**APPLICATION NO:** 220369

**SITE ADDRESS :** HEREFORD LEISURE CENTRE, 37-39 HOLMER ROAD, HEREFORD, HEREFORDSHIRE, HR4 9UD

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<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>10 AUGUST 2022</b>
<b>TITLE OF REPORT:</b>	<b>221777 - CHANGE OF USE OF LAND FROM AGRICULTURAL TO EQUESTRIAN AND CONSTRUCTION OF SMALL STABLE BLOCK AT RHYSTONE COTTAGE, LUGWARDINE, HEREFORD, HR1 4AP</b>  <b>For: Mr Andrew McAlpine, Rhystone Cottage, Lugwardine, Hereford, Herefordshire HR1 4AP</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=221777">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=221777</a>
<b>Reason Application submitted to Committee:- Member of staff</b>	

Date Received: 30 May 2022

Ward: Hagley

Grid Ref: 355654,240150

Expiry Date: 3 August 2022

Local Member: Cllr Paul Andrews

## 1. Site Description and Proposal

- 1.1 The application site comprises a parcel of agricultural land (identified as Grade 2 on the Agricultural Land Classification) to the immediate east of Rhystone Lane, approximately 1.1 kilometres south of the junction where Rhystone Lane meets the A438 in Lugwardine. The parcel of land is enclosed on all four sides by a mixture of post-and-rail timber fencing significant vegetation, the latter of these largely screening the application site from the adjacent public highway at the south-west of the site. The topography of the site modestly falls away to the south-west and there are a number of residential properties located to the immediate north-west, namely Rhystone Cottage, Sundial Cottage and Rhystone. To the south of site, on the other side of Rhystone Lane, there is another residential property (Hunters Lodge), which has associated outbuildings, land for equine purposes and stables. Further residential properties also are situated further south of the lane as one heads towards the junction with Tidnor Lane.
- 1.2 The application before members seeks full planning permission for a set of stables and the change of use of the land from agricultural to equestrian. The proposed stables are to be located approximately 90 metres north-east of Rhystone Cottage, orientated on an east-west axis. There will be a concrete pad constructed upon which the stables will be situated and a 2.25 metre apron to allow for access to the stables. The stables will be accessed via an existing access point off Rhystone Lane which serves the paddock. The stables and the concrete pad together measure 6.75 metres x 18 metres in plan form. The stables themselves measure 4.5 metres x 15 metres with an eaves high of 2 metres and a ridge height of 3 metres. The stables will be constructed of 125mm x 19mm tanalised shiplap timber boarding with a black onduline roof with traditional split doors and the tack room will have a single solid door and the store solid double doors.
- 1.3 For the avoidance of doubt, other than the construction of the stable block and concrete pad, there is no other operational development proposed within the application submission. The application is accompanied by a supporting statement in addition to the deposited plans and application form.

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

## 2. Policies

### 2.1 Herefordshire Local Plan – Core Strategy 2011-2031 adopted 16 October 2015

Adopted policies of relevance:

SS1 – Presumption in favour of sustainable development

SS6 – Environmental quality and local distinctiveness

SS7 – Addressing climate change

MT1 – Traffic management, highway safety and promoting active travel

LD1 – Landscape and townscape

LD2 – Biodiversity and geodiversity

LD4 – Historic environment and heritage assets

SD1 – Sustainable design and energy efficiency

SD3 – Sustainable water management and water resources

SD4 – Waste water treatment and river water quality

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

[https://www.herefordshire.gov.uk/downloads/download/123/adopted\\_core\\_strategy](https://www.herefordshire.gov.uk/downloads/download/123/adopted_core_strategy)

### 2.2 Bartestree with Lugwardine Group Neighbourhood Development Plan made on 1 December 2016

Adopted NDP policies of relevance:

BL7 – Conserving historic character

BL12 – Transport and highways

The NDP is currently being reviewed, and has reached Regulation 14 draft plan stage. Bartestree with Lugwardine Group Parish Council submitted their reviewed draft NDP to Herefordshire Council on 8 April 2022. The consultation ran from 11 April 2022 to 30 May 2022. The following policies of the draft NDP are of relevance:

BL9 – Conserving historic character

BL12 – Water quality in the River Lugg

BL15 – Transport and highways

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

<https://www.herefordshire.gov.uk/directory-record/3027/bartestree-with-lugwardine-group-neighbourhood-development-plan>

### 2.3 National Planning Policy Framework (NPPF) – revised 20 July 2021

Sections:

2 – Achieving sustainable development

4 – Decision-making

9 – Promoting sustainable transport

12 – Achieving well-designed places

15 – Conserving and enhancing the natural environment

16 – Conserving and enhancing the historic environment

The NPPF sets out government's planning policies for England and how these are expected to be applied. The NPPF can be viewed at the following link:-

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

### 2.4 National Planning Practice Guidance (NPPG)

NPPG is an extensive online resource of detailed policy guidance provided by the Ministry of Housing, Communities and Local Government and the Department for Levelling Up, Housing and Communities. Along with the NPPF, NPPG sets out how the government envisages the day to

day working of the planning system in England to operate. The NPPG can be viewed at the following link:- <https://www.gov.uk/government/collections/planning-practice-guidance>

### 3. **Planning History**

None of relevance

### 4. **Consultation Summary**

Statutory Consultations

#### 4.1 **Natural England – No response**

Internal Council Consultations

#### 4.2 **Transportation Area Engineer – No objections**

*“There are no highways objections to the proposed change of use as described in the supporting statement”.*

#### 4.3 **Ecologist – No objections/conditions recommended**

*“The change of use formally supported by this application could increase stock - horse numbers on the holding and/or increase the manure (nutrient pathways) on the holding. The applicant has confirmed that the proposed development is solely to provide facilities and required planning status for their own existing horses. The applicant has confirmed that all manure created is and will be utilised within the small holding as a natural fertiliser in place of importing and using artificial fertiliser products. No manure will be exported from the site and no intensification or additional potential nutrient pathways are identified. The on-site retention and use of manure can be subject to a condition on any final planning permission granted. With no intensification or additional nutrient pathways identified this application can be considered as ‘screened out’ from requiring any further stage 2 appropriate assessment process.*

*Habitat Regulations (River Lugg (Wye) SAC) – Manure Management*

*Unless otherwise approved in writing by the planning authority, all manure created by the equine use permitted under this permission shall be retained, stored and utilised within land owned by the applicant at the development site.*

*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.*

*From supplied and available information, the LPA doesn’t identify the construction of the development as having any likely direct effects on local protected species although the applicant should be reminded of their and their contractors’ legal obligation to wildlife protection at all time through the Wildlife & Countryside Act. There are significant records of multiple bat species including Horseshoe and Serotine bats roosting within the immediate area and all works and lighting must consider the potential sustenance and support of these likely breeding roosts.*

*Wildlife Protection Informative*

*The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended), with enhanced protection for special “protected species” such as Great Crested Newts, all Bat species, Otters, Dormice, Crayfish and reptile species that are present and widespread across the County. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant*

*working methods prior to work commencing. If in any doubt it advised that advice from a local professional ecology consultant is obtained.*

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

*Protected Species (SAC) and Lighting (Dark Skies)*

*At no time shall any external lighting, except low power (under 550 Lumens/5 watts), 'warm' LED lighting in directional down-lighters on motion operated and time-limited switches, that is directly required in relation to the immediate safe use of the approved dwellings be installed or operated in association with the approved development and no permanently illuminated external lighting shall be operated at any time, without the written approval of this local planning authority.*

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

## **5. Representations**

### **5.1 Bartestree with Lugwardine Group Parish Council – Qualified comment**

*"Bartestree with Lugwardine Parish Council considered this application at their meeting 12/07/22 and were in support of the proposals in principle. However it is understood that the proposed access is across third-party land and enquiries should be made to ascertain that the relevant permissions are in place. Consideration should also be given to the access arrangements, drainage provision and stock proof fencing to ensure that they meet the needs of equine usage."*

### **5.2 One other representation has been made by a locally interested party. Their comments are as follows:**

*"As the owners of the field adjacent (downhill and to the southeast) to application site, we support the application, subject to the conditions set out below.*

*1. Although not mentioned in the application, access to the field in question is currently through our adjacent field and is restricted to agricultural and domestic use only. This arrangement was put in place by the previous owner of both fields when he sold the one field to us but retained the other. He needed occasional access to the other field on which he (or his tenants) grazed sheep from time to time. He subsequently sold that field, along with Rhystone Cottage, to the Applicant. If the use of the land is going to change from Agricultural to Equestrian, the access requirements will increase significantly. The horses will need to leave and return for exercise. Vehicles will need access to bring hay and other supplies for the horses or for services such as farriery. Such access will be required all year round, including in winter when the low lying land of our field will be quickly become muddy and churned up. There will also, temporarily, be significant vehicle access required for the construction of the stables. We therefore do not believe that it is appropriate to extend the access rights to incorporate equestrian use. If the use of the Applicant's land is to change, it would be appropriate for the field to now have its own access somewhere along its c30m boundary onto Rhystone lane. This should be addressed in the application.*

*2. The sheep that have grazed the fields in recent years have not caused any damage but, in our experience, horses are good at breaking fences so the Applicant should be responsible for maintaining a stock-proof fence along the boundary between our field and theirs.*



3. *The Applicant should ensure that there is sufficient soak-away capacity to ensure that water used at the stables is properly dispersed and does not flow onto our land.*

4. *Any muck heap should be situated adjacent to the site of the stables, as shown on the Plan attached to the Application, and managed to ensure that no discharge flows onto our land.”*

5.3 All consultation responses received 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=221777](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=221777)

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

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

## **6. Officer’s Appraisal**

### *Policy context and Principle of Development*

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

6.2 In this instance, the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS) and the Bartestree with Lugwardine Group Neighbourhood Development Plan (NDP). The National Planning Policy Framework (NPPF) is also a significant material consideration.

6.3 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework 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. From reviewing those policies within the CS applicable to the determination of this application, they are viewed to be entirely consistent with the guidance contained within the NPPF and as such, significant weighting can continue to be afforded.

6.4 Members should be aware that the Bartestree with Lugwardine Group NDP is currently being reviewed with a Regulation 14 draft having been published and a public consultation carried out between 11 April to 30 May 2022 inclusive. At this point in time, the 2016 version of NDP remains part of the statutory development plan, however the emerging NDP is still a material consideration when determining any applications for planning permission. The draft review NDP is attract limited weight at present, in accordance with the NPPF.

### *Principle of development*

6.5 Although the keeping and exercising of horses is not an agricultural use, it is a land-based activity which generally requires a rural location. In this case, the applications stated purpose is for private enjoyment in connection with Rhystone Cottage, rather than as a commercial facility. It is noted that to the south of the site, at Hunters Lodge, there is also land currently used for equine purposes and stabling.

6.6 It is considered that the proposed development is acceptable in principle within the constraints of development in open countryside contained within the relevant policies of the Core Strategy and the Bartestree with Lugwardine NDP, which is consistent with the guidance contained within the

NPPF. It is also noteworthy that there are no policies within the adopted development plan preventing this change of use of the land.

- 6.7 The representation made relating to land restrictions is a civil matter between the relevant landowners and is not a material planning consideration.

#### *Design and impact on landscape*

- 6.8 The proposed stables would be sited close to the existing hedgerow boundary which runs to the north of the land and relates to the change of use of the land to equestrian. It is not a prominent or sizeable structure, as although the land is located above Rhystone Lane, it would be positioned on relatively level land to the immediate south of the northern boundary hedgerow and therefore would be contained within the visual envelope of the site, aided by the well-established hedgerow boundaries alongside the sides of the application site.
- 6.9 Although the stables would be largely screened from public vantage points in the short and middle distance, given the presence of the existing vegetation and buildings, regard must be had to longer distance views across the valley (i.e. looking south towards Tidnor Lane and the outskirts of Hereford City). However, given its fairly limited size and siting, it will not be read as wholly incongruous noting the rural context of the area where such additions are not alien or uncommon. In addition, no additional operational development is being proposed aside from the stables and concrete pad.
- 6.10 The proposal does not include external lighting and a condition is recommended securing this (condition 4), avoiding adverse impacts on the otherwise rural landscape character and dark skies, together with ecology considerations as discussed below. The stable block is viewed to assimilate appropriately with surrounding development and would not cause any visual harm or undue impact on the surrounding open landscape character. Therefore, the proposal is considered to accord with the requirements of Core Strategy policies SD1 and LD1 and the relevant principles as set out within the NPPF. It is noted that there is no specific design/landscape policy of relevance within the adopted or draft review NDP.

#### *Impact on residential amenity*

- 6.11 On the basis that Condition 3 secures the use of the proposed development as a private facility only for the benefit of the applicants and not as a commercial facility, it is not envisaged that its use would be of detriment to the amenity of neighbouring properties, in accordance with policy SD1 of the Core Strategy, which is consistent with Paragraphs 130 and 185 of the NPPF. It is noted that there is no specific residential amenity policy of relevance within the adopted or draft review NDP and that there is already existing equine uses nearby.

#### *Access and highway safety*

- 6.12 The existing access arrangements serving the site, remain unaltered. It has been drawn to officers attention that the applicant requires third party access to gain entry into site. However, again this is a civil matter between the relevant interested parties/landowners. A standard informative is recommended to advise that the planning permission granted, should this application be approved, does not imply any rights of entry to any adjoining property nor does it imply that the development may extend into or project over or under any adjoining boundary. It does not extinguish any rights of way which may exist over the site nor does it imply that such rights of way may be diverted or otherwise altered.
- 6.13 Given the intended private use of the facility, it is considered that there would be no significant uplift in vehicular movements to and from the site, and would not raise concerns in respect of highway safety, as members will note in the return of no objection from the Council's highways area engineer.

- 6.14 With this in mind, it is considered that the scheme would not cause any unacceptable impact on the local highway network or highway safety, according with policy MT1 of the Core Strategy and the principles as set out within Chapter 9 of the NPPF and Policy BL12 of the NDP (Policy BL15 of draft review NDP).

#### *Ecology and drainage*

- 6.15 The proposed stable block is not considered to impact on biodiversity noting that there are no records at the Council's disposal of protected species within close proximity to the site. However, noting the rural setting and the resulting intrinsically dark landscape, Condition 4 safeguards against any external illumination of the arena without the consent of the Local Planning Authority.
- 6.16 The site lies within the catchment of the River Lugg Special Area of Conservation (SAC) and therefore a Habitat Regulations Assessment (HRA) is required. The change of use formally supported by this application could increase stock - horse numbers on the holding and/or increase the manure (nutrient pathways) on the holding. The applicant has confirmed that the proposed development is solely to provide facilities and required planning status for their own existing horses. The applicant has confirmed that all manure created is and will be utilised within the small holding as a natural fertiliser in place of importing and using artificial fertiliser products. No manure will be exported from the site and no intensification or additional potential nutrient pathways are identified. The on-site retention and use of manure can be subject to a condition on any final planning permission granted.
- 6.17 Given the private restricted use of the site, there would be no intensification in respect of the number of horses on the site which otherwise could have the potential to increase foul water flows from the site. The location and design of the proposed stable block is not identified to be such that would increase surface water runoff with flows being managed through acceptable infiltration, namely soakaways as proposed by the applicant. The application can therefore be 'screened out' from having any likely significant effects on the integrity of the SAC. Therefore, with the above in mind it is considered that the proposal accords with policy LD1, SD3 and SD4 of the Core Strategy (as well as Policy BL12 of the draft review NDP).

#### *Heritage*

- 6.18 Regard is had to Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990. Officers have considered that the proposed development and change of use of the land would not adversely impact or harm the setting, significance or experience of Rhystone Cottage or Rhystone (both Grade II Listed). In the absence of harm being identified, the paragraph 202 test of the NPPF need not be undertaken. The duties under Section 66 of the Act are fulfilled and officers consider the proposal to conserve the identified heritage assets, according with Policy LD4 of the CS, which is consistent with Section 16 of the NPPF and Policy BL7 of the NDP (as well as Policy BL9 of the draft review NDP).

#### *Other considerations*

- 6.19 As stated in Section 1.3 of the report, no other operational development is proposed. Existing post-and-rail fencing exists around all sides of the application site. The introduction of stock-proof fencing can be achieved under permitted development, provided that such fencing would not exceed two metres in height (from ground level). It would be considered somewhat unreasonable to consider withholding planning permission on such grounds.
- 6.20 Members are referred to condition 6 of the recommendation which confirms that all surface water generated under the approved development shall discharge to appropriate soakaway systems,

on land under the applicant's control, which makes use of the natural topography of the paddock in which the stables will be located.

- 6.21 The applicant has confirmed within their supporting statement that they will be incorporating guttering into the stables so that rain water can be collected for re-use.

#### Conclusion

- 6.22 The nature of the development is appropriate to the rural location on the understanding that it would be solely for private use in connection with Rhystone Cottage. There would be no significant impacts on landscape character – subject to restriction on illumination, or on residential amenity, ecology, and drainage or highway safety. The application therefore accords with the principal determining criteria of the adopted development plan, which is consistent with national guidance and that the proposal is representative of sustainable development, as outlined under Policy SS1 of the Core Strategy, which is consistent with Paragraph 11 of the NPPF. Members of this committee are therefore advised to grant planning permission, as per the officer recommendation set out below.

### RECOMMENDATION

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

1. **C01 (Time Limit for Commencement)**
2. **C07 (Development in accordance with approved plans and schedule of materials)**
3. **CNS – The stable block hereby approved shall be for private use only for the benefit of the occupiers of land adjacent to Rhystone Cottage, Lugwardine, Hereford, Herefordshire, HR1 4AP and shall not be used for any commercial riding, training, breeding or any other form of equestrian enterprise at any time.**

**Reason:** In order to safeguard the character and amenity of the area and the local highways network and to comply with policy SD1, RA6 and MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework 2021.

4. **CNS – At no time shall any external lighting except in relation to the immediate safe use of the approved development be installed or operated in association with the approved development and no permanently illuminated external lighting shall be operated at any time, unless otherwise agreed in writing with the Local Planning Authority. All lighting installed shall demonstrate compliance with latest best practice guidance relating to lighting and protected species-wildlife available from the Institution of Lighting Professionals.**

**Reason:** To ensure that all species and local intrinsically dark landscape are protected having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife & Countryside Act (1981 amended); National Planning Policy Framework, NERC Act (2006) and policy SS6, LD1 and LD3 of the Herefordshire Local Plan – Core Strategy.

5. **CNS – Unless otherwise approved in writing by the planning authority, all manure created by the equine use permitted under this permission shall be retained, stored and utilised within land owned by the applicant at the development site.**

**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.

- 6. **CNS – All surface water generated under the approved development shall discharge to appropriate soakaway systems, on land under the applicant’s control.**

**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.

- 7. **CBK – Restriction on hours during construction**

**Informatives**

- 1. **IP2 (Application Approved Following Amendments/Additional Information)**
- 2. **The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended), with enhanced protection for special “protected species” such as all Bat species, Great Crested Newts, Badgers and other wildlife that are present and widespread across the County. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it advised that further advice from a local professional ecology consultant is obtained.**
- 3. **I12 – Adjoining Property Rights**
- 4. **I18 – Rights of Way**

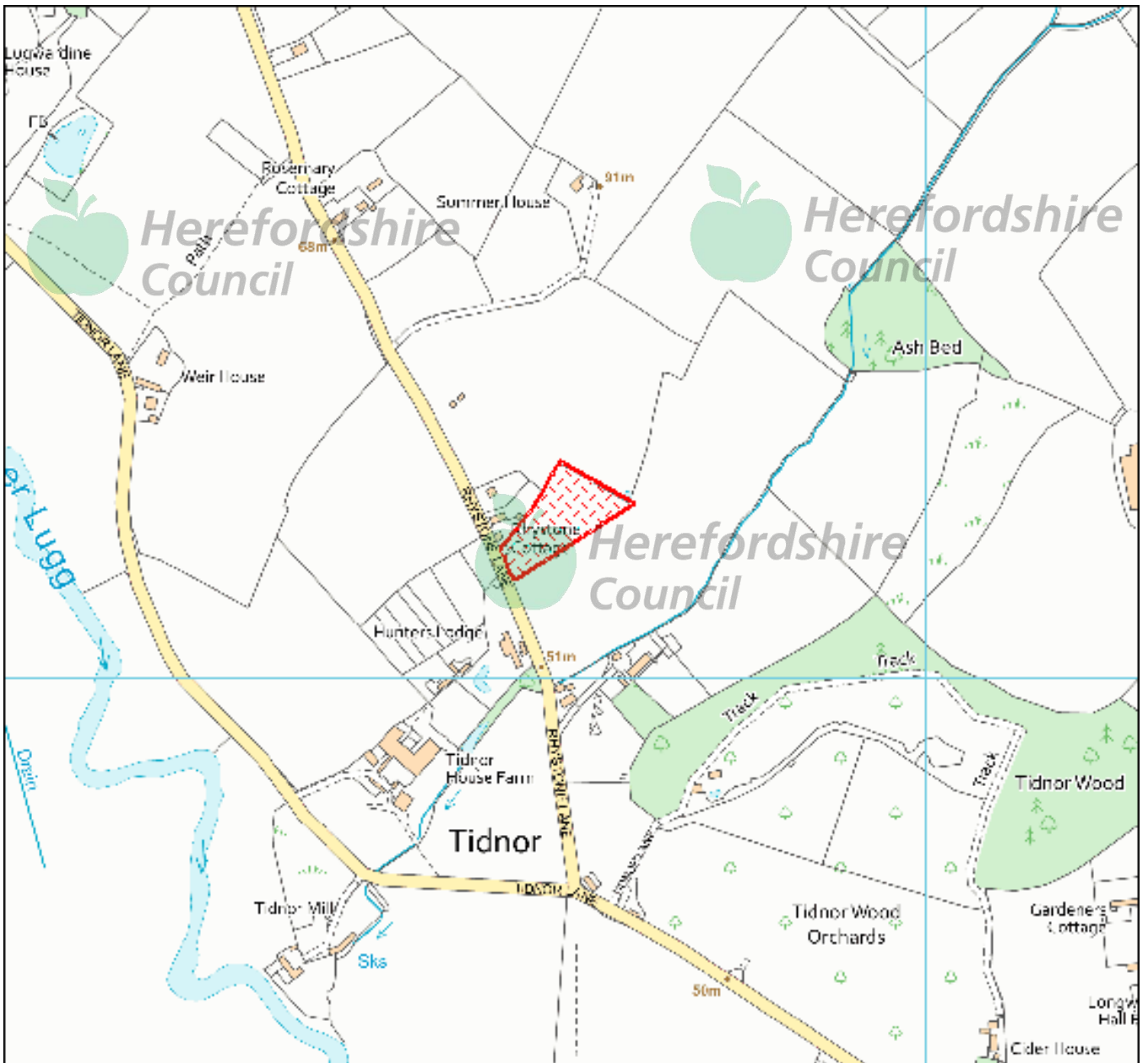
Decision: .....

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**Background Papers**

None identified.



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**APPLICATION NO:** 221777

**SITE ADDRESS :** RHYSTONE COTTAGE, LUGWARDINE, HEREFORD, HEREFORDSHIRE, HR1 4AP

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