

# Agenda

## Planning and Regulatory Committee

Date: **Wednesday 1 May 2024**

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Time: **10.00 am**

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

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

For any further information please contact:

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

# **Agenda for the meeting of the Planning and Regulatory Committee**

## **Membership**

**Chairperson**            **Councillor Terry James**  
**Vice-chairperson**   **Councillor Clare Davies**

**Councillor Polly Andrews**  
**Councillor Bruce Baker**  
**Councillor Dave Boulter**  
**Councillor Simeon Cole**  
**Councillor Dave Davies**  
**Councillor Elizabeth Foxton**  
**Councillor Catherine Gennard**  
**Councillor Peter Hamblin**  
**Councillor Daniel Powell**  
**Councillor Stef Simmons**  
**Councillor John Stone**  
**Councillor Richard Thomas**  
**Councillor Diana Toynbee**

## Agenda

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<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 - 48
To approve the minutes of the meeting held on 13 March 2024.	
<b>5. CHAIRPERSON'S ANNOUNCEMENTS</b>	
To receive any announcements from the Chairperson.	
<b>6. 233225 - 182 LEDBURY ROAD, HEREFORD, HR1 1RH</b>	49 - 66
The erection of two dwellings and associated works.	
<b>7. 233009 - HEREFORD RAILWAY STATION, STATION APPROACH, HEREFORD, HEREFORDSHIRE, HR1 1BB</b>	67 - 140
Provision of a transport hub and public realm improvements at Hereford Railway Station including the creation of a bus interchange, waiting area, canopy and layover space, provision of passenger drop-off and parking areas, and formation of a new access junction via City Link Road.	
<b>8. 204317 - LAND AT BICTON HOUSE, BICTON, KINGSLAND, LEOMINSTER, HEREFORDSHIRE, HR6 9PR</b>	141 - 166
Proposed detached affordable dwelling and garage/workshop.	
<b>9. LICENSING OF SEX ESTABLISHMENTS: STATEMENT OF LICENSING POLICY</b>	167 - 238
To adopt the Licensing of Sex Establishments: Statement of Licensing Policy.	
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Date of next site inspection – 4 June 2024	
Date of next meeting – 5 June 2024	





# The Public's Rights to Information and Attendance at Meetings

## 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.

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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.

## Travelling to the meeting

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>. If you are driving to the meeting please note that there is a pay and display car park on the far side of the council offices as you drive up Plough Lane. There is also a free car park at the top of plough lane alongside the Yazor Brook cycle track.



### 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 Clare Davies (Vice Chairperson)	True Independents
Councillor Polly Andrews	Liberal Democrat
Councillor Bruce Baker	Conservative
Councillor Dave Boulter	Independents for Herefordshire
Councillor Simeon Cole	Conservative
Councillor Dave Davies	Conservative
Councillor Elizabeth Foxton	Independents for Herefordshire
Councillor Catherine Gennard	The Green Party
Councillor Peter Hamblin	Conservative
Councillor Daniel Powell	Liberal Democrat
Councillor Stef Simmons	The Green Party
Councillor John Stone	Conservative
Councillor Richard Thomas	Conservative
Councillor Diana Toynbee	The Green Party

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 Herefordshire Council Offices, Plough Lane, Hereford, HR4 0LE on Wednesday 13 March 2024 at 10.00 am**

**Present:** Councillor Terry James (chairperson)  
Councillor Clare Davies (vice-chairperson)

**Councillors:** Polly Andrews, Bruce Baker, Dave Boulter, Simeon Cole, Dave Davies, Catherine Gennard, David Hitchiner, Justine Peberdy, John Stone, Richard Thomas, Kevin Tillet and Diana Toynbee

**In attendance:** Councillors Jacqui Carwardine, Mark Dykes and Helen Heathfield

**Officers:** Legal Advisor, Development Manager Majors Team and Highways Advisor

**64. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors Elizabeth Foxton, Peter Hamblin, Dan Powell and Stef Simmons.

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

Councillor David Hitchiner acted as a substitute for Councillor Foxton

Councillor Justine Peberdy acted as a substitute for Councillor Simmons

Councillor Kevin Tillet acted as a substitute for Councillor Dan Powell

**66. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**67. MINUTES**

**RESOLVED:** That the minutes of the meeting held on 17 January 2024 be approved.

**68. CHAIRPERSON'S ANNOUNCEMENTS**

The Chairman explained that application 233225, 182 Ledbury Road, Hereford, HR1 1RH, had been withdrawn for consideration at the current meeting and would return to a later committee date.

**69. 213413 - GLENWOOD SPRINGS, CHASE ROAD, UPPER COLWALL, HEREFORDSHIRE, WR13 6DJ (Pages 21 - 24)**

The Development Manager North Team provided 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 Stock, spoke on behalf of Colwall Parish Council, Mr Barnes spoke in objection to the application on behalf of local residents and Mr Yardley, the applicant, spoke in support of the application.

In accordance with the council's constitution the local ward member spoke on the application. A number of local objections had been raised to the proposal locally. The proposed development was located in a national landscape and was not sympathetic to the Malvern Hills area of outstanding natural beauty (AONB). It was not considered that the application met the conditions of paragraph 84 (e) of the National Planning Policy Framework (NPPF). There was an oversupply of 4 bedroom houses in the locality and the development site was not in an isolated position but was on the edge of the settlement. If the committee approved the application it would set a precedent and place a pressure on the committee to approve all similar applications.

The committee debated the application. There was division among the members of the committee.

There was support for the officer recommendation among some members of the committee.

There were objections to the development among other members of the committee who considered that:

- The proposal did not meet the standard of exceptional quality or innovative design, contrary to Core Strategy Policy RA3 (6) and in accordance with paragraph 139 of the NPPF;
- The location of the application site was in a rural area and due to the size and scale of the development did not meet a local housing need contrary to paragraph 82 of the NPPF; and
- The scale and design of the building was not sensitive to the defining characteristics of the local area contrary to paragraph 84 (e) of the NPPF and did not further the purpose of conserving and enhancing the Malvern Hills AONB, contrary to section 85 of the Countryside and Rights of Way Act 2000.

The local ward member was given the opportunity to close the debate. The impact of the development on the landscape was unacceptable. The design, size and setting of the building was not sympathetic to the AONB.

Councillor Bruce Baker proposed and Councillor Dave Davies seconded the approval of the application in accordance with the case officer's recommendation. The motion was put to the vote and was lost by a simple majority.

Councillor Richard Thomas proposed and Councillor Polly Andrews seconded the refusal of the application for those reasons in objection as set out above. The motion was put to the vote and was carried by a simple majority.

**RESOLVED: That planning permission is refused due to:**

- **The proposal does not meet the standard of exceptional quality or innovative design, contrary to Core Strategy Policy RA3 (6) and in accordance with paragraph 139 of the NPPF;**
- **The location of the application site is in a rural area and due to the size and scale of the development does not meet a local housing need contrary to paragraph 82 of the NPPF; and**
- **The scale and design of the building is not sensitive to the defining characteristics of the local area, contrary to paragraph 84 (e) of the NPPF and does not further the purpose of conserving and enhancing the Malvern**

**Hills AONB, contrary to section 85 of the Countryside and Rights of Way Act 2000.**

*There was an adjournment at 10:56 a.m.; the meeting reconvened at 11:09 a.m.*

**70. 231703 - THREE COUNTIES HOTEL, BELMONT, HEREFORD, HEREFORDSHIRE, HR2 7BP (Pages 25 - 36)**

*Councillor Kevin Tillett left the committee to act as the local ward member for the following application.*

The Principal Planning Officer provided a presentation of the application and the updates/representations received following the publication of the agenda, as provided in the update sheet and appended to the minutes.

In accordance with the criteria for public speaking a statement was read on behalf of Mr Machin, in objection to the application and Mr Waldren, the applicant's agent, spoke in support of the application.

In accordance with the council's constitution the adjoining local ward member spoke on the application. He explained that he was speaking on behalf of the three local members whose electoral divisions were materially impacted by the proposal. The proposed demolition of the three counties hotel constituted the loss of a community asset. There was a limited number of hotels locally and the existing hotel on the site was a useful facility for: visitors to the south side of the Wye; a venue for celebrations and conferences; and a public bar for the local community. There was concern that the proposal would adversely impact upon retail and footfall in the city centre which had been suggested by a report from JW Planning in assessment of the application. The design of the building was not felt to be sympathetic to the predominant red brick developments locally. There was concern regarding drainage on the site; until January 2024 the drainage officer had objected to the application. The drainage conditions required additional plans to be submitted therefore the committee did not have all necessary information in this area to come to a decision. There was also a concern that shopping trolleys from the supermarket would be disposed in local waterways and cause blockages and flooding. There was an error in the ecologist's report concerning the identification of gulls in the local area and it was queried whether the rest of the report could be treated as credible. The critical issue concerning the site was traffic and highways problems; this was the overwhelming area of objection to the application. The highways assessments in the report were not plausible given the local knowledge of queuing traffic and congestion on the Belmont Road. The local highways did not have sufficient capacity for the development and there were safety concerns regarding the proposed right hand turn to exit the store.

The committee debated the application. There was division among the members of the committee.

There were objections to the development among some members of the committee who considered that:

- The proposal would cause unacceptable impacts on highway movements, and the right hand turn exit from the site would pose highway safety concerns contrary to core strategy policies SS4 and MT1;
- The design and scale of the building was out of keeping with the local area and the impact on the local area was unacceptable, contrary to core strategy policies SS6 and LD1; and

- The proposal would undermine retail and footfall in the town centre and fail to maintain and enhance the vitality and viability of the city centre, contrary to core strategy policy HD2.

There was support for case officer's recommendation among other members of the committee.

Councillor Bruce Baker proposed the approval of the application in accordance with the case officer's recommendation. The proposal was not seconded and not moved.

Councillor Polly Andrews proposed the deferral of the application. The proposal was not seconded and not moved.

*Councillor Justine Peberdy left the meeting at 12:38 p.m.*

The adjoining local ward member was given the opportunity to close the debate. He explained that the application should be refused on the grounds of: loss of a community asset, contrary to core strategy policy SC1; the impact on retail in the town centre contrary to core strategy policy HD2; the size and scale and its unacceptable impact upon the local area, contrary to SS6 and LD1; and the lack of detail concerning the drainage plans.

Councillor Richard Thomas proposed and Councillor Simeon Cole seconded the refusal of the application for those reasons in objection as set out above. The motion was put to the vote and was lost by a simple majority.

Councillor Bruce Baker proposed and Councillor Dave Davies seconded the approval of the application in accordance with the case officer's recommendation. The proposal 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 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 Approved Plans**

**The development shall be carried out strictly in accordance with the approved plans and materials:**

- 2768 P4400 Site Location Plan
- 2768 P4402 Existing Site Plan
- 2768 P4403 GEA of Existing Building Areas
- 2768 P4404/H Proposed Site Plan
- 2768 P4405/F Proposed Surfacing Plan
- 2768 P4406/G Proposed Tree removal Plan
- 2768 P4407/F Proposed Boundary treatment plan
- 2768 P4408/K Proposed Levels Plan

- 2768 P4409/F Site Plan and Utilities
- 2768 P4410/F Proposed site Tracking
- 2768 P4416 Existing buildings to be demolished
- 2768 P1100 Proposed Floor plan
- 2768 P1101 Proposed Roof Plan
- 2768 P2201/A Proposed Elevations
- CA HFD 2022-01 Rev E Hereford Tree Survey and Existing Features
- CA HFD 2022-02 Rev F Hereford Overlay and Tree Protection
- CA HFD 2022-03 Rev D Hereford Landscape Proposals
- CA HFD 2022-04 Rev A Hereford Landscape Sections
- CA HFD 2022-05 Rev B Lidl Hereford Willow and Cherry Close up
- CA HFD 2022-06 Lidl Hereford Car Park Tree Section
- CA Lidl Hereford Planting Methodology and aftercare rev 22 October 2022
- CA Hereford Planting Schedule rev 22 October 2022
- 22-00767/05/G Proposed Highway Works - Right Turn Ghost Island and Active Travel Improvements

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

**Prior to Commencement**

### **3 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
- Hours of working
- Location of any welfare buildings and site compounds / storage areas

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.

### **4 Construction Method Statement (CMS): Noise**

Prior to the commencement of the development a detailed Construction Method Statement (CMS) shall be supplied and approved to minimise noise and nuisance to neighbours: The CMS shall contain the following:

The methods and materials to be used to ensure that the generation of noise is minimised; Choice of plant and equipment to be used; The use of prefabricated materials wherever possible; Regarding optimum site layout, noise generating activities to be located away from sensitive receptors; and good housekeeping and management, to include.

- a) Review of plant and activities to ensure noise minimisation measures are in place and operating;
- b) Public relations, e.g. provision of telephone numbers for complaints, pre-warning of noisy activities including activities that might generate perceptible vibration, sensitive working hours;
- c) Controlling of site traffic and setting up of access routes away from sensitive receptors; and
- d) Provision of noise monitoring during activities likely to affect sensitive receptors.

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

## **5 Habitat Regulations (River Wye SAC) Construction Environmental Management Plan**

Before any work; including demolition or site clearance begins or equipment and materials are moved on to site, a fully detailed and comprehensive Construction Environmental Management Plan (CEMP) including a specified 'responsible person', shall be supplied to the Local Planning Authority for written approval. The approved CEMP shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have finally been removed; unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that all species and local habitats 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.

## **6 Material Resource Audit**

Prior to commencement of development, a Resource Audit to identify the approach to materials shall be submitted to and approved in writing by the Local Planning Authority. The Resource Audit shall include the following

- The amount and type of construction aggregates required and their likely source;
- the steps to be taken to minimise the use of raw materials (including hazardous materials) in the construction phase, through sustainable design and the use of recycled or reprocessed materials;
- The steps to be taken to reduce, reuse and recycle waste (including hazardous wastes) that is produced through the

- **construction phase;**
- **The type and volume of waste that the development will generate (both through the construction and operational phases);**
- **On-site waste recycling facilities to be provided (both through the construction and operational phases);**
- **The steps to be taken to ensure the maximum diversion of waste from landfill (through recycling, composting and recovery) once the development is operational;**
- **End of life considerations for the materials used in the development; and**
- **Embodied carbon and lifecycle carbon costs for the materials used in the development.**

**Construction works shall thereafter be carried out in full accordance with the details of the approved Resource Audit.**

**Reason: The treatment/handling of any site waste is a necessary initial requirement before any groundworks are undertaken in the interests of pollution prevention and efficient waste minimisation and management so as to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework and Emerging Policy SP1: Resource Management of the Minerals and Waste Local Plan.**

## **7 Surface Water**

**Prior to any development commencing on site full details of a surface water drainage design plans shall be submitted including the submission of construction drawings and associated calculations and the development to be carried out in accordance with the approved details.**

**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 Drainage**

**Prior to any development commencing submission of trial pit information confirming the route of the 450mm pipe that has been identified which carries flow into the site (referred to as SW1 on the survey) as well as details of how inflow from this pipe will be provided for shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.**

**Reason: 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**

**Prior to the first occupation/other stage conditions**

## **9 Materials**

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

out in accordance with the approved details.

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

**10 Noise Mitigation**

**Prior to the first use of the food store hereby approved, the proposed noise mitigation in the form of acoustic fencing with a minimum density 10kg/m<sup>2</sup>, as detailed in the noise assessment, shall be erected. The noise mitigation shall be retained for so long as the use hereby authorised remains on site.**

**Reason: To safeguard the amenities of the locality and to comply with Policies SS6 and SD1, of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework**

**11 Car Parking**

**Prior to first use of the food store hereby approved, the parking and manoeuvring facilities shall be completed in accordance with drawing P4404 rev H. Thereafter, these parking facilities shall be retained and maintained for the duration of use and shall not be used for any other purpose.**

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

**12 Rodent Survey**

**Prior to the commencement of the development a proposal for the survey and treatment of rodents in the vicinity shall be supplied to the authority for approval in writing.**

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

**13 Highway Works**

**Development shall not begin in relation to any of the specified highways works as detailed on dwg 22-00767/05 rev G by Corun), until details of the works have been submitted to and approved by the Local Planning Authority in writing following the completion of the technical approval process by the Local Highway Authority. If relocation of the Speed Camera is required consultation should be undertaken with west Mercia Police in conjunction with the Local Highway Authority. The development shall not be occupied until the scheme has been constructed in accordance with the approved details.**

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



**14 Travel Plan**

**Prior to first use of the food store hereby approved, a Travel Plan which contains measures to promote alternative sustainable means of transport for staff and visitors with respect to the development hereby permitted shall be submitted to and be approved in writing by the Local Planning Authority. The Travel Plan shall be implemented, in accordance with the approved details, on the first occupation of the development. A detailed written record shall be kept of the measures undertaken to promote sustainable transport initiatives and a review of the Travel Plan shall be undertaken annually for the first five years from first occupation of the development. All relevant documentation shall be made available for inspection by the local planning authority upon reasonable request.**

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

**15 Cycle Provision**

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

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

**16 Waste Storage**

**Prior to the first use of the food store hereby approved, suitable provision for storage of waste and waste collection areas should be provided in accordance with details that shall have been submitted and approved by the Local Planning Authority that allows or the convenient storage of waste and unrestricted access at all times. Such waste collection areas shall be retained for so long as the use hereby authorised remains on site.**

**Reason: In the interest of amenity in accordance with Policy SD1 of the Herefordshire Local Plan – Core Strategy.**

**17 Habitat Regulations (River Wye SAC) – Surface Water**

**With the exception of any site clearance and groundworks, no development shall commence until a fully detailed Sustainable Drainage Systems to manage all surface water shall be supplied for written approval by the Local Planning Authority. The proposed scheme must provide detailed certainty on how all pollutant contaminants from**

vehicular and other use of the site are fully removed and managed prior to any final discharge of surface water from the site in to the Newton Brook. The approved scheme shall be implemented in full prior to the first use of and hereafter maintained unless otherwise approved in writing by the Local Planning Authority

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

**18 Landscape Maintenance**

Prior to completion or first occupation of the development hereby approved, whichever is the sooner; details of treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include:

Specifications for operations associated with plant establishment, watering plans and maintenance that are compliant with best practise.

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

**19 Lighting Scheme**

Prior to first use of the food store hereby approved any external lighting proposed to illuminate the development including detailed plans, illumination levels and luminaire specifications shall be supplied to the Local Planning Authority for written approval. The approved scheme shall be implemented and hereafter maintained and operated.

All lighting installed shall demonstrate compliance with latest best practice guidance relating to lighting and protected species-wildlife available from the Institution of Lighting Professionals and Core Strategy policies SD1.

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, SD1 SS6, LD1-3.

**20 Planting Methodology**

Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the details specification within the approved document "CA Lidl Hereford Planting Methodology and aftercare rev 22 October 2022" produced by Corscadden Associates within the next planting season (October to April) but no later than two

years from the date of this Consent and thereafter retained.

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

**21 Arboricultural Works**

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

- **Arboricultural Method Statement Report rev 22Oct2022 produced by David Rice Forestry**

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

**22 EV Charging Point**

**With the exception of any site clearance and groundworks, no development shall commence until written and illustrative details of the 2 electric vehicle charging points proposed within the food store car park have been submitted to and approved in writing by the Local Planning Authority. The electric vehicle charging points shall be installed prior to first occupation and be maintained and kept in good working order thereafter as specified by the manufacturer.**

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

**23 Biodiversity Net Gain**

**With the exception of any site clearance and groundworks, no development shall commence until written detailed scheme and annotated location plan for the proposed biodiversity net gain enhancement features referenced in paragraph 10.10 of the Ecology Survey Report (Just Mammals, October 2022) including provision of ‘fixed’ habitat features such as habitat boxes supporting a range of bird species and pollinator homes have been submitted and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full and hereafter maintained as approved.**

**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**

**24 Public Sewage Network**

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

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

**25 Visibility Splays**

**The visibility splays, and any associated set back splays at 45 degree angles shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 43 metres in each direction along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.**

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

**26 Use Class**

**Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any Order revoking and re-enacting that Order, with or without modification), the foodstore hereby permitted shall be used mainly for the sale of food falling within Class E(a) of the aforementioned Order and for no other use and no more than 80% of the net sales area shall be used for the sale of convenience goods and no more than 20% of the net sales area shall be used for the sale of comparison goods.**

**Reason: In order to protect the vitality and viability of Hereford City centre in accordance with Herefordshire Local Plan – Core Strategy Policy E5, Paragraphs 86 to 91 of the National Planning Policy Framework.**

**27 Permitted Development rights**

**Notwithstanding the provisions of article 3(1) and Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015,(or any order revoking or re-enacting that Order with or without modification), no development which would otherwise be permitted under Classes A, C, E, of Part 7 of Schedule 2, shall be carried out.**

**Reason: In order to protect the character and amenity of the locality, to maintain the amenities of adjoining property and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

**28 Site Management Plan: Trolleys**

The Site Management Plan set out in Lidl's letter dated 24 October 2023 shall be implemented in full upon first opening of the store for trading purposes and shall continue to be implemented for the lifetime of the development. As set out in the Site Management Plan, the management regime shall comprise:

- Installation of Gatekeeper trolley system;
- Weekly briefing of relevant staff on the sensitivity of the site and local area to flooding and the importance of spotting and remedying any blockage of Newton Brook and the associated culvert to the local system;
- Twice annual inspection of the piped culvert linking the new and historic channel of Newton Brook and piped outfall to Newton Brook to ensure water is freely flowing. If water is not free flowing, and in any event biennially, undertake CCTV survey of the piped culvert linking the new and historic channel of Newton Brook. If a blockage or obstruction is found, undertake repair / maintenance to remove the blockage as required;
- Daily visual inspection of Newton Brook west of the site both upstream and downstream of the site. If a blockage or obstruction is found, take efforts to remove Lidl shopping trolleys if safe to do so and report to Herefordshire Council if appropriate or necessary."

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

**29 Foul Water**

All foul water shall discharge through connection to the existing local 'Hereford-Eign' mains sewer system managed by Welsh Water

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.

**30 Service Vehicles**

The loading and unloading of service and delivery vehicles together with their arrival and departure from the site shall be restricted to no earlier than 07:00 Monday to Saturday and no later than 22:00. Hours of delivery on Sundays and Bank Holidays shall be restricted to between 10:00 and 16:00.

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

**31 Hours of opening**

The food store hereby permitted shall not be open to customers outside the hours of 0800 to 2200 hours Mondays to Saturdays (including Bank Holidays) and 10:00 to 16:00 on Sundays.

**Reason: In the interests of the amenities of existing residential property in the locality and to comply with SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

**32 Single Unit**

**The retail unit (Class E) hereby approved shall trade as single retail unit and shall not be subdivided into separate smaller retail units.**

**Reason: In order to minimise the impact of the proposed development on the vitality and viability of Hereford City Centre, in accordance with policy E5**

**33 Display of goods in car park**

**No goods shall be displayed for sale in the car park or landscaped (hard and soft) areas as shown on the approved plan.**

**Reason: To manage the retail sales element of the development and protect the visual amenities of the site in accordance with policy**

**34 Vehicular Access**

**The construction of the vehicular access shall be carried out in accordance with a specification to be submitted to and approved in writing by the Local Planning Authority, at a gradient not steeper than 1 in 12.**

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

**35 Gates/Barriers**

**Any new access gates or barriers shall be set back 7 metres from the adjoining carriageway edge and shall be made to open inwards only.**

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

**Informatives**

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

**The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act**

**1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition.**

**Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com) The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011.**

**The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.**

**In accordance with National Planning Policy Framework (Edition 11) and Technical Advice Note 12 (Design), the applicant is advised to take a sustainable approach in considering water supply in new development proposals, including utilising approaches that improve water efficiency and reduce water consumption. We would recommend that the applicant liaises with the relevant Local Authority Building Control department to discuss their water efficiency requirement**

### **3 Signage**

**The applicant is advised to take appropriate professional advice in relation to whether advertisement consent is required for any new outdoor signage.**

### **4 Highways Design Guide and Specification**

**The applicant's attention is drawn to the requirement for design to conform to Herefordshire Council's 'Highways Design Guide for New Developments' and 'Highways Specification for New Developments'**

### **5 Mud on highway**

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

### **6 Travel Plans**

**In connection with Condition 14 the applicant is advised that in the case where a Travel Plan currently exists the Condition will require a full review of the Plan and a revised submission to the Council.**

### **7 Annual travel Plan Reviews**

In connection with Condition 14, the applicant is advised that the annual Travel Plan Review must include a survey of staff/resident travel patterns and attitudes to travel. (For businesses employing less than 50 people and for residential developments of less than 50 units, a travel survey will only be required every two years). For residential developments, the review should also include traffic counts and an assessment of trips by mode. Applicants are encouraged to conduct their own monitoring and review process. However, they may choose to engage outside consultants to manage the process on their behalf. Council officers can also provide monitoring services for Travel Plan reviews and for this a request should be made to the Sustainable Transport Officer, Herefordshire Council Transportation Unit, PO Box 236, Plough Lane, Hereford, HR4 0WZ

**8 Drainage other than via highway system**

It is the responsibility of the developer to arrange for a suitable outfall or discharge point. It cannot be assumed that the highway drainage system can be used for such purposes.

**9 Works adjoining highway**

Any work involving the removal or disturbance of ground or structures supporting or abutting the publicly maintained highway should be carried out in accordance with details to be submitted to and approved in writing by the Highway Authority or their agent. Please contact Balfour Beatty (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford, HR2 6JT (Tel: 01432 261800).

**10 Extraordinary maintenance**

The attention of the applicant is drawn to Section 59 of the Highways Act 1980 which allows the Highway Authority to recover additional costs of road maintenance due to damage by extraordinary traffic

**11 Disabled needs**

The attention of the applicant is drawn to Section 175A(3) of the Highways Act 1980 within which the Highway Authority shall have regard to the needs of disabled persons when considering the desirability of providing ramps at appropriate places between carriageways and footways and to any requirement of the Disability Discrimination Act.

**12 Design of street lighting for Section 278**

The applicant's attention is drawn to the requirement that, in all cases where an Agreement under Section 278 of the Highways Act 1980 is entered into, the street lighting will be installed by the developer of the site in accordance with the design issued by the Highway Authority and their design shall include any necessary amendments to the existing system

**13 Brightness of illuminated signs**

The brightness of the floodlit surface, or illuminated sign face, shall not exceed the values stipulated in the Institution of Lighting Engineers



**Technical Report No. 5: 1991 "The Brightness of Illuminated Advertisements".**

**14 No drainage to discharge to highway**

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

**15 Section 278 Agreement**

**No work on the site should commence until engineering details of the improvements to the public highway have been approved by the Highway Authority and an agreement under Section 278 of the Highways Act 1980 entered into. Please contact the Senior Engineer, PO Box 236, Plough Lane, Hereford HR4 0WZ to progress the agreement.**

**16 Works within the highway**

**This planning permission does not authorise the applicant to carry out works within the publicly maintained highway and Balfour Beatty (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford, HR2 6JT (Tel: 01432 261800), shall be given at least 28 days' notice of the applicant's intention to commence any works affecting the public highway so that the applicant can be provided with an approved specification, and supervision arranged for the works.**

**Under the Traffic Management Act 2004, Herefordshire Council operate a notice scheme to co-ordinate Streetworks. Early discussions with the Highways Services Team are advised as a minimum of 4 weeks to 3 months notification is required (dictated by type of works and the impact that it may have on the travelling public). Please note that the timescale between notification and you being able to commence your works may be longer depending on other planned works in the area and the traffic sensitivity of the site. The Highway Service can be contacted on Tel: 01432 261800.**

**17 Private apparatus within highway**

**This permission does not authorise the laying of private apparatus within the confines of the public highway. The applicant should apply to Balfour Beatty (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford HR2 6JT, (Tel: 01432 261800), for consent under the New Roads and Streetworks Act 1991 to install private apparatus within the confines of the public highway. Precise details of all works within the public highway must be agreed on site with the Highway Authority. A minimum of 4 weeks notification will be required (or 3 months if a road closure is involved).**

**Under the Traffic Management Act 2004, Herefordshire Council operate a notice scheme to coordinate Streetworks. Early discussions with the Highways Services Team are advised as a minimum of 4 weeks to 3 months notification is required (dictated by type of works and the impact**

that it may have on the travelling public). Please note that the timescale between notification and you being able to commence your works may be longer depending on other planned works in the area and the traffic sensitivity of the site. The Highway Service can be contacted on Tel: 01432 261800.

*Councillor Kevin Tillet resumed his seat on the committee.*

**71. 240148 - THE PILGRIM HOTEL, MUCH BIRCH, HEREFORD, HEREFORDSHIRE, HR2 8HJ**

The Planning Officer provided a presentation on the application.

In accordance with the council's constitution a statement from the local ward member was read to the meeting. It was confirmed that the application was policy compliant and the committee was asked to support the ongoing improvements to the Pilgrim Hotel.

The committee debated the application. There was support for the officer recommendation.

Councillor Bruce Baker proposed and Councillor Richard Thomas seconded a motion to approve the application in accordance with the case officer's recommendation. The motion was put to the vote and was carried unanimously.

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

**1. 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 approved plans and materials**

**The development hereby approved shall be carried out strictly in accordance with the approved plans (drawing nos. 024-001\_007, 024-001\_05) and the schedule of materials indicated thereon.**

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

**INFORMATIVES:**

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

**the National Planning Policy Framework.**

- 2. The 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 meeting ended at 1.15 pm

**Chairperson**



<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>13<sup>th</sup> March 2024</b>
<b>TITLE OF REPORT:</b>	<b>213413 - PROPOSED ERECTION OF A DWELLING OF OUTSTANDING DESIGN AND ACCOMPANYING WORKS, INCLUDING A NEW ACCESS, EXTENSIVE LANDSCAPING, BIODIVERSITY IMPROVEMENTS, AND DRAINAGE ARRANGEMENTS AT GLENWOOD SPRINGS, CHASE ROAD, UPPER COLWALL, HEREFORDSHIRE, WR13 6DJ</b>  <b>For: Mr Yardley per Mr Matt Tompkins, 10 Grenfell Road, Hereford, Herefordshire, HR1 2QR</b>

**Email received 8<sup>th</sup> March:** Malvern Hills National Landscape Team Assistant Manager

The Malvern Hills National Landscape Team have reviewed the officer report for this application which you are to consider at your meeting on Wednesday 13 March. We wish to make several observations.

#### Legislative Duty

At Section 2.5 of the report, the officer errs in respect of legislation and a factually misleading statement as to members' statutory duties is presented. As part of the Levelling Up and Regeneration Act (2023), Section 245 (Protected Landscapes) introduced legislation which came into effect 26 December 2023, amending Section 85 of the Countryside and Rights of Way Act (2000), which now requires "*in exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England, a relevant authority other than a devolved Welsh authority must seek to **further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty***" (Section 85(A1) of the Countryside and Rights of Way Act, 2000).

This inherently strengthens the previous duty to 'have regard' which the officer refers to. We feel it is critical that members are clear on their current legal statutory duty as Herefordshire Council is a 'relevant authority'. Failure to correctly discharge a statutory duty when determining an application, particularly when legislation is incorrectly cited, could be a prima-facie ground for judicial review.

#### Misapplying of policy/weighting in the context of housing land supply position

The Council has a five-year housing land supply and housing policies within the Council's Core Strategy can be considered 'up-to-date'. The Colwall NDP is also 'made' (adopted). Section 6.60 of the report states, "on the basis that the proposal complies with policy RA3(6) of the Core Strategy, the proposal is fully policy compliant". Policy RA3 clearly states, "In rural locations outside of settlements, as to be defined in either neighbourhood development plans or the Rural Areas Sites Allocations DPD, residential development will be limited to proposals which satisfy one or more of the following criteria: 6. is of exceptional quality and innovative design satisfying the design criteria set out in Paragraph 55 [now 84 as per the 2023 revision] of the National Planning Policy Framework and achieves sustainable standards of design and construction".

If the proposal is considered to comply with Policy RA3, it must be assessed against Paragraph 84 rather than paragraph 139, but this is not clear from the officer report. Paragraphs 84 and 139 houses demand different architectural responses and must meet different criteria. Analysis of previously dismissed appeals reveal the potential drawbacks of overlooking this distinction e.g. an appeal in Bath and North East Somerset (Appeal. Ref: 3208289). Whilst both policies require development to be 'outstanding', the latter (Para 139) must be sensitive to surroundings and regard local design policies, the former (Para 84) often has a 'stand-out' approach. We consider that Policy RA3 requires the proposal to be assessed against Paragraph 84 not Paragraph 139, as inferred at 6.22 of the report. If officers do not consider the proposal to align with Paragraph 84 because it is not 'isolated', how can it accord with Policy RA3(6) and be policy compliant?

Applications for Paragraph 84 and Paragraph 139 developments within National Landscapes are few and far between. Given recent revisions to the NPPF, this 'test case' application will contribute to planning case law. If you are unsure about the proposals, we advise you to refuse planning permission to enable the Planning Inspectorate to make an appropriate judgement.

#### Credentials of the development - Innovation and sustainability

Whether the proposal is judged against Para 84 or 139, the design should be outstanding. In the case of Para 139, it should demonstrate state of the art technologies and new products which push the sustainable housing envelope in ways which are new and innovative. We draw the committee's attention to the fact that the 'innovative design' approach set out, particularly sustainability, is not new and appears to be very similar to a proposed dwelling at Flow House, Ullingswick (P202412/F and P221177/F), where Tesla Batteries and Earth Energy Bank storage was also promoted. Both applications were refused by this committee as it was not representative of innovative sustainable development and was deemed to harm landscape character and visual amenity. Fabric first approaches are also not unique and are found in many applications presented to you. The same applies to other 'innovative' sustainability measures presented in this application.

#### Form and scale

We consider that there are some good elements of the proposed development such as the work on colour but the proposed building, overall, shares similarities with modern architectural approaches found elsewhere in the country and the local area, including existing design methodology and technologies. The exceptionally large building footprint (680m<sup>2</sup>) does not add to the sense of local distinctiveness i.e. does not fit in with the overall form and layout of buildings close by. No assessment of this appears in the report. There are no planning conditions which require the supposed 'innovative' credentials to be secured, leaving little control for enforcement. This significantly diminishes any positive weight which should be attached to the dwelling's sustainability credentials.

#### Conflict with Colwall NDP

Policy CD8 of the 'made' Colwall NDP states that proposals in the open countryside outside the settlement boundary of Colwall, notwithstanding being required to establish the principle of development, are also required to respond positively to the relevant design principles relevant to landscape character type. Does this three storey dwelling (noting the ground floor, first floor and second floor plans) relate to the following criteria of 'Principal Wooded Hills' which the site lies within: "11. New development, alterations and conversions should respect the characteristic simple plan form and small scale of no more than two storeys."

#### Planning Conditions

Many details intend to be dealt with by discharge of conditions. Many of the proposed schedule of conditions do not meet the six tests of Planning Practice Guidance in respect of 'Use of Planning Conditions', and having regard to the recently introduced Paragraph 140 of

the NPPF, including conditions 2, 4, 5, 7, 8, 9, 12 and 15. There is nothing to stop the applicant, for instance, from erecting a 2 metre high close board fence around the entire application site, which may fundamentally alter many of the currently suggested visual effects upon the National Landscape, or of occupying the dwelling without a landscaping scheme which is appropriate for the AONB designation.

### Summary

We accept the proposal has some merits, but do not consider it to be the 'exceptional quality and innovative design' that the very high-bar of Policy RA3(6) of the Core Strategy clearly requires. We consider the application to conflict with Policies RA3, LD1 and SD1 of the Council's Core Strategy, Policy CD8 of the Colwall NDP, Paragraphs 84 and 139 of the National Planning Policy Framework (December 2023), and the Malvern Hills AONB Management Plan 2019-2024.

We urge the committee to refuse the application.

**Email received 8<sup>th</sup> March:** Tompkins Thomas (applicant's agent)

Please find attached a Construction Traffic Management Plan (CTMP) as required by condition 5 of the planning application. Movement of construction vehicles seems to be a major concern of locals, particularly the MHT, so the applicant has commissioned the attached in advance of the meeting to allay any fears in this respect.

A copy of the CMTP is included as an appendix to this update.

### **OFFICER COMMENTS**

With regard to legislative duties, the comments from the Malvern Hills National Landscape Team Assistant Manager are noted and Members should apply and be cognisant of the amended wording of Section 85 of the Countryside and Rights of Way Act (2000) as set out above, and must consider whether the scheme furthers the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty

Officers take the view that the proposal does further the purpose of conserving and enhancing the AONB. Whilst not explicitly expressed in such terms, paragraphs 6.35 and 6.40 of the officer's report refer.

The comments from the Malvern Hills National Landscape Team Assistant Manager suggest a misapplication of policy in respect of policy RA3 and the requirement to apply it in respect of paragraph 84 as opposed to 134 of the NPPF. Officers accept that there is a degree of tension here, but the NPPF, as with the policies contained within the Core Strategy and the Colwall NDP, should be read in their entirety rather than applied individually.

RA3(6) of the NPPF refers to paragraph 55 of the NPPF, which is now superseded by paragraph 84. Paragraph 84 refers to the development of "...*isolated homes in the countryside*..." It is clearly evident that the site is not 'isolated', but it is entirely irrational to suppose that it's intention is to only allow schemes that are truly isolated and not schemes, such as this, which achieve high quality of design and sustainability but lie at the fringes of settled areas.

The comments from the Malvern Hills National Landscape Team Assistant Manager are not clear as to why the recommended conditions do not meet the tests of the Planning Practice Guidance. It is however acknowledged that condition 15, which seeks to remove permitted development rights, does not include boundary fences and walls. It is therefore proposed to amend the wording of condition 15 to reflect this.

With regard to the CMTP the Council's Transportation manager has commented as follows:

I have reviewed the CTMP and there are a few points which need clarifying:

- 1) The method for wheel washing needs to be specified, e.g. jet wash
- 2) The Layby for construction vehicles – this should be constructed with a 225mm compacted sub-base as it will be a fairly permanent feature (1-2 years) rather than the matting or crushed stone as referenced in Section 8.2. In addition, it would need to be removed in its entirety and the grass verge reinstated
- 3) It is understood that staff and visitors would park within Glenwood Paddock – a plan showing what land would be set aside and how it will be surfaced should be included within the CTMP.

At this stage I cannot agree to the discharge/removal of the condition without the above information.

### **CHANGES TO RECOMMENDATION**

Condition 15 is to be re-worded as follows:

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 Class A of Part 2 of Schedule 2, shall be carried out.

Reason: In order to protect the character and amenity of the locality, to maintain the amenities of adjoining property and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.



<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>13<sup>th</sup> March 2024</b>
<b>TITLE OF REPORT:</b>	<b>231703 - DEMOLITION OF EXISTING HOTEL AND ASSOCIATED STRUCTURES AND ERECTION OF CLASS E FOODSTORE WITH ASSOCIATED ACCESS, PARKING, SERVICING, DRAINAGE AND LANDSCAPING. AT THREE COUNTIES HOTEL, BELMONT, HEREFORD, HR2 7BP</b>  <b>For: Lidl Great Britain Ltd per Mr Peter Waldren, Brunel House, 2 Fitzalan Road, Cardiff, CF24 0EB</b>

**ADDITIONAL CONSULTATION RESPONSES**

**Email: received 5<sup>th</sup> March 2024: Richard Machin 10 Glastonbury Close**

Good Afternoon,

To whom it may concern, firstly I would like to say how disappointed I am to discover that the Planning Committee would be running a meeting, on a Wednesday at 10am. Considering the majority of people work Mon-Fri 9-5 at a minimum this means I am unable to attend the meeting as I will be at work. As I am sure is the same for many others who would appreciate the chance to give their point of view in person.

With that said I would like the following OBJECTION put on record for the meeting.

My stance on the application for the Lidl Supermarket hasn't changed from my previous objection.

- Lidl have done nothing to alleviate my concerns around the noise that will basically be right outside my bedroom window. Day and Night.
- The loading bay will run along the rear of many peoples properties and the loading area will be directly outside my bedroom window again. Noise between 7am-11pm in what is now a quiet residential area. Will now be ruined again by big business.
- The Freezer and Chiller storage and A/C units again are on the building directly adjacent to my bedroom windows. Which will run 24/7 affecting my quality of sleep, health and life.
- Seagulls are already a huge issue across other buildings and units, that are of similar style and will no doubt cause a hygiene issue. This issue is evident across the city already. With little ever done to resolve this due to their protected nature.
- The traffic on the Belmont Road is already horrendous, and I see no way that the alleged improvements will make any difference. Only bringing in more traffic to an already congested road.
- The destruction of a perfectly usable and viable building seems against any logic and isn't environmentally friendly. A Greener Herefordshire seems like a pipe dream if you're happy to demolish perfectly good buildings, this isn't logical or environmentally friendly. When we are meant to be working towards a Greener County, and a better world for our children.

- South Hereford is in desperate need of a fully functional community centre. To me logically this building could be used as a pub/restaurant and community centre. Or just a hotel as it already is.
- The destruction of this hotel is going to create endless mess and noise, then the construction of the new building is going to do exactly the same thing. All of this in what is again a quiet residential estate. We already have Tesco's, Asda, Farm Foods and now a Morrisons Local within a mile of each other. In beggars belief that anyone can honestly see the sense in having another supermarket that close to the others.

Surely out by the Roman Road where there is 4 to 5 new estates would be more sensible.

**Email: received 5<sup>th</sup> March 2024: Kirsty Craven 10 Glastonbury Close**

To whom it may concern, firstly I would like to say how disappointed I am to discover that the Planning Committee would be running a meeting, on a Wednesday at 10am. Considering the majority of people work Mon-Fri 9-5 at a minimum this means I am unable to attend the meeting as I will be at work. As I am sure is the same for many others who would appreciate the chance to give their point of view in person.

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- South Hereford is in desperate need of a fully functional community centre. To me logically this building could be used as a pub/restaurant and community centre. Or just a hotel as it already is.

The destruction of this hotel is going to create endless mess and noise, then the construction of the new building is going to do exactly the same thing. All of this in what is again a quiet residential estate. We already have Tesco's, Asda, Farm Foods and now a Morrisons Local

within a mile of each other. In beggars belief that anyone can honestly see the sense in having another supermarket that close to the others.

Surely out by the Roman Road where there is 4 to 5 new estates would be more sensible.

**Email: received 11<sup>th</sup> March 2024: Kirsty Craven, 10 Glastonbury Close**

I object to the planning application for the demolition of The Three Counties Hotel and the building of a Lidl supermarket. I have extreme concerns relating to not only light, noise and traffic pollution from the demolition, building and completion of this project, but also the flood risk brought on by filling in the pond. The pond is linked to the Newton Brook which runs along Glastonbury close and as the environment agency have advised, it will increase the risk of flooding in the area. It would appear that the correct measures won't be put in place and even so, why upset a system that is working just fine without a single flood for as long as I've lived here, which is 23 years.

I am extremely confused as to why this would even be considered an option, as this could potentially flood people's homes, or even put the lives of humans and animals in danger. The EA has objected to this more than once due to this risk, so why even leave this to chance when people could end up having their homes ruined and suffer other ramifications such as issues listed above including problems with insurance etc. I'd like to think that the planning department are there to protect people from things like this, not put people's property at risk.

Right now, we have a perfectly good hotel in front of our house that is lowly lit, in keeping with the area, and has never caused us problems with constant noise or given us reason to believe that they could sabotage our property with floods, and now we're told this is going to be replaced with a heavily lit, seagull attracting, metal and glass supermarket, with constant noise, and could put our house at risk of ruin. How can I do anything other than object? This should be kept as a hotel/restaurant and the pond should be left well alone.

I have been told that there will be many new houses built in Rotherwas and around Roman road. As there are no supermarket options of any great magnitude in those locations, I feel a supermarket would be far better utilized in those places, as we have plenty. As far as extra jobs are concerned, the hotel was already employing plenty of staff in the first place, which was made evident at the Parish Council meeting by a member of staff from the hotel, and if it's made back into hotel/restaurant, it will do so again. It would be lovely to have somewhere to go for a meal or drink close by without having to drive.

**Email: received 11<sup>th</sup> March 2024: Colin James 17 Glastonbury Close**

To the planning committee,

Due to work commitments, I am unable to attend today's meeting however, as a local resident of over 30 years I urge you all to please seriously give this absurd application some thought and refuse this planning application.

Even though a large number of you do not reside in the city, you might not be completely aware of the everyday impacts that traffic congestion on this route has on the community and local neighbourhood! Traffic congestion frequently stretches well over a mile beyond the Clehonger junction on the A465 coming into the city northbound. There is often vehicles spilling out of the McDonalds Drive-Thru next door which often causes traffic obstructions and additional congestion in both directions and as far as the pedestrian crossing near The Oval shops. This does not account for the endless delivery drivers parking on the pavements from delivery companies such as Uber Eats, Just Eat and Deliveroo as a few examples.

Near the bottom of the report, under the heading "**OTHER**," I notice that the officers report mentions a petition from the prior application. However, it fails to note, though, **that more**

**than a thousand locals signed the petition and expressed their disapproval!** Furthermore, out of over 220 objections originally received, only 12 were in favour of the application. Although I acknowledge that this is a slightly amended application, most people are unaware that they need to file another objection on the new amended planning application even though they believe they have already done so, we all know it more or less essentially amounts to the same thing and over a thousand local residents views should therefore be taken into account in opposing demolishing a perfectly good hotel/venue/facility only built in the late 1970's in favour of yet another supermarket on this notorious A465 Belmont Road congested hotspot in Hereford.

There is already a Tesco supermarket less than 300 metres away and an Asda supermarket less than  $\frac{3}{4}$  of a mile further along the very same road, not forgetting The Oval and other small independent shops and a large Farm Foods in between.

The Environment Agency have serious concerns over flooding and state that a Culvert is an unacceptable replacement for a pond as they are prone to getting blocked. There are also concerns over Tesco Trolleys ending up in the surrounding Newton Brook, which has previously never flooded.

Considering that this is the last remaining licenced venue in the neighbourhood, it would be a huge waste to proceed with the demolition of this excellent facility and forfeit this. This building can serve a variety of purposes, such as continuing to operate as a hotel, serving as a rehabilitation centre for patients recovering from surgery, or even having the ability to convert into an assisted living facility for the elderly or disabled.

I hope the committee will reject this planning application in line with the majority of objections, which include the voices of over a thousand local residents who took the time to sign the petition. Please support the local constituents and not the big corporates.

**Email: received 9<sup>th</sup> March 2024: Mark Richardson**

Dear Mark,

Although I no longer live in Belmont (I moved to Dilwyn after 30 years at Sydwall Road) I did vote for you in May of last year and feel compelled to write to you directly to express my concerns regarding the planning application for the proposed demolition of the Three Counties Hotel (always known to me and my family as the Moat House). I understand it is coming before the Planning and Regulatory Committee next week and that the case officer is recommending approval. This worries me for several reasons, which I will do my best to outline as briefly as possible.

I note the first application was withdrawn, with over 250 objections and some officer objections/concerns, and has now reappeared in not substantially modified form but with the promise of adherence to a raft of potential conditions. As someone who started life as a town planner I have always been concerned about the increasing trend over the years for so many Herefordshire planning applications to be passed with a raft of conditions. One or two conditions are understandable but when a raft of conditions rivaling War and Peace for length accompany an application, often a resubmitted application, my sixth sense and a sense of skepticism kicks in. As it has here. I have read the report and accompanying documents (reports, representations, etc.) in full. This took an awful lot of time, about 5 hours in total, and made me wonder if it's reasonable to expect Councillors to devote such a large amount of time to get to grip with all the details of such an application and just one of many they will need to deliberate on in the course of the meeting (and I wondered further if that was a deliberate ploy on the part of some players, but perhaps I am being too cynical). When an application is resubmitted but only changes marginally it does make me concerned that attempts are being made to circumvent reasonable objections by members of the parish council, public and council officers who are consultees, by promising to adhere to a raft of conditions that are supposed to mitigate those original and valid concerns. A few things

struck me about the application and the case officer's recommendation to approve the application and I have outlined them as briefly as possible below, but I urge all members of the committee to review the previous application and take note of the volume and detail in the 250 odd objections attached to that withdrawn application as well as the 80 or so on the resubmitted application you will be considering on the day.

First off, the report says the 'hotel is closed but could reopen as a hotel etc' but accompanying documents from the applicant's consultant regularly state that the hotel is closed and therefore there is no functioning hotel per se. This is disingenuous. The hotel was functioning as a hotel until very recently, as demonstrated by the numerous disappointed and heartbroken comments online by people who had been planning to get married there last year and this year, and it is still classed as a hotel in planning use terms and still presumably has the required licences to function as a hotel, including an alcohol license - or in any case could reapply for them. The current owners (since 2015), who are not local but Oxford-based, appear to have struggled or lacked the will to get going again after the pandemic and perhaps felt a more lucrative sale of the property to property speculators/supermarket companies was the easiest way forward (it certainly would provide a much bigger buck bang for them to sell a brownfield site if they could get change of use - demolition of the buildings being a good way of going down that path). At another point in the report there is a reference to the hotel being for non-local guests and therefore the impact on the local community being not so great if it were lost. This is patently absurd and, in my opinion, an attempt to down play the community and amenity value of the hotel. We have all used the Three Counties (previously Moat House) for drinks, gatherings, and conferences. Up until the hotel closed its doors to paying guests I would regularly meet friends and work colleagues on a Wednesday afternoon in Mundis bar to enjoy a pint or Gin and Tonic - inside in its plush interior or out by the pond on the terrace in the warmer months, where we'd enjoy what must be one of the County's most powerful fountains and the dragonflies that fluttered around the lilies. There are no other places for us Belmont or Newton Farm folks to have a quiet pint. The Vaga is a long across the brook and a very different type of pub - and too small and lacking in facilities to entertain families and friends. Now that Hedley Lodge is currently occupied with the homeless we also have no hotels this side of the river on the Belmont Road. Literally hundred of my friends and members of my family have stayed in the hotel over the years and many others will continue to do so if the hotel remains open. I note one of the very few supporters of this application says the hotel is run down. It is not, the gardens and buildings look immaculate. It is 'of its age' but it is a very pretty hotel and grounds. It provides a welcome break to the eye as we sit in gridlocked traffic on the main road (something which I will touch on shortly again). The Council's landscape officer objected to the original application (that objection not included in this report for some reason) because, "The Hotel and it's grounds are dated / of their time, however it is not a degraded, derelict or detracting feature in landscape or townscape terms. The green frontage and site trees do make a limited positive contribution to urban green infrastructure". I'll come back to the comment about the buildings 'being of their time'. There is also no conference facility like the Three Counties offers anywhere in the City, as demonstrated by the Council using the conference rooms to get the entire cohort of Cllrs. and officers and public in comfortably during the period when they were unable to use the Shirehall and needed a space big enough to allow Covid pandemic distancing rules. Where else could that have been done? Where else would many conferences be held, or big weddings or big work Xmas parties? The loss of the accommodation, hospitality and conference facilities would have a seriously detrimental effect on the locality and the City. I have included the link to the current website to show you how 'open for business' the hotel appears and could be if this application is refused. <https://www.threecountieshotel.co.uk/>

Regards the need for another superstore. really? We have Tesco and Asda and Farm Foods all within easy reach. We also have Local Plan policies that state we shouldn't be degrading the City centre by allowing out of town centre retail and supermarket development (HD2) so why are officers recommending approval? It's quite extraordinary - and illogical. I note another of the very few supporters of this applications says she wants a Lidl at Belmont so she can stop on the way home from work to buy groceries. She lives in Tupsley and has a

Lidl at the bottom of Commercial Road and Aylestone Hill, why would she want to shop instead on Belmont Road - unless she wants to leave her car in the gridlocked traffic to nip in-store? Quite absurd.

Regards sitting in traffic on the Belmont Road. Planners made a huge problem for the City in the mid to late 80s when they allowed the enormous development of the fields around the then Moat House (Three Counties) and around the old County landfill site without the necessary accompanying transport infrastructure. Those of us that remember, will remember, that the Three Counties was the last building you saw as you left Hereford on the way to Abergavenny except for the 'haunted house' on the left before the duck pond and the farm on the right before Belmont Abbey. Allowing Tesco and thousands of houses to be built without dealing with the transport issues was a grievous mistake, yet planners, like today, make or accept projections by applicants transport 'experts' and allowed the development. We had no gridlock on the Abergavenny or Belmont Road until this time. We then allowed the MacDonal'd's drive-thru to be built more recently, in the most inappropriate spot, once again with applicant's transport experts telling us that would present no problems - and we live with the daily disruption, increased danger and road rage of that decision as vehicles regularly back up onto the main carriageway and impede traffic further on an already congested road. Policy MT1 of the Local Plan says no development must be granted permission if it is likely to impede transport networks; **5.1.54 Development proposals should not inhibit the safe and efficient flow of the strategic network.** Now this applicant's transport consultants tell us once again - us who live here and no full well the issues to the contrary - that 1800 odd daily trips in and out of the proposed Lidl will pose very little disruption. They claim, without evidence extraordinarily enough, that most of these trips will be by people already the road anyway (like the lady on the way home to Tupsley perhaps). Aside from the fact they cannot and do not explain how they come to this conclusion it is not an increase in traffic that is the problem but traffic that is stopping to turn off or wishing to get onto the road that is the issue. Imagine the added chaos of trying to get along the already congested Belmont Road, dealing with the chaos at the MacDonal'd's entrance, plus traffic trying to exit from Goodrich Grove and now the extra mess at the Lidl junction. The road simply cannot cope. The consultants have also used the industry standard TRICs formula to estimate how many trips will be generated by Lidl - and then admit this same methodology got it very wrong when used to estimate trips to the new Aldi store in Ledbury - got it wrong by 48%! They say in this transport assessment they have adjusted the formula to account for this discrepancy but how? Just by bunging on a 50% variance? Based on what? This daft and just, I'm afraid, the usual smoke and mirrors accompanied by count data to try and bamboozle elected members into believing this is anything but best guesses. And those best guesses have been wildly wrong before and it us, not the consultants or developers or retailers, who have to deal with the consequences. We need to be making common sense decisions based on local knowledge not projections from people who are paid to find a way to get applications approved for their paymasters.

Now, the heritage aspect of the rather grand building and grounds. Yes, they are 'dated and of their time' but any building that is historic is thus classified. It is not run down and it is something worth preserving. It may not be everyone's cup of tea but it is a handsome and imposing site and provides a welcome vista along a road now full of the back of houses and unkempt hedges. It is interesting to note that when the Tesco was built at Belmont the planners required it to mirror the style of the Three Counties, meaning they regarded the Three Counties as being architecturally important and defining in character regards the built locality. Unfortunately, for whatever reasons our heritage officers today do not have the same regard for the building. Never the less Policy HD2 should be considered here. This is a landmark building unquestionably, you could show everyone in Herefordshire a picture of it and they would know it, it defines the area considerably and should not be destroyed and it's unique vista be replaced by another generic pressed metal and sheet glass box of no architectural merit. Just because our planners are unable to do their job doesn't mean our Cllrs. shouldn't step up for their community to do so.

And finally, a further point about heritage. I am not sure if members will know the history of this landmark building. It was built in 1979 by two of Hereford's most renowned Polish emigres, Alfons Sikora (who owned Intek Flooring on Burcott Road among other businesses) and Frank Taday (who owned the Spread Eagle amongst other businesses). Both these men, and others like Mr Priebe who founded the Hereford Admag, came to Hereford as part of the 1948 cohort of emigres that were escaping post war Soviet occupied Poland and were looking for a new life after the utter destruction of their country and way of life by the Nazis and the Soviets. Sikora and Taday came to Hereford particularly because of the Polish forces connection at Foxley Camp in Mansell Lacy on the Davenport Estate and Hergest Camp outside Kington. Like their countrymen who had fought for us during the war they came to Hereford to live and work and because they wanted a new, safe and brighter future for themselves and their families and they repaid the people of Herefordshire by building businesses and creating jobs and integrating into their new home. They found a safe refuge in Hereford and gave us much in return. The building of the (originally titled) White Eagle Hotel was the culmination of all those factors and motivations. We had nothing like it in Herefordshire (and really still don't). A modern, clean, imposing multi use hotel and conference centre the likes of which we had never seen. I remember seeing their names on the plaque as you walked through the old entrance doors (still there) and marveling at what they had been through and what they had achieved and what they had contributed to their new and forever home of Hereford. And how are we to replay that legacy? By knocking down such an impressive building for a budget supermarket, I am afraid I get a little emotional at the thought. <https://www.herefordtimes.com/news/20065827.memories-three-counties-hotel-amid-lidls-plans/>

Apologies for rambling Mark and for overstepping in any way by writing to you and other members of the committee and neighbouring ward Cllrs, who I have blind copied in - as well as the clerk of Belmont Rural parish council, which has strongly and correctly objected to both these applications. I know you cannot predetermine anything before the meeting so I expect no reply from you or others but I had to let you know my feelings. It will be a very very sad day indeed if we allow this application to succeed. A very sad day indeed. Rather, we should be insisting on listing this building.

All the best, hope you are keeping busy and serving the residents of Belmont Rural well. I am sure you are.

**Email: received 9<sup>th</sup> March 2024:** Mark Richardson

Sorry Mark, I forgot to mention another very important issue, one that may be the most significant.

The drainage department (Balfour Beatty acting as the Council's technical advisors) objected to the previous application. An officer, Joel Hockenull, raised serious concerns about the hydrology impact of filling in the pond in front of the hotel. It seems that when the hotel was built a pipe connected the outfall of the historic Newton Brook to the pond and an overflow pipe exited the pond and fed back adjacent to the new channel/ditch that was built to the north and west of the hotel as an overflow should the piped brook exceed capacity going through the hotel grounds and pond. He stressed that the loss of the attenuation capacity of this pond was something that concerns him because the pond was taking extra water during heavy periods and an enclosed narrow pipe (as proposed) will not.

We know that the hotel sits within a low-risk EA flood zone but that is regard flooding from the river Wye so please be aware of that. Once again it's slightly disingenuous for anyone to say the risk of flooding is low when what they are saying is the risk of flooding from the Wye is low. Which know that, we accept the Wye has never backed up to here. However, there have been issues of localised and flash flooding along the brook - and I think Cllr. Tillett in the neighbouring ward has had to deal with an issue there previously in recent years. Mr Hockenull seemed to have requested pre-application hydrology modelling regards the risk of increased risk of flash flooding if the pond is filled in but I don't believe that was done. He

also feels the open culvert and sluice gates of the current layout around the pond provide a better opportunity to keep the watercourse clear whereas the applicant's consultants feel a closed system is better (I'm afraid I agree with Mr Hockenhull regards maintenance of the watercourse). Mr Hockenhull then appears to stop responding to further queries from the case officer (perhaps in frustration or simply because he was on leave or busy) and a Ms Allen is the Balfour Beatty technical officer who responds telling the case officer that;

***I appreciate you have had a lot of correspondence with Joel regarding the above site, however we just wanted to clarify that the following need to be included as Land Drainage conditions in the Decision Notice, should approval be granted:***

- ***(Pre construction condition) Detailed surface water drainage design plans/construction drawings and associated calculations.***

***This is a crucial condition as the surface water drainage strategy which has been presented at planning is not detailed enough for construction purposes.***

- ***Trial pit information confirming the route of the 450mm pipe that has been identified which carries flow into the site (referred to as SW1 on the survey). The development will need to consider provision for the ongoing inflow of surface water from this source.***
- ***Shopping trolley condition – as per the below correspondence.***

The shopping trolley comment was in relation to concerns that shopping trolleys could act as trash screen if dumped around the brook and cause rapid flash flooding (the applicants have at least answered this query by promising to put in magnetically controlled brakes on trolleys which should stop trolleys leaving the car park).

However what concerns me and what I would be very grateful for clarity on if you are able to question the case officer is whether the pre-app modelling was done or not as requested by Mr Hockenhull and why she is asking Cllrs. to approve an application which requires the Council's drainage officers to insist on pre-construction conditions because, "***This is a crucial condition as the surface water drainage strategy which has been presented at planning is not detailed enough for construction purposes.***"

You see this is the nub of the problems that accompany applications that members are being asked to consider on the promise of so many conditions rather than making those decisions based on certainty around central issues such as drainage. It is silly and irresponsible to pass such a large application and then deal with drainage afterwards - because what that does is then put all the pressure on our drainage team to eventually agree whatever scheme is presented to them or they are essentially taking responsibility for refusing such a large application when that responsibility should lie with planning officers or members. It is inherently unfair on our technical teams - whether they be drainage or landscape etc.

## **OFFICER COMMENTS**

The applicant submitted fluvial modelling outputs of the Belmont Brook. These demonstrated the impact of a partial blockage at the highway culvert. I note that the resident is making reference to modelling associated with removal of the pond. No such modelling was requested. The proposed pre-construction condition meets the test of the NPPF and is acceptable. This information would need to be available during the build phase but would not be any more useful if presented earlier.

Update / clarification to Paragraph 1.3



Currently committee report. Para 1.3 says "...Since March 2023 until March 2024 the hotel has been used to house asylum seekers and has been run by the 'Home Office'. The site is currently closed to the general public but would revert back to a hotel following the end of the temporary use to house the asylum seekers."

To clarify it is in fact the Use Class C1 which will resume (ie there is no hotel operator) the report should read:

Since March 2023 until March 2024 the hotel has been used to house asylum seekers and has been run by the 'Home Office'. The site is currently closed to the general public but would revert back to hotel use following the end of the temporary use to house the asylum seekers.

#### Update / clarification

Following the site inspection (12/3) the Council's Transportation manager have provided the additional commented as follows:

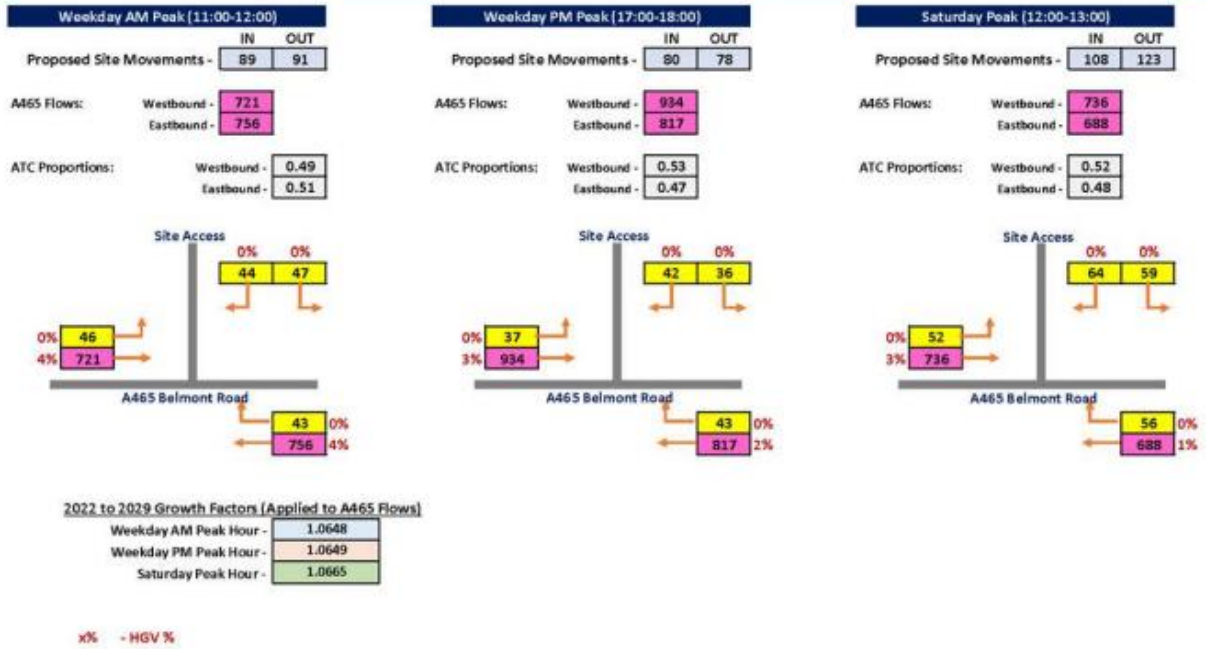
The junction capacity assessments undertaken as part of the Transport Assessment demonstrate that the site access junction operates with a significant amount of spare capacity. A number of scenarios have been modelled, including:

- A future year of 2029 (this has the surveyed background traffic, i.e. existing flows along the A465, growthed (using locally adjusted growth rates) to 2029 levels)
- A sensitivity analysis whereby an additional 50% of the predicted store generated trips has been added to ensure a robust assessment.

All scenarios show spare capacity with the worst scenario (2029 with +50% extra trips) being during the weekday PM peak hour (17:00-18:00) where the access arm for vehicles turning from the site onto the A465 operates at 58% of its capacity. It is generally recognised that 85% capacity is where a junction starts to experience capacity problems. No capacity issues are shown to occur on the A465 itself and there is a generous right turn lane provided to accommodate approximately 8-9 vehicles turning right into the site which will prevent vehicles turning into the site from blocking traffic on the A465.

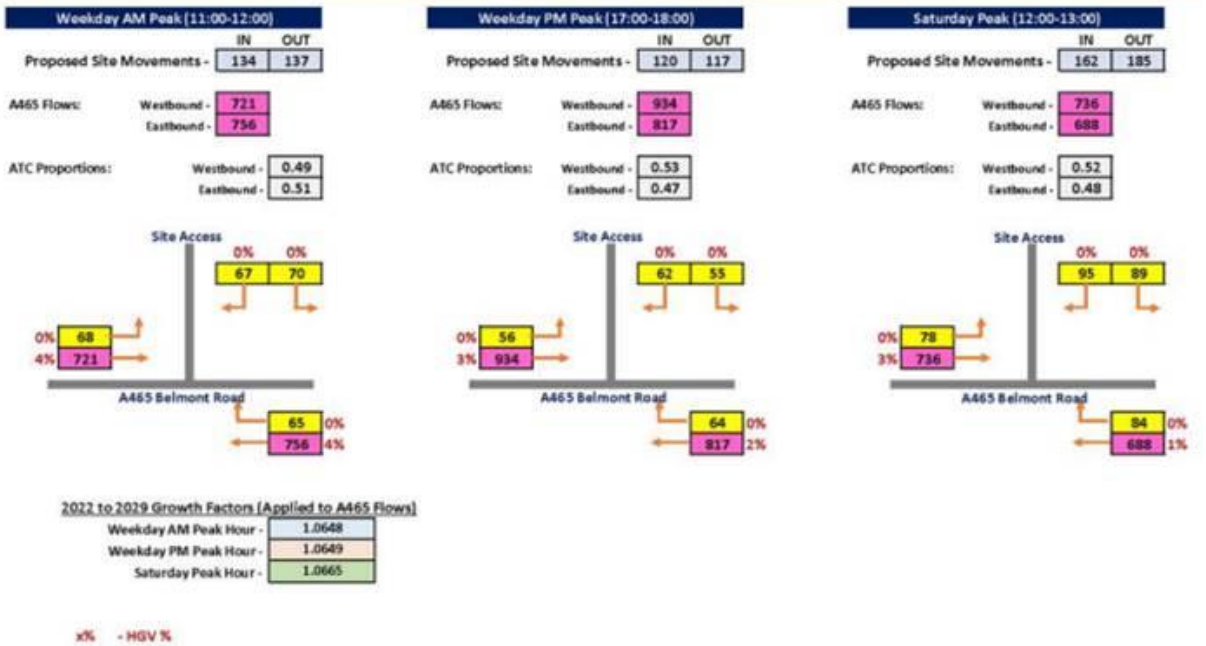
The below extracts from the Transport Assessment submitted with the application demonstrate the number of vehicle trips that will be generated by the proposed store at peak times and the number of vehicles travelling along the A465. It is important to note that the below figures assume all trips to the store will be new to the network and not already passing the store either directly or on the network local to the store. The second set of tables shows a worst case scenario whereby the number of trips generated by the store have been increased by 50% over and above those predicted, this exercise was undertaken as a sensitivity analysis to ensure a robust assessment. The first set of tables below are the likely number of trips to be generated by the store.

2029 Forecast Year Flows



XX - All Vehicles (Site Movements)  
 XX - All Vehicles (A465 Straight-On Movements)

2029 Forecast Year Flows (+50% added onto Site generated flows)



With regards to car parking the store provides over the level required according to our car parking standards (100 spaces are required with 118 spaces being provided). In addition the spaces provided are wider than 'standard' spaces. Standard spaces are 2.4m x 4.8m whereas the proposed are 2.7m x 5.2m. The proposed aisle width is also more generous at

7.5m (6m is standard). This means that car parking spaces are easier to manoeuvre in and out of therefore reducing delays within the car park and the additional aisle width would allow vehicles coming into the car park to manoeuvre around vehicles trying to park which prevents blockages occurring and queuing back onto the A465.

**NO CHANGE TO RECOMMENDATION**



<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>1 May 2024</b>
<b>TITLE OF REPORT:</b>	<b>233225 - THE ERECTION OF TWO DWELLINGS AND ASSOCIATED WORKS AT 182 LEDBURY ROAD, HEREFORD, HR1 1RH</b>  <b>For: Mr &amp; Mrs Williams per Mr Matt Tompkins, Lane Cottage, Burghill, Hereford, Herefordshire HR4 7RL</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=233225&amp;search-term=233225">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=233225&amp;search-term=233225</a>
<b>Reason Application submitted to Committee – Redirection</b>	

**Date Received: 31 October 2023**

**Ward: Eign Hill**

**Grid Ref: 352459,240044**

**Expiry Date: 12 April 2024**

Local Members: Cllr Elizabeth Foxton

**1. Site Description and Proposal**

- 1.1 The application site relates to a garden which forms part of the curtilage for 182 Ledbury Road Hereford. 182 is a semi-detached red brick and rendered property set behind a service road, close to the intersection between Ledbury Road and Quarry road, with the garden abutting Quarry Road. The site has an area of 335 square metres and rises from the front (West) to the back (East) mirroring the gradient of Quarry Road.
- 1.2 The proposal is for the erection of two detached dwellings and associated works within the garden space of the host dwelling. The proposed dwelling alongside 182 Ledbury Road would be a two storey 3 bed dwelling whilst the proposed dwelling to the rear would be a 2 bedroom bungalow. An extract of the Location And Block Plan are inserted below.



*Block Plan / Location Plan (drawing number 1415-10 Rev A)*

Further information on the subject of this report is available from Ms Laura Smith on 01432 383244

## 2. Policies

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

- SS1 - Presumption in Favour of Sustainable Development
- SS2 - Delivering New Homes
- SS3 - Releasing Land for Residential Development
- SS4 - Movement and Transportation
- SS6 - Environmental quality and local distinctiveness
- HD1 - Hereford
- MT1 - Traffic Management Highway Safety & Active Travel
- LD1 - Landscape and Townscape
- LD2 - Biodiversity and Geodiversity
- SD1 - Sustainable Design and Energy Efficiency
- SD3 - Sustainable Water Management and Water Resources
- SD4 - Wastewater Treatment and River Water Quality

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

[https://www.herefordshire.gov.uk/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 (NPPF)

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision Making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed and beautiful places
- Chapter 15 – Conserving and enhancing the natural environment

2.3 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy was made on 9th November 2020 and the review process is currently underway. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application. In this case, the most relevant policies of the CS – which are considered to be those relating to meeting housing needs, guiding rural housing provision, highways safety and safeguarding features of environmental value (amongst others) – have been reviewed and are considered to be consistent with the NPPF. As such, it is considered that they can still be attributed significant weight.

## 3. Planning History

3.1 191097/F – Proposed erection of 3 no 2 bedroom dwelling with parking – Refused 20 September 2019

Link to application:

[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=191097&search-term=191097](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=191097&search-term=191097)

- 3.2 194390/F – The erection of two dwellings – Refused 2<sup>nd</sup> October 2020 – Dismissed at appeal 13 July 2021  
Link to application:  
[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=194390&se-arch-term=194390](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=194390&se-arch-term=194390)

#### 4. Consultation Summary

##### Statutory Consultations

#### 4.1 Welsh Water

The proposed development site is crossed by 150mm public foul sewers and a 150mm public surface water sewer. Please see copy of indicative public sewer record attached. No operational development is to take place within 3 metres either side of the centreline of the sewer. We request that prior to commencing any operational development the location of this asset is determined. If operational development is likely to take place within 3 metres either side of this sewer please stop works and contact us. The applicant may be able to divert these assets under Section 185 of the Water Industry Act 1991. We have reviewed the information submitted as part of this application with particular focus on drawing number 1415-10 which shows the proposed drainage arrangement which indicates the proposal will be within the stated protection zones of the public sewer. This proposal offers no technical assessment and scheme to address the public sewers crossing the site and recommend that the applicant contacts us direct to discuss this matter further. We note that the intention is to discharge surface water to soakaway and whilst we welcome the introduction of sustainable drainage the position of the proposed soakaway would be located on top of a public sewer to which we cannot support or permit.

We recommend that the position of this soakaway and proposed dwellings be revised to account for a 3 metre protection zone either side the centre line of the public sewers.

Therefore, if you are minded to grant planning permission we request that the following Conditions and Advisory Notes are included within any subsequent consent.

##### SEWERAGE

We can also advise that Eign WwTW has a phosphate permit this matter will need to be considered further by the local planning authority, notwithstanding this we can confirm capacity exists within the public sewerage network in order to receive the domestic foul only flows from the proposed development site.

##### Conditions

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

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

##### Advisory Notes

The proposed development site is crossed by two public sewers with their approximate positions being marked on the attached Statutory Public Sewer Record. The positions shall be accurately located, marked out on site before works commence and no operational development shall be carried out within 3 metres either side of the centreline of each public sewer.



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

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times

#### Internal Council Consultations

### 4.2 Area Engineer Team Leader

#### Comments received 11/4/2024 (Amended Plans)

The Local Highways Authority have reviewed the amended plans which now demonstrate that a visibility splay of 2.4m x 43m can be achieved for both driveways and is satisfied with the level of parking that has now been provided. As such, it has no objections to this proposal subject to the following conditions:

- 1) Before any other works hereby approved are commenced, visibility splays, and any associated set back splays at 45 degree angles shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 43 metres in each direction along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.

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

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

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

- 3) Prior to the first occupation of the dwellings hereby approved, provision shall be made for a singular vehicular access onto the highway.

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

- 4) Prior to occupation of the dwellings hereby approved the driveway 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 driveways discharging onto the highway. Details of each driveway and drainage arrangements shall be submitted to and approved in writing by the local planning authority prior to commencement of any works in relation to the driveway.



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

- 5) Prior to the first occupation of the dwelling hereby approved an area shall be laid out within the curtilage of each dwelling for the parking and turning of 1 car in accordance with the 2006 Herefordshire Highways Design Guide. This shall be properly consolidated, surfaced and drained in accordance with details to be submitted to and approved in writing by the local planning authority and that area shall not thereafter be used for any other purpose than the parking of vehicles.

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

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

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

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

- Parking for site operatives

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.

#### Comments received 21/3/2024 (Amended Plans)

The Local Highway Authority have reviewed the amended site plan and new access to accommodate parking for the 3 bedroom dwelling and feel that this is acceptable; however we do require further information. Please demonstrate that a visibility splay of 2.4m x 43m can be achieved.

#### Comments received 6/3/2024

The Local Highways Authority has reviewed this application for the erection of two dwellings and associated works and has the following comments:

A previous application (Ref: 194390) was submitted for two x 2 bed semi-detached dwellings and provided two parking spaces – one per dwelling. The Local Highway Authority felt that the parking arrangements were acceptable and simply requested that 2m x 2m visibility splays were provided

adjacent to the parking spaces. This application was later refused, however not on the grounds of highways.

It is worth highlighting that this most recent application is a new design layout consisting of two detached houses instead – one x 3 bedroom and one x 2 bedroom. One parking space has been provided for the two bedroom dwelling, but no parking is provided for the 3 bedroom dwelling. As such, this does not meet the Herefordshire Council design guide standards.

It is noted in the agent's response to highway comments that the Local Highway Authority 'accepted a reduced level of parking'. This is incorrect as the previous application had a completely different layout and provided one parking space per dwelling – that is what was accepted.

As per our comments 01/11/2023 regarding planning application Ref: 233225, we stated "proposed development should be able to accommodate vehicles within the site. Parking should meet HC design guide".

As such, the Local Highway Authority requests that the applicant reconsiders the layout of the site to provide one parking space per dwelling.

#### Comments received 21/11/2023

The proposals are for the erection of two new residential dwellings on land off of Ledbury Road.

The existing property in which the two proposed dwellings are to be constructed within the side garden presently has no off-street car parking. This property in the locality is one that does not have off-street parking compared to neighbouring properties.

The site for the two proposed dwellings would front onto Quarry Road opposite an existing parade of shops which benefit from a layby for parking and overspill parking occurs on-street directly adjacent to the site.

The proposals are for a three bed and two bed dwelling with a driveway for one car associated with only one of the properties. The other proposed dwelling, if future occupiers owned a vehicle, would mean vehicles would have to park on the highway. Proposed development should be able to accommodate vehicles within the site. Parking should meet HC design guide.

Due to their location, in close proximity to the City Centre and employment opportunities it is essential for the sustainability of the site to provide cycle parking in accordance with standards set out in the 2006 Herefordshire Highways Design Guide.

The site needs to provide as visibility splay of 2m x 2m pedestrian vision splays.

#### 4.3 **Ecology – No Objection with conditions**

Notes in respect of Habitat Regulation Assessment (River Wye SAC)

I have carried out a Habitats Regulations Assessment and have provided it separately to the planning case officer

Habitat Regulation Assessment:

<https://myaccount.herefordshire.gov.uk/documents?id=8fb2d34b-d57a-11ee-907b-005056ab11cd>

Notes in respect of ecology

As identified in the NPPF, NERC Act and Core Strategy LD2 and as part of the council's Climate Change and Ecological Emergency actions, all developments should demonstrate how they are going to practically enhance ("Net Gain") the Biodiversity potential of the area. These enhancements are in addition to any mitigation or compensation required by other constraints such as protected species licences.'

### **Habitat Regulations (River Wye SAC) – Foul- and Surface Water**

All foul water shall discharge through a connection to the local Mains Sewer network; and all surface water managed through on site soakaway-infiltration; unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to comply with Habitat Regulations (2018), National Planning Policy Framework (2019), NERC Act (2006) and Herefordshire Council Core Strategy (2015) policies LD2, SD3 and SD4.

### **To obtain Biodiversity Net Gain**

Prior to first use of any part of the development works approved under this planning decision notice, evidence of the suitably placed installation within the site boundary or on other land under the applicant's control a minimum a total of THREE bat roosting features (such as bat boxes or bricks) and FOUR bird nesting boxes (mixed types) and ONE hedgehog home and hedgehog highways through all impermeable boundary features to and acknowledged by the local authority should be supplied to, and acknowledged, by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority.

Reason: To ensure Biodiversity Net Gain as well as species and habitats enhancement having regard to the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife and Countryside Act 1981, National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies LD1, LD2 and LD3.

## **5. Representations**

### **5.1 Hereford City Council**

Hereford City Council Planning Committee objects to planning application 233225. Cllrs do not agree with the loss of green infrastructure and feel the erection of two houses on this difficult site is overdevelopment. The site is only suitable for one dwelling

### **5.2 Third Party Representations**

15 letters of objection, 1 letter of support and 1 general comment have received, these have been summarised below:

Objections:

- Impact on on-street parking
- Increased pollution from traffic
- Dangerous junction of road
- Reduced parking for local businesses
- Loss of local wildlife
- Overcrowded proposed plan
- Impact on pedestrians
- Concerns the bungalow could become a two storey later in time
- Comprises 'Green Space' policy

Support:

- Provide a need of starter/affordable homes
- Walking distance to city centre
- Close to main bus routes

5.3 The consultation responses can be viewed on the Council's website by using the following link:-

[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=233225&search-term=233225](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=233225&search-term=233225)

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

6.4 The NPPF requires that local planning authorities should identify and update annually a supply of housing sites sufficient to provide five years' worth of housing against their housing requirements. Where the existence of a five year land supply cannot be demonstrated, there is a presumption in favour of granting planning permission for new housing unless the development can be shown to cause demonstrable harm to other factors that outweigh the need for new housing. Other factors in this respect can include sites or areas protected as a result of their wider environmental importance or land at risk of flooding.

6.5 Following survey work, the LPA can confirm that the Housing Land Supply as of April 2023 is 5.84 years. Effectively this means that the housing policies in the adopted Core Strategy and made Neighbourhood Development Plans can be considered to be up-to-date and given full weight in decision making. Para 11d of the National Planning Policy Framework (NPPF) is not engaged, as the development plan policies are not deemed 'out of date'. As a result paragraph 14 of the NPPF is not engaged.

6.6 Strategic Policy SS1 of the Herefordshire Core Strategy sets out the presumption in favour of sustainable development, which is reflective of the positive presumption enshrined by the current NPPF as a golden thread running through plan-making and decision-taking. Policy SS1 also confirms that proposals which accord with the policies of the Core Strategy (and, where relevant, other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise. Again, this is broadly reflective of Paragraph 11 of the current NPPF.

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Further information on the subject of this report is available from Ms Laura Smith on 01432 383244

- 6.7 Strategic policy SS2 of the Core Strategy confirms that Hereford is the main focus for new housing development in the county, followed by the five market towns in the tier below. In rural areas new housing will be acceptable where 'it helps to meet housing needs and requirements, supports the rural economy and local services and facilities and is responsive to the needs of its community'. Similarly, at paragraph 78 the current NPPF advises that to promote sustainable development housing should be located where it will enhance or maintain the vitality of rural settlements.
- 6.8 The application site is considered to be located in a spatially sustainable location; it is within the bounds of Hereford city, with the site benefiting from good footpaths linking to nearby services and facilities such as convenience stores and schools as such there is no objection to the principle of development. The design, layout and access arrangement for the development is paramount to the acceptability of any development on this site.

### **Design and Character**

- 6.9 In regards to the design of proposed developments, the local planning authority (LPA) has a statutory duty to have regard to the desirability of achieving good design. When considering the design and landscape impact of a proposed development, CS policy SD1 is significant as it requires that development proposals to create safe, sustainable, well integrated environments for all members of the community. In so doing, all proposals should take into account the local context and site characteristics. Moreover, new buildings should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials and respecting scale, height, proportions and massing of surrounding development. Where appropriate, proposals should also make a positive contribution to the architectural diversity and character of the area, including through innovative design. They should also safeguard the residential amenity of existing and proposed residents in terms of overlooking, overshadowing and overbearing.
- 6.10 Specifically regarding landscape and townscape matters, CS policy LD1 requires that proposals demonstrate that the character of the landscape and townscape has positively influenced the design scale, nature and site selection of the development, as well as the protection and enhancement of the setting of settlements and designated areas. Development proposals should conserve and enhance the natural, historic and scenic beauty of important landscapes and features (specifically designated assets) through the protection of the area's character and by enabling appropriate uses, design and management. In wider terms, policy SS6 sets out that development proposals should conserve and the enhance environmental assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity, heritage assets, and especially those with specific environmental designations. All proposals should be shaped through an integrated approach to planning to ensure environmental quality and local distinctiveness.
- 6.11 The NPPF is a key material consideration for the proposal , it includes a chapter focused on achieving well-designed places, which sets out that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, as good design is a key aspect of sustainable development. Decision-making should ensure developments will: function well and add to the overall quality of the area over the lifetime of the development; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character including the surrounding built form and landscape setting (whilst not preventing innovation or change); establish or maintain a strong sense of place creating attractive and distinct places to live and visit; with a high standard of amenity for existing and future users that doesn't undermine quality of life or community cohesion and resilience. Additionally the NPPF sets out that decisions should protect and enhance public rights of way, including taking opportunities to provide better facilities for users.

- 6.12 The character of the area is primarily, although not exclusively, one of semi-detached dwellings set within a modest garden curtilage with a front garden with most including a drive way to the fore and a typical suburban garden to the rear. The dwellings are typically of dual pitch roof or hipped roof design with red brick, render tiles and uPVC windows being the most common building materials. This notwithstanding the area does exhibit examples of detached properties such that it is not considered that this scheme, which proposes detached dwellings, would represent a form of development that is out of keeping with the locality. It is relevant to advise that the current proposal has been informed by the findings of the Inspector in the dismissed appeal. In that case, whilst they found there to be harm in relation to the close relationship of the proposed dwellings to the Quarry Road frontage in that scheme, there was no objection in principle to detached dwellings or indeed to the use of the rear garden for some form of development. They concluded that *taking into account the size of the garden spaces afforded to them and the size of the garden retained by No 182, it does not strike me that the buildings would appear cramped*. The proposal here is for two detached dwellings which has reduced the scale of development in the rear garden to a bungalow which now aligns with the building line formed by 144 Quarry Road immediately to the east of the site. The two storey dwelling would sit alongside 182 Ledbury Road and appear as a natural addition to the properties fronting onto the service road. The gabled design being intended to reflect that of the projecting gables evident in the other semi-detached properties in this row. Having taken into account the previous history on site, and in particular the findings of the Inspector, it is considered that this proposal has successfully addressed the concerns relating to the proximity of 2 storey development to the Quarry Road frontage and achieved a layout which better respects this settled suburban location.
- 6.13 Further to the above background information, it is considered that given its small scale the bungalow will not result in a visually dominant feature on site and neither would it appear cramped by comparison the the scheme that was considered in the previous appeal.
- 6.14 The proposed 3 bedroomed two storey dwelling will follow the linear form of existing dwellings on Ledbury Road it will have a similar scale, height and design to 182 Ledbury Road. The dwelling will have a projecting gable to the principal elevation, with the walls red brick at ground floor level and render at first floor with a tiled roof. The dwelling will continue the open garden area to the front matching other dwellings on Ledbury Road and is therefore considered to create a sense of general uniformity and openness contributing positively to the areas characer.

### **Residential Amenity**

- 6.15 CS policy SD1 confirms that all development proposals should safeguard residential amenity for existing and proposed residents. This is in line with the revised NPPF which sets out at that decisions should ensure that development creates places that promote health and well-being with a high standard of amenity for existing and future users.
- 6.16 The site history is again a material consideration which must be given due weight in decision making. Officer`s consider that the Inspectors dismissal of the previous scheme for 2 dwellings in the rear garden was focussed primarily upon the impact of that development upon the living conditions of the occupiers of 182 and 184 Ledbury Road, with particular regard to the effect on outlook. This revised proposal has taken these relationships into account. The scheme now comprises a modestly proportioned bungalow in the rear garden which significantly reduces the impact on the outlook from the rear of 182 Ledbury Road and the neighbouring properties and is therefore considered to satisfactorily preseve the living conditions of existing occupiers.



- 6.17 The two storey dwelling will follow the built form that currently exists and whilst there will be some impact upon the ground floor windows and doors in the side elevation of 182 Ledbury Road, this is not an unusual relationship in an urban context and the full extent of its impact on residential amenity and is not a matter that would warrant refusal in your Officer's opinion.
- 6.18 Finally with regard to the amenity of existing and future occupiers, whilst the gardens associated with 182 Ledbury Road and the proposed dwellings will be modest by comparison to other, each property will retain sufficient amenity space to function acceptably in this regard. Furthermore occupiers will have ready access to the recreational open space available locally

### Highways

- 6.19 The NPPF sets out at paragraph 110 that applications for development should ensure opportunities to promote sustainable transport have been taken, safe and suitable access to the site can be achieved for all users and any significant impacts from the development on the transport network or highway safety can be mitigated. Policy MT1 states that development proposals should demonstrate that the strategic and local highway network can absorb the traffic impacts of the proposed development. It states that developments must be designed and laid out to achieve safe entrance and exit, have appropriate operational and manoeuvring space. It also states that developments should have regard to both the Council's Highways Development Design Guide and cycle and vehicle parking standards.

Further information on the subject of this report is available from Ms Laura Smith on 01432 383244

- 6.20 It is noted that a number of representations received focus on the issues of parking and highway safety. However given the context of this site it is not considered that these amount to sustainable grounds for refusal. Below is an extract from the Inspectors decision for a scheme of 2 semi-detached properties in the rear garden of 182 Ledbury Road:
- 6.21 I note as part of my site visit that the area in front of the proposed dwellings was used for parking for users of the nearby businesses. I also noted an area of on street parking in front of the businesses. I could not see any parking restrictions in the area, and whilst the proposal would result in the loss of some on-street parking, this would be minimal, and sufficient parking appeared to be available in the surrounding area. The road is straight with good visibility enabling any future users to adequately see vehicles or pedestrians.
- 6.22 Amended plans have confirmed that each dwelling will provide one parking space each which is considered appropriate for a dwelling of its size, which given the sites sustainable location with amenities within walking distance, one parking space for each dwelling of this size is considered appropriate. Whilst also taking into account owners of the dwelling could also park across the drive entrance.
- 6.23 Having regard to the above and the conditional support of the Area Engineer Highways Team Leader, the highway impact is not considered to be severe and so as directed at paragraph 115 it should not form a reason for refusal in this instance.

### **Ecology**

- 6.24 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.
- 6.25 From available information, the LPA has no reason to consider that in this specific application there is any identified effects on local protected species populations. The Council's Ecologist has confirmed conditional support for the scheme based upon a biodiversity enhancement condition.

### **Drainage and Habitat Regulations**

- 6.26 The site lies within the hydrological catchment of the River Wye Special Area of Conservation (SAC) and therefore triggers the requirement for a Habitat Regulations Assessment (HRA). The proposal has been assessed by the Council's Ecologist and a Habitats Regulations Assessment – Screening and Appropriate Assessment has been undertaken as a report. This concludes that there are no likely significant effects and therefore no appropriate assessment is required and planning permission can be legally granted.
- 6.27 Welsh Water have confirmed that there is capacity within the network to take the domestic foul flows from the site. Additionally, it has been confirmed that surface water drainage is via a SuDS soakaway system within each plot. It has also been confirmed that no operational development is to take place within 3 metres of the centreline of the sewer. A pre commencement condition is recommended for a drainage scheme to be submitted to and approved in writing by the Local Planning Authority to ensure that no harm to the existing network occurs.

### **Conclusion**

- 6.28 It is considered that this scheme has addressed previous refusal reasons relating to the neighbouring amenity and character of the area. Both dwellings respond to local character and with the reduced scheme namely the reduction in height of the rear dwelling, it is not considered to cause any adverse impact on neighbouring amenity. The proposal will bring the provision of



housing within a sustainable location and provides a smaller 2 bedroom unit of which is an identified need. The scheme is therefore considered to accord with the policies within the Herefordshire Core Strategy and is recommended for approval subject to the conditions stated 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 approved plans and materials**

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

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

**3. To obtain Biodiversity Net Gain**

**Prior to first use of any part of the development works approved under this planning decision notice, evidence of the suitably placed installation within the site boundary or on other land under the applicant's control a minimum a total of THREE bat roosting features (such as bat boxes or bricks) and FOUR bird nesting boxes (mixed types) and ONE hedgehog home and hedgehog highways through all impermeable boundary features to and acknowledged by the local authority should be supplied to, and acknowledged, by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority.**

**Reason: To ensure Biodiversity Net Gain as well as species and habitats enhancement having regard to the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife and Countryside Act 1981, National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies LD1, LD2 and LD3.**

**4. Removal of permitted development rights**

**Notwithstanding the provisions of article 3(1) and Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015,(or any order revoking or re-enacting that Order with or without modification), no**

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Further information on the subject of this report is available from Ms Laura Smith on 01432 383244

development which would otherwise be permitted under Classes A, AA, B, C, D, E of Part 1 and of Schedule 2, shall be carried out.

**Reason:** In order to protect the character and amenity of the locality, to maintain the amenities of adjoining property and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

**5. Efficient use of water**

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

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

**6. Secure covered cycle parking provision**

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

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

**7. Visibility Splays**

Before any other works hereby approved are commenced, visibility splays, and any associated set back splays at 45 degree angles shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 43 metres in each direction along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.

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

**8. Vehicular access construction**

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

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

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Further information on the subject of this report is available from Ms Laura Smith on 01432 383244

**9. Single access**

Prior to the first occupation of the dwellings hereby approved, provision shall be made for a singular vehicular access onto the highway.

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

**10. Driveway Gradient**

Prior to occupation of the dwellings hereby approved the driveway 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 driveways discharging onto the highway. Details of each driveway and drainage arrangements shall be submitted to and approved in writing by the local planning authority prior to commencement of any works in relation to the driveway.

**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

**11. 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:

- Parking for site operatives

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.

**INFORMATIVES:**

**1. Application approved with amendment**

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

The Authority would advise the applicant that they have a legal duty of care as regards wildlife protection under the Wildlife & Countryside Act (1981 as amended), with enhanced protection for special “protected species” including Badgers, Great Crested Newts, Bats, Otters, and Dormice. All nesting birds are legally protected from disturbance at any time of the year and care should be taken to 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.

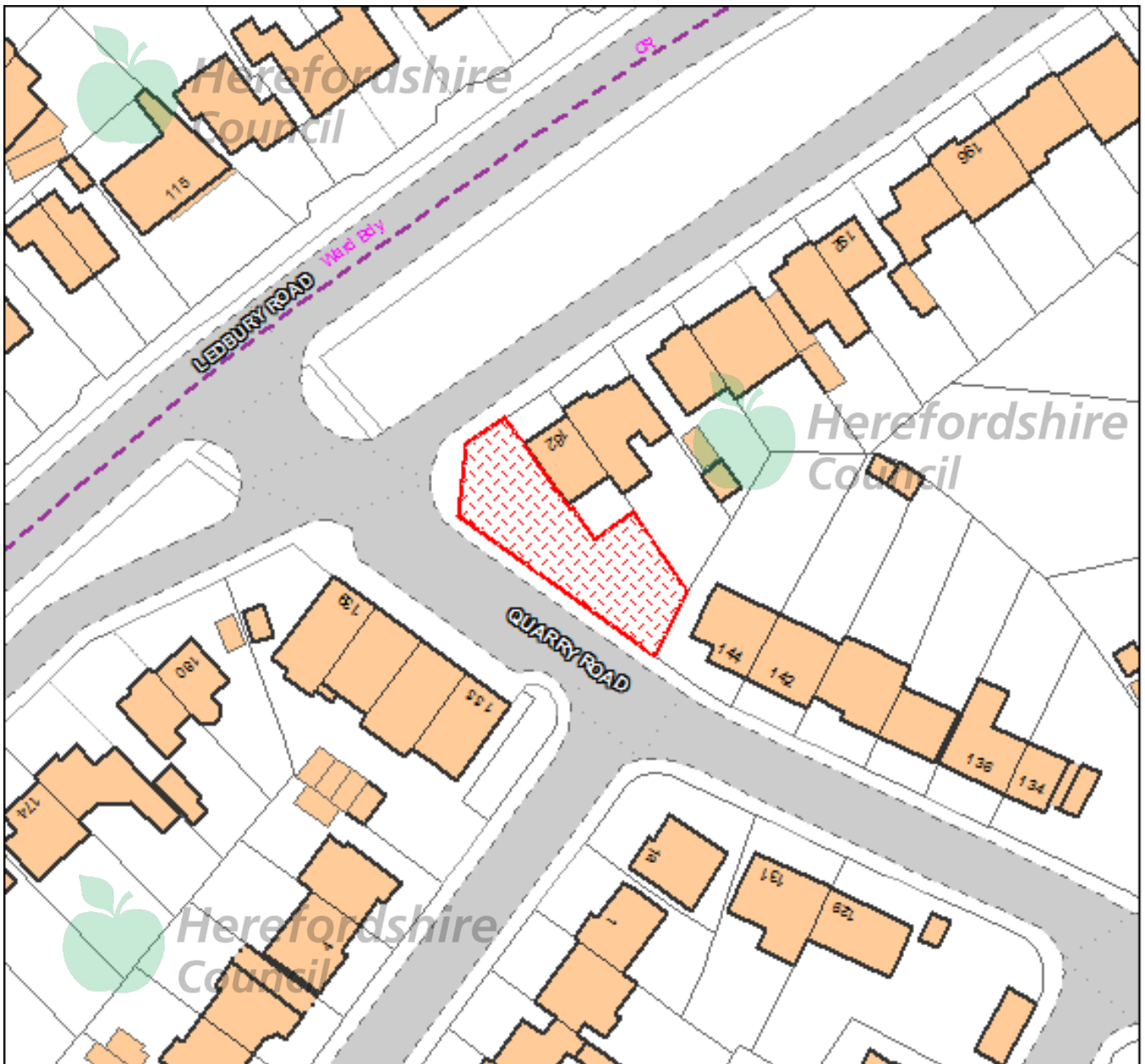
Decision: .....

Notes: .....

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**Background Papers**

None identified.



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

**APPLICATION NO:** 233225

**SITE ADDRESS :** 182 LEDBURY ROAD, HEREFORD, HR1 1RH

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Further information on the subject of this report is available from Ms Laura Smith on 01432 383244



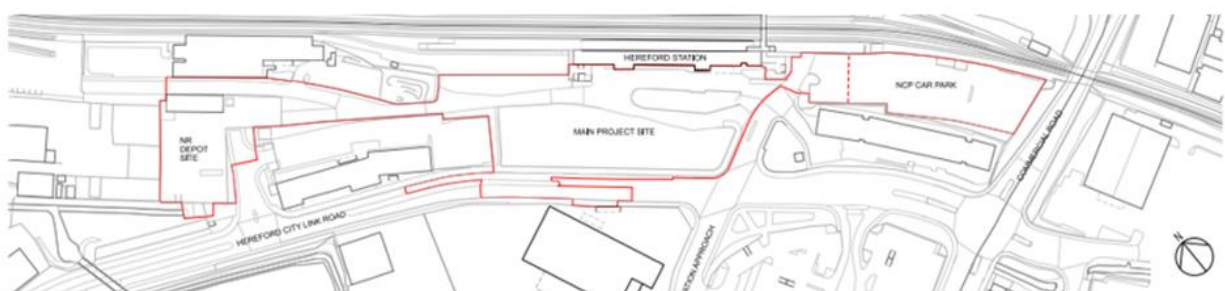
<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>1 MAY 2024</b>
<b>TITLE OF REPORT:</b>	<b>233009 - PROVISION OF A TRANSPORT HUB AND PUBLIC REALM IMPROVEMENTS AT HEREFORD RAILWAY STATION INCLUDING THE CREATION OF A BUS INTERCHANGE, WAITING AREA, CANOPY AND LAYOVER SPACE, PROVISION OF PASSENGER DROP- OFF AND PARKING AREAS, AND FORMATION OF A NEW ACCESS JUNCTION VIA CITY LINK ROAD. AT HEREFORD RAILWAY STATION, STATION APPROACH, HEREFORD, HEREFORDSHIRE, HR1 1BB</b>  <b>For: Mr Butterworth per Mr Luqmaan Kholwadia, 63 St Thomas Street, Bristol, BS1 6JZ</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=233009&amp;search-term=233009">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=233009&amp;search-term=233009</a>

**Reason Application submitted to Committee – Council Application**

**Date Received: 10 October 2023      Ward: Widemarsh      Grid Ref: 351463,240560**  
**Expiry Date: 3<sup>rd</sup> May 2024**  
 Local Members: Cllr Polly Andrews

**1. Site Description and Proposal**

1.1 The application relates to an elongated parcel of land totalling 1.83 hectares which is sandwiched between the A465 city link road to the south west and the railway corridor to the north east (as shown by the red line plan in Figure 1). The site can broadly be broken down into the three zones. The largest of this is the central area which forms the forecourt to Hereford Railway station and is currently occupied by car parking and drop-off areas, large areas of hardstanding and un-kept scrubland. The red line for the proposal site also takes in the NCP car park which is associated with and located to the south east of the station building, behind the Cityheart Living Student Accommodation building. The red line also extends to the north west between the Station Medical Centre and MFA Bowl to include a parcel of land which is currently utilised as a Network Rail storage depot.



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

1.2 The application is made in full and seeks permission for the development of a Transport Hub on land adjacent to Hereford Railway Station. The project can be broken down into the following elements:

- The creation of a drive-in / reverse-out (DIRO) bus interchange with capacity for four bus spaces on land between the station building and the Station Medical Centre. This will include the associated erection of a 4.5 metre high L-shaped external canopy shelter area which incorporates an enclosed 'Hub' waiting room (featuring 30 indoor seats, 4 x toilets [2 of which accessible] and a welfare area for bus and taxi operators)
- The formation of a new access junction via the City Link Road (CLR) to the south-east of the Station Medical Centre, to serve as the exit for the DIRO bus interchange.
- The creation of three on-street bus stops along CLR, including a separate 12-seat weather protected glazed screened area for waiting passengers.
- The provision of a bus layover space with capacity for five bus spaces on land to the north west of the Station Medical Centre, currently used a depot for Network Rail.
- The provision of a 'drop off' area to the fore of the station building off Station Approach, to include parking provision for 6 x taxi spaces and 7 disabled access spaces. It is noted that this area had previously included provision for general 'drop off' and short stay spaces – however the plans have been amended as part of the application process to make provision for this in the car park to south east of the station operated by National Car Parks (NCP)
- Improvements to the public realm forecourt area between the station building and the CLR, including the provision of 144 cycle storage spaces (66 covered and 78 uncovered), real-time passenger information boards, Beryl Bike stands, seating areas, public space, rain gardens and landscaping.
- Minor layout amendments to the parking arrangements of the NCP car park retaining the existing level of provision and minor amendments to Network Rail staff parking to the north west of the station building.

1.3 In addition to the proposed plans, the application is supported by:

- Planning Statement
- Design and Access Statement
- Ecological Impact Assessment
- Habitats Regulations Assessment
- Heritage and Townscape Assessment
- Transport Assessment
- Flood Risk Assessment
- Drainage Strategy
- Geotechnical and Geo-environmental Desk Study Report
- Preliminary Ecological Appraisal
- Equality Impact Assessment

Amended Plans Submission March 2024

- Additional Cover Letter– Amended Plans and Consultee Response Summary
- Cover Letter – Response to Active Travel England Comments
- Drainage Strategy Addendum

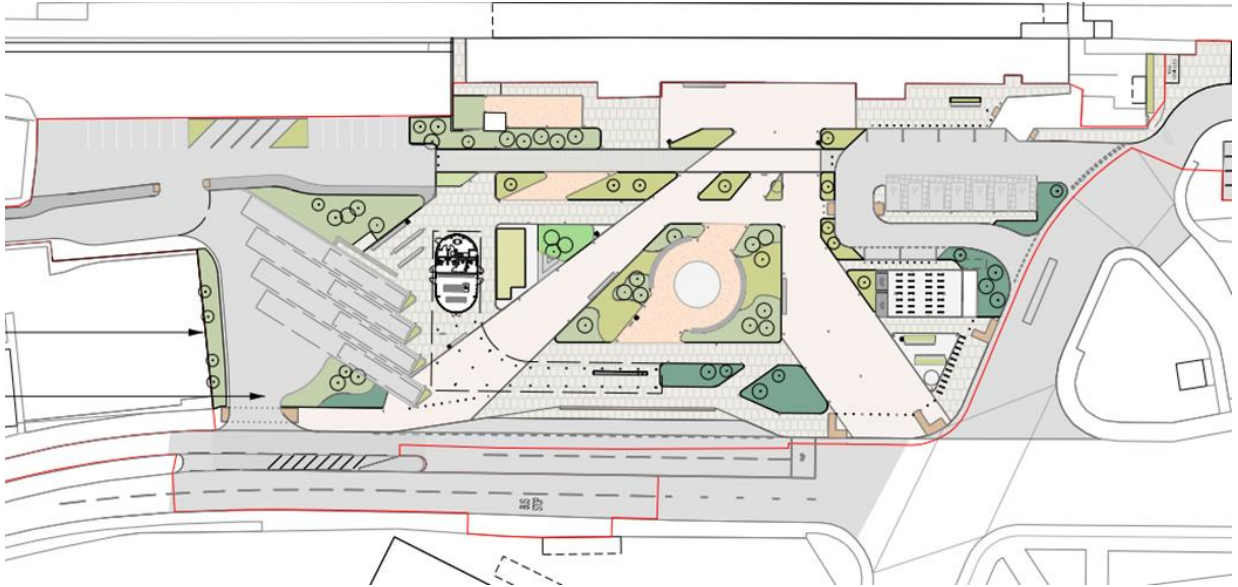
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Further information on the subject of this report is available from Mr Adam Lewis on 01432 383789

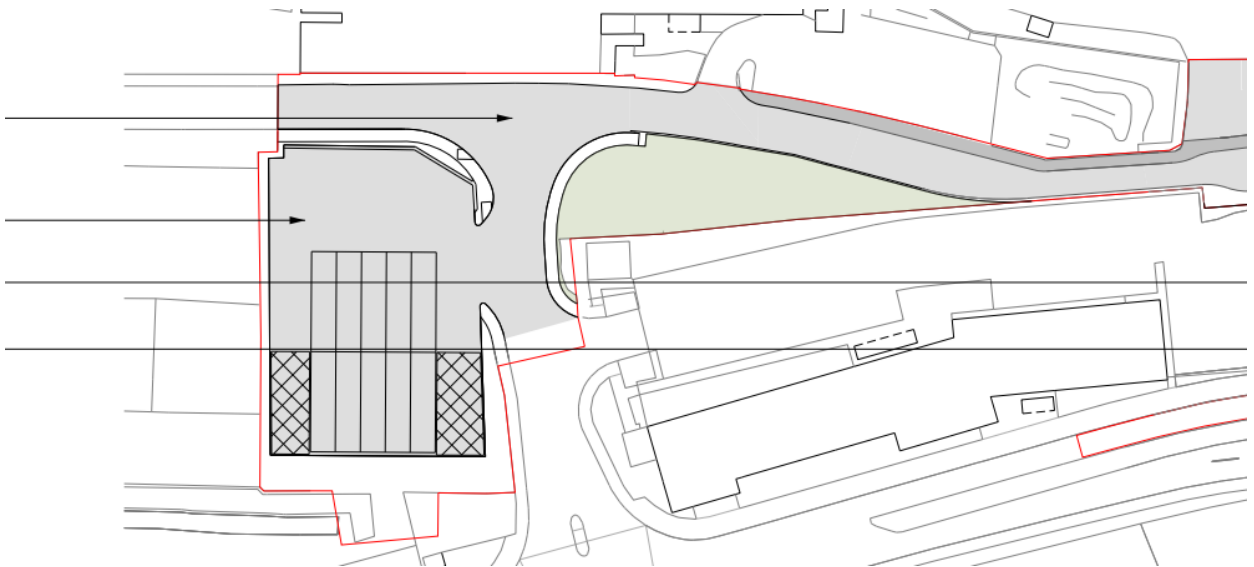


1.4 The proposed plans are shown below:

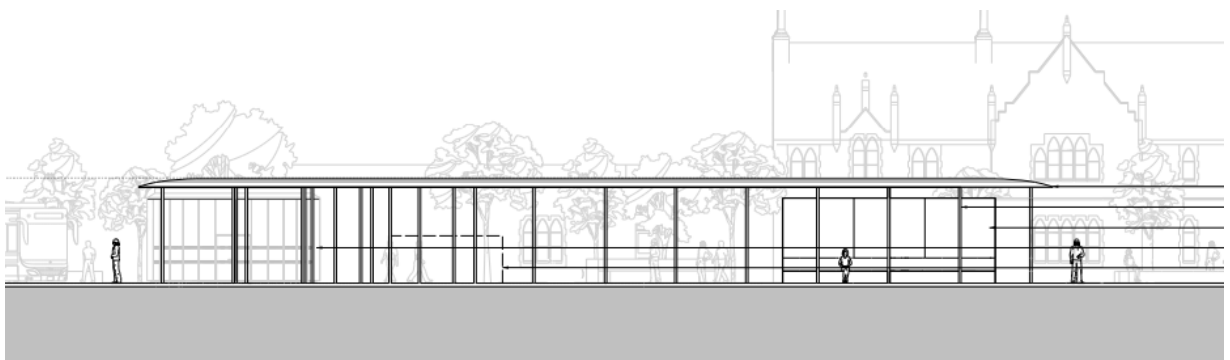
**Figure 2 - Proposed Site Plan – Central Section**



**Figure 3 – Proposed Site Plan – North West Section (Layover Space)**



**Figure 4 – Proposed Shelter – South West (CLR) Elevation**



- 1.5 The application is referred to Committee on the basis that Herefordshire Council is the Applicant. The project forms part of the Herefordshire Council City Transport Package which was first developed in 2012 and includes an integrated programme of measures to regenerate this part of the city, which has included the delivery of the City Link Road. The provision of a Transport Hub forms part of this package and seeks to improve links between the railway station and the rest of the city, whilst also regenerating underutilised brownfield land. The delivery of the works will be achieved utilising Levelling Up funding.

## 2. Policies

### 2.1 Herefordshire Local Plan – Core Strategy 2015

The following policies are considered to be of relevance to this application:

SS1	-	Presumption in Favour of Sustainable Development
SS4	-	Movement and Transportation
SS6	-	Environmental quality and Local Distinctiveness
SS7	-	Addressing Climate Change
HD1	-	Hereford
HD2	-	Hereford City Centre
HD3	-	Hereford Movement
HD7	-	Hereford Employment Provision
MT1	-	Traffic Management, highway safety and promoting active travel
E1	-	Employment Provision
E4	-	Tourism
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and geodiversity
LD3	-	Green Infrastructure
LD4	-	Historic Environment and Heritage Assets
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Waste Water Treatment and River Water Quality
ID1	-	Infrastructure Delivery

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

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

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

### 2.2 The National Planning Policy Framework (2023)

1. Introduction
2. Achieving sustainable development
4. Decision-making
6. Building a strong, competitive economy
7. Ensuring the viability of town centres

8. Promoting healthy and safe communities
9. Promoting sustainable transport
11. Making efficient use of land
12. Achieving well design places
14. Meeting the challenge of climate change, flooding and coastal change
15. Conserving and enhancing the natural environment
16. Conserving and enhancing the historic environment

The full National Planning Policy Framework can be viewed through the following link;

[https://assets.publishing.service.gov.uk/media/65a11af7e8f5ec000f1f8c46/NPPF\\_December\\_2023.pdf](https://assets.publishing.service.gov.uk/media/65a11af7e8f5ec000f1f8c46/NPPF_December_2023.pdf)

- 2.3 The Council is currently in the process of preparing a new Local Plan. The Draft Herefordshire Local Plan (Regulation 18) has been published for consultation between 25 March 2024 and 20 May 2024. At this point in time, the policies of the emerging plan attract minimal weight.

### 3. Planning History

- 3.1. The Applicant submitted a request for an environmental screening opinion pursuant to Regulation 6 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the Regulations) to the LPA in March 2023 (LPA ref: P230835/EIA). The LPA's response of 29th March 2023 indicated that it took the view that significant environmental effects are unlikely to arise and hence it adopted the opinion that the development proposed is not EIA development as defined in the 2017 Regulations.

PLANNING REFERENCE	DESCRIPTION	DECISION	DATE
P230835/EIA	Request for Screening opinion for the creation of a new transport hub in and around the existing station quarter at Hereford Railway Station – EIA Screening	Environmental Statement not required	31 <sup>st</sup> March 23

- 3.2 The following planning applications are relevant to the immediate environs of the station:

PLANNING REFERENCE	DESCRIPTION	DECISION	DATE
CE092576/F	Demolition of existing buildings and construction of new highway, cycleway, drainage, landscaping and associated works between the A49 (T) Edgar Street and A465 Commercial Road, Hereford, along with a new road link to Unclassified Road 80332 Blackfriars Street and U80335 Canal Road, a new junction with Widemarsh Street and associated highway improvement works including to the junction of the A49(T) Edgar Street and B4359 Newtown Road and the junction of A465 Aylestone Hill and C1127 Barrs Court Road, Hereford.	Approved with Conditions	30 <sup>th</sup> March 2010
P181583/CD4	Proposed new health centre (use class D1) including ancillary pharmacy (use class A1), access, parking, landscaping and associated works.	Approved with Conditions	18 <sup>th</sup> October 2018

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

P183841/CD4	Hybrid application including a full application for student accommodation, comprising 178 no. Bedrooms, including hard and soft landscaping and an Outline application for a standalone ancillary commercial element	Approved with Conditions	15 <sup>th</sup> February 2019
P211047/F	Land at Underwoods Steel (North west of current proposal site) - Demolition of existing buildings and redevelopment of the site to include the erection of three buildings to provide student accommodation (Sui-Generis), landscaping, car parking, space for future reinstatement of canal and associated works (revised proposal)	Approved with Conditions (inc contributions to restored canal basin)	March 2023

The following applications are applicable to the station itself:

REF	DESCRIPTION	DECISION
P222746/L	Proposed removal of existing canopy lighting at Hereford Railway Station and replace with new LED lighting.	Granted on 6 October 2022 subject to planning conditions.
P222485/L	Proposed installation of 7mm cable to front elevation.	Granted on 9 September 2022 subject to planning conditions.
P220906/L	Proposed renewal, replacement and Installation of CCTV cameras.	Granted on 23 April 2022 subject to planning conditions.
P212396/L	Proposed removal of existing lighting units and cabling from under canopied replace with new Linear LED lighting units and new cables.	Granted on 22 September 2021 subject to planning conditions.
P201196/L	Proposed replacement ticket vending machine in the booking hall and to add new one to platform 3.	Granted on 1 June 2020 subject to planning conditions.
P200595/L	The proposed application for the installation of an ATM to be installed through the disused doors to the far right past the main entrance to the ticket office.	Granted on 24 March 2020 subject to planning conditions.
P200594/F	The proposed application for the installation of an ATM to be installed through the disused doors to the far right past the main entrance to the ticket office.	Granted on 2 April 2020 subject to planning conditions.
P200596/A	Integral illumination and screen to the ATM fascia. Internally illuminated Free Cash Withdrawals sign above the ATM.	Granted on 2 April 2020 subject to planning conditions.
P182335/L	Proposed internal refurbishment of public toilets located on platforms 1/2 and 3.	Granted on 2 August 2018.
S123160/L	Remove existing 19inch TFT Customer Information Screen (CIS) from the booking hall area and install a new 32inch CIS screen on the adjacent wall and additional CIS screen for platform 3.	Granted on 19 December 2012 subject to planning conditions.
S122492/L	Proposed erection of lifts to and refurbishment of the existing footbridge and associated minor works.	Granted 9 October 2012.
S103268/L	Refurbish internal areas of booking hall, ticket office to incorporate DDA ticket counter and staff toilet, also refurbish waiting room on platform 2 and existing public toilets on both platforms to enable DDA standard toilets to be installed within the current toilet areas.	Granted 10 January 2021 subject to planning conditions.

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

#### 4. Consultation Summary

STATUTORY CONSULTEES					
	CONSULTED	NO RESPONSE	NO OBJECTION	QUALIFIED COMMENT	OBJECT
Welsh Water	X		X		
Natural England	X		X		
Historic England	X		X	X	
Network Rail	X		X	X	
Canal and River Trust	X			X	
INTERNAL CONSULTEES					
Area Engineer (Highways)	X		X		
Landscape	X		X		
Ecology	X		X		
Building Conservation	X		X		
Archaeology	X		X		
EHO – Contaminated Land	X		X		
Land Drainage	X		X		
Strategic Planning	X		X		
EXTERNAL REPRESENTATIONS					
Active Travel England	X		X	X	
Hereford City Council	X				X
Hereford Civic Society					X
Hereford and Gloucester Canal Trust	X				X
H&W Fire and Rescue	X	X			
Hereford Wildlife Trust	X	X			
Site / Press Notice	X			x3	X5

#### 4.1 STATUTORY CONSULTATIONS

##### 4.1.1 Natural England – No Objection

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of River Wye Special Area of Conservation <https://designatedsites.naturalengland.org.uk/>.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured:

- Mitigation measures need to be secured as set out in the Appropriate Assessment. We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

European site - River Wye SAC - No objection

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

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered

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

the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

River Wye SSSI – No objection

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

#### 4.1.2 **Historic England – No Objections**

The application seeks a series of public realm improvements and the creation of a transport hub at the Grade II listed Railway Station, near the site of a former canal basin quickly superseded by the railways.

Historic England has no objection to the proposals which provide a welcome opportunity to improve connectivity between the station and the city centre, and to enhance the immediate setting of the Railway Station. We defer to your Landscape and Conservation Officers to oversee the detail and quality of materials and finishes in this key arrival point into the city.

Recommendation: Historic England has no objection to the application on heritage grounds. Your authority should take these representations into account in determining the application. If there are any material changes to the proposals, or you would like further advice, please contact us. Please advise us of the decision in due course.

#### 4.1.3 **Network Rail – No Objections / Standing Advice**

Network Rail has no objections in principle to the above works.

SAFETY - Any works on this land will need to be undertaken following engagement with Asset Protection to determine the interface with Network Rail assets, buried or otherwise and by entering into a Basic Asset Protection Agreement, if required, with a minimum of 3months notice before works start. Initially the outside party should contact [assetprotectionwales@networkrail.co.uk](mailto:assetprotectionwales@networkrail.co.uk).

PLANT, SCAFFOLDING AND CRANES - Any scaffold which is to be constructed adjacent to the railway must be erected in such a manner that, at no time will any poles or cranes over-sail or fall onto the railway.

#### 4.1.4 **Welsh Water – No Objections**

Initial Comments 9<sup>th</sup> November 2023:

SEWERAGE - We can advise that Eign WwTW has a phosphate permit this matter will need to be considered further by the local planning authority. Notwithstanding this we can confirm capacity exists within the public sewerage network in order to receive the domestic foul only flows from the proposed development site. Turning to surface water, having reviewed the submitted proposed Drainage layout drawing number DR-C-000001 P04 and drainage strategy it is shown a number of options have been considered for surface water discharge. Dwr Cymru Welsh Water has no objection to the northwestern section of the site which is proposed to discharge to a water course however advise that the applicant seeks advice from the environment Agency and the Building Regulations Authority as both are responsible to regulate alternative methods of drainage. It seems there is no defined discharge destination for surface water from the central section of the site with two options being suggest in the drainage strategy, with option A suggesting a connection to the combined public sewer and option B suggesting a connection to

the public surface water sewer. We are not in a position to agree any surface water into the combined public sewer and advise that a connection to the surface water public sewer outlined in option B in the drainage strategy is fully explored, we recommend a connection should be made to the 600mm surface water public sewer between location 351495,240455 and manhole reference SO41405402. We therefore request that a Holding Objection is placed on this application at this time until a revised drainage strategy and drainage layout has been provided in line with the above mentioned, we request that we are re-consulted once this has been submitted.

POTABLE WATER SUPPLY - Capacity is currently available in the water supply system to accommodate the development. We reserve the right however to reassess our position at planning application stage to ensure there is sufficient capacity available to serve the development without causing detriment to existing customers' supply as demands upon water systems change continually.

#### Further Comments – 16<sup>th</sup> April 2024

The amended drainage addendum and proposed drainage drawing reference DR-C-000001 P06 has removed the option of discharging to the combined sewer and now shows the proposal to discharge surface water into the surface water public sewer.

Dwr Cymru Welsh Water are therefore in support of the proposed surface water strategy and advise that our Holding Objection can be removed.

Notwithstanding this, we would request that if you are minded to grant Planning Consent for the above development that the **Condition** and **Advisory Notes** listed below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

#### 4.1.5 **Canal and Rivers Trust**

The Canal and River Trust do not own or maintain any waterways in the vicinity of the site. It is noted that the Herefordshire and Gloucestershire Canal Trust have previously commented on this application. Please ensure that they are re-consulted to allow them to provide further comments on any impact on the Herefordshire and Gloucestershire Canal.

#### 4.2 INTERNAL COUNCIL CONSULTATIONS

##### 4.2.1 **Transportation Manager - No Objections**

#### Initial Comments 15<sup>th</sup> November 2023 (Further Information Required)

1. It is understood that a Stage 1 Road Safety Audit has been undertaken, however, one of the points raised by the Auditor concerns the need for a 'real life' demonstration/trial of the operation of the bus bays and bus manoeuvres. The LHA understand that this is to be undertaken in the next week, therefore, the following comments are also subject to the acceptability of this trial. The LHA is also unable to sign off the RSA until the trial has been undertaken.
2. Visibility splays have been demonstrated on submitted plans, however, the splay for the access into the Bus Layover has not been provided. This should be demonstrated on a plan. In addition, the junction immediately north of the Bus Layover with the access road to MFA Bowl as well as the staff car park and the DIRO bays has not been provided with sufficient visibility splays. The splays should measure 2.4m x 43.
3. The narrowed section of carriageway immediately north-west of the staff car park is too wide to prevent two-way vehicle movements. This section should be narrowed from 4.1m to 3.5m if possible, whilst still being able to accommodate bus manoeuvres.



4. There are too many manoeuvres on the plan demonstrating the swept path analysis of a coach using the DIRO bays. Would it be possible to be provided with the CAD version of the plan please to understand the manoeuvres properly? From looking at the mass of manoeuvres shown there is an area of dead space which should be removed (shown in yellow on screenshot below). It was also agreed during pre-app discussions that due to the access road only be used by the buses using the DIRO bays that the access road could be used for reversing manoeuvres but the tracking indicates that this isn't utilised to its full extent (although this can be confirmed upon sight of the CAD plan), therefore further redundant dead space may become apparent.
5. The cycleway along the City Link Road should be a consistent 3.5m in width and comprise of one surface material (there are a number of surface materials in the vicinity of the bus layby – see screenshot below). Machine laid tarmac defined with an edging kerb at the back should be used throughout. Bollards appear to narrow the cycleway which isn't acceptable (see screenshot below – yellow highlighted area).
6. During pre-app discussions it was proposed to relocate all of the drop-off bays into the NCP car park and provide a free 15 minutes duration of stay, however, it is noted that a few bays have been provided in the area immediately in front of the station entrance. Without seeing the car parking/drop-off survey undertaken it is difficult to understand what level of drop-off provision is required. If enough isn't provided in front of the station entrance this could result in vehicles driving into the drop-off area, not finding a space to park and just stopping in the carriageway and blocking the road for others and causing a queue back out onto Station Approach. The survey data should be provided in order to establish whether the spaces provided are enough or whether all drop-off should be provided in the NCP car park.
7. Junction modelling has been undertaken and the results show that all junctions operate well within capacity. The PICADY/LINSIG outputs have not been included within the TA for checking, these should be provided. Concern was raised by both the LHA and the RSA Auditors about buses turning right out of the exit only junction by the DIRO bays onto the City Link Road and whether capacity/traffic flows would allow this manoeuvre to be undertaken relatively easily. The modelling undertaken indicates that this will not be an issue, although it would be advisable for yellow box junction markings to be put on the City Link Road at the junction to ensure queuing does not prevent buses from turning out onto the City Link Road at peak times.
8. Cycle parking is to be provided throughout the site. There will be a small element of covered cycle parking, however, the majority is to be uncovered. Ideally all cycle parking would be covered, however, following discussions it is understood that most cycle parking is uncovered so as not to impact on the heritage status of the station building, therefore the LHA is accepting of the position regarding covered cycle parking.

#### Further Comments 12<sup>th</sup> April 2024

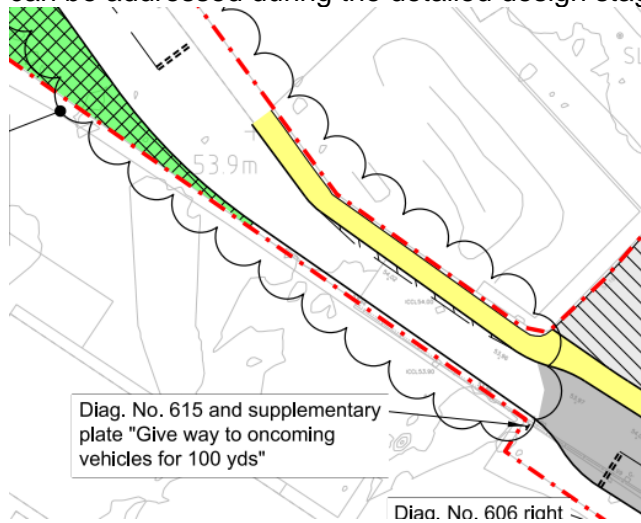
The local highway authority (LHA) has the following comments:

- There is a need to protect the visibility splay highlighted in yellow in screenshot below – a solution could be to define the splay with a fence to ensure it isn't encroached upon. This can form a condition of planning consent should it be granted.

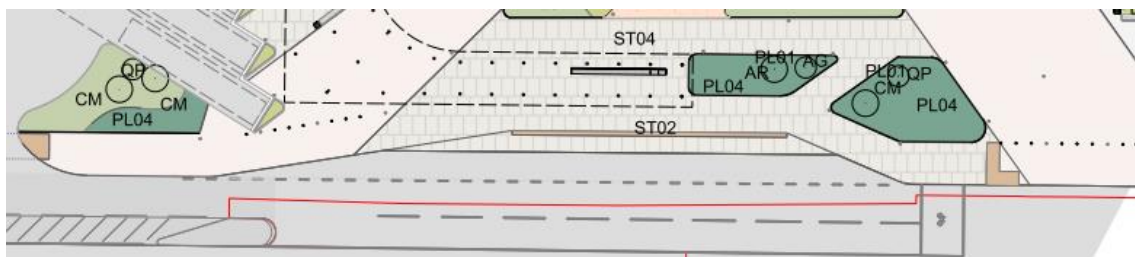




- The hatching within the narrowing should be kerbed to ensure two-way movement is prevented. The tracking for a coach demonstrates that the hatched area isn't needed. This can be addressed during the detailed design stage.



- Cycleway – To clarify, the preference is for a 3.5m machine laid tarmac unsegregated route consistent with the existing route and delineated at rear with an edging kerb. The proposed variety of surfaces as shown below is not considered to be acceptable and will confuse cyclists, it is also not consistent with the requirements of LTN1/20. The type of surfacing of the cycleway could form a condition of planning consent should it be granted.



- There are concerns that the paving type and specification currently proposed on the submitted plans will result in long term maintenance issues which will fall to the POS/PR contract. Sand jointed paving will be regularly mechanically swept which will remove joints. It is understood that since the plans were submitted a sealed surface is proposed and this would be considered to be acceptable.
- Signage would be required to reinforce the drop-off areas. This can be dealt with at detailed design stage.

- During the detailed design stage the police should be consulted over the requirement for yellow box road markings on the A465 at the location of the exit for the DIRO.

To conclude, the LHA has no objection to the application subject to the below conditions.

Conditions: CAB (as per Arup drawing 964-ARP-HGN-ZZ-DR-C-000002 Rev P05), CAE, CAJ, CAP (to include cycleway surfacing details), CAQ, CAR, CAT

Informatives: I11, I09, I45, I08, I07, I05, I43, I14, I16, I49, I54, I51, I35

#### 4.2.2 **Environmental Health (Contaminated Land) – No Objections subject to Conditions**

Further to our previous comments of November 2023 (which echoed those of our EIA advice of April 2023), the applicant has subsequently submitted the following desk study report:

"Hereford Station transport Hub, Geotechnical and Geo-environmental Desk Study Report." Prepared by Arup, Job No: 287750, Ref:TBC, File Ref:4-50, Dated 19th August 2022.

Whilst not particularly sensitive in its nature, the report recognises that some intrusive works and assessment are required to ensure risks are understood and mitigations put in place where necessary. It concludes that potential risks, albeit limited, from ground gases and exposure to elevated metals and other contaminants have been identified for further investigation. We would not disagree with this recommendation but recommend that particular attention is given to the most up to date design proposal to ensure soft landscaping and planted areas (if/where present) are included specifically as part of the sampling programme.

As such, the condition below should be appended to any approval (See schedule of Conditions)

#### 4.2.3 **Principal Natural Environment Officer (Landscape) – No Objections subject to conditions**

In terms of landscape, the proposal is a marked improvement compared to the existing conditions, and therefore the green or park-like forecourt in front of the station is supported. The station is not central or associated with a civic place, so providing an amenity that would allow people to enjoy the station while waiting for a train is an enhancement. The design will change the perception of the station as a place or destination for the local community, particularly students. I could envisage that the café set in a park-like setting would be popular. It is understood that there are areas of open space, such as the wide approach from the cross roads, that also gives flexibility to be used for events or stalls.

The proposal aims to activate and green an important place for Hereford. It is a welcome to Hereford, and for new visitors - their first experience and impression of Hereford, so to look out onto a park-like space (that hides the industrial-scale buildings) would be positive. Looking back towards the station, the trees and landscaping would enhance the setting of the building and provide a calming and inviting sense of place. It will also provide shade in summer, and in winter the silhouettes of the trees will create an interesting contrast to the surroundings.

Of course, the quality of the experience is also linked to the quality of the landscape and maintenance, and this would be reflected in the detailed plans, specifications, and management plan.

I do have comments in relation to the trees, location, and species that I consider will improve the scheme.

1. Large trees located in the bus drop-off area should be positioned within the central part of the planters to avoid overhanging branches where buses pull in and out.

2. The apple trees are a good touch and bring a sense of local identity to the forecourt. It will be essential to get the correct rootstock (vigorous) so that the trees grow to a reasonable size. Special details, including the correct soil and root management, will be required.
3. Consider planting *Pinus sylvestris* (Scots pine) (i.e., at the bus interchange) that will grow tall and in scale with the station and provide winter greenery. A group of Scots pines with tapered forms and a relatively small canopy will address the issue of overhanging branches next to buses.
4. Consider *Ginkgo biloba* (Maidenhair Tree) and other robust and suitable trees adaptable to climate change.

The DAS indicates that the site has contaminated soil. This needs to be addressed, and suitable treatments and specifications are required to ensure the long-term success of trees and planting. This could be addressed as part of a suitably worded condition.

The following conditions are recommended:

- Standard Code: CCJ - Measures to deal with soil contamination
- Code: CK6 - Landscape Scheme

Note, some of these items may have already been prepared as part of the application, but may be updated at the point of discharge of conditions.

#### Further Comments 2<sup>nd</sup> April 2024

I have no objection to the amended plans. It is understood there are various changes in relation to highways and transport needs. This has resulted in some minor change to the landscape, but the essence of the scheme remains the same.

#### 4.2.4 **Principal Conservation Officer (Historic Buildings) – No objections**

##### Initial Comments

Hereford Railway Station is a listed building UID 1196776 included on the statutory list on 22 October 1973. <https://historicengland.org.uk/listing/the-list/list-entry/1196776>

The site lies outside a Conservation Area, but between the Central Conservation Area and the Bulmer Garden Suburb Conservation Area.

The area currently in front of the railway station is uncohesive and predominantly vehicle parking which is uninviting at the public transport entrance to the City. As such there is support in principle for the proposal.

The proposal was subject to extensive pre-planning application considerations and I note that comments and concerns raised previously appear to have been taken on board.

I note the simplification of the paving materials which is welcomed, and the use of a red clay pavior to represent the local bricks. However I would question the use of resin bond gravel which comes in a limited colour palette, and is not really representative of the geology of the area.

Whilst acknowledging that the design is contemporary which is not opposed in this location and the simplicity of the design is welcomed. However I would query the choice of colour for the roof and note that it is champagne bronze, and it is not readily apparent where the local inspiration for this colour choice comes from. The Visual 1 and 3 of 4 indicates the colour of the metal which is not considered appropriate for this location and an alternative colour of the same material is requested.

I have duly read the accompanying Heritage and Townscape Assessment and would generally concur with the findings. I would consider that the lightweight minimal touch design to be appropriate in this location and offer views through that will be inviting.

Section 66 of The Planning (Listed Building and Conservation Areas) Act 1990 places a duty on Local Planning Authorities "In considering whether to grant planning permission or development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses".

Given the use of the listed building as a functioning railway station, I would not consider that the principle of the proposal as submitted would harm the setting of the listed building and as such I would raise no objection in terms of the setting. However in terms of the colour palette I can only repeat advice given at pre-application stage that the "contemporary canopy structure is welcomed, however care would need to be taken with the materials to utilise the colour palette of materials of the city." As such I would request re-consideration of the materials proposed to the canopy structure.

With care in materials to be a more appropriate colour palette I would consider that the proposal would satisfy Section 66 of The Planning (Listed Building and Conservation Areas) Act 1990, and Core Strategy LD4.

#### Further Comments 11<sup>th</sup> April 2024

I have viewed the response to consultee comments submitted by the agent, and I note that my concern in respect of an alternative external colour finish is now proposed to be covered by a condition. As the colour was my only concern, with an alternative colour palette to be discussed at discharge of condition stage, I would consider that the proposal would satisfy section 66 of The Planning (Listed Building and Conservation Areas) Act 1990, and Core Strategy LD4.

I also understand that there is a need for a covered cycle store which will be conditioned. Whereas we often require details prior to determination, in this instance, I would consider time to consider the different options would presents an interesting opportunity to undertake a bespoke covered cycle store that would add interest in addition to its functionality, which would be beneficial to this important gateway to the city. In this instance I would support the consideration of this by condition for the above reasons.

With the above conditions I would raise no objection to the proposal.

#### **4.2.5 Archaeology Advisor – No Objections subject to Conditions**

This site has already been considered in a number of previous desk based and fieldwork projects, and the archaeological baseline is well understood here. Also, sufficient design detail has been provided in this transport hub application to allow for a fair analysis of the level of impact on any archaeological deposits that may be present. NPPF Para 194 is satisfied.

In general, the site may justifiably be viewed as having low archaeological potential, particularly having regard to the nature of the (typically shallow) works proposed for it. However, I am conscious of the close association the south of the site has to the former - now infilled - 19th century canal basin.

I do not anticipate remains of interest relating to this or other heritage assets really being at risk here, but it cannot be guaranteed that there will be no impact on such items of interest. Accordingly, I would suggest that a precautionary archaeological condition (Standard Condition C48) be employed, to enable suitable recording under Para 205 of the NPPF.

As would be usual and expected for an application of this nature, I will defer to any comments on townscape, setting etc. that colleagues in conservation and landscape wish to make.

#### 4.2.6 Conservation Manager (Ecology) – No Objections

The following has been reviewed:

- PEA written by ARUP dated July 2023
- Bat Emergence Survey Report dated October 2023
- Otter Survey results report dated August 2023
- Reptile Survey report dated August 2023
- Bird survey report dated August 2023

Habitats: In the Preliminary Ecological Appraisal, Arup describe the site as being approximately 1.6ha consisting of the forecourt of the station, car park area at the east and a parcel of brownfield land. They note pockets of modified grassland and a recently planted beech hedge, which is species poor and defunct. There are also areas of bramble scrub. At the east of the site is Widemarsh Brook Local Wildlife Site (S)INC, which is described as being around 2m wide with dense scrub on the banks and bordered by industrial and hardstanding. Widemarsh Brook is hydrologically linked to the River Wye SAC. There are several buildings on site, three small utilities buildings around the station car park and six within the brownfield, four of which are Portacabins.

Bats: Within the bat emergence survey report it is noted that the habitats on site offer opportunities for foraging bats as invertebrates are likely to be abundant due to the scrub areas. Widemarsh Brook was also noted to be a good commuting feature for bats. Six buildings were subject to three dusk surveys with July 2023. No bats were recorded emerging from any building within these surveys. However, common pipistrelle, soprano pipistrelle and noctule bats were recorded commuting and foraging across the site. Due to the suitability of the site for bats, any works should follow a Reasonable Avoidance Method Statement. In order to enhance the site for biodiversity roosting opportunities should be erected on site and any lighting should be sensitive to commuting and foraging bats.

Otters: The PEA states that Widemarsh Brook is potentially an important commuting route for otter, a species for which the River Wye SAC is designated for. The dense scrub bordering the brook also has potential to support resting and/or breeding otters. During the otter survey no evidence of otters was recorded, however, it is noted that resting opportunities may be present in the inaccessible areas of dense vegetation on the banks of the brook. It is concluded that, overall, the site has low suitability for otters due to anthropogenic disturbance, limited food sources and negligible potential habitat to support holts. It is still possible that the area could be used by otters for resting and commuting. All works should follow a Reasonable Avoidance Method Statement and otters must be included as a specific consideration within the Construction Environmental Management Plan for the proposed new surface water discharge and headwall construction into the brook. (Required as part of HRA as otters are a SAC species).

Water vole: There were no records within 2km. It is possible Widemarsh Brook has the ability to support water vole, although it is noted that is limited foraging resource for this species and therefore presence was considered unlikely.

Badger: Arup state there was no evidence of badgers at the site

#### Hazel dormouse

Arup state there are no records within 2km. Due to lack of connectivity or suitable habitats it is considered that this species is not present on site.

Other mammals: Arup note that there are records of polecat from 2015 but advise the lack of suitable habitats on site for this species. It is noted that there is potential for foraging, resting and breeding hedgehogs and this species should be considered with appropriate precautionary working measures

Birds: The habitats on site are suitable to support breeding birds. The bird survey notes the presence of House Sparrow, a BoCC red list species and also within schedule 41 of the NERC act. 14 species were observed in total including four amber list species and nine green list species. Clearance works should be undertaken outside of bird nesting season and appropriate precautionary approach at all times during construction. Nesting opportunities should be provided in order to enhance the site for biodiversity.

Reptiles: The habitats on site are noted to be suitable for reptiles both foraging and basking. There is potential for slow worn, common lizard and grass snake to be present. Arup survey the two areas with suitable habitat for reptiles, describing one as being approx. 0.17ha, the second as approx. 0.3ha. A third area was surveyed as a potential site for translocation of reptiles if required. No reptiles were recorded on site although it is noted that low numbers of individual reptiles is still possible and if 5 or more reptiles are found during site clearance further mitigation will be required. It is recommended works are undertaken following a Reasonable Avoidance Method Statement.

Amphibians: The site was assessed for suitability for great crested newts. It is stated that the site is unlikely to support GCN due to lack of standing waterbodies, however brook could support common toad. Appropriate precautionary approach to all construction works should be implemented.

Fish: There are records of European eel in 2019. Widemarsh Brook connected to River Wye SAC therefore may be used for fish passage to spawning habitats. Widemarsh Brook may be of importance for migratory species that are features of the SAC designation. All works should follow a Reasonable Avoidance Method Statement and all fish species must be included as a specific consideration within the Construction Environmental Management Plan for the proposed new surface water discharge and headwall construction into the brook. (Required as part of HRA as potential fish species are either protected and/or are a SAC species).

Aquatic Invertebrates: Arup note that Widemarsh Brook has poor water and a silt substrate. This would likely affect the waterbody's suitability to support white clawed crayfish, however, other aquatic invertebrates are likely present. Widemarsh Brook may be of importance for commuting of Crayfish species that are protected species and a feature of the SAC designation. All works should follow a Reasonable Avoidance Method Statement and Crayfish must be included as a specific consideration within the Construction Environmental Management Plan for the proposed new surface water discharge and headwall construction into the brook. (Required as part of HRA as Crayfish species are either protected and/or are a SAC species).

## HABITAT REGULATION ASSESSMENT

A 'shadow' Habitat Regulations Assessment (sHRA) has been supplied ref 964-ARP-EGN-ZZ-RP-OE-000001 dated 12<sup>th</sup> October 2023. The council recognises this HRA and adopts it as part of its own HRA Appropriate Assessment.

- Foul Water

No new facilities creating any 'residential' or other significant foul water flows are proposed as part of the proposed development and no likely adverse effects are identified and this potential effect can be considered as 'screened out' from any further assessment through the HRA process.

- Surface Water

The site is predominantly existing impermeable surface or compacted brownfield – the proposed development is not identified as creating any significant new or additional foul water flows.

All new and existing surface water will be managed through appropriate designed Sustainable Drainage System that will incorporate relevant features to capture and remove potential pollutants (eg from highway run-off). The SuDS will also ensure all surface water flows are subject to appropriate managed flow discharges to manage peak flow events and reduce existing discharge to the combined sewer network.

Surface water from the central area will be discharged to the Welsh Water public surface water sewer, it is proposed there will be a 30% betterment than existing surface water runoff rates by the use of SuDS features. Welsh Water have not objected to this discharge.

It is proposed to discharge the north-west parcel to Widemarsh Brook via an outfall headwall. A series of gullies and linear drainage channels will be used to collect surface water, flows will then be transmitted to below ground cellular storage units and restricted to GRR.

- Construction or Demolition processes – General Site

The possibility of polluting substances including sedimentation will be mitigated through general site best practice pollution prevention measures and management, implemented via general Construction Environmental Management Plan (CEMP) – to consider all potential environmental and ecological impacts and secure appropriate mitigation and risk reduction measures for all site preparation and construction processes. The general site CEMP will be secured through condition.

- Construction processes – Works Adjacent or within Widemarsh Brook (Drainage Headwall and associated works)

As identified the works to construct a new headwall and surface water discharge point into the Widemarsh Brook could impact and affect habitats and species associated with the River Wye SAC that it is hydrologically connected to. There is also potential for pollution events during construction and use of equipment and cement products within the brooks channel/banks. There are also potential biosecurity measures required to ensure machinery and operatives do not transfer any biological pathogens.

A specific Construction Environmental Management Plan for all works in and around the Widemarsh Brook and consideration and proposed mitigation measures in respect of the additional environmental and ecological effects these specific works create. This ‘aquatic’ CEMP can be secured by condition on any planning permission granted.

- Protected species impacts

The general CEMP, in particular the additional dedicated ‘aquatic’ CEMP to cover works in and around Widemarsh Brook will ensure that any potential adverse effects on the habitats or species associated with the SAC designation, other protected species and general ecological interests are considered and appropriate mitigation measures implemented. The CEMP process does not preclude the statutory ecological protection afforded by the Wildlife & Countryside Act that lies over and above any planning regulatory functions, with any breach being a matter for the police to investigate.

- In-combination

Subject to appropriate mitigation measures there should be no affects 'alone' from the proposed development. A single application for a new industrial unit 150m north-west of this proposal. However the industrial unit is separated from Widemarsh Brook by the railway line and this development meaning there is a lack of connectivity and therefore no effect is anticipated in-combination with the proposed development.

#### 4.2.7 Land Drainage Engineer – No Objections

##### Initial Comments 10<sup>th</sup> November 2023:

###### *Fluvial Flood Risk:*

Review of the Environment Agency's Flood Map for Planning (Figure 1) indicates that the site is partially located within the medium probability Flood Zone 2 and close to a Flood Zone 3.

As the proposed development is located within Flood Zone 2, in accordance with Environment Agency standing advice, the planning application has been supported by a Flood Risk Assessment (FRA) undertaken in accordance with National Planning Policy Framework (NPPF) and its supporting Planning Practice Guidance. The Planning Practice Guidance to NPPF states that non-residential transport development is to be considered as 'less vulnerable' development. With reference to Table 2, 'less vulnerable' development would be considered appropriate in Flood Zones 1, 2 and 3a. No development would be considered acceptable in the functional floodplain Flood Zone 3b.

When the Yazor Brook Flood Alleviation Scheme is operational, modelling confirms that the majority of the site remains flood free. We agree that the flood risk to the site is low and that the provision of safe access and egress from the site, away from flood risk can be provided.

###### *Surface Water Flood Risk*

Review of the EA's Risk of Flooding from Surface Water map indicates that the site is in an area at risk of surface water flooding. The risk is not considered to increase as a result of the development as the site is existing hardstanding. It is proposed to manage the surface water risk as part of the site development.

###### *Surface Water Drainage*

Following the surface water drainage hierarchy, a discharge to ground has been discounted due to contamination risk associated with made ground.

The Applicant proposes to discharge surface water runoff from the North-Western parcel of the development into the former route of Widemarsh Brook. Land Drainage understands that when the A465 link road was constructed, Widemarsh Brook was diverted and that this section of brook is no longer a functioning part of the watercourse. We assume that this former route is still an open ditch and any surface water discharged into it would flow without restriction into Widemarsh Brook.

200m<sup>2</sup> of geocellular storage crates at 0.6m are proposed to provide attenuation prior to a restricted discharge of 2 l/s via a 61mm hydrobrake. We request that the hydrobrake is upsized to a minimum of 75mm to avoid the risk of blockage. If this results in an increase discharge rate, then this would be accepted.



Surface water runoff from the Central area of the development will be discharged into the Welsh Water public surface water sewer, which they have confirmed is acceptable, at a 30% betterment on existing surface water runoff rates. We have no objections to a surface water discharge to the public surface water sewer, however as part of the surface water drainage strategy revisions, the Applicant should note the following:

- If this area is proposed for adoption, then two attenuation crates will be required. One to accommodate a 1 in 30 year storm event and the other a 1 in 100 year storm event. Currently only one, 220m<sup>2</sup> area is proposed, with a discharge rate of 16 l/s via a 169mm hydrobrake.
- A weir manhole will be required.
- The Applicant should confirm the level of the receiving public surface water sewer.

The South-Eastern parcel of land (NCP carpark) will continue to drain of existing.

#### *Foul Water Drainage*

As there is a foul public sewer within 30m of the proposed development site, a connection onto the foul public sewer must be sought. Welsh Water have confirmed that there is capacity to accommodate additional flows.

Overall - HOLDING OBJECTION – Subject to receiving revised surface water drainage drawings and calculations, in line with the above comments and Welsh Water’s response.

#### FINAL COMMENTS 11<sup>TH</sup> APRIL 2024

We are happy to provide a NO OBJECTION response in relation to Land Drainage matters for the above planning application. This will be subject to conditions which include the submission of the drainage survey which has been proposed and submission of the surface water drainage strategy which will be confirmed upon the survey results.

#### 4.2.8 **Strategic Planning – No Objection**

Thank you for consulting Forward Planning on the above application. We register no objections to the proposal. It delivers on a key element of the transport strategy for Hereford in the adopted Core Strategy 2011-2031, as outlined in policy HD2 concerning the city centre:

*The urban village will be complemented by other uses and infrastructure forming part of the wider regeneration area creating a sustainable mixed use development which respects and where possible enhances the historic environment. These include the following: ...*

- *Herefordshire Council in partnership with public transport operators will deliver an integrated transport interchange close to the railway station to maximise opportunities for sustainable travel;*

Whilst the Core Strategy is to be replaced by the forthcoming emerging Local Plan 2021-2041, the proposal would still accord fully with the broad aspirations and principles of maximising opportunities for sustainable travel and decarbonisation likely to be taken forward.

#### 4.3 EXTERNAL REPRESENTATIONS

##### 4.3.1 **Active Travel England – No Objection / Conditional Approval Recommended**

#### Comments 12<sup>th</sup> April 2024:

Notice is hereby given that Active Travel England’s formal recommendation is as follows:

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

Conditional approval: ATE recommends approval of the application, subject to the agreement and implementation of planning conditions and/or obligations as set out in this response.

## 1.0 Background

Active Travel England welcomes the further opportunity to comment on the proposals for a redevelopment of Hereford Station Forecourt to provide improved facilities including a public transport interchange, public realm, revised parking and pick-up / drop-off arrangements alongside enhanced access for pedestrians and cyclists. The following documents are submitted to the Local Planning Authority (LPA), by Arup on behalf of the applicant and are considered in this response.

- Response to Active Travel England Comments, dated 19 March 2024
- Proposed Site Plan and Section, dated 19 March 2024
- Proposed Movement Strategy, dated 16 March 2024

In its previous comments, ATE raised the following concerns around the application and the area surrounding the station:

- Trip Generation Impacts, Mode Shares Targets and Travel Planning
- Hereford City Link Road compliance with LTN1/20
- A465 Aylestone Hill
- Routes to City Centre via Commercial Road, Morrisons Car Park and Canal Road
- Proposed Cycle Parking
- Public Transport Interchange Facilities
- Pick up and Drop off movements

Each of these matters is considered in turn below in respect of the above response and the revised drawings that have been submitted.

## 2.0 Areas of Concern

### Trip Generation Impacts, Mode Shares Targets and Travel Planning – Condition Required

The content of the response note on this matter is acknowledged. While Herefordshire Council (HC) will be expected to be informed of the progress of a Travel Plan and provide input as necessary, the establishment of the Travel Plan falls upon the station operator to orchestrate, promote and manage over time, producing monitoring reports, liaising with stakeholders and reporting these findings to HCC. Through this mechanism remedial actions (physical or promotional) will be required where targets are not met. As there are no targets until 2050, this leaves a significant void to be filled and it is strongly urged that this is resolved prior to the construction of the new forecourt facilities.

ATE therefore requests a detailed condition be applied to any consent to ensure a Travel Plan is provided prior to the completion of the works, setting out infrastructure provision, promotional activities, an action plan, mode share targets, together with a monitoring regime including remedial measures. This will need to demonstrate the necessary partnership working that will make good on the pledges of the application to become a sustainable transport hub, building upon the valuable stakeholder engagement that has taken place to date.

Hereford City Link Road, A465 Aylestone Hill & Routes to City Centre via Commercial Road, Morrisons Car Park and Canal Road

Arup's points are noted and while it is acknowledged that these locations fall outside of the red line boundary, there is a need for some synergy and complementary timing between the delivery

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

of the forecourt and the progress of infrastructure around it. In particular the Hereford City Centre Transport Package and the potential for the City Link Road (CLR) cycle route to be segregated from both pedestrians and traffic (referenced in earlier reports) in addition to the route along Canal Road which currently suffers from a poor level of provision and Commercial Road where safe facilities for cycling are currently absent.

#### Proposed Cycle Parking - Condition required

The constraints associated with providing covered cycle parking are understood in view of matters of visual amenity and ATE welcomes the increased level of covered cycle parking from 30 to 66 (of the total 114 cycle parking spaces).

These spaces (and accompanying lockers) will need to be secured by a condition referencing the submitted revised drawing on the basis that 5% of spaces are designed to accommodate non-standard cycles in line with the guidance provided in LTN1/20 Cycle Infrastructure section 5.2 (cycle types) and 11.6 (interchange facilities). The requirement for lockers to store bicycles within should also be included as part of the condition.

The comparison with similar-sized stations which have been identified as having fewer cycle parking spaces is an unhelpful barometer for a site which aims to increase active travel from the outset and in the future in line with the government's target for 50% of all journeys in towns and cities to be made by walking, wheeling or cycling. No context is provided around those stations' levels of cycle use, their surrounding infrastructure, the quality of provision, or their own ambitions for future increases in provision, and it is just as likely that a number of similar-sized stations with a greater level of cycle parking could also be found to counter this argument.

These issues emphasise and demonstrate the need for a Travel Plan monitoring and remediation regime, as it is common for uncovered facilities to remain unused, neglected and subject to crime and vandalism while the covered facilities become oversubscribed. In the event that it becomes clear that the covered facilities are insufficient in number, actions will be required to increase the level of cycle parking, rather than this to become an ongoing problem no-one is willing to address as seen at other stations. This is a situation that could be increasingly likely in the event that the off-site infrastructure being promoted by HC is delivered and segregated infrastructure is rolled out across the wider area.

#### Public Transport Interchange Facilities

ATE notes and is grateful for clarification on the accessible and inclusive nature of the bus stops and bays being promoted with regard to Real Time Passenger Information (RTPI), raised height kerbs, shelters and seating in a way that provides shelter for bus routes serving both the dedicated bays within the site as well as those passing the site on the City Link Road (CLR).

The potential for conflict between cyclists using the shared route along the northern side of the CLR and bus passengers boarding services at the on-street stop is however a matter of concern. It is most likely that if this were to become problematic this would necessitate the need for 'Cyclists Dismount' signs. ATE is keen to hear from HC how this situation can be best avoided, although this may be best addressed through a wider improvement scheme along the length of the CLR, given the concerns ATE has raised previously about shared use along this route conflicting with the guidance set out in LTN1/20.

#### Pick up and Drop off movements

ATE is grateful for the update on car-parking and circulation management with respect of pick ups and drop-offs. While not a direct active travel issue, insufficient space for taxis may blight other areas ie: pavement parking / confusion / congestion etc. The use of the NCP car park would seem sensible for other pick ups / drop offs but will need strong site management and

enforcement across the forecourt and access roads to deter inconsiderate / nuisance parking, particularly in wet weather conditions.

### 3.0 Next steps

ATE is grateful for the further information and revised drawings which alleviate a number of concerns. While there are a number of outstanding issues concerning the delivery of surrounding infrastructure and the lack of a valid station travel plan, ATE is content for conditions to be applied in respect of cycle parking and the submission of a more robust and effective Travel Plan strategy that focuses on immediate actions, promotion and monitoring post-construction that are meaningful with responsibilities identified, one of which to monitor (and increase) the level of covered cycle parking where any deficiencies are found within the current provision.

#### 4.3.2 Hereford City Council – Objection

##### Initial Response

Hereford City Council Planning Committee OBJECTS to planning application 233009.

We note the objection from a member of the public concerning the public notice plans and suggest that the attached drawings are not clear enough to warrant full consideration of all matters. In particular, the development is close to a listed building and two conservation areas and this should be properly reflected in the planning application and attention given to enhancing the listed building and the area.

Members feel four bus bays is not sufficient as it is not future proofing for a modal shift and is not encouraging sustainable transport. This undermines the Council's published policies regarding the development of public transport and its legal obligations to seek to ameliorate the climate emergency. They would like clarification on whether there are electric charging facilities at these bays to plan for when bus companies replace their diesel buses with electric buses.

From the earliest informal consultation meetings, independent consultants including Professor Les Lumsden of Central Lancashire University, and representatives of Hereford City Council, have sought access within the station forecourt area for the Hereford Zipper Bus. Excluding this bus from a transport hub and positioning it away from the station on the main road is irrational and inconsistent with the declared intention of creating a unified transport hub.

Members feel there is inadequate provision for taxis and cars picking up passengers. The quality and format of the cycle storage needs clarification and confirmation that a feasibility study verifies that there is sufficient cycle storage for the proposed use of this site should be included in the supporting documents.

As noted above, the number of bays is insufficient for future development of a genuine transport hub. This is created in part by the excessive planting and the design appears confused between a transport hub or a community garden. Members are concerned about the maintenance of the excessive planting, especially the trees that aren't planted in the ground, noting the continuing difficulties, including the substantial financial commitment arising from maintaining (mobile) planters elsewhere in the City. The landscaping scheme should be simplified bearing in mind the purpose is to create a transport hub.

##### Further Response 8<sup>th</sup> April 2024

Cllrs stand by their previous objection and feel the amendments do not address any of the previous concerns. They also agree with the comments from the Herefordshire and Gloucestershire Canal Trust in that this application goes against Herefordshire Council policies

for protecting the route of the Herefordshire and Gloucestershire Canal. Policy HD2 – Hereford city centre in the Herefordshire Local Plan Core Strategy 2011-2031 and Policy E4 – Tourism

#### 4.3.3 Rail and Bus for Herefordshire – Objection - (N.B No response received to March 2024 consultation)

While Rail and Bus for Herefordshire (RBfH) is pleased that implementation of a Transport Hub is finally moving forward, we have a number of concerns which are detailed below:

1. Despite the assertion in the application that four DIRO bays are sufficient, this does not take account of closure of the Country Bus Station and transfer of all services currently using it. The overall layout proposed could readily incorporate six bays if the degree of skew was reduced. This may require the depth of the DIRO manoeuvring area to be increased a little, but it will allow the unsatisfactory bus stops planned on the western side of City Link Road to be replaced by DIRO bays within the Hub and build in some capacity for growth. National Express coaches (currently four a day) could use the bay nearest the tracks which would give good access to the baggage hold and maximum depth on reversing.
2. The proposed three-bus layby proposed on the eastern side of City Link Road has allocated to it B, D, 76A and Zipper services as well as Rail Replacement and Hay Festival services. Inevitably there will be times when a service arrives and finds the layby full. Where will it go then?
3. It is proposed that all services be allocated to a particular stand, with each stand accommodating several services. Hereford traffic is notorious for causing random delays throughout the day and services not running to schedule will sometimes block a stand. How will the reallocation of stands be managed, and how will passengers be informed of stand changes?
4. We consider the building proposed to house the alternative travel hub/waiting area/toilets/welfare facilities is inadequate. A small, manned refreshment facility within it could also provide travel information and give some oversight of the toilets. Four toilet cubicles seems excessive and combining the two larger cubicles to provide a 'changing places' toilet should be considered.
5. The plans show Network Rail parking remaining in its current location, with access and egress being off City Link Road to the north of the medical centre (ref Movement Strategy dwg 00105). Anyone grounded in reality knows that NR staff will be tempted to avoid the chicane and take the direct exit via the DIRO area. They may even be tempted to enter by the same route. This is a serious flaw in the layout which should have been identified and eliminated early in the design process. A prerequisite of safe DIRO operation is that only buses and coaches can enter the reversing area and all other vehicles are physically prevented from doing so (by an automatic barrier or rising bollard).
6. At the northern end of the current NR parking is a gateway in the fence which is used by Road Rail Vehicles to access the track. HGV's delivering/collecting RRV's will be unable to access the car park due to the restrictive kerb layout and they will create a serious obstruction if they park on the access road.
7. The bus layover area is remote from the Hub and any bus accessing it between services will have to negotiate two City Link Road junctions to do so. On Wednesday six Market Day services need long layover and only five spaces have been provided. Its capacity would appear inadequate, and once the Country Bus Station has gone there will be no alternative.

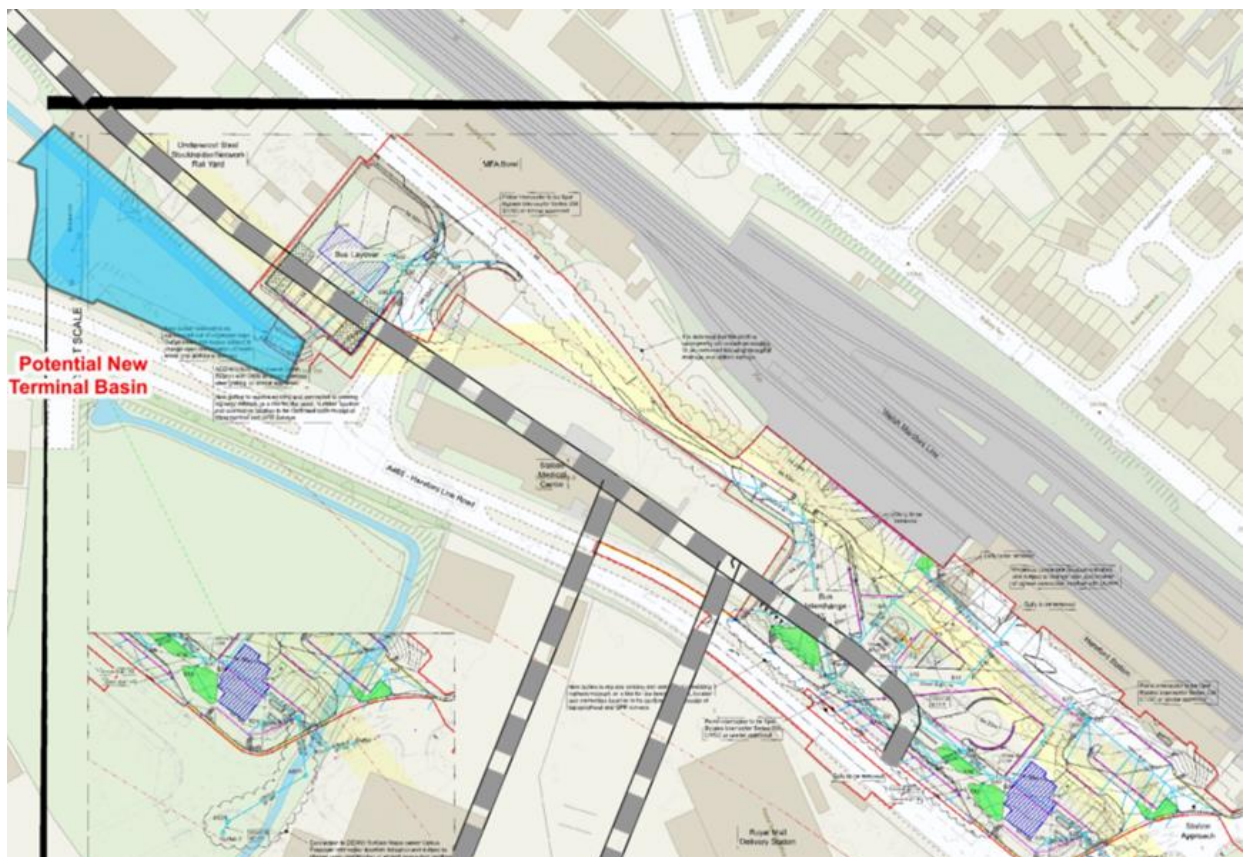
The proposal's serious shortcomings outlined in points 5), 6) and 7) above could perhaps be partially overcome by purchasing the disused Crazy Golf course within the curtilage of MFA Bowl. As the Design and Access Statement confirms that the NCP car park is underutilised, surely the NR parking could be moved within it as it would be no further from the station building. This car park already has several dedicated spaces for the signalmen and these do not seem to be abused

by the public. That done, the access road behind the SMC could become two-lane one-way and drop off/layover provided throughout its length.

In conclusion we believe this proposal is flawed and lacking in vision. The Council recognises the climate emergency and presumably accepts that a modal shift to buses within Hereford City offers a wide range of environmental benefits. This proposal if implemented will seriously limit the realisation of those benefits.

#### 4.3.4 Herefordshire and Gloucestershire Canal Trust – Objection

This application goes against Herefordshire Council policies for protecting the route of the Herefordshire and Gloucestershire Canal. Policy HD2 – Hereford city centre in the Herefordshire Local Plan Core Strategy 2011-2031 and Policy E4 – Tourism



#### 4.3.5 Hereford Civic Society – Objection

Hereford Civic Society have submitted a number of representations in objection to the proposal. This includes a comprehensive report dated 7<sup>th</sup> February 2024 which details the nature of the objections relative to policy, whilst setting out a number of alternative suggestions in terms of the potential approaches towards a transport hub.

Given the length of this document, it is not practical to incorporate it within the body of this report. The full document is instead attached as an Appendix (Appendix 1) or can be accessed through the link to the Council's website below:

<https://myaccount.herefordshire.gov.uk/documents?id=04010bae-c98f-11ee-907a-005056ab11cd>

#### Further Comment 11<sup>th</sup> April – Objection

Thank you for notifying Hereford Civic Society of the reconsultation on application 233009 for the Transport Hub. This is to confirm that our earlier objection still stands. We recommend refusal of

this application for the policy reasons set out in detail in our submission dated 7th February (incorrectly looged as a 'comment') Our submission includes scheme options to address the shortcomings of the scheme and while we recognise liason with other stakeholders on the site as a whole has proved challenging for officers, we must consider the scheme on planning and operational merits not on the basis of what may or may not currently be easy to implement. It is particularly important to address the question of the railway staff car-parking, given the conflicts with the DIRO in the present scheme. We understand that as it is impractical to exclude vehicles, including large vehicles such as emergency vehicles and rail replacement buses from the front of the station and it is better therefore to design accordingly and in so doing eliminate the need for buses or coaches to execute reversing manoeuvres. Other advantages of the attached scheme are:

1. The facilities are largely integrated into the station building and could be overseen by an enlarged Pumpkin
2. The cycle access is well defined and the cycle hub does not impinge on the principal aspect of the listed station building or the Piazza
3. The scale and location of the short stay/taxi/disabled parking is much more appropriate than in the current application.
4. Reduce the short stay to one row and introduce a few 'kiss and drop' spaces along the south side
5. Assimilation of the site of the apparently disused crazy golf course is desirable but not essential
6. The wholesale replanning of the City link Road can be facilitated in a linked next phase

4.3.6 **Letters of Objection** have been received from five individuals:

- Concerns over quantum and practical function of bus bay provision
- Concerns that amount / location of bus bays is insufficient to meet current / future demands
- Concerns over potential conflict between different modes of transport
- Concerns that proposal is poorly integrated with facilities in station building
- Concerns regarding access and service provision for people with disabilities (ease of access, adequacy of disabled persons parking spaces, disability toilet provision, adequacy and ease of links to wider city network)

4.3.7 **Letters of general Comments** have been received from three individuals:

- Support for integrated bus station, cycle facilities and more pleasant environment
- Concerns that proposal is poorly integrated with facilities in station building
- Concerns regarding adequacy of the shelter building (seating, weather protection)
- Concerns over adequacy of parking – short stay and drop off
- Concerns over 'future proofing' of the design to accommodate growth
- Proposal is compromised by constraints posed by neighbouring developments

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=233009&search-term=233009](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=233009&search-term=233009)

## 5. Officer's Appraisal

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

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



- 5.2 In this instance the adopted development plan comprises the Herefordshire Local Plan – Core Strategy (CS). The National Planning Policy Framework (NPPF) is also a significant material consideration in determining the application. Paragraph 11 of the NPPF states that all planning decisions should apply a presumption in favour of sustainable development. For decision taking, this means that proposals which accord with an up-to-date development plan should be approved without delay.
- 5.3 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy was made on 9th November 2020 and the review process is currently underway. The new local plan is not currently at a stage where it may be afforded any weight. The level of consistency between the policies in the CS and the NPPF therefore need to be taken into account by the Council in deciding any application. In this case, the most relevant policies of the CS – which include those relating to transport, heritage and other environmental considerations (amongst others) – have been reviewed and are considered to be consistent with the NPPF. As such, it is considered that they can still be attributed significant weight.
- 5.4 In light of the requirements to maintain an up-to-date plan as set up above, Herefordshire Council is currently in the process of preparing a new Local Plan. The Draft Herefordshire Local Plan (Regulation 18) has been published for consultation between 25 March 2024 and 20 May 2024. At this point in time however, the policies of the emerging plan attract minimal weight.
- 5.5 Policy SS1 of the Core Strategy reflects the positive presumption set out within the NPPF and confirms that proposals which accord with the policies of the Core Strategy (and, where relevant, other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise.

### **Principle of Development**

- 5.6 The application site comprises an area of brownfield land which lies to the northern side of the A465 (City Link Road) to the north of Hereford city centre. The Herefordshire CS makes clear that Hereford will be the main focus for development within the county, with Section 4 of the Local Plan setting out a range of policies to meet the city’s needs in areas such housing, employment, transport, tourism and wider regeneration.
- 5.7 Policy HD2 addresses development within the city centre, with this site being on the periphery of the area identified in the supporting policies map. It sets out the aspiration to regenerate the city centre, which includes amongst other things the development of an ‘urban village’. The policy states that:

*‘The urban village will be served by safe and attractive pedestrian and cycle links to other areas of the city, the new transport interchange, the Courtyard Arts Centre and nearby areas of green space. A new Link Road will also serve development parcels forming part of the urban village connecting Edgar Street to the west and Commercial Road to the east (with a spur linking Blackfriars Street to the south), as well as assisting in reducing traffic within the core of the city..*

*The urban village will be complemented by other uses and infrastructure forming part of the wider regeneration area creating a sustainable mixed use development which respects and where possible enhances the historic environment. These include the following: ...*



- *Herefordshire Council in partnership with public transport operators will deliver an integrated transport interchange close to the railway station to maximise opportunities for sustainable travel*

5.8 The supporting text to the policy expands on this further at 4.2.22, advising that *‘an integrated public transport interchange will be provided in the vicinity of the railway station, which will become a central point for access to all modes of transport, providing transfer opportunities for trains, buses, taxis, private and hire cars, mobility vehicles, cyclists and pedestrians’.*

5.9 Policy HD3 deals with movement within Hereford and sets the commitment that the Council will improve the economy by increasing connectivity with local and national networks, reducing congestion, and improve health, wellbeing and the environment by improving air quality and reducing noise through maximising opportunities for the use of sustainable transport modes. The Council will use a variety of funding mechanisms to deliver (inter alia):

- packages of improvements focussing on key routes into the city delivering a range of public realm improvements and improving access and connectivity for sustainable mode users
- Improvements to public transport infrastructure enabling improved access and integration between bus and to rail services.

5.10 These aims reflect strategic policy SS4 of the CS. This seeks that new developments should be designed and located to minimise the impacts on the transport network; ensuring that journey times and the efficient and safe operation of the network are not detrimentally impacted. Furthermore, where practicable, development proposals should be accessible by and facilitate a genuine choice of modes of travel including walking, cycling and public transport. It states:

*Herefordshire Council will work with the Highways Agency, Network Rail, bus and train operators, developers and local communities to bring forward improvements to the local and strategic transport network to reduce congestion, improve air quality and road safety and offer greater transport choices, including the provision of the following major schemes:*

- *ESG Link Road (safeguarded route) and Transport Hub;*

5.11 This strategic policy is supported by policy MT1, which sets out proposal specific requirements.

5.12 Beyond planning policy, the Council has set out its strategy towards transport in Local Transport Plan (2016 – 2031) (LTR) - a component part of which is the Hereford City Centre Transport Package. This is an integrated scheme of measures which consists of the following key measures:

- A new City Link Road (CLR) integrated with complementary measures to support the delivery of a major regeneration scheme;
- Improvements to the public realm and the facilities for walking, cycling and public transport modes; and
- A new Transport Hub at Hereford railway station.

5.13 The CLR has now been delivered pursuant to planning permission CE092576/F. The delivery of the CLR has subsequently facilitated a number of other developments within the vicinity of the site, such as the Station Medical Centre and Cityheart Living Student Accommodation. The current proposal relates predominantly to a residual parcel of land which lies between these two developments, being positioned to the fore of the railway station and fronting the CLR.

5.14 The proposal to deliver a transport hub clearly aligns with the objectives that have been set out within the local plan, as well as the Council’s wider priorities such as those of the Local Transport Plan. The scheme seeks to regenerate an underutilised and unattractive parcel of land in a prominent city centre location to the fore of the railway station in order to deliver a transport

interchange which facilitates ease of movement between various modes (such as rail, bus, cars, cycling and pedestrians) whilst also improving the surrounding public realm. In broad terms therefore, it is considered that the principle of the development is supported by policies SS4, HD2 and HD3 of the adopted local plan. In this sense, it is noted that the Council's Strategic Planning Team have advised that the proposal aligns with the current local plan to deliver a key element of the transport strategy for Hereford, whilst also noting that the same aspirations and principles are to be taken forward in the emerging local plan.

5.15 In order for development to be permitted however, the specific details of the proposal need to be assessed against the policies of the wider development plan and any material planning considerations to establish whether the proposal is representative of sustainable development when viewed in the round. The key matters in the regard are set out below.

#### 5.16 **Highways and Transport Matters**

5.17 Given the nature and objectives of the proposal, the potential transport implications of the scheme are the main factor requiring consideration. As set out in the preceding paragraphs the provision of a new transport interchange is a policy objective of the local plan as part of an overall strategy to improve the transport network whilst promoting the use of alternative and more sustainable travel modes. The strategic objectives towards travel is set out in CS policy SS4, which directs that new developments should be located and designed in a manner which minimises the impacts upon the transport network and that they should be accessible by and facilitate a genuine choice of travel means such as walking, cycling and public transport. More detailed policy MT1 goes on to state that proposals should demonstrate that the highways network can absorb the transport impacts of the development without adversely affecting the safe and efficient operation of the network. It also seeks that proposals, amongst other things:

- promote and, where possible, incorporate integrated transport connections and supporting infrastructure (depending on the nature and location of the site), including access to services by means other than private motorised transport;
- encourage active travel behaviour to reduce numbers of short distance car journeys through the use of travel plans and other promotional and awareness raising activities
- ensure that developments are designed and laid out to achieve safe entrance and exit, have appropriate operational and manoeuvring space, accommodate provision for all modes of transport, the needs of people with disabilities and provide safe access for the emergency services

All of these objectives are supported by the principles established at Chapter 9 of the NPPF.

5.18 As a starting point, it is recognised that the site already serves an important role in the transport network for Hereford given the presence of the railway station. It already serves as an interchange between rail, road, bus services, pedestrians and cyclists – however the proposal seeks to formalise this through a coordinated transport hub which makes the interchange between different transport modes more efficient and thus encourages uptake of alternative transport means. At present, all highways traffic accessing the station area is required to do so via Station Approach, with the area of hardstanding to the fore of the station providing bus stops, short stay parking / drop off, taxi ranks and disabled spaces. The proposal seeks to reconfigure, rationalise and formalise these arrangements – with the movement strategy of different modes of transport within the site being shown on the Proposed Movement Strategy Plan which can be accessed via the link below:

<https://myaccount.herefordshire.gov.uk/documents?id=a516222c-e7aa-11ee-9079-005056ab3a27>

5.19 The site layout plan maintains the highways access to the site from Station Approach, however the internal configuration is such that this would primarily be used by private cars and taxis. The large NCP car park to the east of the station is maintained with increased provision made for

general short stay 'drop off' spaces, whilst a formalised drop-off and parking loop is created to the fore of the station for use by taxis and those with reduced mobility. Taxi spaces are increased from 3 currently to 7 (with four further 'call forward' spaces), whilst 7 disabled spaces are provided here (with a further 4 being located to the north east). This arrangement is considered to be acceptable from a highways safety perspective, with capacity of the central drop-off area being sufficient to meet anticipated demand and ensure that there is no overspill that may be detrimental to the efficient operation of the wider network. It also serves to ensure that the transport needs of different areas of the community are accommodated.

- 5.20 With regards to bus services, these are located to the north west of the site and segregated from general car traffic. Four bays are to be provided within the site in Drive-in-Reverse-Out arrangement, positioned to the fore of the new dedicated shelter and waiting building. A further three bays are to be provided as 'on street' stops along the CLR for services which do not terminate at the station or need to enter the station area proper. With regards to the DIRO arrangement, buses accessing this would enter the site via the existing junction from CLR to the north west side of the Station Medical Hub. This junction would also support access to the layover area, as well as providing reconfigured vehicular access to MFA Bowl and the Network Rail Staff Car Park next to the station building. This design of this junction is such that it is considered suitable by the Local Highways Authority (LHA) to support the uplift in traffic movements without detriment to safety or function.
- 5.21 Buses would subsequently travel a route behind the medical centre before turning into the DIRO interchange area. Beyond this junction and within the DIRO interchange area itself, access would be restricted to buses only by road markings and signage. A new junction would then be created onto the CLR, which would be for exclusive use by buses for exit only. The LHA have not raised any concerns with the provision of the new access onto the CLR and the segregation of the DIRO area in the manner proposed would reduce the potential for conflict between manoeuvring buses and other modes of transport using the site.
- 5.22 The DIRO arrangement has been subject to a detailed Stage 1 Road Safety Audit, which has led to minor amendments to the bay arrangement as part of the application process in order to improve the safe and efficient function of this area. Following these changes and other amendments, the Local Highways Authority has confirmed that they offer no objection to this element of the scheme in terms of safety, efficient function and capacity. In respect of capacity in particular, it is acknowledged that a number of external representations have raised capacity concerns - particularly in terms of whether the arrangement is 'future proof' if the site should be expected to support additional services in future (given factors such as uncertainty regarding intentions for the country bus station). In this sense, it is highlighted that the interchange is expected to support 7 services an hour based on current routes and timetables – however the design has capacity to support up to 18 services an hour if required. Officers are therefore satisfied that sufficient capacity resilience has been built into the scheme to support potential increased usage should this be required in the future.
- 5.23 For pedestrians, cycles and other wheeled means of transport, the scheme ties into the existing city network with a focus on the two main likely approaches to the station – these being from the direction of Commercial Road or from the direction of the Medical Centre. Cycle lanes running along the CLR are incorporated into the layout, whilst pedestrian routes in the site marry to the surrounding network in a manner which reflects natural desire lines. It is noted that some concerns have been raised by the LHA (and others) in terms of the surfacing and demarcation of these different routes, however the layout is fundamentally accepted and the finer details can be addressed by way of condition or through the S278 / S38 Technical Approval process.
- 5.24 In terms of provision for cycling, the station as existing offers 44 cycle spaces across a number of locations. The proposal seeks to increase the overall storage capacity to 144 spaces – 66 of which would be covered with the remaining 78 uncovered. It is noted that the proportion of covered storage spaces has been increased from the original submission following feedback from

consultees, with the extent of cycle storage structures on the site also needing to be balanced against a desire to keep the forecourt of the station as 'uncluttered' as possible in order to avoid detriment to the setting of the Grade II listed station. The quantum of covered and uncovered spaces has however now been confirmed to be acceptable to the Local Highways Authority and Active Travel England – with full details of the covered storage to be secured by way of condition. The storage areas are also spread throughout the site, with the two main areas being near the main entrance from Station Approach and the other being near to the new shelter building associated with the bus interchange. The positioning of the cycle bays is considered to be conveniently accessible in terms of their relationship with connecting routes, whilst also being positioned to provide passive surveillance. Provision is also made for the 'Beryl Bike' service. Overall therefore, the level of cycle storage provision is considered to be policy compliant and will support the policy aims to promote sustainable means of travel.

- 5.25 Although the proposal falls below the threshold whereby they are considered a statutory consultee, advice has been sought from Active Travel England (ATE). ATE are the government executive agency responsible for promoting walking, wheeling and cycling as preferred choices of transport. It is highlighted that ATE supplied an additional 'holding objection' to the proposals, however following further information and amendments being made by the Applicant they now recommend conditional approval. The overall objective of creating an integrated transport interchange is supported and the proposal as deposited would facilitate use of sustainable transport means. There are a number of residual concerns raised (e.g. in terms of the need for a longer term Travel Plan and full details of cycle storage), however these matters can effectively be secured by way of suitably worded planning conditions.
- 5.26 It is highlighted that ATE and others have raised some concerns with the adequacy of the city's wider transport network to support the function and aspirations of the Transport Hub. Whilst these concerns are duly noted, the condition of the wider city network falls outside the scope of this planning application and it would not be reasonable to expect the proposal to address any perceived inadequacies beyond the site itself. The potential improvement of the wider city network will be a matter for the Council to address through other mechanism, such as a component of its new Local Transport Plan that is currently being prepared.
- 5.27 Overall therefore, it is considered that the proposal aligns with the objectives of local plan policies HD2 and HD3 to create a sustainable transport interchange. It also supports the strategic objective of policy SS4 and the guidance set out within Chapter 9 of the NPPF to promote the use of sustainable transport modes. In terms of the specific details of the proposal, the scheme has been designed in a manner which ensures the safe and efficient function of the highways network is maintained; meets the differing needs of the population; and encourages the uptake of more sustainable and active travel choices. There is hence no conflict identified with CS policy MT1 – with the Local Highways Authority confirming they have no objection to the scheme and Active Travel England recommending approval subject to conditions.

### **Impact upon Local Character and Setting of Heritage Assets**

- 5.28 The main area of the proposal site occupies a prominent roadside position on the peripheries of the city centre and is also a key arrival point for those accessing or visiting Hereford by rail. The railway station itself (Barrs Court Station) is an attractive and imposing building completed in 1855, which is listed at Grade II. The area to the fore of the station is however currently incoherent and unattractive, mainly comprising hardstanding which serves as vehicular parking with some areas of scrub. It is reasonable to say that the current condition of the site does not make a positive contribution to the character of the area or the setting of the listed station.
- 5.29 Policy HD2 frames the new transport interchange as part of the strategy through which the city centre will be made a safe and attractive place to live, work and travel. At a strategic level, policy SS6 of the CS seeks to ensure that all proposals conserve and enhance assets which contribute to the county's distinctiveness – including its settlements, landscapes and heritage assets. Similar

requirements are found in CS policy SD1, and policy LD1 also requires that schemes respond positively to the site context and demonstrate that the character of the townscape has positively influenced the scheme – particularly in designated areas. These policies are reflective of Chapter 12 (particularly Paragraph 135) of the NPPF in terms of achieving well designed places.

5.30 The site is also within the setting of the Grade II listed station, meaning that the LPA has duties under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings, their setting, or any features of special architectural or historic interest. The site is not within a designated Conservation Area. In this respect, the advice set out at paragraph 205 of the Framework is relevant, insofar as it requires that great weight be given to the conservation of a designated heritage asset. Chapter 16 of the NPPF more broadly sets out a range of principles which should be taken into account when assessing applications affecting heritage assets. From the development plan, policy LD4 requires amongst other things that new developments ‘protect, conserve, and where possible enhance heritage assets and their settings in a manner appropriate to their significance through appropriate management, uses and sympathetic design. SS6 also requires that proposals should be shaped through an integrated approach to planning a range of environmental components from the outset, including the historic environment and heritage assets. The application is supported by a Heritage and Townscape Assessment to assist in this regard.

5.31 As noted above, the area to the fore of the station currently lacks coherence and does not make for a positive first experience of the city when arriving by rail. The proposal therefore represents an opportunity to rectify this by improving the immediate environment of the station, enhancing both the experience of users and also the setting of the listed building. Given the function of the railway station, transport related infrastructure is to be expected within its setting and therefore the principle of the new transport hub in this location can be supported. Care has however been taken in the design to minimise and mitigate the potential impacts on the station building and its environs. This includes by minimising new structures on the south-east portion of the site to help maintain open vistas of the station building from the main pedestrian routes and from Station Approach, an impression of which is captured in the indicative street scene below:



**Figure 5** – Indicate Visualisation from South East approach

5.32 The most significant structure of note on the forecourt area is the proposed bus shelter building. This ‘L’ shaped structure is positioned to the west of the station and is orientated with its two axis’ to address the CLR to the south and the DIRO bus bays to the west. It would measure 4.75m high and would predominantly be an open sided canopy with a smaller enclosed waiting and service area the northern end. It has been designed with a contemporary appearance using a lightweight structure which seeks to promote visual permeability to reduce its prominence from



vantage points such as the CLR, whilst framing views of the listed station building for pedestrians and users of the hub. An indicative visualisation is shown below:



**Figure 6** – Indicate Visualisation of shelter from DIRO bays

- 5.33 The proposed shelter is considered to appropriate to the setting of the site, with the siting and lightweight design serving to minimise any potential impact upon views of the station building. The contemporary choice of facing materials is also considered to be appropriate, however concerns have been raised regarding the appropriateness of the specified colour finish and hence alternative details are secured by condition. On the wider forecourt, care has also been taken to reduce impacts through the sensitive siting of cycle storage and other ancillary structures – with the main area of covered cycle storage being sited next to the enclosed area of the shelter building to minimise its visual prominence and impact. Full details of the design of the cycle storage structure will be secured by condition, with the expectation being that a design will be provided for approval which is not generic but befitting of the sensitive location.
- 5.34 The layover area to the north west of the site entails limited operational development, mainly comprising the creation of a hardstanding area with associated infrastructure, and therefore has a limited potential for impact on the street scene and wider built environment. Experienced against the backdrop of neighbouring development, particularly when viewed from the CLR, the works proposed would not appear as being out of character with the character of the locale and would not have a detrimental impact upon the setting of any designated heritage asset.
- 5.35 Specialist advice on the proposal has been sought from the Council’s Historic Building Officer and Landscape Officer, with neither offering any adverse comments (subject to conditions). Overall, it is considered that the proposal would have a positive impact on the character of the locality and would not lead to any demonstrable harm to the significance of any designated heritage asset. It follows therefore that the scheme is compliant with CS policies LD1, LD4 and SD1; that it accords with the principles set out in the NPPF and fulfils the obligations upon the LPA set out by S66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 5.36 With regards to potential impacts upon below ground deposits, the Council’s Archaeological consultant notes that the baseline condition of the site is relatively well understood as a result of previous studies and fieldwork. The application has further supplemented this through the supplied Heritage and Townscape Assessment. The main potential for interest in this regard is the proximity to the infilled 19<sup>th</sup> century canal basin and, whilst specialist advice considers it unlikely that any remains of interest will be effected, this cannot be categorically ruled out. A precautionary condition is hence recommended to secure a scheme of archaeological recording should deposits be encountered during the construction phase. Subject to this being attached on a ‘pre-commencement’ basis, it is considered that that the relevant requirements of LD4 and Chapter 16 of the NPPF would be fulfilled.

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

## Public Realm Proposal and Landscaping

- 5.37 Chapter 12 of the NPPF seeks that decisions promote development which will function well and add to the overall quality of the area and are visually attractive as a result of good architecture, layout and appropriate and effective landscaping. SD1 of the CS sets out similar requirements and policy LD1 requires that all schemes demonstrate that the character of the townscape has positively influenced the proposal in terms of scale, design and nature. It also requires that schemes should incorporate new landscaping schemes and ongoing management to ensure development integrates into its surrounding, whilst extending tree cover where it is important to amenity. This is also an objective of LD3 which seeks to promote the provision of new green infrastructure to contribute to amenity, biodiversity and ecological networks.
- 5.38 The proposal includes the comprehensive reconfiguration of the space to the fore of the station as a planned public realm space which makes the required provision for passengers connecting between different transport modes, but also provides communal spaces, street furniture and planting to generally improve the user experience of the area. Essential infrastructure such as the main bus shelter, cycle storage, signage and other street furniture has been positioned in a manner which seeks to avoid 'clutter' or negatively impacting upon views of the Grade II listed station, without compromising function. Compared to the current baseline position, extensive new planting of small-to-medium sized trees and shrubs is proposed to improve the amenity of the area and these have again been positioned in a manner which frames key routes through the site and compliments views of the station building. It is noted that the Council's Landscape Officer is in support of the scheme, highlighting that the scheme represents a marked improvement to the current site condition which could promote the area as a both a transport interchange and a park-like destination for the public.
- 5.39 It is noted that a number of the representations received raise concerns with the effectiveness and longevity of the proposed landscaping scheme, particularly in the context of the future management and maintenance responsibilities (including costs) falling upon the Council. In this sense, it is highlighted that conditions are recommended to secure appropriate management and maintenance arrangements to ensure that the landscaping scheme establishes itself effectively and the LPA must assume compliance with this in the first instance. That notwithstanding however, the Applicant has advised that all landscaping and planting has been specifically designed to ensure effective and efficient future maintenance costs without detrimentally impacting the quality of the landscaping proposals. Given the known presence of made-up and potentially contaminated land, the landscaping condition also makes provision for a soils study is to form an integral part of the landscaping strategy to ensure that new planting is provided with the conditions needed to establish and grow.
- 5.40 Overall therefore, Officers consider that the public realm and landscaping proposals are appropriate and will serve to improve the character of the area, enhance the setting of the listed building and generally contribute to an improved experience for the public. There is hence no conflict identified with CS policies LD1, LD4 or SD1 in these terms.

### Impact on Canal Safeguarded Route

- 5.41 Policy HD2 of the CS states, amongst other things, that the urban village will be complemented by other uses and infrastructure. It includes the following in respect of the canal:

*The urban village will be complemented by other uses and infrastructure forming part of the wider regeneration area creating a sustainable mixed use development which respects and where possible enhances the historic environment. These include the following:*

- *land and contributions towards a canal basin forming the terminus of the Herefordshire & Gloucestershire Canal, which is being delivered by the Hereford & Gloucester Canal Trust*

5.42 Policy E4, which relates to tourism, builds on this further and states that the tourism industry will be supported by a number of measures including:

*'the safeguarding of the historic route of the Herefordshire and Gloucestershire Canal (shown on the Policies Map), together with its infrastructure, buildings, towpath and features. Where the original alignment cannot be re-established, a corridor allowing for deviations will be safeguarded. New developments within or immediately adjoining the safeguarded corridor will be required to incorporate land for canal restoration. Development not connected with the canal that would prevent or prejudice the restoration of a continuous route will not be permitted.'*

5.43 It is noted that the Herefordshire and Gloucestershire (H&G) Canal Trust have objected to the proposal, offering the view that the proposal fails to protect the route of the canal and therefore the application is contrary to policies E4 and HD2. The Herford Civic Society have also objected to the proposal on similar grounds.

5.44 With regards to the protected route corridor for the canal, this is not clearly defined for this part of Hereford on the policy maps supporting the CS. The original basin terminus however was located to the south of the railway station on land that is now occupied by the station forecourt area; the City Link Road; the Station Medical Centre; and other commercial uses such as the Jewsons Store or the Royal Mail depot. It is also understood that strategic public sewers also now occupy large parts of the canal's route, with significant protective easements being in place to limit development in their vicinity. Taken together therefore, it is clear that the feasibility of reinstating the canal and its basin terminus in its original location is already significantly comprised and unlikely to be feasible given the developments which now occupy the ground on which the canal once sat. In that context, Officers are satisfied that the main elements of the proposal (in terms of the bus interchange and public realm to the fore of the station) do not lead to any conflict with or compromise the objectives set out in policies HD2 or E4.

5.45 The red line for the application site however does extend further to the north west beyond the Station Medical Centre to incorporate the existing access from CLR and an area of land currently utilised as a Network Rail depot. The latter parcel of land is proposed to serve as a layover area for up to five buses and would essentially be an enclosed area of tarmac hardstanding with access off the existing road that serves the medical centre. It is acknowledged that the southern extremity of the layover area overlaps with the original route of the canal and thus is considered to be within the safeguarded route corridor.

5.46 Policy E4 requires consideration to be given to whether the proposal would prevent or prejudice the restoration of a continuous route. In this sense, there are a number of factors to consider in terms of the practicality and likelihood of the canal being restored to its original alignment where it crosses the layover space. First, it is generally accepted at this point in time that the canal could not be continued beyond the link road due to the level at which the highway is set. It is also unlikely to continue beyond the layover area on its original alignment to the east given that the Station Medical Centre now lies on this land. Moreover, the original alignment of the canal over the layover space also corresponds with the location of a 1.2 metre diameter strategic sewer, which includes a sizeable easement to restrict development either side of the centre line. There are hence considerable practical constraints that are likely to limit the ability to restore the canal to its original alignment in this location and it is noted that although the H&G Canal Trust object to the scheme, they have not submitted any evidence which suggests there is currently a realistic prospect of the canal being reinstated in the locality of the layover space.

5.47 Indeed, it is understood that the aspiration is to create a potential termination basin on land to the north west of the site as indicated in the plan supplied in the representation received from the H&G Canal Trust (Figure 7). The tip of the basin extends to the south of the layover area:





**Figure 7:** Location of potential new terminus basin provided by H&G Canal Trust

- 5.48 The approach in this regard has been observed in recent planning decisions, including permission P211047/F for student accommodation granted by the Council in March 2023 for the redevelopment of land to the north west of the layover space. The layout of this scheme has made provision for the potential terminus basin and financial contributions towards those works are secured via a S106 agreement. The approved layout plan for that scheme and the provision made for the terminus basin is shown on Figure 8, along with an annotation showing the approximate location of the layover area:



**Figure 8:** Approved plan for P211047/F, showing provision for basin relative to layover area

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

- 5.49 Read in conjunction, the plans submitted by the H&G Canal Trust and the approved layout plan for P211047/F suggest that any terminus basin is likely to taper towards the narrow tract of land between the CLR and the parcel of land where the layover space is proposed. It is highlighted that as part of the design process, the layover area has been shifted 5m further to the north east than originally planned in order to allow increased space for the canal basin to be reinstated should a proposal come forward in the future. Moreover, it is also noted that the physical works to create the layover area are relatively minor in nature (comprising hardstanding with parking demarcations). Should the site require alteration in the future therefore to accommodate a basin, then the extent of existing built development affected would be limited and there is hence increased potential to make the changes needed (subject to landowner agreement).
- 5.50 Overall therefore, whilst Officers acknowledge that a small part of the development encroaches into the safeguarded route of the canal they do not consider that the proposal would prevent or prejudice the restoration of a continuous route. As such, there is no conflict with E4 found.

### **Ecology and Environmental Assets**

- 5.51 The application is supported by a Preliminary Ecological Appraisal and a range of associated surveys / reports. It is noted that the baseline ecological condition of much of the site is low, with the majority of land being laid to hardstanding although there are pockets of grassland, hedging and bramble scrub. There are a small number of buildings and structures on the site and at its peripheries. Beyond the site itself, the land is proximal to Widemarsh Brook Local Wildlife Site – which provides habitat potential in of itself but is also noteworthy as being hydrologically linked to the River Wye Special Area of Conservation (SAC).
- 5.52 The Council's Ecologist has reviewed the supplied reports and provided detailed commentary on individual species and habitats at Section 4.2.6 of this report. No significant concerns of potential for impact have been identified subject to implementation of appropriate measures and the Council's duties with regards to protected species are considered to be fulfilled. A scheme of ecological enhancement measures will also be secured by condition, which is considered sufficient to secure compliance with CS policy LD2.
- 5.53 The site is within the catchment of the River Wye SAC, which is protected in accordance with the Conservation of Habitats and Species Regulations (Amendment) (EU Exit) Regulations 2019. The proximity of the site to Widemarsh Brook, a tributary to the Wye, is such that there are potential pathways for the development to impact upon the protected site – for instance through the discharge of surface water or impacts during construction processes. The Applicant has submitted a 'shadow' HRA assessment to consider the impacts in this regard. The Council adopts this and has completed its own Appropriate Assessment which finds that (subject to conditions) the proposal would not have any adverse effect on the integrity of the designated habitats site. This assessment has been subject to consultation with Natural England, as the relevant statutory body, and they have advised that they agree with conclusions. There is hence no conflict with LD2 or SD4 in this regard and the scheme fulfils the Habitats Regulations.

### **Brownfield and Contaminated Land**

- 5.54 The site is considered previously developed 'brownfield' land in accordance with the definitions of the NPPF. Paragraph 124 of the Framework makes clear that in decision making substantial weight should be given to the value of using suitable brownfield land within settlements to meet development needs – whilst also supporting opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land. Officers consider that the proposal here would benefit from the support offered by Paragraph 124. The site is an underutilised parcel of land in a proximal to the railway station which naturally lends itself as a location for a transport interchange, whilst also posing an opportunity to improve the contribution the land makes to the character of the area. It is also recognised that the site is associated with a number of potentially contaminative former

land uses and hence the application has been supported by a Geotechnical and Geo-environmental Desk Study Report. The report identifies that the proposal is not particularly sensitive in nature and that they are limited potential risks – however there are residual risks from ground gases and exposure to elevated metals and other contaminants which require further investigation. The Council’s Environmental Health Officer has reviewed this report and supports the recommendation, with the further investigation (plus mitigation or remediation, as necessary) to be secured by way of pre-commencement condition. These pass the relevant tests and secure compliance with Chapter 12 of the NPPF and CS policy SD1.

### **Drainage and Flood Risk**

- 5.55 A review of the Environment Agency’s Flood Map for Planning (Figure 1) indicates that the site is partially located within the medium probability Flood Zone 2 and close to a Flood Zone 3. In accordance with standing advice and national validation requirements, the application has been supported by a Flood Risk Assessment (FRA). The FRA advises that bespoke modelling of the area has been undertaken as part of the Council’s Strategic Flood Risk Assessment and this has found the site to be at lower risk than the generic EA model suggests – with the whole site actually being in the ‘low’ risk Flood Zone 1. The Council’s Land Drainage Team do not dispute this finding and note that the development considered ‘less vulnerable’ in any case - meaning it is acceptable in Zones 1, 2 or 3a. The risk of surface water flooding is also considered to be managed to acceptable levels and the overall conclusion is that the site is at low risk of flooding. There is hence no tension found with CS policy SD3 or the NPPF in this regard.
- 5.56 With regards to surface water management, the requirements in this regard are set out by policy SD3. Broadly it requires that development includes appropriate sustainable drainage systems (SuDS) to manage surface water appropriate to the hydrological setting of the site. The strategy in this case is heavily influenced by the brownfield nature of the site and the presence of ‘made’ ground subject to potential contamination, which renders discharge to ground as being unviable. The application has instead therefore put forward a strategy which relies on a scheme of attenuation with subsequent controlled discharge of surface water for different parts of the site to either to a nearby watercourse or the public surface water sewer. The Council’s Land Drainage Engineer has confirmed that these arrangements are acceptable and Dwr Cymru Welsh Water have confirmed they have no objections. The surface water scheme is hence considered to be acceptable and implementation is secured by condition.
- 5.57 The nature of the development is such that it would generate limited foul water. The welfare facilities proposed in the shelter building would communicate flows to the mains network, which accords with the hierarchal approach of SD4 and is satisfactory to DCWW as the statutory undertaker. Again, implementation of those arrangements will be secured by way of condition.

### **Other Matters**

- 5.58 Some concerns have been raised in the public representation received regarding ease of access for different groups of the community, including those with additional needs such as the disabled or older persons. This is addressed in the development plan by policy SD1, which seeks that developments should create safe and accessible environments for all. The application is supported by an Equality Impact Assessment which has informed the design and seeks to fulfil the public sector equality duty upon the Council under section 149 of the Equality Act 2010, with further details provided in Section 8.25 of the Design and Access Statement. In summary, the scheme has made provision for those with mobility issues by eliminating any form of level difference along the main routes and within the majority of the site. All pathways are compliant with relevant standards, with routes designed to follow natural desire lines and incorporating flush kerbs, tactile paving and guiding lines. The shelter building provides accessible toilets in accordance with Building Regulations Standards, as well as baby-change facilities. Suitable lighting is provided in the interests of security and crime prevention at night. Taken together,

Officers are satisfied that the proposal has made provision to meet the needs of different groups and thus no policy conflict is found in this sense.

- 5.59 It is noted that a number of public representations make commentary relevant to the Council's role and the Applicant and developer in this instance. Concerns raised include how the proposal aligns with the Council's wider priorities and use of public funds; whether the proposal presented is the most preferable design option to deliver a transport hub, and concerns regarding the adequacy of pre-application stakeholder engagement process. Whilst these may warrant discussion of Cllr's in the wider context, it is important to highlight that they are not all relevant material planning considerations when acting in capacity of the Local Planning Authority. As set out in the report for instance, the provision of a transport hub in high level terms clearly aligns with the policies and aspirations adopted local plan – but it is not for the LPA to question whether this is correct or of the scheme represents value for money. Neither is it for the LPA to consider possible alternative approaches, as the deposited application must be considered on its own merits. With regards to public consultation, the NPPF does encourage (but does not strictly require) early engagement and consultation with the local community and interests parties on planning proposals. Although some concerns have been raised regarding the adequacy of that pre-application consultation process in this case, there is clear and extensive of evidence of community consultation by the Applicant which would accord with what is required by Paragraphs 39 – 42 of the NPPF.

### **Summary and Conclusion**

- 5.60 The application is to be considered in the context of the presumption in favour of sustainable development as required by the NPPF. This means approving development that accords with the development plan without delay. The NPPF also sets out that achieving sustainable development has three interdependent and mutually supportive objectives; these being economic, social and environmental.
- 5.61 The adopted Core Strategy Local Plan makes clear provision through policy HD2 to support the creation of an integrated transport hub as part of the regeneration of the city centre and to facilitate shifts to more sustainable travel modes. Further support for the latter aims is offered by policies HD3, SS4 and MT1 – which themselves echo the principles set out by the NPPF.
- 5.62 The deposited scheme aligns with the objectives of the development plan by regenerating an underutilised and unattractive parcel of land in a prominent city centre location in order to deliver a transport interchange which facilitates ease of movement between various modes (such as rail, bus, cars, cycling and pedestrians) whilst also improving the surrounding public realm. In doing so, significant benefits are delivered which contribute towards achieving the social, economic and environmental objectives of sustainable development. In broad terms therefore, it is considered that the principle of the development is supported by policies SS4, HD2 and HD3 of the adopted local plan.
- 5.63 The specific details of the proposal have been assessed against the wider policies of the development plan and no conflict has been identified. The scheme is generally considered to be well conceived, with any potential for material impacts being managed or mitigated to acceptable levels. It is highlighted in this sense that there are no objections to the proposal offered by any statutory or Council technical consultee. Whilst some adverse comments have been received from other parties and residents, it is not considered that these raise any material planning issues which would warrant permission being refused.
- 5.64 It follows therefore that Officers consider the scheme to be representative of sustainable development and recommend approval of the application accordingly, subject to the schedule of 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 – Three Years
2. Development in accordance with approved plans

The development hereby approved shall be carried out in accordance with the following approved plans and documents;

Document / Plan Title	Document / Plan Reference
1APP Form	PP-12208121
Planning Statement	964-ARP-GEN-ZZ-RP-Z-000003, Issue 6 October 2023
Design and Access Statement	Issue 02
Transport Assessment	964-ARP-HGN-ZZ-RP-H-000001, Rev: P04
Heritage and Townscape Assessment	September 2023
Equality Impact Assessment	964-ARP-GEN-ZZ-RP-Z-000002, Rev: P02
Drainage Strategy	964-ARP-HDG-ZZ-RP-C-000001, Rev: P04
Flood Risk Assessment	964-ARP-HGN-ZZ-RP-C-000001, Rev: P03
Preliminary Ecological Appraisal	964-ARP-EAC-ZZ-RP-OE-000001, Rev: P01
Ecological Impact Assessment	964-ARP-EAC-ZZ-RP-OE-000002
Biodiversity Net Gain Assessment	964-ARP-EBD-ZZ-RP-OE-000001
Habitats Regulations Assessment	964-ARP-EGN-ZZ-RP-OE-000001
Bat Emergence Survey Report (Appendix C of EclA)	964-ARP-EGN-ZZ-RP-OE-000002
Otter Survey Results Report (V01, Appendix D of EclA)	V01
Reptile Survey Report (Appendix E of EclA)	Issue 12/10/2023
Bird Survey Report (Appendix F of EclA)	V01
Applicant Response Letter	Dated 19 March 2024
Drainage Strategy Addendum	964-ARP-HDG-ZZ-RP-C-000002, Rev: P03
Response to Active Travel England Comments	964-ARP-HGN-ZZ-TN-H-000001 (dated 19/03/2024)
<b>Architecture</b>	
Location Plan Existing	964-WWP-BGN-00-DR-A-000001
Existing Ownership Plan	964-WWP-BGN-00-DR-A-000002
Proposed Sitewide Plan	964-WWP-BGN-00-DR-A-001000, Rev: P02
Proposed Movement Strategy	964-WWP-BGN-00-DR-A-001050, Rev: P02

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



Existing Site Plan and Section	964-WWP-BGN-XX-DR-A-001001
Proposed Site Plan and Section	964-WWP-BGN-XX-DR-A-001002, Rev: P02
Proposed Bus Shelter Plan	964-WWP-BGN-00-DR-A-001003, Rev: P02
Proposed Bus Shelter Roof Plan	964-WWP-BGN-RF-DR-A-001004
Proposed Bus Shelter Elevation 01 & 02	964-WWP-BGN-XX-DR-A-002001, Rev: P02
Proposed Bus Shelter Elevation 03 & 04	964-WWP-BGN-XX-DR-A-002002, Rev: P02
Bus Shelter Visual 1 of 4	964-WWP-BGN-00-DR-A-009001
Bus Shelter Visual 2 of 4	964-WWP-BGN-00-DR-A-009002
Bus Shelter Visual 3 of 4	964-WWP-BGN-00-DR-A-009003
Bus Shelter Visual 4 of 4	964-WWP-BGN-00-DR-A-009004
Proposed Landscape Planting and Paving	964-WWP-BGN-00-DR-L-003000, Rev: P02
Proposed Landscape Sections	964-WWP-BGN-XX-DR-L-003001, Rev: P02
Proposed Landscape Furniture and Lighting	964-WWP-BGN-00-DR-L-003002, Rev: P02
<b>Civils</b>	
Proposed Drainage Bus Interchange & Layover	964-ARP-HDG-ZZ-DR-C-000001, Rev: P06
Proposed Manhole Schedules	964-ARP-HDG-ZZ-DR-C-000002, Rev: P04
Drainage Details Sheet 1	964-ARP-HDG-ZZ-DR-C-000003, Rev: P03
Drainage Details Sheet 2	964-ARP-HDG-ZZ-DR-C-000004, Rev: P03
Drainage Details Sheet 3	964-ARP-HDG-ZZ-DR-C-000005, Rev: P03
General Notes	964-ARP-HGN-ZZ-DR-C-000001, Rev: P03
General Arrangement Bus Interchange & Layover	964-ARP-HGN-ZZ-DR-C-000002, Rev: P05
General Arrangement Car Park	964-ARP-HGN-ZZ-DR-C-000003, Rev: P03
Finished Levels and Kerbing Bus Interchange & Layover	964-ARP-HGN-ZZ-DR-C-000004, Rev: P04
Formation Levels Bus Interchange & Layover	964-ARP-HGN-ZZ-DR-C-000005, Rev: P05
Coach Swept Path Analysis	964-ARP-HGN-ZZ-DR-C-000006, Rev: P04
Water Tanker Swept Path Analysis	964-ARP-HGN-ZZ-DR-C-000007, Rev: P04
Refuse Vehicle Swept Path Analysis	964-ARP-HGN-ZZ-DR-C-000008, Rev: P04
Articulated Vehicle Swept Path Analysis	964-ARP-HGN-ZZ-DR-C-000009, Rev: P04
Large Car and Taxi Swept Path Analysis	964-ARP-HGN-ZZ-DR-C-000010, Rev: P04
Fire Tender Swept Path Analysis	964-ARP-HGN-ZZ-DR-C-000011, Rev: P04
Construction Finishes Bus Interchange & Layover	964-ARP-HKF-ZZ-DR-C-000001, Rev: P06
Construction Finishes Build Ups	964-ARP-HKF-ZZ-DR-C-000002, Rev: P03

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

Construction Details Sheet 1	964-ARP-HKF-ZZ-DR-C-000003, Rev: P03
Construction Details Sheet 2	964-ARP-HKF-ZZ-DR-C-000004, Rev: P03
Site Clearance Bus Interchange & Layover	964-ARP-HSC-ZZ-DR-C-000001, Rev: P03
Existing Utilities	964-ARP-UTL-ZZ-DR-UT-000001, Rev: P03
Existing Utilities Car Park	964-ARP-UTL-ZZ-DR-UT-000002, Rev: P03
Proposed Utilities Bus Interchange & Layover	964-ARP-UTL-ZZ-DR-UT-000003, Rev: P05
Existing Site Layout & Topography Bus Interchange & Layover	964-ARP-VTO-ZZ-DR-Y-000001, Rev: P03
Existing Site Layout Topography Car Park	964-ARP-VTO-ZZ-DR-Y-000002, Rev: P04

**Reason: To ensure adherence to the approved plans in the interests of securing a satisfactory form of development which complies with policies MT1, HD2, HD3, SD1, LD1 and LD4 of the Herefordshire Local Plan Core Strategy and the National Planning Policy Framework**

### **Pre-Commencement Conditions**

#### **3. Archaeology Survey and Recording**

**Prior to the commencement of the development, the developer shall submit details of a programme of archaeological survey and recording to the Local Planning Authority for written approval. The programme shall be designed to document any below ground deposits that may be encountered and affected by the works and shall include a written scheme of investigation which has been prepared in accordance with a brief prepared by the County Archaeology Service. The scheme of survey and recordings shall subsequently be implanted in accordance with the approved details.**

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

#### **4. Contamination Risk Assessment**

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

- a) The Desk Study Report and risk assessment prepared by Arup (November 2022, Job No:287750, file ref:4-50) confirmed the possibility of a significant pollutant linkage(s) and as such 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**
- b) if the risk assessment in (a) 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.**

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

**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.**

## **5 Construction Environmental Management Plan (CEMP)**

**No development and/or site preparation works shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include, as a minimum, a detailed Ecological Working Method Statement and consideration of all potential environmental effects of construction processes. This shall include specific consideration of the potential impacts associated with the installation of headwalls and associated drainage works within or adjacent to the Widemarsh Brook, including risk avoidance and mitigation measures to safeguard the water quality and biosecurity of the watercourse. The approved CEMP shall be implemented in full for the duration of all construction works at the site, unless subject to any variation which has first been approved in writing by the Local Planning Authority.**

**Reason: To ensure that all species are protected and habitats enhanced having regard to the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019’ (the ‘Habitats Regulations’), Wildlife and Countryside Act 1981, National Planning Policy Framework (2021), NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1, LD2 and LD3 and the council’s declared Climate Change & Ecological Emergency.**

## **6 Construction Management Plan**

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

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

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

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

## **Conditions to be Discharged**

### **7 Detailed Landscaping Scheme**

**With the exception of site clearance and groundwork, no further development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:**

- a) A drawing detailing hard surfacing materials**
- b) Boundary treatments and means of enclosure**
- c) Vehicle /Cycle /Pedestrian access and circulation areas.**
- d) Vehicle parking layouts**
- e) Lighting and CCTV**
- f) All proposed planting, accompanied by a written specification setting out species, size, quantity, density and cultivation details.**



- g) A plan and details detailing water attenuation/ SUDS schemes.
- h) An implementation programme – setting out phasing of work where appropriate.

**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

## **8 Ground Conditions for Planting**

Prior to any planting being undertaken in relation to the approved landscape scheme, a strategy for ensuring that all new trees and shrubs are provided with suitable ground and soil conditions to support successful establishment and growth shall be submitted to an approved in writing by the Local Planning Authority. The planting shall subsequently be carried out in accordance with the approved details.

**Reason:** In the context of the known presence of made ground and soil contamination, it is necessary to ensure that suitable ground conditions are provided to support the successful establishment and longevity of the landscaping scheme in order to secure compliance with policies LD1 and LD3 of the Herefordshire Local Plan Core Strategy and the National Planning Policy Framework.

## **9 Landscape Management and Maintenance**

Before the development is first brought into use, a schedule of landscape management and maintenance for a minimum period of 10 shall be submitted to and approved in writing by the local planning authority. Maintenance shall be carried out in accordance with the approved schedule.

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

## **10 Details of Covered Cycle Storage**

Prior to their installation on site, details of the proposed cycle storage shelters (as indicated on approved plan 964-WWP-BGN-AA-DR-A-001002 REV P02 Proposed Site Plan and Section) shall be submitted to the Local Planning Authority for written approval. The covered cycle storage shall subsequently be provided in accordance with the approved details prior to the development being brought into use and thereafter those facilities shall be maintained in perpetuity, unless any variation is agreed in writing with the Local Planning Authority.

**Reason:** To ensure that adequate covered cycle parking is provided to support sustainable transport choices and to ensure that this is provided to a design which is conducive with respecting the setting of the Grade II listed Barr's Court Railway Station and the character of the wider area, in order to secure compliance with policies MT1, SD1, LD1 and LD4 of the Herefordshire Local Plan Core Strategy, the National Planning Policy Framework and Section 66 of the Town and Country Planning Act 1990

## **11 Bus Shelter Material Finish and Colour**

Prior to the installation of the relevant materials of site, details of the proposed external materials and colour finish for the bus shelter structure (as shown on approved plans 964-WWP-BGN-XX-DR-A-002001 REV P02 and 964-WWP-BGN-XX-DR-A-002002 REV P02) shall be submitted to the Local Planning Authority for approval. The works shall not be carried out until written approval has been given and works shall subsequently be carried out in accordance with the approved details.

**Reason: To ensure the development is carried out in accordance with details which are conducive with upholding the character of the area and the setting of the station building, in accordance with polices SD1, LD1 and LD4 of the Herefordshire Local Plan Core Strategy, the National Planning Policy Framework and Section 66 of the Town and Country Planning Act 1990.**

## **12 Travel Plan**

**Prior to the first of the development hereby approved, a Travel Plan which contains measures to promote uptake of sustainable transport modes amongst users of the transport interchange shall be submitted to and be approved in writing by the Local Planning Authority. The Travel Plan shall be implemented, in accordance with the approved details, on the first use of the development. A detailed written record shall be kept of the measures undertaken to promote sustainable transport initiatives and a review of the Travel Plan shall be undertaken annually. All relevant documentation shall be made available for inspection by the local planning authority upon reasonable request.**

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

## **13 Ecological Enhancement Measures**

**Prior to the first use of the development hereby approved, a specification and annotated location plan demonstrating a range of species net gain enhancement including appropriately located habitat boxes for bat and bird species must be supplied to and approved in writing by the local authority. The approved scheme shall be implemented in full within 3 months of the development being brought into use and thereafter maintained as approved unless otherwise agreed in writing by the local planning authority.**

**Reason: To ensure that biodiversity net gain is secured 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; and the council's declared Climate Change and Ecological Emergency.**

## **14 Vehicular access construction**

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

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

## **15 Highways Improvement/off site works**

**Development shall not begin in relation to any of the proposed highways works until full details of these have been submitted to and approved by the local planning authority in writing, following the completion of the technical approval process by the Local Highway Authority. The development shall not be brought into use until the scheme has been constructed in accordance with the approved details.**

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

#### **16 Cycle Lane Specification**

**Prior to the implementation of the relevant works, details of the surfacing specification for the shared cycleway running along the site frontage with the A465 City Link Road shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall allow for a 3.5m wide machine laid tarmac unsegregated route, consistent with the existing route and delineated at the northern edge with an edging kerb. The development shall not be brought into use until the scheme has been constructed in accordance with the approved details.**

**Reason: To ensure the safe and efficient function of the cycleway and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy Plan and the National Planning Policy Framework.**

#### **17 On site roads - submission of details**

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

- **Surface finishes**
- **Drainage details**
- **Future maintenance arrangements**

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

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

#### **Compliance and Monitoring Conditions**

#### **18 Provision of Visibility Splays**

**Before any other works hereby approved are commenced, visibility splays, and any associated set back splays at 45 degree angles, shall be provided to all accesses in accordance with the details shown on approved plan 964-ARP-HGN-ZZ-DR-C-000002 Rev P05. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility splays.**

**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.**

#### **19 Implementation of Approved Drainage Strategy**

**Prior to the occupation of the site the foul and surface water drainage system shall be completed in accordance with the approved details as per drawing reference DR-C-000001 P06. Thereafter no further surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage system.**

**Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment, in accordance with policies SD3, SD4 and LD2 of the Herefordshire Local Plan Core Strategy and the National Planning Policy Framework.**

## **20 Implementation of Contaminated Land Measures**

**The Remediation Scheme, as approved pursuant to condition no. XXX 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.**

## **21 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.**

## **22 Implementation of Landscaping**

**The hard and soft landscape works shall be carried out in accordance with the details approved pursuant to Condition xx attached to this permission before the development is first 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.**

### **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 With regards to the contaminated land assessment required pursuant to condition, the 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 2023. 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 or vapour protection measures are required, they shall be validated in accordance with current best practice guidance.

### **3 Welsh Water Informative**

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

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

In accordance with National Planning Policy Framework (Edition 11) and Technical Advice Note 12 (Design), the applicant is advised to take a sustainable approach in considering water supply in new development proposals, including utilising approaches that improve water efficiency and reduce water consumption. We would recommend that the applicant liaises with the relevant Local Authority Building Control department to discuss their water efficiency requirements.

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

**5 This permission does not authorise the laying of private apparatus within the confines of the public highway. The applicant should apply to Balfour Beatty (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford HR2 6JT, (Tel: 01432 261800), for consent under the New Roads and Streetworks Act 1991 to install private apparatus within the confines of the public highway. Precise details of all works within the public highway must be agreed on site with the Highway Authority. A minimum of 4 weeks notification will be required (or 3 months if a road closure is involved).**

Under the Traffic Management Act 2004, Herefordshire Council operate a notice scheme to coordinate Streetworks. Early discussions with the Highways Services Team are advised as a minimum of 4 weeks to 3 months notification is required (dictated by type of works and the impact that it may have on the travelling public). Please note that the timescale between notification and you being able to commence your works may be longer depending on other planned works in the area and the traffic sensitivity of the site. The Highway Service can be contacted on Tel: 01432 261800.

**6 No work on the site should commence until engineering details of the improvements to the public highway have been approved by the Highway Authority and an agreement**

under Section 278 of the Highways Act 1980 entered into. Please contact the Senior Engineer, PO Box 236, Plough Lane, Hereford HR4 0WZ to progress the agreement.

- 7 The developer is required to submit details of the layout and alignment, widths and levels of the proposed roadworks, which shall comply with any plans approved under this planning consent unless otherwise agreed in writing, together with all necessary drainage arrangements and run off calculations. It is not known if the proposed roadworks can be satisfactorily drained to an adequate outfall. Adequate storm water disposal arrangements must be provided to enable Herefordshire Council, as Highway Authority, to adopt the proposed roadworks as public highways. The applicant is, therefore, advised to submit the engineering and drainage details referred to in this conditional approval at an early date to the Senior Engineer, PO Box 236, Plough Lane, Hereford HR4 0WZ for assessment and technical approval. No works on the site of the development shall be commenced until these details have been approved and an Agreement under Section 38 of the Highways Act 1980 entered into.
- 8 Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.
- 9 The applicant's attention is drawn to the need to ensure that the provision of the visibility splay(s) required by this consent is safeguarded in any sale of the application site or part(s) thereof.
- 10 The brightness of the floodlit surface, or illuminated sign face, shall not exceed the values stipulated in the Institution of Lighting Engineers Technical Report No. 5: 1991 "The Brightness of Illuminated Advertisements".
- 11 The attention of the applicant is drawn to Section 175A(3) of the Highways Act 1980 within which the Highway Authority shall have regard to the needs of disabled persons when considering the desirability of providing ramps at appropriate places between carriageways and footways and to any requirement of the Disability Discrimination Act.
- 12 The applicant's attention is drawn to the requirement for design to conform to Herefordshire Council's 'Highways Design Guide for New Developments' and 'Highways Specification for New Developments'.
- 13 The attention of the applicant is drawn to the provisions of the Wildlife and Countryside Act 1981 (as amended). This gives statutory protection to a number of species and their habitats. Other animals are also protected under their own legislation. Should any protected species or their habitat be identified during the course of the development then work should cease immediately and Natural England should be informed. They can be contacted at: Block B, Government Buildings, Whittington Road, Worcester, WR5 2LQ. Tel: 0300 060 6000.

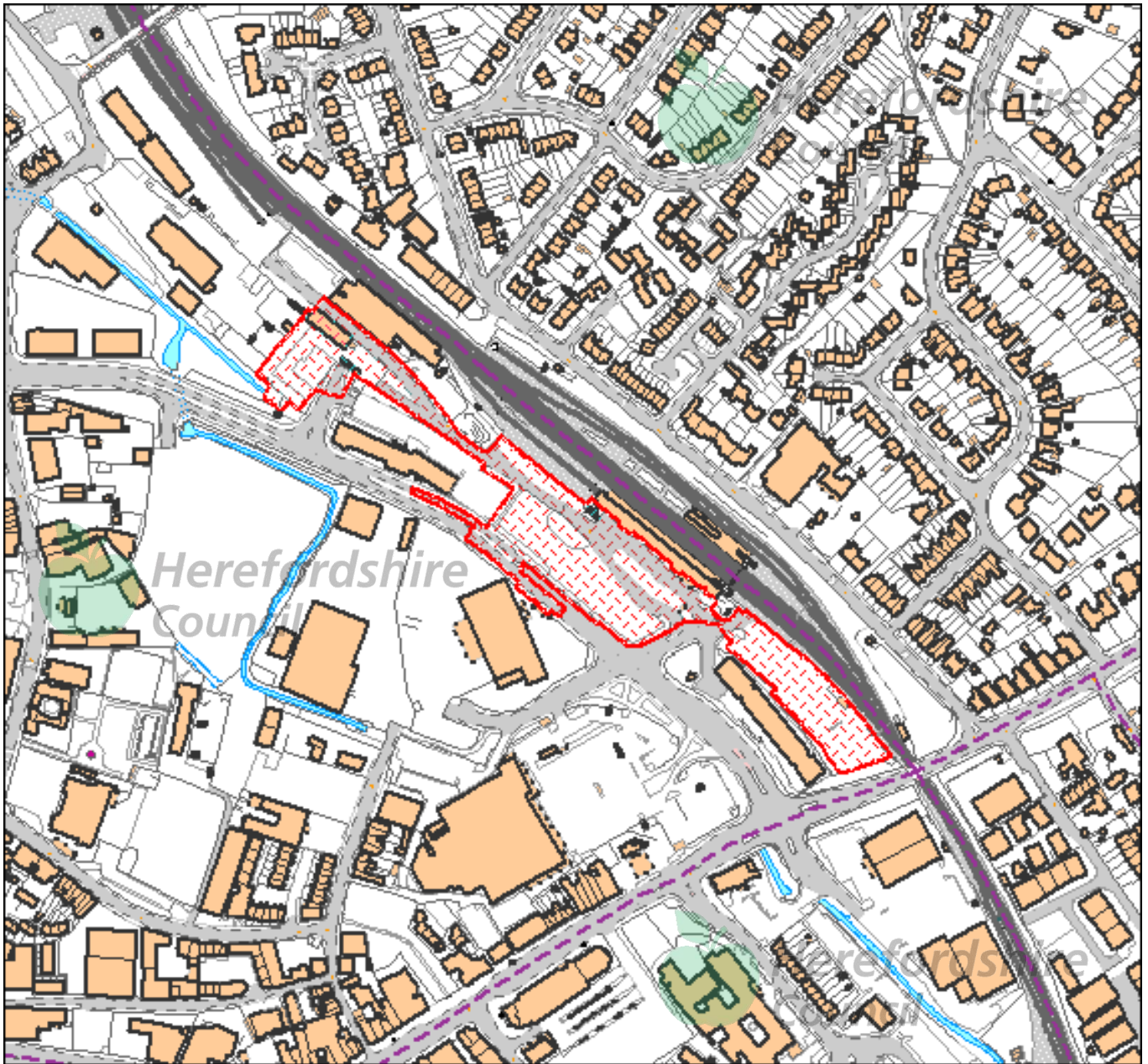
The attention of the applicant is also drawn to the provisions of the Conservation of Habitats and Species Regulations 2010. In particular, European protected animal species and their breeding sites or resting places are protected under Regulation 40. It is an offence for anyone to deliberately capture, injure or kill any such animal. It is also an offence to damage or destroy a breeding or resting place of such an animal.

## **Appendices**

Appendix 1 – Hereford Civic Society Objection Report - 8<sup>th</sup> February 2024

**Background papers:** none identified.





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

**APPLICATION NO:** 233009

**SITE ADDRESS :** HEREFORD RAILWAY STATION, STATION APPROACH, HEREFORD,  
HEREFORDSHIRE, HR1 1BB

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





# HEREFORD PROPOSED TRANSPORT HUB

## Formal Representation and scheme development

To 7<sup>th</sup> February 2024.

Planning Application no **233009**

From: Hereford Civic Society

To: Adam Lewis, Planning Case Officer, Herefordshire Council

Cc: Polly Andrews, Councillor, Widemarsh Ward  
Mark Averill, Service Director, Environment, Highways, HC  
Neil Batt, PMO Programme Manager (Transport, place-making and Highways), HC  
Adam Brown, Weston Williamson  
Laurence Butterworth, Senior Project Manager, HC  
Ross Cook, Director Economy & Place  
David Fowler, Chair, HCS  
Will Frecknall, Rail & Bus for Herefordshire  
Eleanor Johnstone, Programme Co-ordinator, HC  
Les Lumsdon, R&B4H  
Luqmaan Kholwadia, Arup  
Adam Lewis, Planning Case Officer, Herefordshire Council  
Jeremy Milln, City Cllr, Central Ward  
Jesse Norman, MP for Hereford & S Herefordshire  
Sameer Nadeem, Transport engineer, HC  
Andrew Pearson, R&B4H  
Darren Ray, Design Team Lead  
Sion Simpson-Williams, Arup

**Provision of a transport hub and public realm improvements at Hereford Railway Station including the creation of a bus interchange, waiting area, canopy and layover space, provision of passenger drop-off and parking areas, and formation of a new access junction via City Link Road.**

This response comprises the following elements:

- 1) POLICY-BASED OBJECTION to the planning application scheme identifying the issues
- 2) EVIDENCE-BASED DIALOGUE with the consultants in an effort to resolve the issues before and after submission of planning which comprises:
  - (a) Response of 22<sup>nd</sup> August 2022 following consultation with elected members on 19<sup>th</sup> August 2022 (about the initial RIBA stage 2 scheme proposals for the Transport Hub dated 13<sup>th</sup> May 2022)
  - (b) *Design Team Response of 3<sup>rd</sup> October 2022, in blue ital*
  - (c) *Comments on Design Team response of 10<sup>th</sup> October 2022, in green*
  - (d) *Final response following consultation meeting between the Design Team, the Applicant, Hereford Civic Society and H&GCT on 24<sup>th</sup> January 2024, in red*
- 3) ALTERNATIVE SCHEME DEVELOPMENT. Set of drawings showing how the identified issues may be addressed

# Part 1: POLICY-BASED OBJECTION<sup>1</sup>

## Planning Application no **233009**

### 1.1 Overview

#### 1.1.1 Ambition and objective:

Set out in the Planning Statement, the Transport Hub aims to deliver modal shift, be forward looking, progressive, cater for growth in demand, demonstrate flexibility of use, be attractive and distinctive of Hereford, offer a sense of place, be memorable as a point of arrival and departure, as well as being safe and welcoming. In the words of the Council's *Business Case* (Aug 2022), to 'improve the public realm around the train station and create better walking, cycling and public transport infrastructure which will allow for improved integration with the historic city core'<sup>2</sup>

#### 1.1.2 Operational Requirements:

Frequent, affordable, clean and prioritised public transport  
Waymarking that is intelligible and accessible  
Connectivity by active and public means that is safe and easy to/from the site  
Safe, segregated cycle and pedestrian infrastructure (painted lines wont do)  
Bus movements are safe and efficient of time and space minimising conflicts with others  
Electric bus on-the-go charging station  
Future-proofed to cope with closure of existing County bus station  
Canal restored and new basin constructed with tow-path accessibility  
Park & ride enabled  
Welfare, rest and refreshment facilities for bus staff and passengers outside the rail pay barrier  
Taxi rank, disabled and drop off provision  
Draws inspiration and example from the best elsewhere: Driebergen Zeist, Gloucester etc

#### 1.1.3 Capacity requirements – bus, cycle, taxi

sufficiency for all sustainable travel modes essential today and tomorrow  
sufficiency for secure and covered cycle storage  
sufficiency of sheltered waiting area with adequate and comfortable seating (to include cafe)  
sufficiency to grow to include County Bus Station when that site is redeveloped  
provision for Zipper and/or frequent shuttle service between city centre sites

#### 1.1.4 Design requirements

Adopt 'Dutch' design precepts and standards in urban planning, especially transport planning  
reflect ambition for success and growth (not that the uptake will be marginal)  
Adequate, attractive, secure and covered cycle parking, including for cargo bikes  
Use natural materials from the locality for paving, preferably also for structures  
Vehicle-free landscaped space in front of the Station  
Built structures accord with NPPF para 134 to meet design coding and sustainability requirements  
EV charging facility for buses and less importantly for cars

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<sup>1</sup> HCS disclaimer: Comments submitted in respect of planning or listed building applications to Herefordshire Council will have been drafted by HCS case-workers to reflect the generality of view of the Society, and do not necessarily reflect the views of all members.

<sup>2</sup> Hereford Transport Hub Business Case <https://councillors.herefordshire.gov.uk/documents/s50104628/Appendix%20%20-%20Hereford%20Transport%20Hub%20HTH%20Business%20Case.pdf>

## 1.2 Local Plan Core Strategy Policy

The submitted application is considered to engage Local Plan Core Strategy Policies for:

**SS1** presumption by which development is sustainable.

**SS4** delivering required standards for reduction of congestion, air quality and the promotion of active travel.

**SS6** delivering required standards for environmental quality and local distinctiveness in a heritage setting.

**SS7** addressing climate change and the reduction of carbon emissions or use resources efficiently.

**HD2** allowing for the Hereford and Gloucester Canal or adequate space for formation of a new basin.<sup>3</sup>

**HD2** working *in partnership with* public transport operators to deliver an integrated transport interchange close to the railway station to maximise opportunities for sustainable travel;

**HD3** reducing reliance on the private car - bus capacity not considered adequate to meet ambitions for growth and service relocation from the County Bus Station.

**MT1** encouraging active travel behaviour; delivery of safe pedestrian & cycle prioritised crossings; delivery of adequate operational or manoeuvring space and appropriately accommodate the needs of people with disabilities.

**E4** safeguarding the historic route of the Herefordshire and Gloucester Canal.<sup>4</sup>

**LD1** demonstrating that the character of the landscape and townscape has positively influenced the design, scale and nature of the site, protecting and enhancing its setting

**LD4** adequately protect, conserve and enhance heritage assets and their settings appropriately.

**SD1** optimising sustainable design and energy efficiency including the use of low carbon and sustainable materials.

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3 **Policy HD2** states that:

'The Urban Village ... respects and where possible enhances the historic environment including land and contributions towards a canal basin forming the terminus of the Herefordshire and Gloucestershire Canal ... which adjoins Widemarsh Brook will maximize opportunities for enhancing biodiversity ...'

goes on to add:

'...new developments will be approved where they enable the provision of a canal basin with associated wharfage and visitor centre'

(by implication developments which frustrate this policy objective will be refused)

4 **Policy E4** states:

'...the tourist industry will be supported by ... the safeguarding of the historic route of the Herefordshire and Gloucestershire Canal , together with its infrastructure, buildings, towpath and features. ... Development not connected with the Canal that would prevent or prejudice the restoration of a continuous route will not be permitted'

## 1.3 Challenges and issues of proposed scheme

### 1.3.1 Capacity & operation

1. Drive-in-reverse-out (DIRO) arrangement is less efficient in terms of movement than a 'drive-thru' and potentially unsafe with the private car parking at the N side of the DIRO site. This has not been addressed leaving obvious points of conflict between vehicles moving in two directions through the single lane section shared with MFA Bowl/ Goods Shed/ NR Depot, where safe pedestrian provision is lacking.
2. Just four DIRO bus bays is considered unlikely to offer sufficient capacity in the future and the hope buses currently using the County Bus Station on Commercial Road 'will be dispersed' when this site is redeveloped, is considered unrealistic.
3. Dependence on a couple of bus stops on the CLR to make up the capacity shortfall is unwise. Bus stops do not make a Transport Hub and should be regarded as additional not augmentive provision
4. ATE have identified likelihood of over-subscription (and therefore congestion) at the Taxi Rank particularly as it seems the space is likely to be shared with disabled parking and pick up/ drop off.
5. Capacity and operation of existing HMG junction is even now compromised by unofficial and obstructive parking. It is doubtful the junction would currently survive stress testing with additional traffic and bus movements. By reason of its design and operation the junction acts as a disincentive to active travel as it is and it is therefore certain that the proposed additional junction would make the situation even worse for pedestrians and cyclists.

### 1.3.2 Transport infrastructure

6. **Mode share: motor vehicles.** Design assumes continued dominance of the private car – built on a roads priority model, the overall site dominated by hard surfaces, asphalt and motor vehicles, as sources of noise and emissions pollution largely unmitigated by design considerations.
7. **Mode share: Active.** Projections for increased active travel mode share are unambitious and not supported by appropriate and coherent infrastructure design as the submission from Active Travel England (ATE) makes clear. In design terms therefore, the proposed scheme fails to adequately meet the emphasis of the *Herefordshire Council Highways Development Design Guide* which places sustainable modes at highest priority. The idea of a pedestrian plaza immediately in front of the station is very welcome, but it fails due to lack of safe segregated connectivity for pedestrians and cycles with anything beyond. Even within the application site it fails for example through the single lane section of road between the station and the TfW site that is expected to carry vehicles in both directions, for here there is no provision for Network Rail/ TfW staff needing to access their site by bicycle, thus further embedding car-based behaviours into the design. A further shortcoming which has not been addressed in the scheme but which was identified on p29 of the Planning Statement, concerns the lack of connectivity to the S and E which obliged pedestrians and cycles to make their way to/from the Station all the way round by the road when a direct access off the railway bridge at the bottom of Aylestone Hill and via the NCP car park would be easy and would demonstrate that Herefordshire Council and the Rail operator were working *in partnership* as the Local Plan requires.
8. **City Link Road.** Lack of foresight regarding the need to 'tame' the ugly, over-engineered, hostile and noisy CLR, which effectively severs the Transport Hub, Student block and HMG

- Centre from the City for anyone not in a motor vehicle
9. **Side road.** Additional side road proposed to right (for buses) as well as the one to right of the Medical Centre introduces further conflict with active travel users and increases the severance of the Transport Hub from everything else, in this case particularly from the Medical Hub in view of the fact the design does not allow a direct route between the Station and the HMG Hub. Consultants have promised pedestrian and cycle prioritised over such a side road, but this is not shown on the submitted drawings
  10. **Staff parking.** Retention of rail staff parking on the site severely limits its flexibility of use and sets up conflict with buses. They will also be likely to use any new side road for convenience, rather than double back around the other side of the HMG Hub. Drawing 3007 on the movement of the water tanker in this area shows the vehicle crossing the pavement.
  11. **Bus layover.** As proposed this is relatively remote from the site and access to it from the Hub would require negotiating two CLR junctions. Also it is on the site of the Hereford & Gloucester Canal, protected by the Local Plan
  12. **Cycle parking.** Paucity of covered cycle parking referenced by ATE (acts as a clear disincentive and 'represents a serious oversight') ATE cites LTN 1/20 11.4.12 and 11.6 and good example elsewhere eg Kettering Rail Station and Cambridge N
  13. **Cycle connectivity.** Absence of safe segregated cycling routes to/from/within the Hub is sub LTN 1/20 design standard. ATE does not consider either the Canal Road or Commercial Road access routes to be satisfactory and this should be addressed in tandem with design work on the Hub (even if delivery comes later). It is a commitment of the Local Travel Plan that levels of walking and cycling in Hereford are increased over 2010 levels by 200% by 2030. The Transport Hub proposal needs to support this ambition appropriately.
  14. **Taxi Rank.** Needs clearer separation from drop/off/ pick up point and disability parking. The taxi area intrudes considerably across the pedestrian plaza in front of the station and obstructs lorry access to the bin ramp.

### 1.3.3 Built environment

15. **Built structures.** Incongruous, cheap-looking, and poorly articulated, design for built structures. No clear statement in themselves. High embodied energy materials, chiefly steel, concrete and glass. Weak and apologetic. It is considered these do not accord with Local Plan policies SS6 and LD1 or NPPF 134
16. **Paving.** Generic, low quality paving, using brought-in man-made materials, high embodied energy. Eight different sorts of manufactured paving (resin-bound, tactile, Moderna, Kassl Lotis, Novara etc). NB the 'Air Clean' Paving described on p108 of the Planning Statement as a 'sustainable' granite is in fact a manufactured high carbon concrete product.
17. **Urban village.** Little sign of linkages with the 'urban village' envisaged by the Local Plan (HD2) and Edgar Street Grid masterplan which envisaged the '*infrastructure forming part of the wider regeneration area creating a sustainable mixed use development which respects and where possible enhances the historic environment*'
18. **Bin Ramp.** This existing infrastructure obliges lorries to drive across pedestrian areas and limits the use of the Taxi Rank. The bin area would be better accessed from the E via the main car park. In design terms the existing arrangement is very unsatisfactory and as a *partnership* with the rail operator, this project should come up with a far better solution to this and the little used (because inaccessible) covered cycle parking here.
19. **Station heritage building.** Impact on listed building of glazed canopy and more particularly of enlarged entry to booking hall (shown in slide 13 of 24 Jan 2024 presentation, not in the applicant's drawings). A carefully considered design response for the supporting ironwork for this canopy would be required.

## 1.4 ILLUSTRATIONS

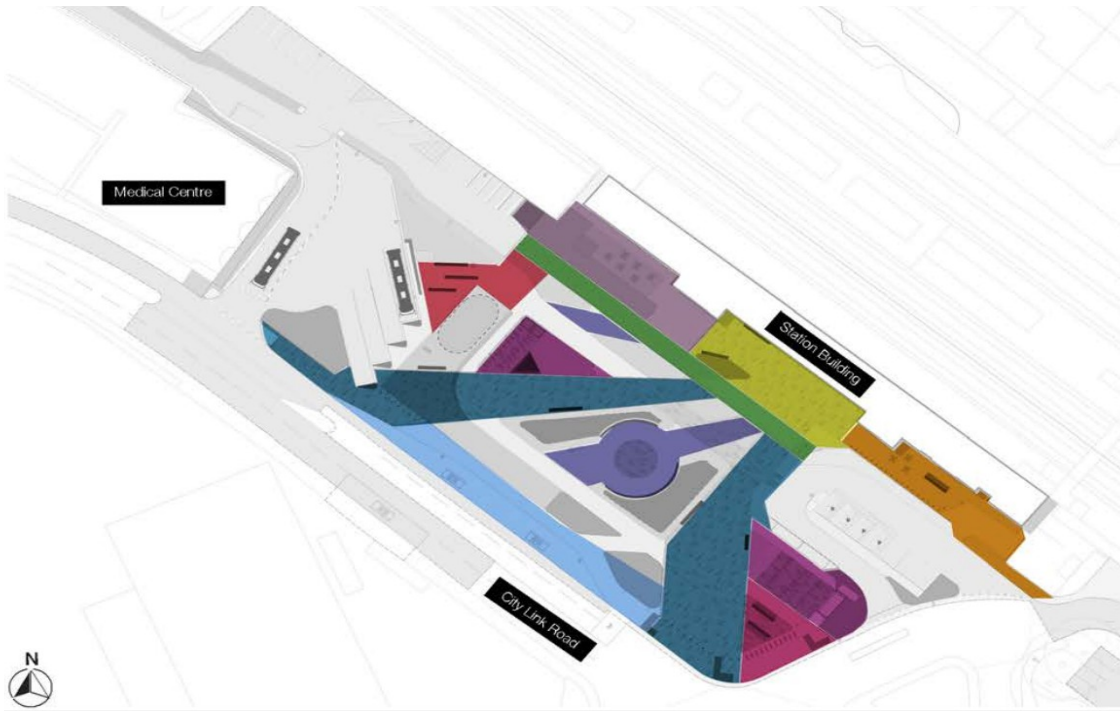


**1.4.1 Ugly and unsympathetic plain glazed entrance to listed station proposed by Weston Williamson** (Source: *presentation* slide 13) would not be supported in heritage terms. Fussy scheme using high carbon man-made paving materials not considered appropriate for situation or net zero ambition – use local and natural materials (eg Pennant sandstone) to simplified scheme.



**1.4.2 Incongruous, cheap-looking, alien and poorly articulated structures** shown in this visualisation (source: *Heritage & Townscape Assessment*, Sept 2023, p.34)





**1.4.3 Zones & Activation** (Planning statement p 55): subdivision of the forecourt into zones for recreation, landmark, shared space, emergency, desire line, waiting area, spill out space, taxis etc has resulted in an unnecessarily fussy and confusing arrangement.



Figure 20. Proposed Landscaping Approach

**1.4.4 Landscaping** (Planning Statement p46): subdivided to 'The Lunch Spot', Avenues, 'Pocket Green', 'The Node', The 'Interchange Area' and 'Hubs' using raised rather than in-ground, planting, a 'water feature', a 'competition bench', a pump room, tiered seating and numerous different types of

paving material, none of them local and all manufactured, further adds to the sense of chaos and desperation.



**1.4.5 Hub bus shelter building:** The appraisal of structural options on p.110 of the Design & Access statement identified glulam (a type of stabilised timber) as being low in embodied carbon and therefore more likely to help Herefordshire Council meet its net zero by 2030 commitment, yet a steel scheme has been used. Aesthetically too a timber-framed option would have produced a more aesthetically pleasing and solid result. Note also the lack of provision for cycling between the shelter and the CLR – this should be addressed with a marked lane. The glass screens seen behind waiting passengers may protect from the weather from the north-east, but would be of limited value as the wind is usually from the prevailing south-westerly direction.



## Part 2: EVIDENCE-BASED DIALOGUE

### 2.0 Ensuring delivery of the Transport Hub is a *partnership*

**2.1.1** Few would dispute that Hereford needs a multi-modal transport facility and the railway station has long been accepted as the best site for it. Bringing together trains and buses is necessary for an integrated service and for providing viable options to the private car.

The Design and Application team was reminded that it is a requirement of the *Herefordshire Local Plan Core Strategy 2011-31* that Herefordshire Council will deliver an integrated transport interchange *in partnership with* public transport operators on the site. It is clear the design team are not acting in partnership as evidenced, for example, by the fact the unsatisfactory parking of cars for railway staff in the overall bus movement area is being tolerated and not addressed. The requirements of **Policy HD2** are therefore not being met in this regard. Other evidence for the lack of partnership working concerning use of the Station (eg complimentary catering offer) building and Station car-park (re future design capacity) were observed. No evidence was adduced of partnership working with the Hereford Medical Group, eg concerning recovery of Transport Hub space currently being used for private car parking.

**2.1.2** The recent development of the student accommodation block and medical centre, which did not adequately anticipate what would be required for a successful transport hub, add considerable challenge to the task and it is accepted compromises may have to be made to accommodate the disparate functions across the site.

**2.1.3** The design of the new **City Link Road**, in spite of being part of the same HCCTP Project, also failed to properly anticipate the Transport Hub and it is disappointing that, as a result, it has been considered necessary to propose an additional motor transport side road onto it which would clearly add significant cost to an already hugely over-budget scheme as well as further degrade the already sub-standard walk and cycle provision. We should make every effort to avoid this.

*Collaboration between the masterplanning team and the design team will prevent un-supported cycle and pedestrian routes as much as possible. The Transport hub will stay flexible with regards to access from CLR and clear locations and access to active travel hub on the forecourt has been implemented in the design. Provision of the additional junction is for buses to exit from the Transport Hub. Under current assumptions it is envisaged this would be used by around 18 buses an hour in the busiest periods. No other traffic would use the junction. Pedestrian and cycle priority would be maintained with buses giving way to these users*

The introduction of an additional motor vehicle side route to the CLR is not supported as already indicated and should not be carried out without significant redesign of the CLR itself (which I am sure to be told will be beyond current scope). The reason for this is due to the high design speed of the CLR.

The introduction of side roads onto high design speed roads is inefficient, expensive and dangerous. This may, to some extent, be mitigated with continuous pavements but they will need to be at grade and distinctive in terms of colour and texture from the road itself which of course they aren't.

The Team accepted that the CLR, in its current form, severs the Transport Hub from the City for cycles and pedestrians and that this is not addressed by the present proposal, as the response from Active Travel England also makes clear. The proposed new side road junction to the CLR in particular fails to meet the requirements of Herefordshire **Local Plan Policy MT1** (failure to encourage active travel behaviour) and this is not considered outweighed by public benefit in view of the fact alternative arrangements have not been brought forward. The Design and Application team confirmed that it is aware of the fully compliant best practice design solutions offered by the Civic Society from its work with the urban planner Darren Ray and accepted it must work towards adopting them.

If there is resistance to using the existing side road junctions for all the vehicle movement to/from the

Transport Hub and a third one is introduced, this must not interrupt the priority movement of pedestrians and cycles as shown in the application drawings. For the same reason the pavement should be designed to be continuous not interrupted at the Taxi side road with the pavement kept at level with vehicles ramped across.

**2.1.4** These shortcomings result from decisions made under the previous administration and should serve as lessons that, in future, infrastructure investment is consulted better and that good advice arising from those consultations is used to make necessary amendments in a timely way.

**2.1.5** Delivery of a successful hub will require co-operation and collaboration with neighbouring land-owners, NCP and the Rail operator. It is not clear from the consultation documents how this is being progressed. Much as we may wish to move to more sustainable modes, we will in the short-medium term need to optimise car-parking at the Transport Hub and we will rely largely on the Rail operator to provide this.

*Biweekly meetings have been performed during both RIBA 2 and 3 to collaborate with NR and TFW. As the NCP car park is beyond the scope of the travel hub it has only been possible to propose a more efficient and commercial layout for the parking. All other provisions have been retained except from where provision has been over-excessive to the amount of users.*

*Regular meetings have been held with NR as landowner and Tfw as rail operator. NCP operate the car park on Tfw's behalf. Proposals have been made to revise operation of the car park through a new charging structure enabling short stay parking to optimise the car parking as suggested.*

*A session has also been held with the Medical Centre, Bowling Club and Management of the Students Accommodation. There was very good feedback and no major concerns with the...*

It is a more efficient and commercial arrangement for the car parking at the NR and TFW site that we seek and I am pleased to learn of the collaboration. That being so, it is now a matter of agreeing the degree and the design. It is an absolute commitment of the local plan through Policy HD2, that Herefordshire Council will deliver an integrated transport interchange *in partnership with* public transport operators.

Shortcomings in capacity and flexibility that have yet to be addressed suggests that this partnership is not working as well as it needs to

We probably need to be planning for a multi-storey facility here to support the hub and future-proof it against growing capacity demand and this facility will need significant investment in a way that allows/promotes cycle use.

I do not understand your comment about 'over-excessive provision for the amount of users'. The provision is inadequate as it is and likely to become more so. Good feedback and no major concerns with what? You don't complete your final sentence.

**2.1.6** I am inclined to ask what became of the work on the Hub commissioned from consultants WSP in 2017? There were three phases to this work: brief, analysis and design recommendations.

*The material from the previous WSP project has been looked through and analysed in the early parts of RIBA 2 - This has been used as part of the base to understand the shortcomings, requirements and focus for the transport hub*

Ok. The WSP work seems never to have been consulted even to the Cabinet Member, but what I saw of it confirmed my suspicion it lacked flair. It is concerning that this entailed significant expense and little to show for it.

## **2.2 Sticking to the vision and the Brief**

**2.2.1** The Council's glossy brochure for the ESG in 2006 summed up the promise of the Transport Hub as: *providing a sense of arrival for visitors and a central connectivity point for all modes of transport, the Hub will provide transfer opportunities for trains, buses, taxis, private cars, hire cars, cycles and mobility vehicles. The safety of pedestrians is a priority and people on foot will benefit from wide and well-drained pavements, with benches and other rest and shelter facilities readily available.*

*The focus for the new transport hub has been a balance between bus operation and public realm*

*including safe and active travel for pedestrians and cyclists. With a priority on soft trafficants*

The ambition is to deliver a high quality facility **both** for bus operation and public realm including active travel. What are 'soft trafficants'?

**2.2.2** Therefore we begin with the premise that the Transport Hub should enable the travelling public to access an integrated service for trains, city and county buses and country coaches. There needs to be adequate lay-over spaces for buses and coaches and site flexibility to accommodate an expansion of service sufficient to support modal shift to over 50% of local trips being by means other than the private car. This is necessary to meet our commitments to address the climate and health emergencies.

*Capacity of facility progressed through discussion with HC and working to capacity agreed as a project assumption. A bus layover facility is included as part of the proposals.*

Does this mean we are working to capacity in line with modal shift ambitions? The proposed site for the layover facility would be contra Local Plan Core Strategy Policies HD2 and E4 as this is protected for the Hereford & Gloucester Canal and there would not be a sufficiently strong 'public interest' argument to tolerate such a breach. It should not therefore be taken through Planning.

It is noted that the HD2 and E4 policy breaches have not been addressed. A good solution to this is to locate the layover to the area currently used by NR staff car-parking, if need be utilising a strip of the disused rail land immediately adjacent to allow sufficient space for layover and for safe pedestrian route round the edge of the parking area rather than through the middle of it as currently proposed.

**2.2.3.** There needs to be access by private car or taxi segregated from buses and coaches and there needs to be prioritised access for safe segregated walking and cycling in line with policy commitments to support active modes and Local Transport Note 1/20 for cycle infrastructure.

*Taxi, short stay, accessible bays and PRM has been placed opposite the bus exchange with separate entrance and exit points to fully segregate the vehicular movement. With this layout there has been full prioritisation towards pedestrian and cyclist movement as they can access the public realm for the station without having to cross vehicular movement.*

*Segregation between buses and car/taxi is inherent in the design. Access for walking and cycling has been considered within the scope of the project brief and is considered to accord with LTN1/20.*

The Transport Hub needs to be used as an opportunity to help the Medical Centre unpick its very car-centric layout so that it becomes accessible to everyone not just those who can afford to run motor cars, in view of the fact that access to it has been made by design hazardous for anyone outside of a car. You cannot claim 'segregation between buses and cars' until you have partnered with the Medical Centre and come up with a sustainable transport plan for it in the interest of public health and the climate emergency. Your present proposals do not segregate buses and cars around the access road and continue to tolerate large areas of wasteful level parking for cars where we most definitely do not need them right next to a transport hub providing plenty of alternatives.

A way forward here would be to prioritise active travel routes over vehicular as per the Highway Code, so that means pavements/cycle routes uninterrupted by the side roads. There are clear points of conflict for an additional side road onto the CLR and for the side road on/off the Taxi/ drop off site where the pavement abruptly stops as currently proposed obliging pedestrians and cycles to use unprotected infrastructure or double back and go the long way round between eg the main car park and the Medical Hub

**2.2.4** Other essential requirements are for:

- A pedestrianised central plaza with good quality paving, trees and other landscaping to provide a proper sense of arrival as per Historic England advice
- Quality architecture to compliment the listed station building. Note what Gloucester

- achieved with its new Transport Hub building
- Attractive signage and other visual cues to aid orientation
- Quiet space for welcome, rest and socialising
- Provision for refreshment and relief (café & WCs)
- Short and long-term storage for cycles, including cargo cycles and including charging infra for e-assist cycles. Bays for Beryls.
- Eventually cycle lanes against traffic around the Transport Hub compliant with LTN1/20. In other words these will need to be segregated while the road design remains for fast-moving traffic.

## 2.3 Bus service is safe, efficient and integrated

I have reviewed the proposed DIRO scheme and would comment:

2.3.1 Bus Access. The additional access road onto the CLR proposed to the right of the Medical Centre should be omitted. It is far too close to existing accesses to the left of the Medical Centre and to the right of the Station. To introduce an additional side road would add another point of conflict with pedestrians and cyclists and to be compliant with LTN 1/20 and the new Highway Code would have to give way to the pavement and cycle lane anyway, not as shown in the proposal drawing. NB the CLR has already massively exceeded its budget without another £716,000 being spent on it. The bus and coach station would be adequately served by the existing 2-way access to left of the Medical Centre.

*Using the existing junction to CLR, the public realm in front of the station would be severely compromised and pedestrian movement along with cyclists to and from the station would be interrupted by vehicular movement which would compromise the focus on soft trafficants.*

*The new junction to CLR would only be functioning as an exit for bus movement as the route to the bus exchange is programmed to be one-way. A simple pedestrian crossing is planned to mitigate the access from the Medical Centre.*

*The additional bus only, exit only junction proposed from the Transport Hub to City Link Road is integral to the proposed operation of the facility. If buses were required to turn and exit via the Medical Centre junction the space required would be significantly greater reducing the public realm and bus operators may be unwilling to use the facility due to safety concerns. A continuous footway/cycleway design compliant with LTN 1/20 has been used to give priority to pedestrians and cyclists across the new junction.*

Using the existing 2-way access off the CLR need have no impact on the public realm in front of the station and because it is 2-way would not require vehicular movement across the plaza in front of the station which, I agree, it is important to avoid. Following partnership working with the Medical Centre, see previous note, where we offer positive benefits in terms of access and travel choice to the Medical Centre, a roundel design would be perfectly achievable and a far better use of space than simply as car-parking. This would obviate the need for buses to turn round and effect an enormous cost saving on an additional access to the CLR which could be put to delivering a better design architecturally. NB: LTN 1/20 compliant continuous pavement/ cycleway here could be a problem for certain buses as they straddle the raised section owing to the relatively high curb although that is a minor consideration and could be obviated though ramp design.

2.3.2 General Layout This has been developed to serve an additional access and would need to be revised. I suspect the six coach & bus alighting bays to be insufficient and they look too close together. The L-plan Hub building may be acceptable, but should be kept well away from the station building and should include well-designed wind and noise attenuation to protect the facility and the Plaza from the noise of the CLR (so not just a roof on piers). I like the way it promises to make an enclosed courtyard space with the station and that this space is kept free of vehicles.

*The additional access is integral to the design. The comment relates to the six internal bay RIBA2 design.*

*The current RIBA3 design provides four internal bays and analysis has been completed to test capacity against the assumed future bus service level agreed with Herefordshire Council officers. Buses terminating at the station will use the DIRO bays whereas through buses will use on-street stops  
The L shaped shelter has been located some distance away from the listed heritage building. Internal waiting areas have been included within the design to mitigate against rain and wind. The seating along CLR also has an additional glazed screen to provide better protection. The design needs to strike a balance between providing enough protection from the elements but also provide views through to the station. It is felt that the current design meets a compromise between the two. The urban realm has also been design to respond to the sheltered areas in the canopy, to shelter the more quiet areas from the noise of CLR.  
The design of the shelter has been based on future transport aspirations, based on similar precedent towns. The Hereford transport masterplan is also based on this principle. The ongoing work and collaboration with the masterplan team will justify the improvement here once further work has been completed.*

Thank you for the clarification. As observed the RIBA 2 proposal for six bus bays is insufficient. Reduced to four by RIBA 3 it is hopelessly inadequate. Such a reduction of capacity from the existing County Bus Station demonstrates a lack of vision or ambition and would provide no flexibility, for example in the event the City Tesco site is redeveloped and the bus station there requires relocation. We are not building a Transport Hub for the last century assuming we make only modal shift to the private car further impoverishing our public transport provision.

If the station building enjoyed a setting which depended upon long views inter-divisible with other heritage buildings I would agree. However it does not and the views it had recently have been greatly circumscribed by the new student accommodation block and the medical centre. Please do not be distracted by views therefore. On the contrary its remaining views, which are of the CLR and various modern utility buildings on the other side of it, are so poor, that it is better to sideline them; instead using this opportunity to frame a new space with some really good new structures which have merit in their own right, rather than trying to apologise for their existence or even use a lot of glass and try to pretend they are not there as you have done. Your comment about the Transport Masterplan and how the design of Hub building may relate to it, is rather difficult to demonstrate while we have yet to see any output from the masterplan process.

In terms of DIRO capacity, the proposed arrangement is likely to ensure that when the four bays are occupied, because of the close spacing it will be impossible to safely access side large luggage bays. So far as long views to/from the Station building are concerned, because they are so poor, compromised by unsympathetic recent development, the recommendation is to develop the shorter views and enhance the qualities of the piazza space by framing it with a more solid and durable built and planted form capable to screening the noise and pollution of the CLR as much as possible and complementing the listed station.

2.3.3 Commercial activities should be kept within the Hub building, perhaps to include a café with seating spilling out onto the piazza. I would not favour the introduction of separate pods within the piazza (purple blobs on the slide) and this will quickly detract from the setting of the listed building and make it feel cluttered and confusing

*No additional structures or buildings beyond the hub and shelter have been included in the new and updated design proposal. All commercial use has been retained with the station building*

Slide 26 of the presentation shows commercial structures outwith the Hub and shelter: 3 at 5m x 5m and one at 10m x 8.5m. It shows a stage and numerous stalls for events albeit I assume these would not be permanent.

There needs to be a refreshment offer outside the station platform ticket barrier, so for bus and other travellers, in an integrated way. Again the point is made that this needs to be a *partnership* project, so that refreshment offer might be run by the same franchisee for economies of scale. And this in turn needs to inform the design of the complimentary facility on the bus side.

2.3.4 Event stalls and stages Similar comment applies as 2.3.3 above. This would certainly risk making the piazza feel uncomfortably cluttered and confusing and should be omitted or used only sparingly.



*Events and stalls is an opportunity but not integrated as a fixed element within the design. It will be up to Hereford Council to decide whether to take advantage of this opportunity*

Comment as above

**2.3.5 Taxi drop-off.** The arrangements for taxi & accessible drop-off including disability parking look acceptable to me though I suspect a taxi rank for five vehicles to be insufficient. The function of the 'cut-through' needs to be clarified. This should not become a vehicle access lane by default – it could easily find itself colonised by taxis. It should be pedestrian, cycle and emergency.

*The RIBA3 design proposes five taxi spaces with additional taxi waiting to be provided within the NCP car park. The route across the station forecourt would be used in the case of emergency or building maintenance only with appropriate access control to either end to prevent unauthorised access. Design would ensure this area is a functional part of the public realm at all other times. The cut-through has been designed to include retractable bollards in each to prevent any mis-use of the shared surface. Only Herefordshire Council and NR will have access to functionality of the bollards*

Noted, ok.

**2.3.6 Car Parking.** We need to move away from a dependence on surface level car-parking for private vehicles (apart from a small number of spaces for disabled) and manage the demand with a multi-story at the existing car park site (see 6 below). This will require co-operation from a third party provider (NCP/ Rail operator). The area required for bus lay-over seems to have been identified for 21 spaces for staff parking. This is a very wasteful use of surface space on a site where such space is a premium (thanks to the decision to give so much of it to the new medical centre). I would suggest these 21 spaces go underground adjacent to the cycle parking (see below) until such time staff are persuaded to use cycles.

*The current NR owned, TfW leased, NCP operated car park is outside of the study area. NR have also stated that the staff parking immediately to the west of the station building is for operational purposes and the existing number of used spaces must be retained; this space was not proposed for bus layover during the current project.*

*Due to the complex ground conditions/contamination and prohibitively high cost underground car parking is not considered a viable option. Access to an underground car park would also have significant implications on available public realm.*

See response at Note 3 on the matter of the NR car park. Officers are encouraged to return to the dialogue with NR/ NCP with a bolder proposal. It is important that the development of the Transport Hub is the result of a joined-up approach, rather than the current piecemeal one. This has implications for the future of the present County Bus Station site which, if we do not increase capacity at the Transport Hub where it is logically placed, may threaten that site for use as a multi-storey car park - a most unsatisfactory location in view of the HCCTP objectives for active travel enhancement and public realm improvement on the Commercial Road corridor.

As noted elsewhere the answer for the NR staff parking is to include it on the NCP site since you claim there is spare capacity there. Alternatively there is space further NW as shown on the Ray scheme.

**2.3.7 Cycle access.** Cycle access to the Transport Hub site was not properly considered in the design of the new CLR with the result that very few people currently use a bicycle to reach the station. Cycling in the area of the CLR is positively dangerous due to over-engineered junctions and high speed road design. It is essential the Transport Hub considers how this will be addressed, even if delivery has to be done in stages due to limits on funding. The DIRO proposal fails to understand how cycling works and shows little imagination as to how to transition to greater cycle accessibility and use. The obvious flaw is in the proposal to interrupt what little cycle infrastructure there is on the CLR with another side road without providing any protection for cyclists in the path of oncoming buses. If this side road is to be created, buses exiting from it must give way to cycles just

as they would for cars as per LTN 1/20

*The development of the project has strategies the location and access to active travel hub - clearly defining logical positions that accommodate cyclist access from both ends of CLR without interfering massively with the pedestrian movement on site.*

*The majority of this comment relates to traffic/cycling conditions on the CLR which are outside the scope/boundary of this project. The DIRO proposal has very little impact on overall design of CLR.*

*At the proposed bus only, exit only junction buses will be required to give way to cyclists and pedestrians.*

The 'cut through' is likely to prove the obvious desire line for cycle users so needs to be included as a cycle link and lead directly to cycle parking including short-stay surface Sheffield stands under the glazed canopy immediately in front of the station. Whether we like it or not cycles will be left here unless a convenient nearby alternative is offered. Long-stay covered cycle parking may be further away but as I say we should be providing a lot more than you have done, and to include cargo bikes.

Everything anyone needs to know about why better cycle infrastructure design is so essential to effective transport planning is summed up by the Foundation for Integrated Transport <https://integratedtransport.org.uk/about> which reminds us that “an environment dominated by motor vehicles is a sign of failure” (Dr Simon Norton) and by Chris Boardman, using examples from Utrecht and the Netherlands, in five minutes here: <https://youtu.be/zq28fU2AuMU>

**2.3.8 Cycle parking.** We need to be forward-thinking with regard to cycle parking. Open air surface stands are suitable and popular where people want to pop into a shop for a few minutes. They are not suitable if you need to leave your cycle all day while you are away on the train, especially when it is raining. And this is not a site where we would encourage more than a limited number of surface cycle shelters because to do so would quickly clutter the piazza/plaza space and affect the setting of the listed building. The answer is underground cycle parking, subject to avoiding the service main known to pass through the southern part of the site. They do these very well in the Netherlands as explained in this excellent YouTube video from Not Just Bikes (122) [Underground Bicycle Parking is Amazing – YouTube](#)

*Covered cycle parking along with locked storage has been incorporated in the proposal for the transport hub. Furthermore, locations of the cycle parking has been strategised with a focus on minimum interference with pedestrian desire lines. They have also been designed with greenery to shield and organise the parking to prevent the clutter and focus*

*See response above for types of cycle parking. Due to the proposed future role of the site not all visits will be long stay.*

*Due to the complex ground conditions/contamination and prohibitively high cost of underground cycle parking this is not deemed a viable option.*

Underground cycle parking is common at Railway stations in the Netherlands: we need to be progressive and less unambitious. The Dutch do this with far more challenging ground conditions and even do cycle parking underneath their canals. I am supportive of in ground planting but greenery in planters will add to clutter, not prevent it. By and large pedestrian and cycle desire lines will be very similar.

Additional surface covered cycle parking as proposed following the response from Active Travel England needs to be carefully considered so that the cover structures are properly designed to enhance the setting and do not clutter it with cheap-looking shelters

**2.3.9 Bus & coach layover.** I am not clear where this is? The obvious place for this to my mind would be the top of the site where the staff parking is currently proposed (see 2.3.6). Use of the little used railway land immediately to the north should be considered as part of this.

*The proposed bus/coach layover facility is located immediately to the west of the Station Medical Centre and could accommodate five vehicles.*

*See note 6. The site proposed site for layover facility conflicts with Local Plan Policies HD2 and E4 and cannot be supported. The route of the Hereford and Gloucester Canal is protected.*

This point was re-emphasised at the meeting on 24<sup>th</sup> Jan 2024. H&GCT worked hard to ensure that the route

of the Canal would be preserved and it is disappointing that Herefordshire Council seems minded, yet again, to set aside its own Local Plan policies. The solution is to work in partnership with the other transport operators on the site to deliver the layover in the area simply used for NR staff.

2.3.10 Pedestrian accessibility Comments as 2.3.7. The environment around the station is pedestrian-unfriendly due to the severance effect of the new CLR. Access to/ from the Hub site needs to be addressed as well as access within the Hub site.

## 2.4 Sawtooth option

This option shares characteristics with the DIRO, save the arrangement for bus and coach arrival, with a roundabout immediately in front of the station, is intrusive of the Plaza and would adversely affect the setting of the station. It is assumed this would also offer space for six coaches or buses at any one time and this really seems inadequate even with service use as it is now, never mind for future-proofing.

Option not progressed to Planning but revised scheme has merit, see drawings at end

## 2.5 Island Option

Also a scheme which appears to provide for just six coaches or buses at any time, but in this case almost the entire area of the Plaza in front of the station would be given over to asphalt with a two-way road in front of the station itself for use as a traffic cut-through. Much less consideration is given to anyone outside of a vehicle in this option and almost no consideration for cycles. The Plaza area would be reduced to a small island girt by noisy and polluted roads from which the City and Hub would only be accessible by controlled crossings. The consultants are not being realistic suggesting such a space would be attractive for stalls for events or commerce. The option is ugly and dangerous and should be discounted

Option not progressed to Planning but revised scheme has merit, see drawings at end

## 2.6 NCP Rail users' car-park is redesigned for capacity and connectivity

Comments as 2.3.6 above. Re-arrangement of the parking layout which results in a reduction from 151 to 139 spaces is not likely to be supported, at least in the short-medium term. This is a highly strategic car-park site and while its capacity was boosted during the years the adjacent site was used for car-parking, it was frequently full. If we must have car-parks, this is the one to develop. It is the obvious site for a multi-storey.

*The loss in spaces is primarily from the station forecourt. The proposals for the car park would enable more effective use to be made of the facility since current use indicates it is typically operating below capacity. The proposals would be progressed in partnership with TfW since the car park is not within the 'red line' site boundary.*

Local Plan Policy HD2 obliges us to work in partnership with public transport operators on the site to maximise opportunities. Nobody will thank us for failing to agree with these partners a Hub fit for the future. Certainly not because somebody arbitrarily drew a 'red line' in the wrong place. Again I make the point we are planning for the future, not the past - current usage rates may be irrelevant and fail to take account of modal shift, eg leaving the car and transferring to a train or bus.

The solution to this has already been explained. Direct active travel access onto/from bridge and Aylestone Hill is required as safer, shorter route than round by the road, KFC junction and CLR, pointed out on 24<sup>th</sup> Jan 2024 as impractical for cycles (due to flawed road design).



## 2.7 Public realm materials are appropriate, local and low carbon

**2.7.1 PAVING** Generally I would recommend natural materials from local sources for paving schemes in popular public realm areas close to heritage buildings as is the case here. They may be a bit dearer than concrete but will always age better and their carbon footprint is generally lower.

*The proposal for the transport hub includes UK produced paving types - Colours and pattern focuses on differentiating functionality and provide a sense of identity for the site*

Patterned coloured manufactured paving types will not complement the heritage buildings or provide a sense of local identity. Please rethink this.

It is disappointing to note that more than a year on, that the proposed paving scheme is still dominated by alien and manufactured materials of high carbon footprint. This should be amended to meet the requirements of Local Plan Policy SS6.

Simplify the layout and use limited palette of mainly natural and local paving materials – granite for kerbs, Forest of Dean Pennant for paving, Worcestershire lias or Herefordshire St Maughans for setts and tactiles.

**2.7.2 PLANTING & SEATING.** Trees should be in the ground not in planters although for areas over underground facilities and services, planters are acceptable for shrubs and bedding. Simple wooden seats attached to such planters as in High Town could work well here, but seats with backs and arms appreciated by older people.

*Due to contaminated soil along with underground services it is not possible to plant in ground at all places.*

*Although where possible we have designed for inground planting. Simultaneously the planters will also function as a safety measure towards Hostile Vehicles*

No more planters please. We have probably introduced too many through the HCCI as it is and they are a permanent cost to maintain and keep watered. Bollards are perfectly satisfactory for HVM purposes and are a fraction of the price.

**2.7.3 CYCLE STANDS** Sheffield racks are fine for short stay, eg for shopping or visiting a café, but proper secure sheltered cycle parking will be needed for long-stay, ie those transiting to other transport modes and expecting to be away more than a few hours, see 2.3.8 above

I am pleased to see we have made some progress here and consultants have been persuaded the scheme needs more covered cycle storage. I would favour Sheffield stands under the proposed canopy at the front of the station and we should consider covered and secure cycle storage where is now the dangerous and ugly concrete bin lorry ramp (once the ramp has been removed)

**2.7.4 LIGHTING** Avoid the use of light poles, at least not the 'light sabre' type illustrated. They were unsuccessful in Eign Gate. Stick to traditional tried and tested traditional forms. Use wall-mounted wherever possible to save cost and minimise street clutter. Lighting in furniture may be another unnecessary cost.

*Lighting features used will be seamless and non-invasive, light poles will be necessary to provide safe and adequate lighting to also prevent anti-social behaviour. Where possible we have incorporated low light bollards to prevent intrusive structures*

It is not necessary to use light poles to provide safe and adequate lighting and there is no evidence these 'prevent anti-social behaviour' better than more traditional and less obtrusive forms of lighting.

The police have not been included in the consultees. It is recommended that the Design out Crime officer (Charles Naylor) is consulted with regard to lighting and other aspects of design so as to minimise the risk of anti-social behaviour

## 2.8 Planting species

Schemes which allow for an appreciable amount of green infrastructure are welcome, especially where they are of sufficient size that they are not vulnerable to drying out and requiring frequent and expensive maintenance and watering. Let's not worry about choice of planting varieties now.

## 2.9 Succeeds as a building, not just a 'shelter'

This has been touched on in 2.3.2. We need new build with an arresting and capable design for this keynote site. Something which complements and adds interest to the listed station and is capable of being a destination in its own right. The steel and glass shelters proposed do not demonstrate a flair for design and risk detracting from the listed building. Gloucester managed to deliver an excellent building for its transport hub recently and Hereford could do just as well. The shelter suggested would be unlikely to give pleasure to people while they waited for a bus or encourage people to linger and chat or have a coffee. It is important any new Hub building provides a sense of welcome, well-being, order and orientation and to do those things it needs to be distinctive, feel safe, and be capable of offering rest, refreshment, quiet and relaxation

It has come across as if the design team is apologetic towards the shelter design and not using it as an opportunity to celebrate the station building. We have already damaged the setting for the station building and the shelter should focus on celebrating the station. It should not look like a petrol station forecourt. It should be bold and something we can be proud of.

*The shelter has been designed to be respectful to the listed building and not obstruct views to de-risk listed building setting consent. However the canopy has also be designed to be a distinct, bold and recognisable pavilion type architecture in the urban environment to celebrate the whole space, with subtle nods towards the listed building such as alignment with grids and window rhythms. It has been designed to be a welcoming approach, to open up views and provides internal waiting areas for people to rest, chat and provide shelter. It has been designed to orientate people in and through the urban realm without hindering passenger movement.*

*There is potential to introduce retail and seating under the canopy if bus welfare facilities can move inside the building, however this will need further negotiations with NR.*

*It should be noted that Gloucester transport hub is a very different environment, with no heritage implications and is significantly separated from the station building by Bruton Way dual carriage way, therefore there is little need to provide views through the canopy, unlike at Hereford where it is important to retain permeability. Gloucester transport hub has been designed without integration with public realm, which is a significant portion of this project.*

The shelter design is considered neither compliments nor respects the listed station. Appreciation of the Station and its setting are not dependent on long views across the CLR; indeed the Hub would benefit from a greater measure of enclosure from the CLR to attenuate noise and emissions from it. A glazed canopy against the front of the station at first floor level could be an interesting and worthwhile addition. It would need to be pitched and probably supported by ferrous columns.

Consider giving the front-of-station canopy an opaque rather than a glazed cover, this could include photo voltaic tiles for solar collection with a gutter run for rain water collection (also to avoid a drip line)

## 2.10 Station access

It is not clear if access to the spaces within the existing station building is to be beyond the ticket barrier? Obviously it would be preferable if they are not.

*Any access from the urban realm will be from the unpaid side of the ticket barrier.*  
noted, good

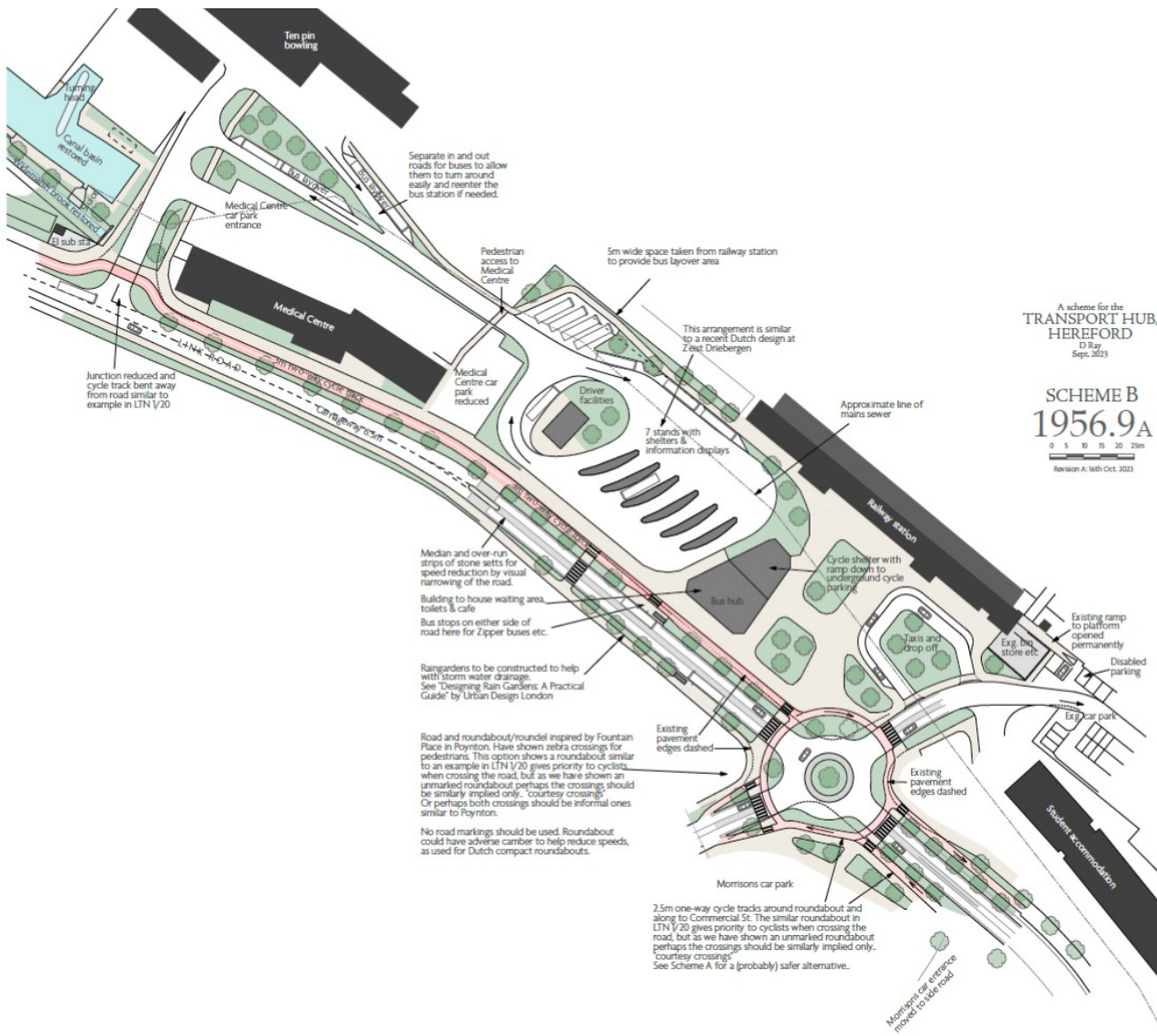
# PART 3: ALTERNATIVE SCHEME DEVELOPMENT

Set of drawings showing how the identified issues may be addressed

## 3.1 Drive-through stands.

This solution delivers greater capacity, minimises bus reversing manoeuvres, avoids the need to create an additional side road junction to the City Link Road (CLR) and allows for the creation of a pedestrian piazza. It also allows for restoration of the canal and reformation of a canal basin by bringing the layover closer to the main site and improved pedestrian accessibility to the Medical Centre. In common with all the improved schemes in these pages, it designs for greatly improved vehicle and active travel infrastructure on the CLR with better connectivity between the Transport Hub and the City as a whole. There would be bus-stop lay-bys both sides of the CLR.

It does, however, require partnership-working and co-operation with the Medical Centre and with Network Rail/ Transport for Wales to deliver a result better for all parties and better to support modal shift to more sustainable forms of transport as Local Plan Policy MT1 requires.

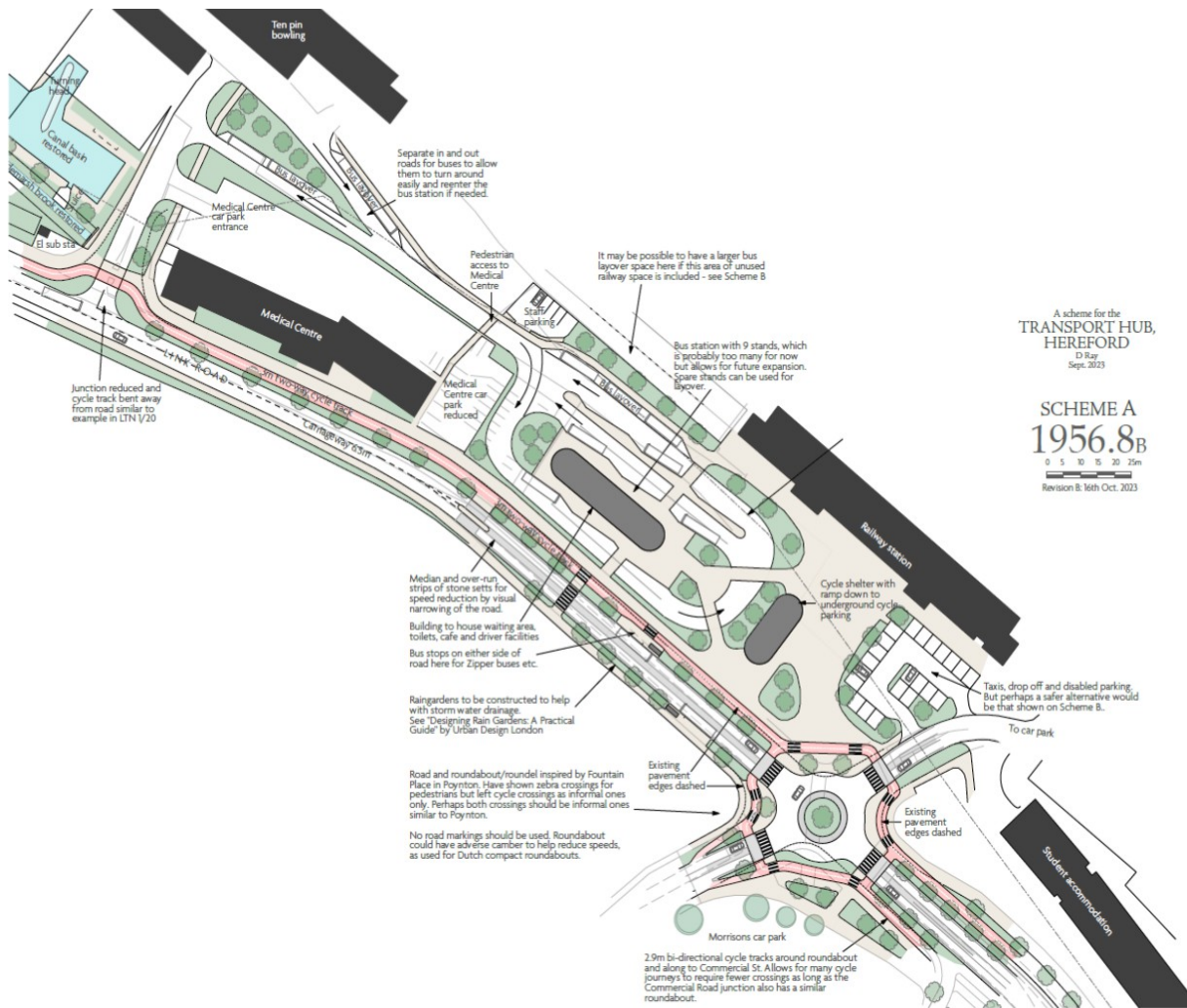


### 3.2 Drive-through saw-tooth, entry and exit to NW

This solution also delivers greater capacity, minimises bus reversing manoeuvres, avoids the need to create an additional side road junction to the CLR and allows for the creation of a pedestrian piazza albeit smaller in size. It also allows for restoration of the canal and reformation of a canal basin by bringing the layover closer to the main site and improved pedestrian accessibility to the Medical Centre. There would be bus-stop lay-bys both sides of the CLR.

In common with all the improved schemes in these pages, it designs for greatly improved vehicle and active travel infrastructure on the CLR with better connectivity between the Transport Hub and the City as a whole.

It does, however, require partnership-working and co-operation with the Medical Centre and with Network Rail/ Transport for Wales to deliver a result better for all parties and better to support modal shift to more sustainable forms of transport as Local Plan Policy MT1 requires.





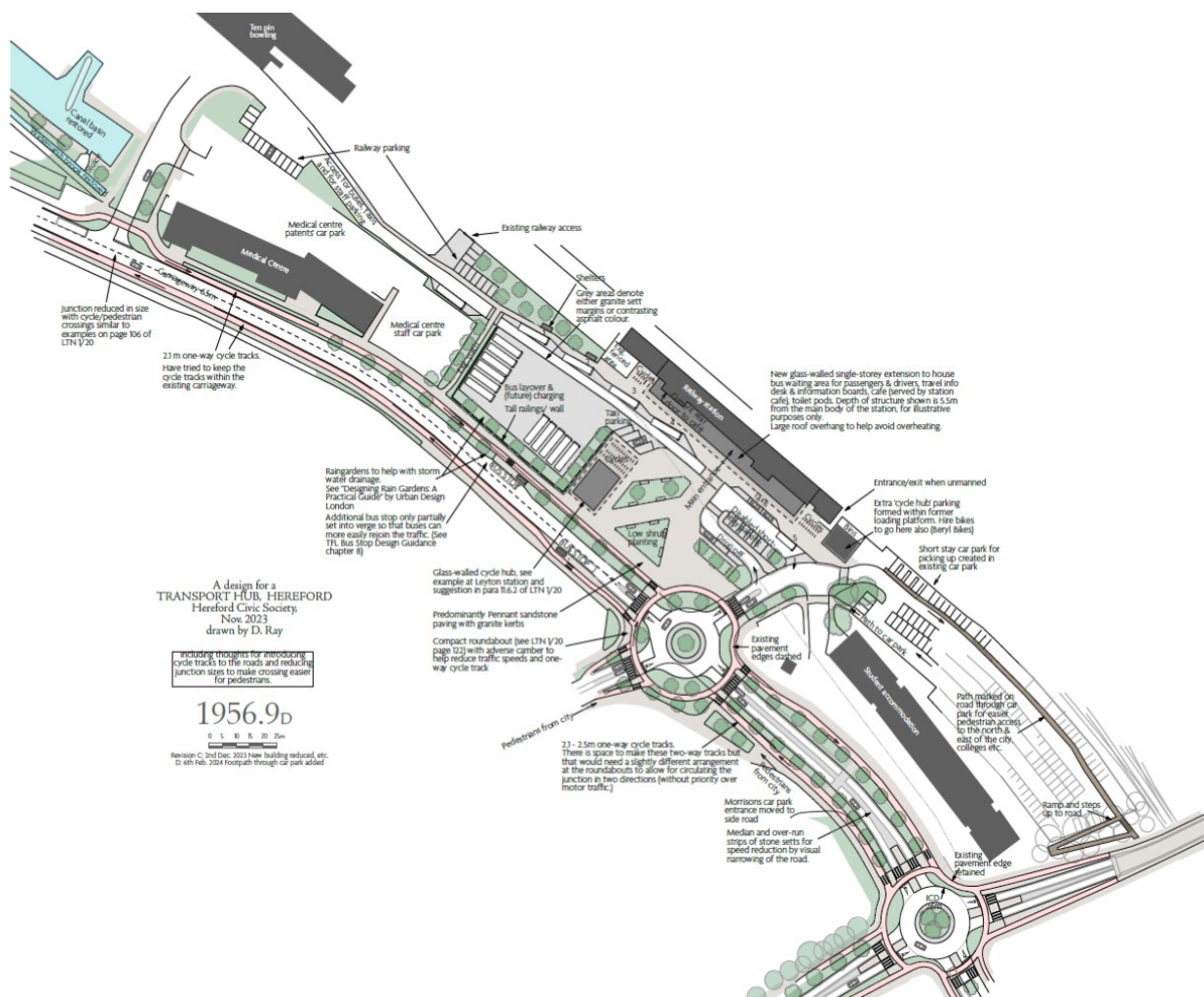


### 3.4 Drive-through saw-tooth, enter from NW, exit to SE, version 2

This solution avoids the need to create an additional side road junction to the CLR and allows for the creation of a pedestrian piazza albeit of modest size. It also allows for restoration of the canal and reformation of a canal basin by bringing the layover to the main site and improved pedestrian accessibility to the Medical Centre. Allowance is made to facilitate the electric 'Zipper' bus to stop closer to the Station rather than on the CLR, where there would also be bus-stop lay-bys both sides. A glass-fronted covered flexible space shelter in front of the Station is proposed, but it is accepted this would have to be very carefully designed to complement and enhance the listed building.

It assumes that partnership-working and co-operation with the Medical Centre and with Network Rail/ Transport for Wales have not been successful but with a smaller drop off/taxi facility the piazza remains adequate. There is less conflict between pedestrians and vehicles immediately outside the front of the station than in version 1. A direct stepped/ ramped path between the Hub site and the bottom of Aylestone Hill has been provided as an alternative to the present narrow pavement round by the road

In common with all the improved schemes in these pages, it designs for greatly improved vehicle and active travel infrastructure on the CLR with better connectivity between the Transport Hub and the City as a whole. This supports modal shift to more sustainable forms of transport as Local Plan Policy MT1 requires.







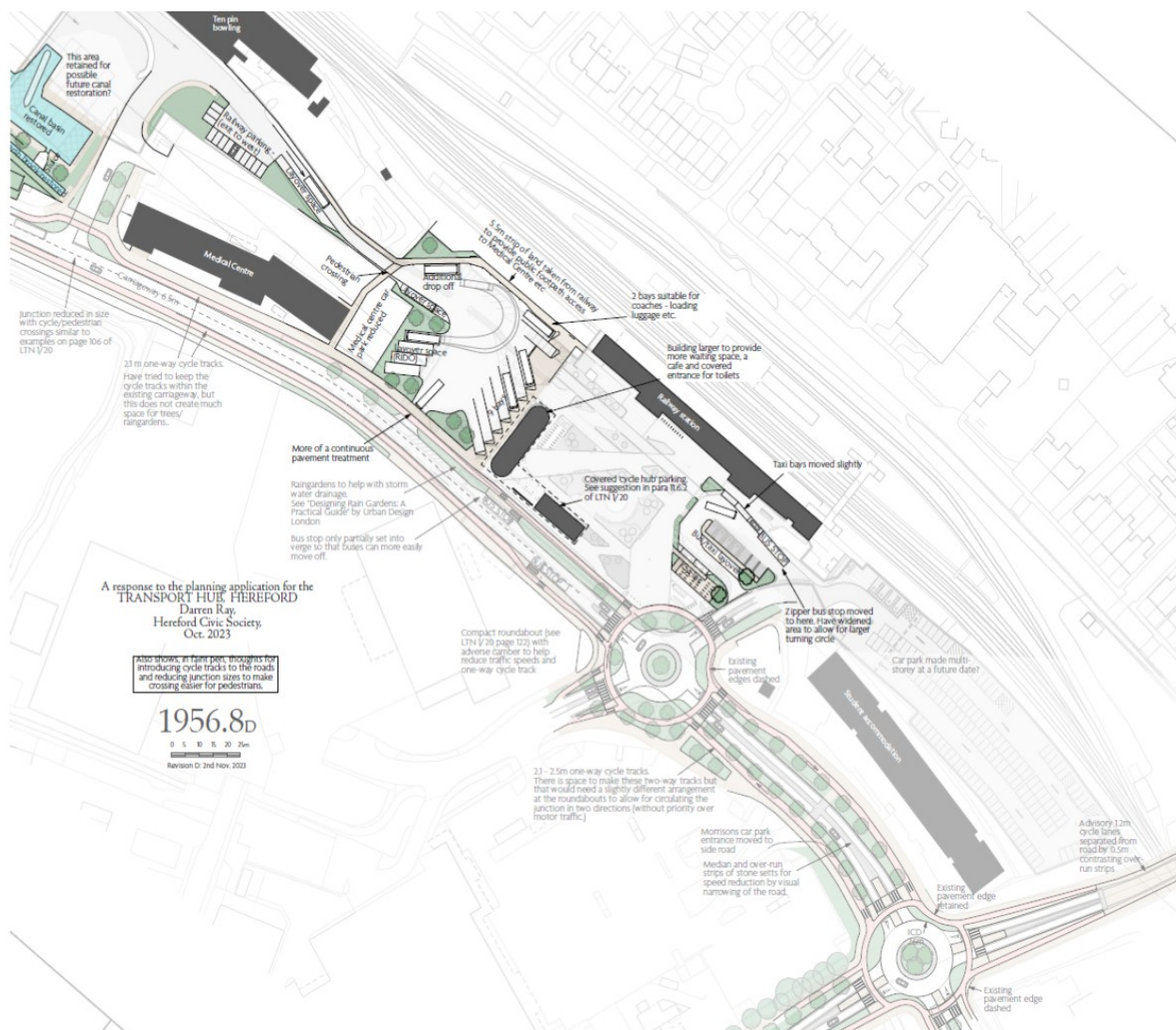
### 3.6 Drive-in-Reverse Out (DIRO), enter from NW, exit new side road to SW

Variation of 3.5, this arrangement accepts an additional side road junction to the CLR and allows for the creation of a pedestrian piazza of sufficient size for capacity and do justice to the setting of the listed building. It also allows for restoration of the canal and reformation of a canal basin by bringing the layover to the main site. The covered hub building allows for space for a refreshment/ cafe outlet and more sheltered waiting space. Allowance is made to facilitate the electric 'Zipper' to stop closer to the Station rather than on the CLR, where there would also be bus-stop lay-bys both sides.

It assumes that partnership-working and co-operation with Network Rail/ Transport for Wales has been successful and that their staff parking has been relocated as shown. It has also been successful with the Medical Centre with the result much of the usable space lately given over to private HMG car parking can be applied to wider public benefit.

In spite of the conflict with an additional side road, it improves pedestrian accessibility to the Medical Centre and beyond over the designs submitted for planning.

In common with all the improved schemes in these pages, it designs for greatly improved vehicle and active travel infrastructure on the CLR with better connectivity between the Transport Hub and the City as a whole. This supports modal shift to more sustainable forms of transport as Local Plan Policy MT1 requires.





<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>1 MAY 2024</b>
<b>TITLE OF REPORT:</b>	<b>204317 - PROPOSED DETACHED AFFORDABLE DWELLING AND GARAGE/WORKSHOP AT LAND AT BICTON HOUSE, BICTON, KINGSLAND, LEOMINSTER, HR6 9PR</b>  <b>For: Mr Godding per Mr Alan Godding, Bicton House, Bicton Kingsland, Leominster, Herefordshire HR6 9PR</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=204317&amp;search-term=204317">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=204317&amp;search-term=204317</a>

**Reason Application submitted to Committee – Re-direction**
**Date Received: 8 December 2020**
**Ward: Bircher**
**Grid Ref: 346791,263974**
**Expiry Date: 2 February 2021**

Local Members: Cllr Dan Hurcomb

**1. Introduction**

1.1 This application was originally reported to Planning Committee on 1 September 2021. At that time, officers were of the view that the proposal was unacceptable and it was recommended for refusal for the following reasons:

1. *A lack of information has been provided to achieve compliance with the exception criteria relating to affordable housing in policy RA3, in line with policy H2. Furthermore, it has been found that the application site is too remote. There is no reasonable access to services, amenities and employment opportunities, as relevant for the proposed and future occupants of the dwelling. The site is therefore found to be in conflict with H2 and paragraph 72 of the Framework. The identified benefit of the proposal is significantly and demonstrably outweighed by the adverse impacts of allowing this inherently unsustainable pattern of development in open countryside distant from any local services where affordable housing is not deemed to be acceptable. The proposal is found to be contrary to Herefordshire Local Plan – Core Strategy Policy RA3 and H2 as well as the relevant provisions of the National Planning Policy Framework, namely Paragraph 72.*
2. *The application site lies within the River Lugg sub-catchment of the River Wye Special Area of Conservation (SAC) and the nature of the proposal triggers the requirement for a Habitat Regulations Assessment to be undertaken. Under the Regulations there is a requirement to establish with certainty, and beyond all reasonable scientific doubt, that there will not be any adverse effect on the integrity of the River Wye SAC. The River Lugg sub-catchment however suffers from the effects of point source and diffuse water pollution and phosphate levels in the river have already exceeded conservation objectives. The proposal in this case would add to this through the generation of additional foul water / phosphates and as such the Local Planning Authority is unable to conclude that the development would not have an adverse effect on*

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 Further information on the subject of this report is available from Mr A Banks on 01432 383085

*the integrity of the River Lugg / River Wye SAC. As a result, the proposal has failed the Appropriate Assessment required by The Conservation of Species and Habitats Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 and is hence contrary to Policies LD2 and SD4 of the Herefordshire Local Plan Core Strategy, the Natural Environment and Rural Communities (NERC) Act 2006 and the guidance set out at Paragraphs 179-182 of the National Planning Policy Framework*

- 1.2 The Planning Committee at that time were not convinced that a refusal of planning permission was justified and the minutes of the meeting show that the Committee resolved to defer the determination of the application and instructed its officers to seek to resolve the concerns outlined in the reasons for refusal. The minutes read as follows:

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

- 1.3 Since that time, the applicant and his agent have sought to address drainage and affordable housing issues.
- 1.4 The original report is appended (as appendix 1 below) and the following provides an update since the application was deferred by Planning Committee. It includes further consultation responses the Council's Ecologist and Housing Officer, and from Natural England.

## **2. Consultation Summary**

### Statutory Consultations

#### **2.1 Natural England**

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

#### **European site - River Wye SAC - No objection**

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

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

#### **River Wye SSSI – No objection**

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

#### **River Lugg SSSI- No objection**

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

Internal Consultations

2.2 **Conservation Manager (Ecology) – additional comments 11 September 2023**

**Notes in respect of HRA**

- The proposal is for the creation of one new, self-contained residential dwelling with associated new-additional foul water flows (nutrient pathways) created.
- There is no mains sewer connection available at this location.
- This is conversion of an existing building and no significant change in land use is identified
- No special water conservation measures have been assumed as these are uncertain in respect of existing foul water systems and dwellings.
- Occupancy is the agreed value calculated for the catchment.

Nutrient budget – proposed new dwelling – foul water managed by Otto Graf One2Clean PTP discharging to a soakaway drainage field. Precautionary flows used. No land use change as existing building.

Stage 1		
User Inputs		
Date of first occupancy:	11/09/2023	
Average occupancy rate:	2.30	
Water usage (litres/person/day):	120	
Development Proposal (dwellings/units):	1	
Wastewater treatment works:	Package Treatment Plant user defined	
Wastewater treatment works P permit (mg TP/litre):	Please enter value in cell to the right:	1.6
Stage 1 Calculated Loading		
Additional population	2.3	people
Wastewater by development	276	litres/day
Annual wastewater TP load	0.16	kg TP/yr

Stage 4	
Calculated Outputs	
The total annual phosphorus load to mitigate is:	0.19 kg TP/year

- The proposal is to upgrade the existing septic tank serving the dwelling at the location – *Bicton House HR6 9PR* – that has been demonstrated as being legally compliant and discharging to an existing drainage field on land under the applicant’s control.
- The proposal is to install a new PTP (Otto Graf One2Clean) to serve both the existing and additional self-contained residential dwelling proposed under this application.
- The new shared PTP system will discharge to a suitably sized drainage field on land under the applicant’s control.

- The decommissioning of the existing ST can be secured prior to the first occupation of the new additional dwelling.
- The responsible person for ensuring the shared foul water system, is managed and maintained for the lifetime of all developments connected to it can be legally secured through an appropriate condition on any planning permission granted.
- No change in existing land use is identified or considered.

### Existing Dwelling as proposed connected to new shared PTP system

**Stage 1**

**User Inputs**

<b>Date of first occupancy:</b>	11/09/2023	
<b>Average occupancy rate:</b>	2.30	
<b>Water usage (litres/person/day):</b>	120	
<b>Development Proposal (dwellings/units):</b>	1	
<b>Wastewater treatment works:</b>	Package Treatment Plant user defined	
<b>Wastewater treatment works P permit (mg TP/litre):</b>	Please enter value in cell to the right:	1.6

**Stage 1 Calculated Loading**

Additional population	2.3	people
Wastewater by development	276	litres/day
<b>Annual wastewater TP load</b>	<b>0.16</b>	<b>kg TP/yr</b>

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**Stage 4**

**Calculated Outputs**

**The total annual phosphorus load to mitigate is:**

**0.19 kg TP/year**

## Existing dwelling – Septic Tank to be decommissioned

Stage 1

### User Inputs

<b>Date of first occupancy:</b>	11/09/2023
<b>Average occupancy rate:</b>	2.30
<b>Water usage (litres/person/day):</b>	120
<b>Development Proposal (dwellings/units):</b>	1
<b>Wastewater treatment works:</b>	Septic Tank default
<b>Wastewater treatment works P permit (mg TP/litre):</b>	11.6

### Stage 1 Calculated Loading

Stage 1 Nutrient Loading

Additional population	2.3	people
Wastewater by development	276	litres/day
<b>Annual wastewater TP load</b>	<b>1.17</b>	<b>kg TP/yr</b>

Stage 4

### Calculated Outputs

Annual Nutrient Budget

The total annual phosphorus load to mitigate is:	1.4 kg TP/year
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### Nutrient Budget Summary

Proposed new development dwelling	0.19 kg TP/year
Proposed upgrade to existing dwelling	0.19 kg TP/year
<b>Total nutrient to be mitigated</b>	<b>0.38 kg TP/year</b>
Removal of existing septic tank (credit)	-1.4 kg TP/year
<b>Nutrient Balance after development (betterment)</b>	<b>-1.02 kg TP/year</b>

The nutrient calculator has demonstrated that there will be a betterment of nutrients discharged at this location through the proposed development and associated waste water treatment system upgrades.

All surface water can be managed through appropriate on-site Sustainable Drainage Systems and is not considered further.

The existing barn proposed for demolition to make the space for the proposed new dwelling and present at time of initial application has now already been demolished (as advised by the Case Officer). It is hoped that the legally required consideration of Protected Species and protection of wildlife as afforded under separate legislation was fully complied with during this demolition process – but this is not a consideration as part of this current application assessment.

There are records of roosting bats within the immediate vicinity of this development including Pipistrelle and Long-eared species often associated with utilising farm buildings for roosting purposes. With the potential bat roost on the site already demolished there are no other identified reasonably likely effects on local ecology from the proposed development that are a required consideration in respect of a planning application. The applicant should be reminded that although not subject to any required detailed assessment through the planning permission the wider protection afforded to all UK wildlife through other legislation and regulations must still be complied with.

With recorded local bat roosting and associated ‘core sustenance’ area and as the area is an intrinsically dark landscape that benefits local amenity and nature conservation; a condition to secure and manage any proposed or future external lighting is requested on any planning permission finally granted

As identified in the NPPF, NERC Act and Core Strategy LD2 and in support of the council’s declared Climate Change & Ecological Emergency, all developments should demonstrate how they are going to practically enhance (“Net Gain”) the Biodiversity – species potential of the area. To secure these enhancements a relevant Condition is suggested.

### 2.3 Strategic Housing Manager – additional comments 20 October 2021

Following on from my initial comments from Strategic Housing on the 16<sup>th</sup> August 2021, I have now been in contact with the applicant and can confirm following discussions regarding affordability that he is in housing need and unable to purchase on the open market, therefore we would support the development of a Low Cost Market property.

## 3. Officer’s Appraisal

### *Policy context and Principle of Development*

- 3.1 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.”*
- 3.2 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS) and the Yarpole Group Development Plan (NDP). The National Planning Policy Framework (NPPF) is also a significant material consideration.
- 3.3 The following paragraphs will simply deal with the two matters that formed the original reasons for refusal. The original committee report is appended and is material in that it covers other issues that are material to the determination of this application. Those issues have not changed since their original assessment and are therefore taken as read.
- 3.4 With respect to the first reason for refusal, the comments received from the Council’s Strategic Housing Manager confirm that, following further discussion, they are content that the applicant is in housing need and that they would support the provision of a low cost open market dwelling.

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Further information on the subject of this report is available from Mr A Banks on 01432 383085

On this basis, officers conclude that the requirements of policy H2 of the Core Strategy are met and, subject to the imposition of a condition to require the completion of a Section 106 Agreement to ensure that the property remains as low cost open market, the first reason for refusal is met.

- 3.5 With regard to the second reason for refusal, it was initially thought that the only solution available would be for the applicant to apply for phosphate credits. However, as a knowledge base has developed over the preceding years, a number of work-around solutions have been found that have meant that applicants have been able to demonstrate nutrient neutrality or better, and subsequently the local planning authority has been able to grant planning permission. In this case, the proposal involves the construction of a new dwelling on land immediately adjacent to Bicton House. It is served by an ageing septic tank, and the applicant has now proposed to replace it, with the existing property and the new dwelling to be served by a new package treatment plant (PTP).
- 3.6 Updated comments from the Council's Ecologist are provided, but in summary they have been able to conclude that the replacement of the existing septic tank with a new PTP to serve two dwellings represents a net reduction in phosphate outputs. On the basis that the installation of a new PTP is secured by conditions prior to occupation, the Council's Ecologist has been able to complete a positive Appropriate Assessment (AA), and this has been endorsed by Natural England. On this basis the proposal is compliant with policies LD2 and SD4 of the Core Strategy and the second reason for refusal has been addressed.
- 3.7 On the basis of the above, officers are now content that that the proposal is policy compliant and accordingly the application can now be recommended for approval.

## **RECOMMENDATION**

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

- 1. C01 Time limit for commencement (full permission)**
- 2. C13 Samples of external materials**
- 3. C65 Removal of permitted development rights**
- 4. The dwelling hereby approved shall not be occupied until the foul and surface water management arrangements have been implemented in accordance with the approved scheme as detailed in supplied information. The approved arrangements shall thereafter be maintained for the lifetime of the development, unless otherwise approved in writing by the Local Planning Authority.**

**Reason: In order to ensure that satisfactory drainage arrangements are provided and to comply with Policy SD4**

- 5. The dwelling hereby approved shall not be occupied until the foul water connection between existing dwelling "Bicton House (HR6 9PR)" and the existing septic tank has been removed and replaced with connection to a new package treatment plant (Otto Graf One2Clean) discharging to a drainage field, as detailed in supplied drainage report by H+H Drainage dated 25th August 2023.**

**Reason: To ensure that the scheme would achieve nutrient neutrality and avoid detriment to the integrity of the River Lugg/ River Wye SAC, in accordance with the Conservation of Habitats and Species Regulations (2017), policy LD2 and SD4 of the Herefordshire Local Plan Core Strategy and the National Planning Policy Framework**

6. Unless otherwise agree in writing by the local authority the legally recorded owner of “Bicton House (HR6 9PR)” shall be responsible for management and maintenance of all shared parts of the installed foul water system for the lifetime of all developments connected to it; including ensuring foul water system is operating correctly at all times.

Reason: To ensure that the scheme would achieve nutrient neutrality and avoid detriment to the integrity of the River Lugg/ River Wye SAC, in accordance with the Conservation of Habitats and Species Regulations (2017), policy LD2 and SD4 of the Herefordshire Local Plan Core Strategy and the National Planning Policy Framework

7. No external lighting shall be provided other than the maximum of one external LED down-lighter above or beside each external door (and below eaves height) with a Corrected Colour Temperature not exceeding 2700K and brightness under 500 lumens. Every such light shall be directed downwards with a 0 degree tilt angle and 0% upward light ratio and shall be controlled by means of a PIR sensor with a maximum over-run time of 1 minute. The Lighting shall be maintained thereafter in accordance with these details.

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; ; and the council’s declared Climate Change and Ecological Emergency

8. Prior to first use of the dwelling approved by this planning permission, evidence of the suitably placed installation within the site boundary or on other land under the applicant’s control (excepting Ash Trees) of a minimum total of TWO Bat roosting features and TWO bird nesting boxes (mixed types) and ONE hedgehog home, should be supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority.

Reason: To ensure Biodiversity (species) Net Gain as well as species and habitats enhancement having regard to the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019’ (the ‘Habitats Regulations’), Wildlife and Countryside Act 1981.), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies LD1, LD2 and LD3.

9. CAB Visibility splays

10. CAE Vehicular access construction

11. The dwelling hereby approved shall not be occupied until a planning obligation pursuant to Section 106 of the Town and Country Planning Act 1990 has been certified as completed by the Local Planning Authority. The said agreement shall secure the provision of affordable housing in accordance with the approved scheme and shall include:

- i. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable home; and,
- ii. the occupancy criteria to be used for determining the identity of occupiers of the affordable home and the means by which such occupancy criteria shall be enforced.



The affordable dwelling shall be retained in accordance with the approved scheme.

Reason: In order to provide ensure that the dwellings are secured and maintained as affordable housing for having regard to the requirements of policy SS2, H2 and RA3 of the Herefordshire Local Plan – Core Strategy and guidance contained within the National Planning Policy Framework.

**INFORMATIVES**

**1. Application Approved Following Revisions**

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

**2. Wildlife Protection Informative**

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

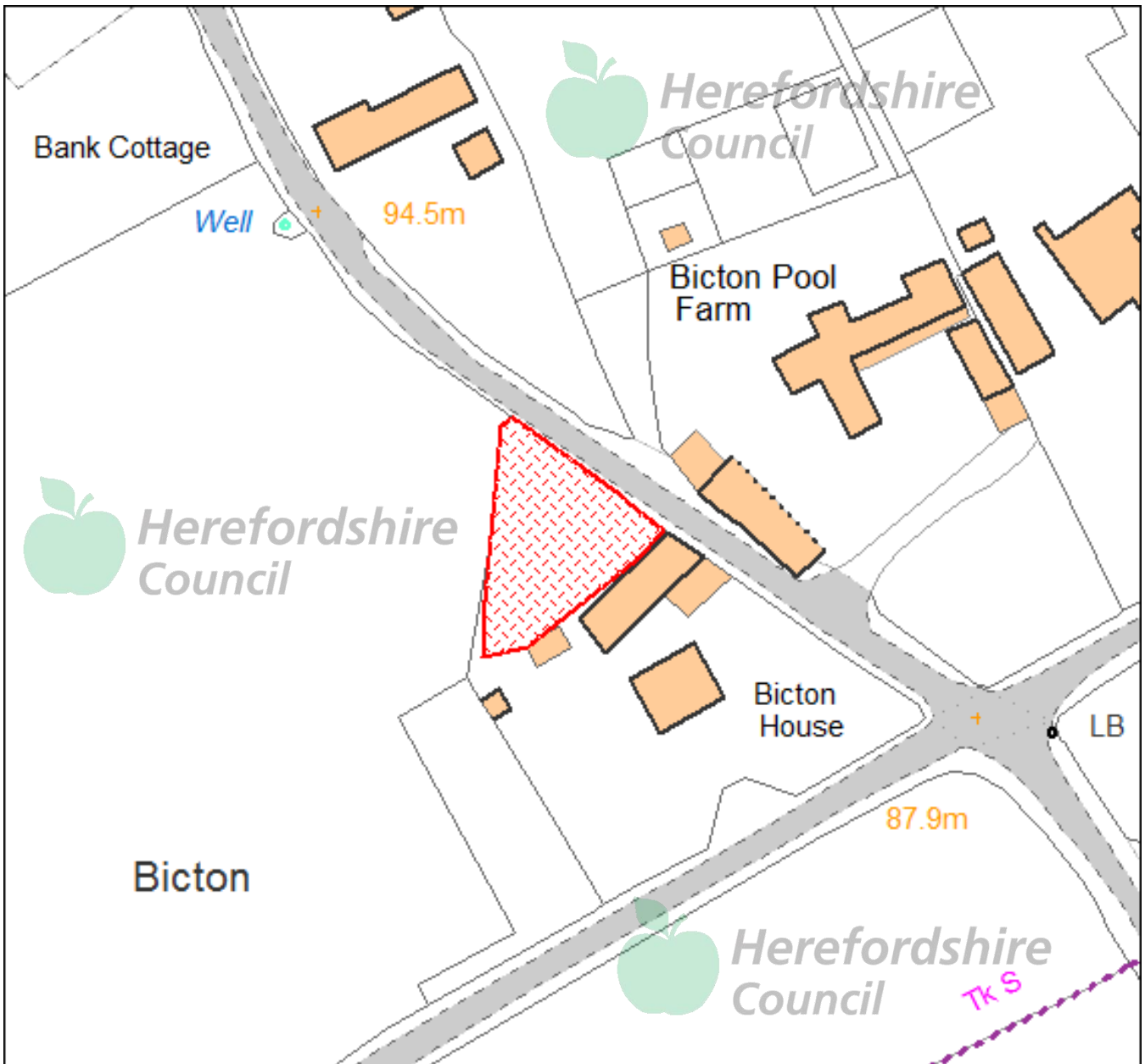
Decision: .....

Notes: .....

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**Background Papers**

None identified.



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**APPLICATION NO:** 204317

**SITE ADDRESS :** LAND AT BICTON HOUSE, BICTON, KINGSLAND, LEOMINSTER, HEREFORDSHIRE, HR6 9PR

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Further information on the subject of this report is available from Mr A Banks on 01432 383085

<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>1 SEPTEMBER 2021</b>
	<p><b>204317 - PROPOSED DETACHED AFFORDABLE DWELLING AND GARAGE/WORKSHOP. AT LAND AT BICTON HOUSE, BICTON, KINGSLAND, LEOMINSTER, HR6 9PR</b></p> <p><b>For: Mr Godding per Mr Alan Godding, Bicton House, Bicton Kingsland, Leominster, Herefordshire HR6 9PR</b></p>
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<b>Reason Application submitted to Committee – Re-direction</b>	

**Date Received: 8 December 2020**

**Ward: Bircher**

**Grid Ref: 346791,263974**

**Expiry Date: 2 February 2021**

Local Members: Cllr Sebastian Bowen

## 1. Site Description and Proposal

- 1.1 The application site relates to a plot of land north-west of Bicton House and associated outbuildings, on the junction where Croft Lane (U92600) meets the C1039. The site formally contained a timber clad barn which has since been demolished.
- 1.2 The application seeks planning permission for the erection of a one and a half storey, two bedroomed dwelling and a detached single garage and workshop. The dwelling is proposed to have a floor area of 100m<sup>2</sup> and the garage/ workshop 26m<sup>2</sup>.

## 2. Policies

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

- SS1 – Presumption in favour of sustainable development
- SS2 – Delivering New Homes
- SS3 – Ensuring sufficient housing land delivery
- SS6 – Environmental quality and local distinctiveness
- RA1 – Rural housing distribution
- RA2 – Housing in settlements outside Hereford and the market towns
- RA3 – Herefordshire’s countryside
- MT1 – Traffic management, highway safety and promoting active travel
- LD1 – Landscape and townscape
- LD2 – Biodiversity and geodiversity
- SD1 – Sustainable design and energy efficiency
- SD3 – Sustainable water management and water resources
- SD4 – 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)

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Further information on the subject of this report is available from Mr A Banks on 01432 383085

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.

## 2.2 Yarpole Group Neighbourhood Development Plan (NDP) made 15th June 2018

- YG2 – Development strategy
- YG8 – Housing development in Yarpole
- YG13 – Sustainable design

## 2.3 National Planning Policy Framework (NPPF)

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

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 15 – Conserving and enhancing the natural environment

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

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1005759/NPPF\\_July\\_2021.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005759/NPPF_July_2021.pdf)

## 2.4 Planning Practice Guidance (PPG)

PPG categories have been revised and updated to make it accessible and should be read in conjunction with the NPPF. PPG can be accessed at the following link:

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

## 3. **Planning History**

3.1 None

## 4. **Consultation Summary**

### Statutory Consultations

#### 4.1 **Natural England**

No response

#### 4.2 **Welsh Water**

As the applicant intends utilising a private treatment works we would advise that the applicant contacts

Natural Resources Wales who may have an input in the regulation of this method of drainage disposal. However, should circumstances change and a connection to the public sewerage system/public sewerage treatment works is preferred we must be re-consulted on this application.

#### Internal Council Consultations

#### 4.3 **Area Engineer Highways (superseded)**

The proposal submitted includes an access to serve a single dwelling. The following observations are a summary of the highways impacts of the development:

The principle of the development is broadly acceptable in highways terms. There are some details that require refinement to consider the proposal acceptable.

The shown visibility of 20m is short for this environment, even though the speeds are likely low. It is not clear how the 20m dimensions have been settled upon, however the LHA is comfortable with the application of the DfT's Manual for Streets 2 document in this location. In reviewing the drawings it is noted that the set back is from the edge of the highway, rather than the carriageway at this point and a one metre offset from the carriageway channel is considered appropriate due to the rural nature of the road in the vicinity. This element requires review.

The amendments required to form the access will require separate permission from the local highway authority. This is likely to be in the form of a Section 184 Licence and details of this can be found by following the link below. The proposed access specification is not shown. As with all other details of the access arrangements it is recommended that condition CAE is applied to ensure that the correct specification is included.

The vehicle turning area is adequate for the scale of the dwelling. The dimensions of the driveway are adequate for the scale of the development.

The parking provided equals or exceeds one 2.4m x 4.8m space per bedroom to a maximum of 3 spaces. This element of the proposal is acceptable. The cycle parking required can be adequately accommodated in the garage without impacting on the parking provision for the site.

The following link may assist the applicant in developing their proposals:

[https://www.herefordshire.gov.uk/downloads/download/585/highways\\_and\\_new\\_development](https://www.herefordshire.gov.uk/downloads/download/585/highways_and_new_development)

For any works within the extent of the highway permission from the LHA will be required. Details of obtaining this permission can be found at:

[https://www.herefordshire.gov.uk/downloads/download/368/dropped\\_kerb\\_documents](https://www.herefordshire.gov.uk/downloads/download/368/dropped_kerb_documents)

The proposals are considered unacceptable at this time in highways terms due to the outstanding rationale around the splay dimension calculation.

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

[www.herefordshire.gov.uk/directory\\_record/1992/street\\_works\\_licence](http://www.herefordshire.gov.uk/directory_record/1992/street_works_licence)

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

#### **Area Engineer Highways (amended)**

The updated site plan shows the highway geometry and the highway verge further delivers visibility from the proposed access point. The setback for the measurement of the visibility can be made from the carriageway edge rather than the rear of the highway extent and to ensure that the visibility is delivered in accordance with the updated site plan 131120/AG/SP1 Rev A condition CAB should be applied and this drawing referenced.

As with the previous highways response condition CAE is also recommended to ensure the access construction meets the LHA requirements.

There are no highways objections to the proposals, subject to the recommended conditions being applied in the event that permission is granted.

#### 4.4 Conservation Manager (Ecology)

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

At present the levels of phosphates in the River Lugg exceed the water quality objectives and it is therefore in unfavourable condition. Where a European designated site is considered to be 'failing' its conservation objectives there is limited scope for the approval of development which may have additional damaging effects. The competent authority (in this case the Local Planning Authority) is required to consider all potential effects (either alone or in combination with other development) of the proposal upon the European site through the Habitat Regulations Assessment process.

Permission can only be granted if there is scientific certainty that no unmitigated phosphate pathways exist and that the HRA process can confirm 'no adverse effect on the integrity of the River Lugg (Wye) SAC'. Natural England; the statutory nature conservation body, advise that recent case law requires effective mitigation to be demonstrated on a case by case basis whilst the River Lugg Nutrient Management Plan is reviewed to ensure greater certainty that this can provide large scale mitigation development in the area.

The proposal here is for ONE new dwelling with associated creation of additional foul water flows. The application may also be granting consent for the replacement of the existing foul water system associated with the adjacent Bicton House

The following notes refer:

- The LPA does not have any detail or supporting evidence to provide the legal and scientific certainty required by the HRA process.
- The applicant has not supplied a professional drainage report with relevant BS6297 percolation and ground water testing – and associated detailed plan of foul water proposal and location of testing sites in relation to proposed soakaway drainage field.
- The drainage report should also clearly demonstrate the proposed system is fully compliant with the '5 criteria' in respect of drainage systems in the Lugg SAC as detailed in the council's guidance on their website: [https://www.herefordshire.gov.uk/downloads/download/2039/development\\_in\\_the\\_river\\_lugg\\_catchment](https://www.herefordshire.gov.uk/downloads/download/2039/development_in_the_river_lugg_catchment)
- The same detailed report and plans is required for any replacement foul water system for Bicton House – if this is subject to any form of approval or consent under this planning application
- All drainage systems should clearly be within the development boundary and on land clearly under the applicant's legal control - so they can be secured through any consent finally granted

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

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

At this time there is an Ecology OBJECTION raised as the application does not demonstrate compliance with Core Strategy SD4 (SS1, SS6 and LD2 also apply); The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019’ (the ‘Habitats Regulations’); NPPF; Wildlife & Countryside Act (1981 amended) and NERC Act considerations.

Additional ecology comments:

It is noted that the plans refer to a demolished barn – but no further information on if this is being approved as part of this planning application has been supplied. From images available this barn with wooden cladding would appear to offer potential for bat roosting (higher status protected species) in addition to bird nesting. If any works to this ‘existing’ barn fall within this application then a detailed ecology report including all relevant bat roosting assessments and any required optimal period surveys should be supplied as the LPA has a duty of care to ensure all protected species and wider biodiversity are fully considered in the planning process PRIOR to nay grant of planning consent.

Once this has been clarified further comments can be made and conditions suggested to secure required Biodiversity Net Gain enhancements can be made.

#### 4.5 **Strategic Housing Manager**

I refer to this application and would advise that I am unable to support it in its current form as we need further information.

This site sits in a rural location outside of settlements. Policy RA3 is clear that a residential development will be limited to proposals which satisfy one or more criteria set out in policy RA3. My comments refer to criteria 5 rural exception Housing in accordance with policy H2.

Policy H2- Rural exception sites may be permitted on land which would not normally be released for housing if the applicant can demonstrate the proposal could assist in meeting a proven local need and that the affordable housing is made available to and retained in perpetuity for local people in need of affordable housing. A s106 would be required in order to secure the affordable housing unit in perpetuity.

Therefore, in order for me to support this application the applicant would need to evidence that they are in need of affordable housing and are unable to purchase a property to meet their needs on the open market.

The applicant would need to contact Strategic Housing so an affordable assessment can be undertaken.

### 5. **Representations**

#### 5.1 Yarpole Group Parish Council

The Parish Council agreed that they object to the application. Policy YG2d of the adopted NDP states that residential development outside of the settlements identified in the NDP should be limited and in accordance with Core Strategy Policy RA3, and the Parish Council believes that this application does not satisfy any of the 6 criteria derailed in policy RA3. The application also



does not meet the criteria for affordable housing detailed in policy H2 of the Core Strategy as whilst there is a need for affordable housing in the parish, there is no indication in the application that this house will be retained in perpetuity for local people.

5.2 To date a total of 9 letters of support have been received. The comments therein are summarised below:

- Allowing a local person to remain living in Bicton
- Design of dwelling blends in with the surrounding cluster of houses
- Construction and position of the dwelling are appropriate
- Development will not affect traffic
- Upgrade of existing drainage
- Shortage of affordable housing in locality

5.3 The consultation responses can be viewed on the Council's website by using the following link:-

[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=204317&se-arch-term=204317](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=204317&se-arch-term=204317)

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*

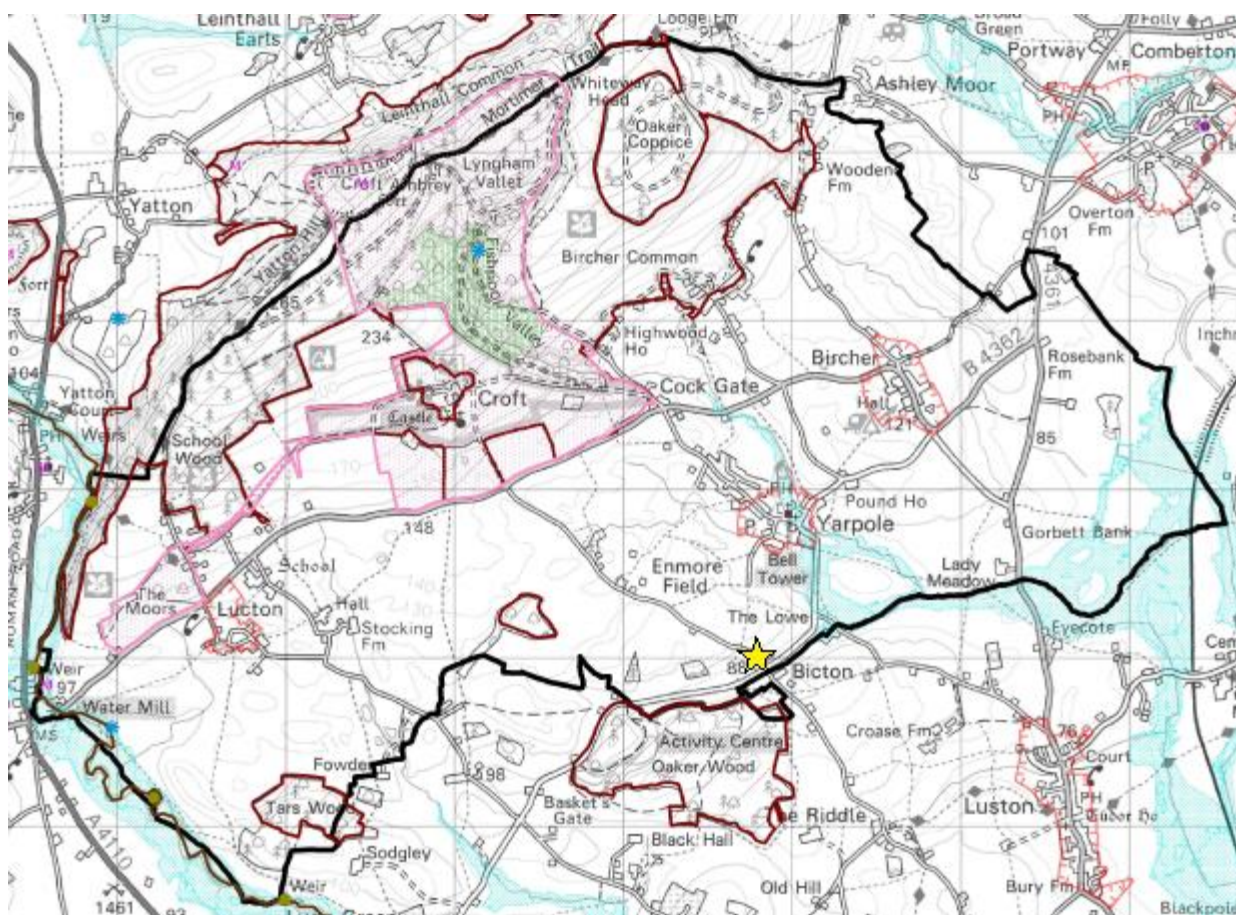
- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:  
*"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*
- 6.2 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS) and the Yarpole Group Development Plan (NDP). The National Planning Policy Framework (NPPF) is also a significant material consideration.
- 6.3 The NPPF requires that local planning authorities should identify and update annually a supply of housing sites sufficient to provide five years' worth of housing against their housing requirements. Where the existence of a five year land supply cannot be demonstrated, there is a presumption in favour of granting planning permission for new housing unless the development can be shown to cause demonstrable harm to other factors that outweigh the need for new housing. Other factors in this respect can include sites or areas protected as a result of their wider environmental importance or land at risk of flooding.
- 6.4 Following this year's survey work, the LPA can confirm that the Housing Land Supply is 6.90 years and the current delivery test is 106%. Effectively, this means that the housing policies in the adopted Core Strategy and made Neighbourhood Development Plans can be considered to be up-to-date and given full weight in decision making. Para 11d of the National Planning Policy Framework (NPPF) is not engaged, as the development plan policies are not deemed 'out of date'. As a result para 14 of the NPPF is not engaged.
- 6.5 In locational terms 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).

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Further information on the subject of this report is available from Mr A Banks on 01432 383085



- 6.6 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). This site is within the Leominster HMA, which is earmarked for a 14% indicative housing growth and is listed in Figure 4.14 as a settlement which will be the main focus of proportionate housing development. This equates to 83 dwellings over the plan period.
- 6.7 Policy RA2 relates to housing in settlements outside Hereford and the market towns. This policy states that to maintain and strengthen locally sustainable communities across the rural parts of Herefordshire, sustainable housing growth will be supported in or adjacent to those settlements identified in Figures 4.14 and 4.15 (page 108 of the CS). Notwithstanding the above, 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 NDP has been made and therefore forms part of the Development Plan for the county.
- 6.8 NDP policy YG2 is clear that new housing should be within the development boundaries of either Bircher, Lucton or Yarpole. The following map includes the black line of the Parish with the application site being indicated by the yellow star:



- 6.9 It is clear from the above that the application site is clearly divorced from an identified settlement under Policy YG2 of the NDP. As such the application site, in planning terms, is considered to lie within open countryside. Core Strategy policy RA3 relates to proposals for new residential development in rural locations outside of settlements, and states that proposals in such locations will be limited to those which satisfy one or more exceptional criteria. This accords with the approach set out under paragraph 80 of the NPPF, which states that new isolated dwellings in the countryside should be avoided unless special criteria are met

- 6.10 The seven criteria whereby residential development outside of settlements is acceptable under CS Policy RA3 is as follows;
1. Meets an agricultural or forestry need or other farm diversification enterprise for a worker to live permanently at or near their place of work and complies with Policy RA4; or
  2. Accompanies and is necessary to the establishment or growth of a rural enterprise, and complies with Policy RA4; or
  3. Involves the replacement of an existing dwelling (with a lawful residential use) that is comparable in size and scale with, and is located in the lawful domestic curtilage of the existing dwelling; or
  4. Would result in the sustainable re-use of a redundant or disused building where it complies with Policy RA5 and leads to an enhancement of its immediate setting; or
  5. Is rural exception housing in accordance with Policy H2; or
  6. Is of exceptional quality and innovative design satisfying the design criteria set out in the NPPF; or
  7. Is a site providing for the needs of gypsies and other travellers

6.11 Within the representations received it was mentioned that the dwelling would house a retired farm worker in compliance with RA4, however this is not what the submitted Design and Access Statement states and no evidence has been provided to support this exception criteria.

6.12 Instead the development within the Design and Access Statement is described as a proposal for an affordable dwelling in accordance with H2. Policy H2 of the CS states as follows:

Proposals for affordable housing schemes in rural areas may be permitted on land which would not normally be released for housing where:

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

No evidence has been provided to say there is any form of need, the submitted Design and Access Statement states *'this development should be allowed as an exception site due to the applicant meeting a number of criteria'* but does not expand on this. Nor has the application satisfied the housing team in regards to the applicant's requirement for affordable housing. Therefore there is insufficient information provided for the proposal to accord to CS policy H2.

6.13 The NPPF at paragraph 72, directs LPA's to support the development of entry-level exception sites, suitable for first time buyers, through developments which comprise entry level homes with one or more types of affordable housing, which is located adjacent to an existing settlement and proportionate to said settlements size. Paragraph 78 states that local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs.

6.14 Of further relevance is paragraph 85 of the Framework which is copied in full below:  
*Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist..*

- 6.15 As discussed above the Core Strategy sets out its spatial strategy for the allocation of residential development in line with the Framework. Firstly the Framework directs for exceptions to be made where an identified local need for affordable housing can be satisfied adjacent to an existing settlement, paragraph 72, and that decisions should be responsive to local circumstances. This is enacted by Core Strategy H2 which states that rural exception sites will still need to offer reasonable access to a range of services and facilities normally in a settlement identified by RA2. There is also the additional need to undertake a balance to understand whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.
- 6.16 The location of the application site does not offer reasonable access to any services that one might expect to be present in a RA2 identified settlement. I note that there is very limited employment opportunities near to the site and that any future residents would struggle to easily access local employment. While this is true of many rural sites I find the current site to be especially devoid of local services within the settlement.
- 6.17 Given the wording of the relevant sections of the Framework, above, and policy H2 I find the application site too remote from services and facilities to be an acceptable location to meet local needs in regards to affordable housing. Furthermore future residents would struggle to access local employment opportunities which would restrict the benefit of providing an affordable dwelling for local needs. As such I find an objection to the principle of residential development on the site to be present.
- 6.18 In light of the preceding, the proposal is therefore viewed to be in conflict with policy RA3 of the CS and the application, as submitted, does not represent an exceptional circumstance whereby new residential development in the open countryside can be supported. It therefore follows that the principle of the development is not supported by the development plan. The site is outside of any settlement identified as an appropriate location for new housing and, whilst accepting the site is not isolated in the truest sense of the word given it sits within a small hamlet, future occupiers of the dwellings would be removed from the services and facilities available in nearby settlements such as Bircher, Lucton or Yarpole. Notwithstanding this, other matters relevant to the application are considered below.

### ***Design***

- 6.19 In respect of design, Core Strategy Policy SD1 directs that proposals take into account the local context and site characteristics. Moreover, new buildings should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials and respecting scale, height, proportions and massing of surrounding development, while making a positive contribution to the architectural diversity and character of the area. Policy LD1 is also relevant in so far as it requires that proposal respond positively to the character of the townscape and landscape.
- 6.20 The pattern of development within this area is scattered dwellings, centred around the junction of Croft Lane and Lugg Green Road. It is characterised by wayside dwellings and farm derived development. The rural character of the street scene here is emphasized by gaps within the built frontage, which allow views of the wider countryside. The proposal follows this pattern and is located to the immediate north of Bicton House. The proposal would not result in built development that would be of an unacceptable scale or over development. The dwelling would be a two-bedroomed, one and half storey dwelling and is considered appropriate for the setting and has a minimal visual impact.

### ***Residential Amenity***

- 6.21 Whilst introducing a number of glazed openings, these maintain acceptable scale and positioning. Due to separation distances between the proposed dwelling and adjacent properties, impact upon residential amenity is minimal. The orientation of the dwelling and layout raises no concerns in overshadowing or overbearing that would lead to conflict with the requirements of SD1 of the CS, which strives to safeguard levels of residential amenity, and accords with paragraphs 130 and 185 of the NPPF.

### ***Landscape Impact***

- 6.22 It is not considered that the proposal departs from the character of the area, utilising timber cladding to reflect the adjacent barns. The dwelling is sympathetic to the area with mitigating circumstances here being a one and a half storey dwelling meaning the footprint is within site without harming the landscape character of the area. Landscape impact is minimal and the proposal is considered to suitably conserve local character and the character of the area, in line with Policy LD1 of the CS, consistent with Section 15 of the NPPF.

### ***Ecology***

- 6.23 There are no ecological records of important or Protected Species on or adjacent to site. The applicant has a legal duty of care towards wildlife protection under UK Legislation. Biodiversity net gain can be secured by condition, in line with CS Policies LD1, LD2 and LD3, consistent with the relevant sections of the NPPF.

### ***Highways***

- 6.24 Access is to be taken from the existing gateway immediately north of the demolished barn leading onto the unclassified public highway known as Croft Lane. After receiving an updated site plan, the Council's Area Engineer Highways is satisfied the access proposed meets the visibility requirements and is acceptable in demonstrating the access will not result in an unacceptable impact on road safety.
- 6.25 Adequate parking and turning space would be provided within the site to ensure that all vehicles enter the public highway in a forward gear. On the basis of the above, it is considered that use of the existing access is appropriate and that the proposal would preserve highway safety, in accordance with Policy MT1.

### ***Drainage and Habitats Regulation Assessment***

- 6.26 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 provide opportunities to enhance biodiversity, health and recreation. This 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).
- 6.27 The scheme in this instance proposes the use of a package treatment plant to manage foul water with outfall to a soakaway drainage field. In the absence of a mains sewer proximal to the site, this would be an acceptable solution which would accord with the hierarchal approach set out in CS policy SD4. Surface water from the development will be managed through the use of soakaways. This is an acceptable method in principle which would accord with CS policy RA3.

- 6.28 Members will note that the site in this instance lies within the catchment of the River Lugg which, in turn, is a sub-catchment of the River Wye Special Area of Conservation (SAC). The River Wye SAC is an internationally important conservation site which has been designated for its special features of ecological and biodiversity value. Under the Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 Herefordshire Council has a legal duty to assess the potential impact of new developments in this area by undertaking an 'Appropriate Assessment' (AA) which must be able to determine with scientific certainty that there would be no 'likely significant effects' upon the designated site. The obligations are embodied in CS policies LD2 and SD4, as well as the guidance of the NPPF.
- 6.29 The River Lugg, which is a tributary of the River Wye and forms part of the SAC designated site, is currently failing its conservation targets on phosphate levels.
- 6.30 The proposal in this case would generate additional phosphates through foul water. Whilst foul water is to be managed through a new package treatment plant system, some phosphates will remain in water discharged post-treatment and therefore there is a potential pathway for the development to have an adverse impact upon the River Wye SAC. Previously, the approach taken by Herefordshire Council and Natural England has been that there is a route for development to be able to proceed in the River Lugg catchment, even when it may add to the existing phosphate levels in the river as above, as any increases would be mitigated by the River Wye's Nutrient Management Plan (NMP). The NMP is a partnership project developed to reduce phosphate levels in the Wye catchment, including the River Lugg, to below the target level by 2027 in line with the Water Framework Directive. The NMP is managed by the Nutrient Management Board (NMB), comprising of Herefordshire Council, Powys Council, Natural England, Natural Resources Wales, the Environment Agency, Dwr Cymru Welsh Water, CABA (WUF), National Farmers' Union and the County Land and Business Association.
- 6.31 However, this situation regarding development with potential phosphate impacts in the Lugg catchment is currently under review following Natural England's advice to Herefordshire Council that, in light of the interpretation of the recent 'Dutch Case', a ruling in July 2018 by the Court of Justice of the European Union (the CJEU) on the interpretation of the Habitats Directive, from which the Habitats Regulations arise in UK law, in the case of Cooperatie Mobilisation (AKA the Dutch Case) (Joined Cases C-293/17 and C-294/17). This is confirmed above by Natural England's consultation response on 24 July 2019 (section 4.2 of this report).
- 6.32 Natural England have therefore advised following the Dutch Case, that where a site is failing its water quality objectives, and is therefore classed as in unfavourable condition, there is limited scope for the approval of additional damaging effects and that the future benefit of measures cannot be relied upon at Appropriate Assessment, where those benefits are uncertain at the time of the assessment. Natural England have advised that for any plans or projects with a significant effect (on phosphate levels in the River Lugg) and which require Appropriate Assessment, the effects are currently uncertain, as in their opinion there remains reasonable scientific doubt as to whether the NMP can provide appropriate mitigation (based on how much certainty this currently demonstrates). Natural England have therefore advised that they will not, in the short term, provide advice on such planning applications that require Appropriate Assessments, while they seek legal advice. The Council is also seeking its own advice on this matter and members will be aware of the Council's position statement update of April 2021
- 6.33 It is noted that Council Ecology comments for this application state that the Local Planning Authority (LPA) as the competent authority is as this time and based on supplied information only able to conclude that there would be an adverse effect of the integrity of the River Lugg (Wye) SAC and hence permission should not be granted at the present time. The proposal is not considered to have any imperative public interests which would justify overriding this.

6.34 Owing to this, the proposal fails to meet the requirements of the Conservation and Habitats and Species Regulations 2017 and would also be in conflict with policies LD2 and SD4 of the CS. It is also noted that Paragraph 182 of the NPPF is engaged insofar as it directs that;

*'The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site'.*

6.35 The applicant has been requested to supply all additional information, including relevant professional reports and testing methodologies and outcomes such as to supply the LPA with legal and scientific certainty that the criteria at the end of the Council's issued updated position statement of April 2021, regarding soakaway drainage fields for foul water treatment systems can be demonstrated and legally secured through implementation condition. However, this has not materialised. Thus the application is to be considered on the basis of the Council's current position on policies on such matters and the onus is on the applicant to demonstrate otherwise.

6.36 Permission can only be granted if there is scientific certainty that no unmitigated phosphate pathways exist and that the HRA process can confirm 'no adverse effect on the integrity of the River Wye SAC'. Natural England; the statutory nature conservation body, advise that recent case law requires effective mitigation to be demonstrated on a case by case basis whilst the River Lugg Nutrient Management Plan is reviewed to ensure greater certainty that this can provide large scale mitigation development in the area.

6.37 Therefore at this point in time on the basis of the information provided I find that the proposed development does not legally and scientifically demonstrate compliance with the soakaway criteria agreed between the LPA and Natural England to provide the required certainty that there are NO pathways for phosphates to enter the River Lugg hydrological catchment. Therefore the proposal would harm a designated nature conservation site and would therefore conflict with policy SD4 of the Core Strategy which seeks to ensure that development does not undermine the achievement of water quality targets for rivers within the county and policy LD2 which states that development should conserve, restore and enhance biodiversity and geodiversity. Additionally, the proposal would be inconsistent with the provisions in the NPPF in relation to conserving and enhancing the natural environment and would not accord with the Conservation of Habitats Regulations, (The Conservation of Habitats and Species Regulations 2017).

6.38 The limited evidence provided does not clearly establish that drainage arrangements for the proposal would be able to comply with the detailed criteria concerning the distance from watercourses, gradient of the field and hydrological pathways in order to provide mitigation.

6.39 As such, officers do not have certainty that there is a reasonable basis to suppose that a condition would secure compliance with the required criteria. Given this uncertainty, it is not a matter that can be left to a condition as it goes to the principle of the development. Therefore, officers are not assured that the proposal would not add to the unfavourable phosphate levels within the river.

6.40 In the light of these changes in circumstances, in conjunction with the lack of information submitted to undertake a Appropriate Assessment, and case law, the Habitats Regulations require consideration as to whether there are any alternative solutions and if not, whether there are any imperative reasons of overriding public interest that would justify the development. That said, officers have nothing before themselves that would rule out alternative solutions being available. Nevertheless, the provision of one additional dwelling would not amount to an imperative reason of overriding public interest justifying the development. In these circumstances the Habitats Regulations indicate that permission must not be granted.

6.41 Therefore, officers find that the proposed development cannot beyond reasonable doubt demonstrate that it would not harm a designated nature conservation site, with particular regard



to the discharge of phosphates into the River Lugg, based on the Council's current policy position and advice available at this time. It would therefore, conflict with policy SD4 of the CS which primarily seeks to ensure that development should not undermine the achievement of water quality targets for rivers within the county, in particular through the treatment of waste water. Additionally, the proposal would be inconsistent with the provisions in the Framework in relation to conserving and enhancing the natural environment and would not accord with the Conservation of Habitats and Species Regulations 2017.

### ***Planning Balance and Conclusion***

- 6.42 For the reasons outlined above, your officers have found, having been offered limited information to demonstrate otherwise and given the current policy and Council's position on the matter, that the proposal would adversely affect the integrity of the River Wye SAC and thus, it is clear from paragraph 182 of the Framework that the presumption in favour of sustainable development does not apply in these circumstances. Moreover, the policies in the Framework relating to the protection of such areas provide a clear reason for refusing the proposal.
- 6.43 Even if this is set aside, there is no essential functional need for a new dwelling given the proposal fails to meet the policy tests, as outlined under Policy RA3 of the Core Strategy, for permitting new residential development at this location.
- 6.44 Planning law requires applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. There are benefits arising from the proposal including economic benefits as a result of the construction, and the social and economic benefits associated with the occupants of an additional dwelling supporting local services at Yarpole. However, in light of the modest scale of the proposal, these benefits attract limited weight. Accordingly, the benefits arising from the proposal do not provide sufficient justification for development that conflicts with the development plan, the NPPF and the Habitats Regulations.
- 6.45 In short, and taking planning policy and material considerations into account, and having regard to the information provided, the proposal does not satisfy any of the special circumstances which would allow new residential development in the countryside to be supported and is contrary to Policy RA3 of the Herefordshire Local Plan – Core Strategy and Paragraph 80 of the National Planning Policy Framework. Furthermore, conflict has also been identified in respect of the Habitats Regulations, to which recent appeal decisions have confirmed due thought needs to be given, as a material consideration.
- 6.46 In applying the planning balance, the proposal for a new residential dwelling in this rural location is without appropriate justification, would lead to significant harm in terms of its conflict with the Development Plan and promotes unsustainable development. The scheme is hence not representative of sustainable development, and does not benefit from the positive presumption set out in in the NPPF and CS, given the conflict with the development plan. The application is accordingly recommended for refusal in line with the reasons outlined below.

## **RECOMMENDATION**

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

1. A lack of information has been provided to achieve compliance with the exception criteria relating to affordable housing in policy RA3, in line with policy H2. Furthermore, it has been found that the application site is too remote. There is no reasonable access to services, amenities and employment opportunities, as relevant for the proposed and future occupants of the dwelling. The site is therefore found to be in conflict with H2 and paragraph 72 of the Framework. The identified benefit of the proposal is significantly and demonstrably outweighed by the adverse impacts of allowing this inherently

unsustainable pattern of development in open countryside distant from any local services where affordable housing is not deemed to be acceptable. The proposal is found to be contrary to Herefordshire Local Plan – Core Strategy Policy RA3 and H2 as well as the relevant provisions of the National Planning Policy Framework, namely Paragraph 72.

2. The application site lies within the River Lugg sub-catchment of the River Wye Special Area of Conservation (SAC) and the nature of the proposal triggers the requirement for a Habitat Regulations Assessment to be undertaken. Under the Regulations there is a requirement to establish with certainty, and beyond all reasonable scientific doubt, that there will not be any adverse effect on the integrity of the River Wye SAC. The River Lugg sub-catchment however suffers from the effects of point source and diffuse water pollution and phosphate levels in the river have already exceeded conservation objectives. The proposal in this case would add to this through the generation of additional foul water / phosphates and as such the Local Planning Authority is unable to conclude that the development would not have an adverse effect on the integrity of the River Lugg / River Wye SAC. As a result, the proposal has failed the Appropriate Assessment required by The Conservation of Species and Habitats Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 and is hence contrary to Policies LD2 and SD4 of the Herefordshire Local Plan Core Strategy, the Natural Environment and Rural Communities (NERC) Act 2006 and the guidance set out at Paragraphs 179-182 of the National Planning Policy Framework

### **Informative**

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

Decision: .....

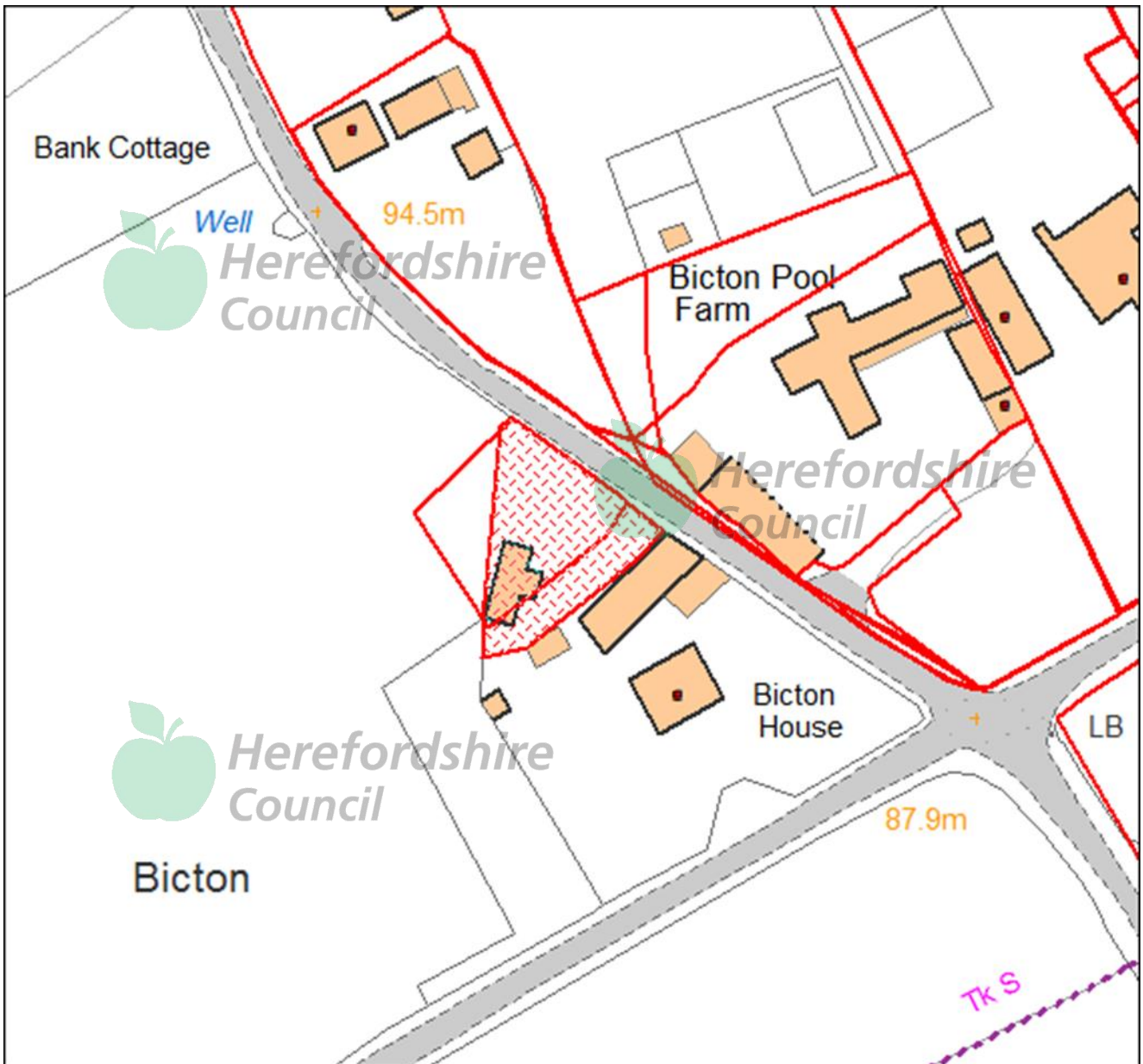
Notes: .....

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### **Background Papers**

None identified.





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**APPLICATION NO:** 204317

**SITE ADDRESS :** LAND AT BICTON HOUSE, BICTON, KINGSLAND, LEOMINSTER, HEREFORDSHIRE, HR6 9PR

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Further information on the subject of this report is available from Mr A Banks on 01432 383085



# Title of report: Licensing of Sex Establishments: Statement of Licensing Policy

**Meeting: Planning and Regulatory Committee**

**Meeting date: Wednesday 1 May 2024**

**Report by: Principal licensing officer**

## **Classification**

Open

## **Decision type**

This is not an executive decision

## **Wards affected**

(All Wards);

## **Purpose**

To adopt the Licensing of Sex Establishments: Statement of Licensing Policy.

## **Recommendation(s)**

**That:**

- a) **The policy as presented be adopted (appendix 1).**

## **Alternative options**

1. Propose modifications to the Policy.
2. Reject/decide not to adopt the Policy.
3. Refer the policy back to the officer for further work/consultation.

The above three options have been considered and have been rejected, as the policy is fit for purpose, has been consulted on and amended to reflect comments made, where applicable.

## **Key considerations**

4. The Policing and Crime Act 2009 amended the Local Government (Miscellaneous Provisions) Act 1982 section 2 and Schedule 3 to introduce a new classification of sex establishment, namely sexual entertainment venues. This includes lap dancing, pole dancing and other "relevant entertainment".
5. The legislation provides for local authorities to adopt a policy and standard conditions relating to sexual entertainment venues, sex shops and sex cinemas.
6. On 6 March 2015 Herefordshire Council (full council) resolved to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009 commencing on 16 April 2015. This applies to the whole of the area of the County of Herefordshire.
7. At that time a policy was presented and approved, which is still in place.
8. The policy is well overdue a review and some small changes have been made.
9. Further matters have been included in the policy in relation to Modern Slavery and Human Trafficking.

## **Community impact**

10. The council's licensing regime aims to ensure that if sex establishments are granted a licence to operate in Herefordshire that they operate in a safe, fair, and discreet manner and are sensitive to the local area in which they are situated. Specific attention has been taken to advertising, staff welfare, external appearance, locality, and the number of licensed premises.
11. This policy further enhances the licensing authority's ability to carry out suitability tests and ensures that all licence holders are informed about their safeguarding responsibilities. In addition, it offers the opportunity to share information regarding issues surrounding child sexual exploitation and modern slavery.

## **Environmental Impact**

12. Whilst this is a decision on back-office functions and will have minimal environmental impacts, consideration has been made to minimise waste and resource use in line with the Council's Environmental Policy.

## **Equality duty**

13. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
14. The council is aware that sex establishments tend to be predominantly marketed to men and that the licensing of these establishments must not encourage discrimination against women, especially in regard to women who work at the premises, women who may wish to visit the premises or women who are using the area for other purposes, but who may feel intimidated by the presence of such premises.

### **Resource implications**

15. There is a requirement that licensing is cost neutral to the council, as a result the fees are set to cover the costs of issuing and ensuring compliance with any conditions attached to a licence.

### **Legal implications**

16. The Council's Licensing of Sex Establishments: Statement of Licensing Policy is an important factor when determining certain applications under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009. If the Policy is silent on a matter then the Council will have less opportunity to guide and control applications. Ensuring that the Policy is up to date and covers relevant areas assist the Council in ensuring a consistency of approach. The Sex Establishment policy has been drafted to reflect current legislative requirements.

### **Risk management**

17. The proposed policy will ensure that if sex establishments are granted within Herefordshire that they operate in a safe, fair, and discreet manner and are sensitive to the local area in which they are situated.
18. It will also ensure that the rights of workers in this type of industry are protected.
19. The policy will reduce the risk to the authority by providing guidance in relation to decision making, concerning any application.
20. The risk is further reduced, as any decision made can be challenged by right of appeal through the Magistrates Court.

### **Consultees**

21. The legislation requires us to consult with various groups before we determine our policy, and these include: -
- I. Representatives of local business
  - II. Representatives of the licensing trade (alcohol & entertainment)
  - III. Local residents through Parish and town councils

- IV. Ward Members
  - V. West Mercia Police
  - VI. Herefordshire Council - Environmental Protection
  - VII. Herefordshire Safeguarding Children's Partnership
  - VIII. Herefordshire Council - Planning
  - IX. Herefordshire Public Health
  - X. Herefordshire Community Safety Partnership
- 22. This was done by email with it being sent to 339 different addresses.
  - 23. In addition, the consultation document was published on the Council's Website.
  - 24. The consultation took place between 23 February and 24 March 2024.
  - 25. There were 15 responses with comments and 3 with no comments.
  - 26. These are summarised in Appendix 2, showing the comments made and the outcome of the consideration.

### **Appendices**

- Appendix 1 - Licensing of Sex Establishments: Statement of Licensing Policy
- Appendix 2 - Consultation Summary
- Appendix 3 - Comments from Herefordshire Women's Equality Group

### **Background papers**

None identified.

## Report Reviewers Used for appraising this report:

**Please note this section must be completed before the report can be published**

Governance	John Coleman	Date 19/04/2024
Finance	Judith Tranmer	Date 07/03/2024
Legal	Ben Davies	Date 07/03/2024
Communications	Luenne Featherstone	Date 05/03/2024
Equality Duty	Harriet Yellin	Date 06/03/2024
Procurement	Lee Robertson	Date 12/03/2024
Risk	Lindsay Lord	Date 07/03/2024

Approved by Ross Cook Date 23/04/2024





# HEREFORDSHIRE COUNCIL

## Licensing of Sex Establishments: Statement of Licensing Policy

Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009

**Further copies of this document can be obtained from:**

Herefordshire Council,

Licensing Section,

Plough Lane,

Hereford

HR4 0LE

Tel: 01432 261761

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

Web: [www.herefordshire.gov.uk](http://www.herefordshire.gov.uk)

## Executive Summary

Section 1 Interpretation

Section 2 The purpose of the policy

Section 3 The scope of the policy

Section 4 Herefordshire district

Section 5 Integrating other guidance, policies, objectives and strategies

Section 6 General Principles

Section 7 The Application Process

Section 8 Enforcement

## Appendices

Appendix 1 – Standard conditions

## Executive Summary

The Policing and Crime Act 2009 amended the Local Government (Miscellaneous Provisions) Act 1982 section 2 and Schedule 3 to introduce a new classification of sex establishment, namely sexual entertainment venues. This includes lap dancing, pole dancing and other “relevant entertainment”.

The legislation provides for local authorities to adopt a policy and standard conditions relating to sexual entertainment venues, sex shops and sex cinemas.

On 26<sup>th</sup> September 2014 Herefordshire Council resolved to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009. This applies to whole of the area of the County of Herefordshire.

The Council is mindful of possible concerns of the local community and that there can be conflict between applicants and objectors. The Policy will guide the Council when considering applications for licences in balancing the conflicting needs of commercial interests, patrons, employees, residents and communities.

The Council has had regard to what is appropriate for the licensing authority’s locality as referred to in paragraph 3.32 of the Home Office Guidance on Sexual Entertainment Venues (March 2010). Notwithstanding this, any application for a sexual entertainment venue will be received and considered on its individual merits.

Herefordshire Council has adopted this document as the policy and standard conditions to be applied when determining sex establishment licences within the County of Herefordshire.

This policy will:

- Set out the council’s approach for the benefit of operators.

- Guide and reassure the public and other public authorities.
- Ensure transparency.
- Ensure consistency.
- Guide and focus the Licensing Committee when making determinations under this legislation.

The policy will deal with:

- The mandatory and discretionary grounds for refusal
- Standard conditions
- The application processes.
- Waiver

## **1.0 INTERPRETATION**

### **1.1 The Act**

This refers to Schedule 3 of the Local Government Miscellaneous Provisions Act 1982 (as amended by the Policing and Crime Act 2009).

### **1.2 Advertisement**

Any word, letter, image, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of and employed wholly or partly for the purposes of, advertisement or announcement.

### **1.3 Authorised officer**

An officer employed by Herefordshire Council and authorised by the council to act in accordance with provisions of the Local Government (Miscellaneous Provisions) Act 1982.

### **1.4 The Council**

Herefordshire Council.

### **1.5 Character of the relevant locality**

The character or characteristics of the locality where the premises are situated will be instrumental in determining whether or not the grant of a licence will be appropriate. This is a proper matter for the Council to consider based on local knowledge, factors, and circumstances.

### **1.6 Display of nudity**

(a) in the case of a woman, exposure of her nipples, pubic area, genitals or anus; and

(b) in the case of a man, exposure of his pubic area, genitals or anus.

### **1.7 Entertainer**

Dancer, performer, or other such person employed, or otherwise, to provide relevant entertainment.

## **1.8 Licence**

Any sex establishment licence that the council can grant under this Act. This includes any associated consent of permission.

## **1.9 Licensee**

The holder of a sex establishment licence.

## **1.10 Licensed area**

The part of the premises marked on the plan where licensable activities are to take place.

## **1.11 The Organiser**

This is any person who is responsible for the organisation or management of the relevant entertainment or the premises.

## **1.12 Permitted hours**

These are the hours of activity and operation that have been authorised under a sex establishment licence.

## **1.13 The Policy**

This refers to the sex establishment licensing policy.

## **1.14 Premises**

Includes any vehicle, vessel or stall but does not include any private dwelling to which the public is not admitted.

## **1.15 Relevant entertainment**

Any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

## **1.16 Relevant locality**

This is the locality where premises are situated or where the vehicle, vessel or stall is going to be used. The locality and the area that this cover is a matter for

the local authority to decide. This Council has determined that each ward within the county represents a relevant locality for the purposes of decision making. The Council may have regard to the area of more than one locality/ ward.

#### **1.17 Responsible person**

The person nominated by the licensee who has personal responsibility for and be present on the premises whilst the premises is open to the public. This may be the manager or the relief manager.

#### **1.18 Sex Articles**

A sex article is anything for use in connection with or for stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity.

#### **1.19 Sex Cinema**

A sex cinema is any premises, vessel, vehicle or stall used to a significant degree for the exhibition of moving pictures however produced, which are concerned primarily with the portrayal of, or primarily deal with or relate to or intending to stimulate or encourage sexual activity or genital organs or urinary excretory functions.

#### **1.20 Sexual Entertainment Venue**

A sexual entertainment venue is any premises where any live performance or any live display of nudity is of such a nature that, regardless of financial gain, it must reasonably be assumed to have been provided solely or mainly for the purpose of sexually stimulating any member of the audience.

#### **1.21 Sex shop**

Any premises, vehicle, vessel, or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating sex articles or other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity.



### **1.22 Standard conditions**

Any terms, conditions or restrictions contained or referred to in the schedule to a licence granted under Schedule 3 but does not include any private dwelling to which the public is not admitted.

### **1.23 Vehicle**

A vehicle intended or adapted for use on roads.

## **2.0 THE PURPOSE OF THE POLICY**

**2.1** This policy is prepared under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009. It was approved by Herefordshire Council as the licensing authority for the County of Herefordshire on 10<sup>th</sup> April 2024. It will be reviewed every 5 years.

**2.2** This policy is concerned with the regulation of sex establishments, namely sexual entertainment venues, sex shops and sex cinemas.

**2.3** The Authority does not take any moral stand in adopting this policy. The Authority recognises that Parliament has made it lawful to operate a sex establishment and that such businesses are a legitimate part of the retail and leisure industries.

**2.4** The council's licensing regime aims to ensure that if sex establishments are granted in Herefordshire that they operate in a safe, fair, and discreet manner and are sensitive to the local area in which they are situated. Specific attention has been taken to advertising, staff welfare, external appearance, locality and the number of licensed premises.

**2.5** In preparing this policy the council has consulted with and considered the views of a wide range of people and organisations including:

- Representatives of local business
- Representatives of the licensing trade (alcohol & entertainment)
- Local residents through Parish and town councils
- Ward Members
- West Mercia Police
- Herefordshire Council - Environmental Protection
- Herefordshire Safeguarding Children's Partnership

- Herefordshire Council - Planning
- Herefordshire Public Health

This Policy also has regard to the guidance issued by the Home Office.

**2.5** The council adopts the overall approach of encouraging the responsible promotion of licensed activities. However, in the interests of all its residents, it will not tolerate irresponsible licensed activity. The council will impose conditions where necessary to promote responsibility and will use effective enforcement to address premises where there are problems, in partnership with key agencies such as:

- West Mercia Police,
- Hereford & Worcester Fire and Rescue Service,
- Health and Safety Executive,
- Health Trusts in the County,
- Herefordshire Council Responsible Authorities
- Herefordshire Community Safety Partnership

### **3.0 THE SCOPE OF THE POLICY**

- 3.1** This policy covers licensable premises and activities as defined by the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 (the Act) within Herefordshire. Schedule 3 of the Act is concerned with the control of sex establishments. A sex establishment means a sexual entertainment venue, sex cinema or sex shop.
- 3.2** A sexual entertainment venue is a premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer. Relevant entertainment means any live performance or any live display of nudity which is provided solely or principally for the purpose of sexually stimulating any member of the audience. The full legal definition of a sexual entertainment venue can be found at section 2 and 2A of the Act.
- 3.3** A sex cinema means a premises used to a significant degree for the exhibition of moving pictures which primarily portray sexual activity or act of force or restraint which are associated with sexual activity. A full legal definition of a sex cinema can be found in section 3 of the Act.
- 3.4** A sex shop relates to a premises used to a significant degree for the selling, etc. of sex articles or other items intended for the use of stimulating sexual activity or acts of force or restraint. A full legal definition of a sex shop can be found ay section 4 of the Act.
- 3.5** Advice on whether a licence is required can be obtained from the Licensing Section of Herefordshire Council. E-mail [licensing@herefordshire.gov.uk](mailto:licensing@herefordshire.gov.uk), Telephone 01432 261761, Address: Licensing Section, Herefordshire Council, Plough Lane, Hereford HR4 0LE.

- 3.6** Throughout this policy the wording will refer to ‘applicants’ for licences. However, it should be noted that the principles set out within this policy apply equally to new applications, renewals, and transfers.
- 3.7** This policy seeks to provide advice to applicants about the approach they should take in making applications and the view the council is likely to take on certain key issues.

## **4.0 Herefordshire Council**

- 4.1** Herefordshire Council, along with its partners, has been working towards ensuring that Herefordshire has a great deal to offer those who live, work, or visit here, including a rich heritage, a beautiful natural environment and a wide range of cultural and leisure opportunities. It is a safe place to live and work, with low levels of crime.
- 4.2** Herefordshire is bordered by Shropshire to the north, Worcestershire to the east, Gloucestershire to the south-east, and the Welsh counties of Monmouthshire and Powys to the west. It has a population of 193,600 (mid-2020) and covers an area of 2180 square kilometres (842 square miles). 95% of the land is rural with over half the population living in these rural areas. At the centre of the County is Hereford City with a population of 61,400. The city is surrounded by the market towns of Leominster (12,200), Ross on Wye (11,400), Ledbury (10,100), Bromyard (3,361) and Kington (3,302).
- 4.3** It has an ageing population with 24% of the residents over 65, compared to the national average of 18%. Earnings in Herefordshire are significantly lower than the average in England and the West Midlands. In 2022, the median weekly earnings for people who work in Herefordshire were £454.00, compared to £536.60 in England.
- 4.4** Herefordshire has just over 2000 premises licensed under the Licensing Act 2003. The main centre for entertainment is within the Commercial Road, Commercial Street and Blueschool Street area of Hereford where there are a number of night clubs and large public house which operate until the early hours of the morning.

## **5.0 INTEGRATING OTHER GUIDANCE, POLICIES, OBJECTIVES AND STRATEGIES**

- 5.1** In preparing this licensing policy the council has had regard to other Herefordshire Council Policies and Government Guidance.
- 5.2** The council (through its Licensing Committee) may, from time to time receive reports on other policies, strategies and initiatives that may impact on licensing activity within the remit of the committee. Subject to the general principles set out in Section 6 it may have regard to them when making licensing decisions.
- 5.3** The Committee may, after receiving such reports, make recommendations to the council or other bodies about the impact of the licensing policy on such policies, strategies and initiatives. Equally the Committee may make recommendations relating to the impact of such policies, strategies, and initiatives on the licensing policy. This may include recommendations to amend the licensing policy itself.

## 6.0 **GENERAL PRINCIPLES**

- 6.1 In determining a licensing application the overriding principle will be that each application will be determined on its own merit, taking into account local knowledge, this licensing policy and the guidance issued by the Home Office. Where it is necessary to depart from the guidance or this Policy the council will give clear and cogent reasons for doing so.

### **Numbers of Sex Establishments**

- 6.2 The Council has had regard to what is appropriate for the licensing authority's relevant locality as referred to in paragraph 3.32 of the Home Office Guidance on Sexual Entertainment Venues (March 2010). Notwithstanding this, any application for a sexual entertainment venue will be received and considered on its individual merits.

### **Human Rights**

- 6.3 The European Convention on Human Rights makes it unlawful for a public authority to act in a way that is incompatible with a Convention right. The council will have particular regard to the following relevant provisions of the European Convention on Human Rights:
- **Article 3** Freedom from torture and inhuman or degrading treatment
  - **Article 4** Freedom from slavery and forced labour.
  - **Article 6** that in determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
  - **Article 8** that everyone has the right to respect for his home and private life.
  - **Article 10** that everyone has the right to freedom of expression.
  - **Article 14** Protection from discrimination in respect of these rights and freedoms
  -



- **Article 1 of the first protocol** that every person is entitled to the peaceful enjoyment of his or her possessions, including for example a licence.

### **The Provision of Services Regulations**

**6.4** The Provision of Services Regulations 2009 implements the European Services Directive. These regulations ensure that any refusal of a licence is:

- **non-discriminatory** in regard to nationality,
- **necessary** for reasons of public policy, public security, public health or the protection of the environment and
- **proportionate** with regard to the objective pursued by the legislation.

**6.5** The council will consider these three issues in relation to the refusal of licence applications.

### **Crime and Disorder Act 1998**

**6.6** The Crime and Disorder Act 1998 places a duty on the council to exercise its functions with due regard to:

- Crime and disorder in its area (including ant-social and other behaviour adversely affecting the local environment.
- The misuse of drugs, alcohol, and other substances.
- Re-offending in its area.

**6.7** The council will have particular regard to the likely effect of the determination of licence applications on these issues and the need to do all that it reasonable can to prevent them.

### **Equality Act 2010**

**6.8** The Equality Act 2010 places a duty on the council to exercise its functions with due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Equality Act 2010.
- Advance equality or opportunity between persons who share relevant protected characteristic and person who do not share it.
- Foster good relation between persons who share a relevant protected characteristic and persons who do not share it.

**6.9** The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

**6.10** The council is aware that sex establishments tend to be predominantly marketed to men and that the licensing of these establishments must not encourage discrimination against women, especially in regard to women who work at the premises, women who may wish to visit the premises or women who are using the area for other purposes, but who may feel intimidated by the presence of such premises.

**6.11** Accordingly, due regard has already been and will continue to be given during the review of this policy, to the determination of licences and the attaching of conditions.

### **Protection of Children and Vulnerable Adults**

**6.12** The Licensing Authority has a duty to protect and safeguard children and vulnerable adults. In these circumstances there are a number of pieces of legislation available which the authority may make use of:

- Safeguarding Vulnerable Groups Act 2006
- Health and Social Care Act 2012
- Mental Capacity Act 2005
- Children Act 1989
- Children Act 2004
- Children and Social Work Act 2017

## **Staff Training**

- 6.13** The council requires that all staff employed on licensed premises shall be trained to raise awareness of their responsibilities in relation to running such establishments and particularly of the offences contained within the Local Government (Miscellaneous Provisions) Act 1982. Such training shall be agreed with the licensing authority and a record shall be kept of all staff trained, which shall be immediately produced to an officer of the licensing authority on demand.
- 6.14** All persons employed on licensed premises should be provided with in-house training on basic public safety and the housekeeping arrangements relative to those premises. Depending on their job role, this may include training in first aid, age verification policies, basic health, and safety, and so on.
- 6.15** Licensed premises will be required to record training undertaken by staff in their staff records. These records will be made available for inspection on request by an authorised officer or the police.

## **Advertising**

- 6.16** As part of the standard conditions attached to licences there is a requirement that all advertising and the external appearance of the premises must be approved by council. This approval will be sought at the next available subcommittee hearing. Applicants will be entitled to attend the hearing.

## **Exemptions**

- 6.17** Under the Local Government (Miscellaneous Provisions) Act 1982 there is an exemption for sexual entertainment venues for premises which provide relevant entertainment on an infrequent basis. These are defined as premises where –
- no relevant entertainment has been provided on no more than 11 occasions within a 12-month period.
  - no such occasion has begun within a period of one month beginning with the end of the previous occasions; and

- no such occasion has lasted longer than 24 hours.
- other premises or types of performances or displays exempted by an order of the Secretary of State.

**6.18** This exemption does not apply to sex shops or sex cinemas.

### **Holders of licences/certificates under the Licensing Act 2003**

**6.19** Holders of premises licences or club premises certificates should check their licence conditions, particularly under the licensing objectives of the protection of children from harm, as many will contain the following condition:

No adult entertainment or services or activities must take place at the premises (Adult Entertainment includes, but is not restricted to, such entertainment or services which would generally include topless bar staff, striptease, lap-table, or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language).

**6.20** In these circumstances these premises should either seek a variation of their licence or a temporary event notice to enable them to make use of the above exemption.

## **7.0 THE APPLICATION PROCESS**

**7.1** Applications must be made to the council in the form prescribed.

**7.2** An operator's suitability will be checked before a licence for a sex establishment is granted. Depending on the individual circumstances this may be achieved by the following means:

- Application form
- DBS check
- Personal interview either in person, at hearing, by phone or in writing
- Accreditation/Training/Experience.

**7.3** In the first instance, the application will be sent to West Mercia Police who may conduct a check. The operator's suitability will be checked using the application form and the personal information forms. Applicants may be asked to provide an enhanced DBS check, or attend an interview, to support their application.

**7.4** The suitability of the applicant is important to ensure that the interests of the public are protected. The council will use the methods described above to ensure that the proposed operator:

- is honest.
- has a clear understanding of the conditions that may be attached to the licence.
- has a suitable business plan which will deliver compliance of the standard conditions.
- has no unspent conviction of a nature that deem him/her unsuitable. □  
will not pose a risk to vulnerable adults.

**7.5** Applications for sexual entertainment venue licences will also show they have:

- a clear employees welfare policy
- a clear code of practice for employees
- a clear code of conduct for customers
- a clear policy on pricing
- protects the interests of the customers.
- polices in relation to:  
Modern slavery and  
Human Trafficking

**7.5** The council will take all of these criteria into account when determining the licence. Non-compliance of one or more of the criteria will not necessarily exclude the operator from holding a sex establishment licence providing the applicant is able to prove to the council that the interest of the public is protected.

**7.6** In all cases there shall be at least a 28-day consultation period to allow for comments from all parties and no determination shall be made prior to the expiry of this period.

### **Third Party Beneficiaries**

**7.7** In order to protect the public interest it is important to establish the hierarchy of the operator's business. Information will be sought, and enquiries made into the operator's company structure to ensure that the operator is not working on behalf of an individual or company that would not be granted a licence in their own right.

**7.8** Enquiries may be made via the application form, checks with Companies House, West Mercia Police, personal interview or applicants may be asked to provide business records.

### **Fees**

**7.9** The council has set a reasonable fee. The fee is based on a full cost recovery of the costs incurred by the council in determining the application.

### **Notices**

**7.10** The applicant must advertise the application in three ways:

- Advertisement in a local newspaper within 7 days of the application
- Advertisement at the premises by way of a site notice for 21 consecutive days
- Notice of the application to be sent to the Chief Officer of Police for West Mercia within 7 days of the application.

**7.11** Proof that the applicant has advertised the application will be required.

### **Objections**

**7.12** Anyone can object to an application for a sex establishment. Objections should be received by the council no later than 28 days after the date of the application. These objections can be received from individuals or businesses and can be on any matter.

- 7.13** However the appropriate weight will be given to objections which relate to the purpose of the legislation which is the control of sex establishments.
- 7.14** Guidance on making an objection can be found on the council's website.
- 7.15** The council will notify the applicant in writing of the general terms of any objection it receives within 7 days of the application.
- 7.16** The Council will not redact any details of an objectors unless the licensing authorities consider that the person has a genuine and well-founded fear of intimidation and may be deterred from making a representation on this basis.

### **Hearings**

- 7.17** The council has appointed a Planning and Regulatory Committee of 15 Councillors. The Licensing functions will often be delegated to the licensing sub-committee of 3 councillors from the Planning and Regulatory Committee or, in appropriate cases to officers of the council.
- 7.18** All new applications and any contested renewals or transfers will be determined by a Licensing sub-committee.
- 7.19** It is the council's practice to provide notice of the hearing to all interested parties (applicants and objectors) five days before the hearing as laid down in Local Government Act 1972.
- 7.20** This notice will provide the date of the hearing, the procedure for the hearing, state any points on which the council requires clarification at the hearing, and will require the addressee to confirm their attendance and the attendance of any witnesses they may wish to call.



- 7.21** The hearing will take place in public except where the public interest requires otherwise.
- 7.22** All parties will be given an equal amount of time to present their case.
- 7.23** Councillors will have regard to the Herefordshire Council Code of Conduct for Members and guidance issued by the Standards Board for England. Where a Councillor who is a member of the Licensing Sub-Committee has a prejudicial interest in the application before them, in the interests of good governance they will disqualify themselves from any involvement in the decision-making process, in respect of that application. Members will not hear applications from within their own ward to avoid any appearance of bias.
- 7.24** A licensing sub-committee may refer an application to another sub-committee or to the Planning and Regulatory Committee where it is unable to deal with the application because of, the number of members unable to vote on the matter in question.
- 7.25** The Planning and Regulatory Committee will refer an application to the council where it is unable to deal with the application because of the number of members unable to vote on the matter in question.

### **Reasons for decisions**

- 7.26** In determining licence applications under the Local Government (Miscellaneous Provisions) Act 1982 the council will take into consideration the application before it, any objections received as well as local knowledge including local issues and cultural sensitivities.

**7.27** Every decision to refuse a licence made by the Planning and Regulatory Committee, subcommittee or officers will be accompanied by clear reasons for the decision.

**7.28** Every effort will be made to provide a decision verbally at the sub-committee hearing, with the written reasons to follow in due course. However, in exceptional circumstances the sub-committee may defer the decision in order to allow mature consideration of the respective case and a time for the reasoned condition will be drawn up and all parties notified.

### **Conditions**

**7.29** The council will impose standard conditions on all licences. However, if deemed necessary, the council may change, alter, or replace the standard conditions with conditions that are relevant to the application. Please see appendix 1 for the standard conditions.

**7.30** Any change to the standard conditions will be applied to licences at the time of renewal when all conditions are reviewed.

### **Refusal of applications**

**7.31** Applications for sex establishments can be refused on the following mandatory grounds:

- if the applicant is under 18,
- if the applicant has a disqualification following the revocation of their licence,
- if the applicant is non-resident in the UK,
- company not incorporated in the UK,
- or a previous refusal of the applicant at the same premises in the previous 12 months.

**7.32** There are also a number of discretionary grounds. These are:

- if the applicant is unsuitable,
- if the business would be managed by or for the benefit of a third party who would be refused a licence in their own right,
- that the number of sex establishments in the locality or of sex establishments of a particular kind in the locality equals or exceeds the number considered appropriate,
- is inappropriate having regard to:
  - Character of the relevant locality
  - Use of premises in the vicinity
- Layout, character, condition or location of the premises.

**7.33** As stated at 6.1, the council will consider each application on its own merits, taking into account local knowledge, this policy and the guidance provided by the Home Office.

### **Right of Appeal**

**7.34** Only the applicant has the right to appeal the council's decision to the Magistrate's Court and only on limited grounds. There is no right of appeal for objectors or statutory authorities. Applicants and interested parties are referred to the Local Government (Miscellaneous Provisions) Act 1982, paragraph 27 for further details.

### **Period of licence**

**7.35** A sex establishment licence will remain in force for up to one year, or for a shorter period should the council think fit.

### **Grant, Renewals, Transfer**

**7.36** The process for applying for a renewal, transfer or variation of the licence is the same as when applying for a new licence. Guidance for applicants is available on the council's website.

## Variation

- 7.37** There are some matters required under the standard conditions for which the premises licence holder is required to notify the council. These matters include:
- Variation of standard conditions
  - Variation of any of the terms of the licence
  - Change in the external appearance of the premises.
  - Structural changes
  - Change in personnel.
  - Use of a vehicle for advertising purposes
  - Change of name of premises
- 7.38.** Application to vary conditions of the licence must be advertised by the licensee in the same way as for the application for grant, renewal, or transfer.
- 7.39** Other matters must be notified to the council in writing, enclosing the appropriate plans, or illustrations as may be required to evidence the application. Any variation of the licence will attract a fee which will be based on full cost recovery. Please contact Licensing prior to application to obtain the fee required.

## Revocation

- 7.40** Should information be received by the council that circumstances have changed in such a way that the applicant would be deemed unsuitable or that the manager or beneficiary would be unsuitable should they be applying for a new licence, the council may revoke the sex establishment licence.
- 7.41** Should the council consider revocation of the licence to be appropriate the licensee will be provided an opportunity to appear before the Licensing Committee and be heard by them.

**7.42** The licensee will be given a statement in writing of the reasons for revocation within seven days of the requirement being made.

**7.43** The revocation will take effect once the appeal period has expired, or if an appeal is lodged after the determination or abandonment of the appeal.

### **Waiver**

**7.44** Should the council decide that a licence would be unreasonable or inappropriate, it may waive the need for a licence, for example in the case of a medical book shop, sex clinic.

**7.45** The council would only waive the need for a licence where the activity is low risk and/or temporary. However, a waiver will not be considered in cases where a licence is required or where there is public interest.

**7.46** The application for a waiver uses the same form as an application for a new licence; however, it should be accompanied by a letter which describes the circumstances under which the need for a licence should be waived. There will be no requirement to advertise the application. There is a fee which will be based on full cost recovery. Please contact Licensing prior to application to obtain the fee required.

**7.47** The decision to waive the need for a licence will be taken at the next available licensing sub-committee hearing and a Notice of Waiver will be issued in due course.

**7.48** Unsuccessful applications for waivers will be notified accordingly and provision will be made for them to make a formal application for a sex establishment licence.

## 8.0 ENFORCEMENT

### Enforcement principles

- 8.1** The council will work closely with partners in accordance with a locally established joint enforcement protocol and will aim to promote the licensing objectives by targeting known high risk premises following government guidance around better regulation.
- 8.2** In carrying out its enforcement duties with regards to the inspection of premises; and the powers to institute criminal proceedings in respect of certain offences under the Act the council will endeavour to be:
- **proportionate**: regulators should only intervene, when necessary, remedies should be appropriate to the risk posed, and costs identified and minimised.
  - **accountable**: regulators must be able to justify decisions and be subject to public scrutiny.
  - **consistent**: rules and standards must be joined up and implemented fairly.
  - **transparent**: regulators should be open, and keep regulations simple and user friendly; and

- **targeted:** regulation should be focused on the problem and minimise side effects.

**8.3** The council will endeavour to avoid duplication with other regulatory regimes so far as possible.

**8.4** The council will also adopt a risk-based inspection programme in line with government recommendations around better regulation and the principles of the Hampton Review.

**8.5** The main enforcement and compliance role for the council in terms of the Local Government (Miscellaneous Provisions) Act 1982 as amended will be to ensure compliance with the conditions placed upon the licence.

**8.6** The council will also keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

**8.7** The council's enforcement/compliance protocols/written agreements will be available upon request.

### **Complaints**

**8.8** Any person aggrieved by the operation of a sexual entertainment venue, sex shop or sex cinema may complain to the council by email [licensing@herefordshire.gov.uk](mailto:licensing@herefordshire.gov.uk) or by writing to Licensing, Herefordshire Council, Plough Lane, Hereford HR4 0LE.

**8.9** Only complaints relating to the breach of the legislation or breach of licence conditions will be investigated. If appropriate the complaint may be shared with other authorities, such as the police. Complaints made on moral grounds will not be.

## **Appendix 1 - Standard Conditions**

These conditions may be dispensed with, added to, or modified by the council. Where, in these conditions, there is a reference to the consent of the council being required, the consent may include terms, conditions, and restrictions as appropriate.

### **Sexual Entertainment Venues**

#### **General**

1. Unless stated otherwise, the licence hereby granted will operate for one year from the date on the licence, after which it will cease to be in effect unless an application for renewal is submitted in the manner prescribed by the council.
2. The licence may be revoked by the council if at any time the holder is convicted of an offence of using the licensed premises, or other premises for which a similar licence has been granted, other than in accordance with the terms, conditions or restrictions of the licence or is convicted of any offence under any enactment defined in paragraph 1 of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 as amended.
3. The licensee will provide (subject to the satisfaction of both the police and the licensing authority), a code of practice for entertainers and code of conduct for



customers, and these must be made available upon request to both the police and authorised officers.

4. All rules (code of practice for entertainers, code of conduct for customers, dispersal policies etc.) to be prominently displayed on the premises.
5. Price lists will be clearly displayed at each table and at each entrance to the premises.
6. All rules and price lists as described in conditions 4 and 5 must be printed in a manner which is clear and easy to read during the normal operation of the premises.
7. Suitable and sufficient training is to be provided to all staff including the responsible person as described in condition 28. The training of all staff is to be recorded and the training record must be made available upon request to both the police and authorised officers.
8. The name of the premises must be approved by the council in writing. Any change to the name of the premises must be approved by the council in writing.

### **Exhibition of the licence**

9. The licence, or a clear copy, will be prominently displayed at all times so as to be readily and easily seen by all persons using the premises, the police, the fire authority and authorised officers of the council. A copy of the conditions attached to the licence will be kept on the premises and be available for inspection by an authorised officer of the council, or the police or fire authority.

### **Hours of opening**

10. The premises will only be open to the public during the following hours:

Monday	?
Tuesday	?
Wednesday	?
Thursday	?

Friday	?
Saturday	?
Sunday	?

### **Conduct on the premises**

11. Entertainers will only perform on the stage area or in booths/areas for VIPs as identified on the plan attached to the licence.
12. Relevant entertainment will only be performed by the entertainer. There must be no audience participation.
13. There must be no physical contact between entertainers.
14. Customers will not touch the breasts or genital area of entertainers.
15. Entertainers will not directly or indirectly touch the breasts or genital area of customers.
16. Any performance will be restricted to dancing and the removal of clothes.
17. There will not be any other form of sexual activity or stimulation which, for the avoidance of doubt, includes kissing.
18. Sex toys must not be used and penetration of the genital area by any means must not take place.
19. Customers will not be permitted to throw money at the entertainers.

### **External appearance**

20. There will be a notice displayed inside each entrance or doorway to the premises, clearly visible on entering the premises, which states the following:

**Strictly No Admittance to Persons under 18 Years of Age.**

**This premises operates a Challenge 25 policy.**

**Persons under the age of 25 will be required to show proof of age.**

21. The external appearance of the premises must be approved by the council in writing.
22. Any change to the external appearance must be approved by the council. The operator must advise of any change in writing including a drawing of the existing and proposed street elevation. This must be approved by the council before work is undertaken.
23. Access to the licensed area of the premises should be through a lobby area which is constructed in such a way that the inside of the licensed premises where relevant entertainment takes place is not visible to passing members of the public when the doors of the premises are opened.
24. Signage will only be illuminated between 10pm and 2am, and movable signs placed outside the premises will be removed between 2am and 10pm or at the closing time of the premises, whichever is sooner.

### **Advertising**

25. Any written, visual, or auditory advertisement material, posters, signage or window display must not be of a sexually explicit or suggestive nature, will not contain images or text of a sexually explicit, obscene or offensive nature and must be approved by the council in writing.
26. Leafletting/distribution of flyers will only be permitted immediately outside the premises and in such a way where it does not cause public offence. The licensee will remove any leaflets from the Highways within a 100-metre radius of the premises by 2am or at the time the premises closes, whichever is sooner. The licensee will have a flyer distribution policy to be approved by the Council.

### **Layout of premises**

27. No access will be permitted through the premises to any other adjoining or adjacent premises except in the case of an emergency.

28. No alterations (including temporary alterations) will be made to the structure and installations on the premises, without the prior written consent of the council. This condition will not require notice to be given in respect of routine maintenance works. Where there is any doubt, the licensee should seek advice from the council.

### **Management of the premises**

29. The licensee, or a responsible person nominated by him/her in writing for the purpose of managing the venue (“the manager”) will have personal responsibility for and be present on the premises whilst relevant entertainment is being performed. Any such nomination will be produced on demand to an authorised officer of the council or the police.
30. The licensee will ensure that any person nominated by him/her under the above:
- a) has been provided with a copy of the conditions relating to the premises and is fully conversant with them; and
  - b) is in possession of a written nomination referred to above at all times when they are in charge of and present on the premises.
31. The name of the person responsible for the management of the premises, whether the licensee or manager, will be displayed in a conspicuous position within the premises throughout the period during which he/she is responsible for the conduct of the premises.
32. Where the licensee is a body corporate, or an incorporated body, any change of director, company secretary or other person responsible for the management of the body will be notified in writing to the council within 14 days of such a change. Such details as the council may require in respect of the change of personnel will be furnished within 14 days of a request in writing from the council.
33. Where the licensee, director, company secretary, or responsible person nominated for the purpose of managing the venue (“the manager”), is convicted of an offence, they must, as soon as practicable after the conviction, inform the council of the conviction giving details of the nature and date of the conviction, and any sentence imposed.

34. The licensee will retain control over all parts of the premises and will not let, licence or part with possession of any part of the premises. The council must be notified immediately in the event that any part of the premises is affected by the termination of a lease or other event affecting the licensee's control of the premises.
35. The licensee will ensure that the public is not admitted to any part or parts of the premises that has not been approved by the council.
36. No persons under the age of 18 will be admitted to the premises.
37. The licensee will operate a Challenge 25 age verification policy. People under the age of 25 will be required to show proof of ID. A notice to this effect, in accordance with condition 18 will be displayed on the premises. Such policy shall be written down, kept at the premises, and be made immediately available an authorised officer of the council or the police.
38. The licence holder will not employ any person under the age of 18 in any capacity.

### **Safety and security**

39. A suitable CCTV system will be operational at the premises at all times when licensed activities are being carried out. The system will cover all public areas including booths and corridors but not including staff changing rooms or toilets. The system will conform to West Mercia Police guidelines (as attached to the licence) in respect of business-related CCTV equipment. It will be adequately maintained and be capable of transporting recorded material onto removable media.
40. The siting of the CCTV system will be agreed with West Mercia Police prior to installation and will comply with that agreement at all times. Changes to the siting and standard of CCTV systems may only be made with the written consent of West Mercia Police.

41. CCTV security footage will be made secure and retained for a minimum period of 31 days' time to the satisfaction of West Mercia Police. CCTV footage will be supplied to the police and authorised officers of the Council on request.
42. At all times that the premises are open to the public there will be a member of staff on duty who is conversant with operating the CCTV system and who is able to download immediately any footage requested by the police or an officer from the licensing authority or authorised agent.
43. There shall be in place a risk assessment covering numbers of Security Industry Authority registered door staff (the risk assessment to be subject to police and licensing authority approval) will be present on the premises during the performance of relevant entertainment.

#### **Staff welfare**

44. Entertainers will be aged no less than 18 years.
45. All premises that provide relevant entertainment will be expected to provide new entertainers with a pack of information, free of charge, in their dressing room. This pack will include:
  - a. A copy of the Sex Establishment Licence, including the conditions applied by the Licensing Committee.
  - b. Details of any other conditions applied by management of the premises.
  - c. Details of how to report crime to the relevant authority.
  - d. Details of insurance (public liability/personal)
  - e. Details of unions, trade organisations or other bodies that represent the interests of dancers/entertainers.
  - f. A copy of the code of practice for entertainers
  - g. A copy of the code of conduct for customers
  - h. Fining policy
  - i. Pricing policy
46. In addition, literature and contact details will be provided of organisations that provide advice and counselling on matters relating to:

- (a) Modern slavery,
- (b) Domestic abuse,
- (c) Coercive control,
- (d) Rape/sexual assault
- (e) Sexual Violence
- (f) Sexual Health
- (g) Sexual Assault Referral Centre (SARC) and
- (e) Human trafficking

- 47. National helplines, the police and SARC should be able to help employees following any incident or where they feel uncomfortable or threatened.
- 48. All booths/areas for VIPs used for private dances must be visible to supervision and must not have closing doors or curtains that prevent performances from being observed.
- 49. All booths/areas for VIPs used for private dances must be directly supervised by either a SIA registered door supervisor, or a member of staff who has direct contact with SIA registered door supervisors working on the premises at all times the booths/areas are in use. Direct supervision does not include remote supervision by CCTV.
- 50. Entertainers will only be present in the licensed area in a state of nudity when they are performing on stage or providing a private dance.
- 51. Any person on the premises who can be observed from outside the premises will be properly and decently dressed.
- 52. The licensee will ensure entertainers have secure dressing rooms, facilities to secure valuables and proper sanitation facilities available to them.
- 53. The management will maintain a register which details any fines imposed on entertainers which will include the date, type of misdemeanour, and amount fined.

### **Vessels, stalls and vehicles**

53. Vehicles will not be used to obtain custom by means of personal solicitation or touting in such a way that causes concern or offence to the public or the licensing authority.
54. Any vehicle used to advertise the premises must comply with the advertising conditions.
55. All forms of advertising on vehicles must be approved by the council prior to use.
56. Vehicles used to transport customers to or from the premises may require a licence issued by Herefordshire Council Taxi and Private Hire Licensing or the Department for Transport. Details of any vehicles brought into service must be notified to the council in writing and details of any relevant licence issued by Herefordshire Council Taxi and Private Hire Licensing, or the Department for Transport must be produced in advance of the vehicle being used.

### **Variation of conditions**

57. The council may, at the time of grant or renewal of the licence, waive, modify, or vary these conditions or impose additional conditions as appropriate.
58. The licensee may apply to the council to vary any of the terms of the licence.
59. Applications to vary conditions of the licence must be advertised by the licensee in the same manner as the application for the issue, renewal, or transfer of the licence.



## **Sex Shops**

### **General**

1. Unless stated otherwise, the licence hereby granted will operate for one year from the date on the licence, after which it will cease to be in effect unless an application for renewal is submitted in the manner prescribed by the council.
2. The licence may be revoked by the council if at any time the holder is convicted of an offence of using the licensed premises, or other premises for which a similar licence has been granted, other than in accordance with the terms, conditions or restrictions of the licence or is convicted of any offence under any enactment defined in paragraph 1 of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 as amended.
3. The name of the premises must be approved by the council in writing. Any change to the name of the premises must be approved by the council in writing.

### **Exhibition of licence**

4. The licence, or a clear copy, will be prominently displayed at all times so as to be readily and easily seen by all persons using the premises, the police, the fire authority and authorised officers of the council. A copy of the conditions attached

to the licence will be kept on the premises and be available for inspection by an authorised officer of the council, or the police or fire authority.

### **Hours of opening**

5. The premises will only be open to the public during the following hours:

Monday	?
Tuesday	?
Wednesday	?
Thursday	?
Friday	?
Saturday	?
Sunday	?

### **Conduct on the premises**

6. The licensee, or any other person concerned in the conduct or management of the premises, shall not in person, solicit or tout for the business from the premises. All literature used in connection with the business will not contain images or text of a sexually explicit, obscene or offensive nature.

### **External appearance**

7. There will be a notice displayed on each entrance or doorway to the premises which states the following:

**Strictly No Admittance to Persons under 18 Years of Age**

**This premises operates a Challenge 25 policy.**

**Persons under the age of 25 will be required to show proof of age.**

8. The external appearance of the premises must be approved by the council in writing.

9. Any change to the external appearance must be approved by the council. The operator must advise of any change in writing including a drawing of the existing and proposed street elevation. This must be approved by the council before work is undertaken.
10. The frontage of the licensed premises will be of such a nature that the inside of the licensed premises are not visible and the contents of the licensed premises should not be visible when the doors of the licensed premises is open.
11. There will be no illuminated or protruding signs fixed to the premises and no signs placed outside the premises.

### **Advertising**

12. Any written, visual or auditory advertisement material, posters, signage or window display must not be of a sexually explicit or suggestive nature, will not contain images or text of a sexually explicit, obscene or offensive nature and must be approved by the council in writing.
13. Leafleting/distribution of flyers will only be permitted in such a way where it does not cause public offence. The licensee will remove any leaflets from the highways within a 100-metre radius of the premises. The licensee will have a flyer distribution policy to be approved by the council.

### **Layout of premises**

14. No access will be permitted through the premises to any other adjoining or adjacent premises except in the case of an emergency.
15. No alterations (including temporary alterations) will be made to the structure and installations on the premises without the prior written consent of the council. This condition will not require notice to be given in respect of routine maintenance works. Where there is any doubt, the licensee should seek advice from the council

## Management of the premises

16. The licensee, or a responsible person nominated by him/her in writing for the purpose of managing the venue (“the manager”), will have personal responsibility for and be present on the premises whilst the premises are open to the public. Any such nomination will be produced on demand to an authorised officer of the council or the police.
17. The licensee will ensure that any person nominated by him/her under the above:
  - a) has been provided with a copy of the conditions relating to the premises and is fully conversant with them; and
  - b) is in possession of a written nomination referred to above at all times when they are in charge of and present on the premises.
18. Where the licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body will be notified in writing to the council within 14 days of such a change. Such details as the council may require in respect of the change in personnel will be furnished within 14 days of a request in writing from the council.
19. The licensee will retain control over all parts of the premises and will not let, licence, or part with possession of any part of the premises. The council must be notified immediately in the event that any part of the premises is affected by the termination of a lease or other event affecting the licensee’s control of the premises.
20. The licensee will ensure that the public is not admitted to any part or parts of the premises that has not been approved by the council.
21. The holder of the licence will keep a record of all employees who are asked to work on the premises which will include their full name, date of birth, current and previous address and any convictions recorded against that person (subject to the Rehabilitation of Offenders Act 1984).

22. An authorised and certified copy of the full personal record or a record of an individual will be produced on demand to an authorised officer of the council or the police.
23. No persons under the age of 18 will be admitted to the premises.
24. The licensee will operate a Challenge 25 age verification policy and people under the age of 25 will be required to show proof of ID. A notice to this effect in accordance with condition 8 will be displayed on the outside of the premises.
25. The licence holder will not employ any person under the age of 18 in any capacity.

#### **Video recordings**

26. No moving picture will be provided on display at the licensed premises unless it is that of advertising videos on a loop system or allowing a prospective purchaser a short preview of films upon request, being no longer than 3 minutes in length.
27. Items sold, supplied for hire, exchange or used in any promotion/advertising must not contravene any current legislation i.e. Section 12 Video Recordings Act 1984, (as amended).

#### **Vessels, stalls and vehicles**

28. Vehicles will not be used to obtain custom by means of personal solicitation or touting.
29. Any vehicle used to advertise the premises must comply with the advertising conditions. All forms of advertising on vehicles must be approved by the council.
30. Vehicles used to transport customers to or from the premises may require a licence issued by Herefordshire Council Taxi and Private Hire Licensing or the Department for Transport. Details of any vehicles brought into service must be notified to the council in writing and details of any relevant licence issued by

Herefordshire Council Taxi and Private Hire Licensing, or the Department for Transport must be produced in advance of the vehicle being used.

### **Variation of conditions**

31. The council may, at the time of grant or renewal of the licence, waive, modify or vary these conditions or impose additional conditions as appropriate.
32. The licensee may apply to the council to vary any of the terms of the licence.
33. Applications to vary conditions of the licence must be advertised by the licensee in the same manner as the application for the issue, renewal, or transfer of the licence.

### **Sex Cinemas**

#### **General**

1. Unless stated otherwise, the licence hereby granted will operate for one year from the date on the licence, after which it will cease to be in effect unless an application for renewal is submitted in the manner prescribed by the council.
2. The licence may be revoked by the council if at any time the holder is convicted of an offence of using the licensed premises, or other premises for which a similar licence has been granted, other than in accordance with the terms, conditions or restrictions of the licence or is convicted of any offence under any enactment defined in paragraph 1 of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 as amended.
3. The name of the premises must be approved by the council in writing. Any change to the name of the premises must be approved by the council in writing.

#### **Exhibition of licence**

4. The licence, or a clear copy, will be prominently displayed at all times so as to be readily and easily seen by all persons using the premises, the police, the fire

authority and authorised officers of the council. A copy of the conditions attached to the licence will be kept on the premises and be available for inspection by an authorised officer of the council, or the police or fire authority.

### **Hours of opening**

5. The premises will only be open to the public during the following hours:

Monday	?
Tuesday	?
Wednesday	?
Thursday	?
Friday	?
Saturday	?
Sunday	?

### **Conduct on the premises**

6. The licensee, or any other person concerned in the conduct or management of the premises, will only obtain custom by means of personal solicitation or touting from the premises in such a way that it does not cause concern to the public or the licensing authority. All literature used will not contain images or text of a sexually explicit, obscene, or offensive nature.

### **External appearance**

7. There will be a notice displayed on each entrance or doorway to the premises which states the following:

**Strictly No Admittance to Persons Under 18 Years of Age**

**This premises operates a Challenge 25 policy.**

**Persons under the age of 25 will be required to show proof of age.**

8. The external appearance of the premises must be approved by the council in writing.
9. Any change to the external appearance must be approved by the council. The operator must advise of any change in writing including a drawing of the existing and proposed street elevation. This must be approved by the council before work is undertaken.
10. The frontage of the licensed premises will be of such a nature that the inside of the licensed premises are not visible and the contents of the licensed premises should not be visible when the doors of the licensed premises is open.
11. There will be no illuminated or protruding signs fixed to the premises and no signs placed outside the premises.

### **Advertising**

12. Any written, visual, or auditory advertisement material, posters, signage or window display must not be of a sexually explicit or suggestive nature, will not contain images or text of a sexually explicit, obscene or offensive nature and must be approved by the council in writing.
13. Leafleting/distribution of flyers will only be permitted in such a way where it does not cause public offence. The licensee will remove any leaflets from the highways within a 100-metre radius of the premises. The licensee will have a flyer distribution policy to be approved by the council.

### **Layout of premises**

14. No access will be permitted through the premises to any other adjoining or adjacent premises except in the case of an emergency.



15. No alterations (including temporary alterations) will be made to the structure and installations on the premises without the prior written consent of the council. This condition will not require notice to be given in respect of routine maintenance works. Where there is any doubt, the licensee should seek advice from the council.

### **Management of the premises**

16. The licensee, or a responsible person nominated by him/her for the purpose of managing the venue (“the manager”), will have personal responsibility for and be present on the premises whilst the premises are open to the public. Any such nomination will be produced on demand to an authorised officer of the council or the police.
17. The licensee will ensure that any person nominated by him/her under the above:
  - a) has been provided with a copy of the conditions relating to the premises and is fully conversant with them; and
  - b) is in possession of a written nomination referred to above at all times when they are in charge of and present on the premises.
18. Where the licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body will be notified in writing to the council within 14 days of such a change. Such details as the council may require in respect of the change in personnel will be furnished within 14 days of a request in writing from the council.
19. The licensee will retain control over all parts of the premises and will not let, licence or part with possession of any part of the premises. The council must be notified immediately in the event that any part of the premises is affected by the termination of a lease or other event affecting the licensee’s control of the premises.
20. The licensee will ensure that the public is not admitted to any part or parts of the premises that has not been approved by the council.

21. The holder of the licence will keep a record of all employees who are asked to work on the premises which will include their full name, date of birth, current and previous address and any convictions recorded against that person (subject to the Rehabilitation of Offenders Act 1984).
22. An authorised and certified copy of the full personal record or a record of an individual will be produced on demand to an authorised officer of the council or the police.
23. No persons under the age of 18 will be admitted to the premises.
24. The licensee will operate a Challenge 25 age verification policy and people under the age of 25 will be required to show proof of ID. A notice to this effect in accordance with condition 8 will be displayed on the outside of the premises.
25. The licence holder will not employ any person under the age of 18 in any capacity.

### **Vessels, stalls and vehicles**

26. Vehicles will not be used to obtain custom by means of personal solicitation or touting in such a way that causes concern or offence to the public or the licensing authority.
27. Any vehicle used to advertise the premises must comply with the advertising conditions. All forms of advertising on vehicles must be approved by the council.
28. Vehicles used to transport customers to or from the premises may require a licence issued by Herefordshire Council Taxi and Private Hire Licensing or the Department for Transport. Details of any vehicles brought into service must be notified to the council in writing and details of any relevant licence issued by Herefordshire Council Taxi and Private Hire Licensing, or the Department for Transport must be produced in advance of the vehicle being used.

### **Variation of conditions**

29. The council may, at the time of grant or renewal of the licence, waive, modify or vary these conditions or impose additional conditions as appropriate.
  
30. The licensee may apply to the council to vary any of the terms of the licence.
  
31. Applications to vary conditions of the licence must be advertised by the licensee in the same manner as the application for the issue, renewal, or transfer of the licence.



Responses Received following Consultation.

Appendix 2

Received from	Comment	Outcome
<p>Cabinet Member (Cllr Durkin)</p>	<p>7.23 “Wherever possible” – cannot happen within a councillor’s ward who is available for the subcommittee.</p> <p>7.29 “The council will impose standard conditions on all licences” What are they, have they been written</p> <p>7.39 “Some matters may attract a fee. Further guidance is available on the council’s website” Has this been considered and what is planned as an indicative, starter for 10, as it were?</p> <p>7.44 What is a borderline case – surely its either yes or no.</p> <p>7.44 What is the procedure to be established for “to correct errors or for minor or temporary events” Are we going to permit no licensing for minor or temporary events. Surely a minor or temporary sex show etc. should be treated the same.</p> <p>7.45 Rather a woolly statement and open to interpretation e.g.” reasonable” and “appropriate”</p> <p>7.46 A further fee and website presence for information</p> <p>8.2. More words that need to be clarified as open to interpretation – if so, who interprets e.g. “proportionate”. Does not state who is the final arbiter of these interpretive words in the policy statement.</p>	<p>Removed ‘Wherever possible’</p> <p>Yes, they are within the policy pages 32 onwards.</p> <p>Amended to read ‘Any variation of the licence will attract a fee which will be based on full cost recovery. Please contact Licensing prior to application to obtain the fee required.’</p> <p>Removed</p> <p>Removed</p> <p>Amend that to read ‘However, a waiver will not be considered in cases where a licence is required or where there is public interest’.</p> <p>Amend that to read ‘There is a fee which will be based on full cost recovery. Please contact Licensing prior to application to obtain the fee required.’</p> <p>These are the headings contained within the Better Regulation Frame. Therefore, this is something that we as team leaders need to be considering prior to any action.</p>

	<p>8.4 “The council will also adopt a risk-based inspection programme”. Frequency needs to be established and includes in show inspections ad hoc and at HC discretion.</p> <p>8.7 “The council’s enforcement/compliance protocols/written agreements will be available upon request” Do these need to be established or can they be placed with existing?</p> <p>Sexual Entertainment Venues – General? Can licenses be transferred between venues, especially placed on minor or temporary events. What is the control over minor or temporary events?</p> <p>3. code of practice for entertainers and code of conduct for customers, what are these codes and how are they satisfactorily applied by the management of the venue</p> <p>7. At last a requirement to provide – management to produce records</p> <p>33 What happens after the person informs the council?</p> <p>39 High-definition CCTV of evidentiary quality – is that WM Police guideline?</p> <p>40 Should the council need to be advised or consulted?</p>	<p>Whilst this can include this it would go against the recommendations of the Office of Better Regulations and the Hampton Review.</p> <p>Placed with existing. It all comes under licensing.</p> <p>No. they are issued to the premises and stay with the premises. They can be transferred from one owner to another but not from premises to premises.</p> <p>The codes are the rules by which they operate. We don’t want to tell them how to run their premises, the onus is on them to tell us. Hence why they must be available to us and the police.</p> <p>Does say have to be provided on request.</p> <p>Covered by point 2 which deals with revocation on conviction.</p> <p>This is the same specification which the police have agreed for licensed premises, so is a duplication.</p> <p>Probably not. The police have a responsibility for the prevent of crime and are better qualified than us regarding CCTV location. We would work together on it.</p>
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	<p>“Sex Shop” 23 and 24 are the ages specified contradictory, with nobody under the age of 18 permitted to enter and a challenge 25 in operation?</p> <p>What is the procedure for dealing with complaints?</p> <p>What is the procedure for working with external enforcing authorities e.g. police and fire?</p> <p>Temporary events outside of the prescribed venue – not to be permitted under this approved licence?</p> <p>Is there a procedure for stopping the performances, upon officer inspection, or providing a temporary cessation of show and licence – for investigation purposes, perhaps following a complaint.</p>	<p>No. People under 18 cannot be admitted. But challenge 25 is dealing with anyone who looks under 25 being checked to ensure they are over 18.</p> <p>No actual procedure but we would follow the same process we do for all complaints.</p> <p>We already have data sharing agreements in place, and we work in partnership with each other.</p> <p>All events falling under this act will need a licence. The only exemption is for licensed premises but as most have a clause on saying no adult entertainment, it is controlled. The only way around that would be by way of temporary event notice which the police could object to.</p> <p>No there is no power under the act to do so. We would have to go down the route of revocation of the licence.</p>
West Mercia Rape & Sexual Abuse Support Centre	I am contacting about the new policy regarding sex establishments – this consultation is quite different from the one circulated recently by Worcestershire which I have already completed. Within the Worcester one, there was an opportunity to comment upon location and I raised concerns around public transport placement – it is common for women and girls to experience harassment from people leaving sex establishments.	<p>The policy covers location at 7.32. Refusal There are also a number of discretionary grounds. These are:</p> <ul style="list-style-type: none"> <li>• if the applicant is unsuitable,</li> <li>• if the business would be managed by or for the benefit of a third party who would be refused a licence in their own right,</li> <li>• that the number of sex establishments in the locality or of sex establishments of a particular kind in the locality equals or exceeds the number considered appropriate,</li> </ul>

	<p>There is a need for CCTV and additional training for door staff to intervene if their clients are leaving in a heightened state, either through elation/frustration or a sense of entitlement.</p> <p>There is a need for enhanced CCTV in the areas and location to schools/ colleges/ other venue should be considered.</p> <p>Specifically, within this document:  <i>1.14 Premises</i>  <i>Includes any vehicle, vessel or stall but does not include any private dwelling to which the public is not admitted.</i>      Could you explain how licenced premises can include a vehicle, vessel, or stall? If the consultation is specifically for premises, I would suggest that there is a conflict here along with the following criteria under licensee &amp; signage.</p> <p><i>1.19</i> as above. Not sure if this is the right place but think there should be specification that any cinema material must not contain indecent images of children.  <i>1.21</i> as above</p>	<ul style="list-style-type: none"> <li>• is inappropriate having regard to:        Character of the relevant locality.        Use of premises in the vicinity        Layout, character, condition, or location of the premises.</li> </ul> <p>Therefore, this gives the option to refuse purely on location grounds.</p> <p>CCTV and the use of door staff are part of the conditions.</p> <p>This is not something which could be included in this policy, as it is outside our control.</p> <p>The definition of premises is defined within the legislation and is provided purely for clarity.</p> <p>Policies should not contain items which are an offence under the law.</p>
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	<p>2.4 should also include consideration of location to public transport links, schools, and colleges.</p> <p>6.3 reference to Human Rights Suggest this also makes reference to:</p> <p>Article 3: Freedom from torture and inhuman or degrading treatment</p> <p>Article 4: Freedom from slavery and forced labour.</p> <p>Article 8: Respect for your private and family life, home and correspondence</p> <p>Article 10: Freedom of expression</p> <p>Article 14: Protection from discrimination in respect of these rights and freedoms</p> <p>Protocol 1, Article 1: Right to peaceful enjoyment of your property – particularly relevant for residents in the area.</p> <p>6.10 to 6.13 needs to include more responsibility to prevent harassment for women &amp; girls in the surrounding area, awareness of vulnerable clients &amp; ability to intervene when client behaviours are anti-social/harassing. Should also contain training on how to protect performers.</p> <p>P33 item 10 – what are the hours – think in the Worcester one these had already been set.</p> <p>P37. Item 39 – recommend enhanced CCTV on external premises too.</p>	<p>This is already covered under location.</p> <p>Added</p> <p>Added</p> <p>Already included.</p> <p>Already included.</p> <p>Added</p> <p>Already included.</p> <p>Already included.</p> <p>The legislation does not give us the power to do this. We can only look at the licensing of the sex establishment and not impose conditions which fall outside the licensed area.</p> <p>There are no hours set and each application will be dealt with on their individual merits.</p> <p>Cannot impose this due to the GDPR regulations.</p>
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	<p>P38. Item 445 regarding employee's information pack - this should also include links to sexual violence, sexual health, domestic abuse and SARC services, national helplines and police. Should also highlight how an employee can get assistance if they feel uncomfortable/threatened.</p> <p>P50 – still no clearer on what a vessel or stall is or relevance to the license.</p>	<p>Amended policy to include this.</p> <p>As shown above.</p>
A member of the public	<i>This is a duplicate from West Mercia Rape &amp; Sexual Abuse Support Centre (above)</i>	See above
End Male Violence Against Women and Girls Working Group - Herefordshire Women's Equality Group	<p>I am responding to this consultation on behalf of Herefordshire Women's Equality Group. We are a group campaigning on issues of Equality, which we believe benefits everyone regardless of gender. We believe that sex entertainment, where women are providing entertainment for men's sexual gratification embeds and promotes inequality. It normalises non-consensual sex and sexual violence. Sex establishments pose a risk to women's safety.</p> <p>We believe that this goes against the Council's aim of reducing sexual violence in Herefordshire.</p> <p>We attach our comments which explain our views in detail. We also make some specific comments on the proposed policy.</p> <p><i>Direct Comments made in relation to the Policy Document</i></p> <p><u>Within the parameters of the document, we submit the following comments:</u></p> <ul style="list-style-type: none"> <li>Paras 6.12 and the following paras talk about staff training. The Council should make it mandatory for staff working in a licensed sex establishment to have the Purple</li> </ul>	<p>Please see attached document.</p> <p>The policy has been amended to read: The council requires that all staff employed on licensed premises shall be trained to raise awareness of their responsibilities in relation to running such establishments and</p>

	<p>Leaf training which is targeted at the nighttime economy. The training records should be kept by the employer on each member of staff and the cost of providing the training covered by the proprietor.</p> <ul style="list-style-type: none"> <li>• 6.18 refers to “feigned violence and horrific incidents” HC should take a stand on this as unacceptable.</li> <li>• 7.4 deals with Modern Slavery and Human Trafficking. It should also include any coercion of employees.</li> <li>• 7.5 states noncompliance would “not automatically exclude” the operator. It should.</li> <li>• Para 46 in Appendix 1 states staff should be aware of domestic abuse, coercive control, rape and sexual assault. This should be included in staff training. The training records should be kept by the employer on each member of staff and the cost of providing the training covered by the proprietor.</li> </ul>	<p>particularly of the offences contained within the Local Government (Miscellaneous Provisions) Act 1982. Such training shall be agreed with the licensing authority and a record shall be kept of all staff trained, which shall be immediately produced to an officer of the licensing authority on demand.</p> <p>This is the definition of ‘adult entertainment’ given in the Licensing Act guidance and therefore should not be amended.</p> <p>This has already been amended as part of the consultation.</p> <p>Each application should be dealt with on its own merits, and we should not have a blanket refusal condition. This has already been amended as part of the consultation.</p> <p>This has already been included following comments from other consultees.</p>
A member of the public	Absolutely definitely NO NO NO What are you thinking!! Outraged You have been voted in & its not happening here.	The legislation allows Sex Establishments
A member of the public	I believe that sex entertainment, where women are providing entertainment for men’s sexual gratification embeds and	- Ditto -

	<p>promotes inequality. It normalises non consensual sex and sexual violence. Sex establishments pose a risk to women's safety.</p> <p>I believe that this goes against the Council's aim of reducing sexual violence in Herefordshire and strongly oppose.</p>	
A member of the public	<p>Quite frankly, I find it depressing that we are still being asked about this. It should be entirely apparent by now that "sex entertainment" has no place in our society. It unequivocally demeans women, objectifying them and normalising violence and aggression.</p> <p>In the era of #MeToo and "influencers" like Andrew Tate, our leaders should be doing everything possible to ensure clear messaging that the objectification of women has no place in our society and that boys and girls should be afforded equal opportunities to thrive.</p> <p>Our children should be free to grow up healthy, happy and respectful of others and themselves. A society that normalises pornography jeopardises their rights to do this.</p> <p>I hope my children aren't still having to protest against this sort of thing when they become adults.</p>	- Ditto -
A member of the public	<p>I believe that sex entertainment, where women are providing entertainment for men's sexual gratification embeds and promotes inequality. It normalises non consensual sex and sexual violence.</p>	- Ditto -

	<p>Sex establishments pose a risk to women's safety.</p> <p>I believe that this goes against the Council's aim of reducing sexual violence in Herefordshire.</p>	
<p>A member of the public</p>	<ul style="list-style-type: none"> <li>- sex entertainment, where women are providing entertainment for men's sexual gratification embeds and promotes inequality. It normalises non-consensual sex and male sexual violence.</li> <li>- Sex establishments pose a risk to women's safety and I believe that they run counter to the Council's (and its partners') stated aim of reducing sexual violence in Herefordshire.</li> <li>- The Herefordshire Community Safety Strategy recognises Herefordshire already has one of the highest rates of male violence against women compared with similar policing areas and it's not getting any better.</li> <li>- I understand that the Council has to have a licensing policy in place as required by legislation, but it needs to go further to recognise and reflect the local context.</li> <li>- the policy needs to include The Herefordshire Community Safety Partnership as a consultee group.</li> <li>- the policy needs to reference the CSP strategy to tackle male violence against women.</li> </ul>	<p>No comment</p> <p>The legislation allows them.</p> <p>Noted</p> <p>It already reflects the area.</p> <p>They have been consulted.</p> <p>There is another policy in place.</p>

	<ul style="list-style-type: none"> <li>- consultee groups need to specifically include WMRSASC, and West Mercia Women's Aid and reflect their views.</li> <li>- the policy needs to include a reason for refusal on the grounds of levels of sexually motivated incidents/crimes (including domestic violence) in the area.</li> <li>- the policy needs to include a reading for refusal on the grounds of seeking to promote sex equality under the Equalities Act, linking to the Council own Equality policy. This isn't about morals, it's about ensuring the Council is able to promote equality as enshrined in the Equalities Act and it's own EQ Policy, and it helps embed that role in every policy (not just having it listed at the end).</li> <li>- the policy needs to do more to recognise that such establishments do not promote women's equality, rather they promote and continue men viewing women as objects of sexual gratification. As sex i.e. the female sex is a protected characteristic in the Equalities Act, the licensing policy needs to be much clearer as to how it relates to and supports this Act, and the Councils own local Equalities policy . At present this draft licencing policy contradicts both and does not assist the Council to further these aims.</li> </ul>	<p>They have been consulted.</p> <p>Location is a ground to refuse.</p> <p>Each application is considered on its own merits.</p> <p>This is what the legislation allows.</p>
A Pub Licensee	<p>Thank you. I did not understand any of that. Is this a recent sex establishments Licensing act?</p> <p>I mean within the last 2 years. It was hard enough getting a drinks license. I don't think I will allow any kissing in my establishment. But feel free to ask my opinions any time.</p>	No comment

A member of the public	Hereford is a country town, I am against the above because it's not going to attract the kind of people that our county deserves. Why can't we stand out with Country Arts and Crafts just as Hay is known for its books? Why was the cattle market removed and shops you find everywhere put in its place. Where is the niche that will draw people to us? Children love animals as do a lot of grownups. More and more shops are empty and the heart of the town is being destroyed. What benefits will sex establishments bring us? Is this really what we want to be known for.	- Ditto -
A member of the public	<p>In response to the above licensing I agree with the views of Hereford Women's Equality Group as follows:</p> <p>"We believe that sex entertainment, where women are providing entertainment for men's sexual gratification embeds and promotes inequality. It normalises non consensual sex and sexual violence. Sex establishments pose a risk to women's safety.</p> <p>We believe that this goes against the Council's aim of reducing sexual violence in Herefordshire."</p> <p>I would be very surprised if Herefordshire Council would encourage the growth of a sex business, it would be a massive step backwards in our social history.</p>	- Ditto -
A member of the public	I wholly endorse the objections raised by HWEG in the attached document. Sexual entertainment is exploitative to women and girls, perpetuates gendered roles that disadvantage women, is incompatible with	- Ditto -

	<p>efforts to reduce violence against women and girls.</p> <p>This is my response to your consultation speaking as a Herefordshire resident, council tax payer, member of local community in Hereford.</p>	
<p>Hilary Hall - Corporate Director Community Wellbeing On behalf of Herefordshire Community Safety Partnership</p>	<ul style="list-style-type: none"> <li>• On paragraph 2.5, to be strictly accurate, should we be referring to Health Trusts that operate in the county. The H&amp;W NHS Trust is not based in the county.</li> <li>• On section 6, there is no specific reference to safeguarding legislation (either children's or adults) although modern slavery and human trafficking is reference in paragraph 7.4. I think it would be good to include reference to the legislation.</li> </ul>	<p>Amended to read 'County'.</p> <p>Amended to include the legislation which covers this.</p>



## Consultation on Licensing of Sex Establishments

Herefordshire's Community Safety Partnership (CSP) developed the Sexual Violence Strategy 2023-28 because police statistics showed that Herefordshire was third worst out of 15 rural counties for sexual and violent crime. More recent data seen by CSP shows that this comparative data against most similar groups shows Herefordshire's position has not improved in fact it has scored more poorly against the most similar groups aggregated per 1,000 population.

Parliament has legalised sex entertainment establishments but this does not mean they pose no threat to the safety of women and girls. Herefordshire Women's Equality Group believes such establishments act against the government's Violence Against Women and Girls Strategy and, more important in this context, against Herefordshire's attempt to reduce sexual offending in the county through the CSP's Sexual Violence Strategy (1). This Strategy identifies gender inequality as 'one of the most significant underlying causes of male violence against women and girls, including sexual violence' (p.18). We argue that gender inequality is embedded in the operation of sex establishments and as such poses a risk to the safety of women employees and women in the community.

### *Gender inequality is embedded in sex entertainment*

Herefordshire Council's current licensing policy for sex establishments acknowledges that sex entertainment venues are mainly marketed at men. The majority of patrons are men, the majority of performers are women. According to the policy, sex entertainment includes lap dancing, pole dancing, topless bar staff, striptease and any live performance or display of nudity which is 'principally for the purpose of sexually stimulating' members of the audience (1.15, 1.20). It is women who expose their nakedness while performing with no or minimal clothing while men consume the spectacle from a position of observer. Consumer and performer roles are gendered and there is nothing equal in this relationship. On the contrary, gender inequality is embedded in the sex entertainment offering.

### *Sex entertainment incorporates sexual violence*

The current licensing policy recognises that sex entertainment includes 'feigned violence or horrific incidences' (6.18) and may involve sex articles that encourage 'acts of force or restraint associated with sexual activity' (1.18). It acknowledges the risk to women by directing that literature and contact details of organisations offering advice on domestic abuse, coercive control, rape and sexual assault, human trafficking and modern slavery be given to performers (Appendix). Representations of non-consensual, forcible or violent sex as a means of sexually stimulating the male consumer make no attempt to challenge sexual violence against women. Instead they legitimate and normalise it, leaving consumers with the notion that they are entitled to access women's bodies and that forcible sex is acceptable. Such an outcome contradicts the aim of reducing sexual violence in Herefordshire.

### *Sex establishments pose a risk to women's safety*

Sex entertainment creates a danger to women inside and outside the sex entertainment venue. Licensing policies can and should regulate what consumers and performers may do inside the venue and the policies should provide all possible protections to performers. But the risk also extends to women's safety in the community. Herefordshire's licensing policy recognises conflicting needs between

the wider community, and the owners and patrons of sex establishments (p.4). It is well known that women encounter sexually harassing behaviour from men who have visited a sex establishment and are in a state of sexual arousal (2). Licensing cannot regulate what consumers take away with them when they emerge from the sex establishment and re-enter the community, in every sphere of which women are present. Controlling the location of sex establishments (1.5, 2.4) can reduce the risk to women but cannot prevent it, since women have the right to use all areas of public life for their own purposes (6.8, 6.10) without intimidation or harassment. The danger to women in the community posed by male consumers leaving sex establishments and feeling entitled to sexual contact is in conflict with the aims of CSP's aim of reducing sexual violence in the county.

*Our proposal to mitigate the risk to women's safety*

As with the current licensing policy, our view on the operation of sex establishments is not based on moral considerations. It is entirely predicated on the risk we believe is posed to the safety and health of women in our county and on our wish to see a reduction in Herefordshire's rate of sexual offending. Our proposal for a change in the licensing policy is that any applications for a licence to run a sex establishment should be sent to Herefordshire CSP's Sexual Violence Strategy committee for comment prior to any decision being taken.

(1) <https://councillors.herefordshire.gov.uk/documents/s50109392/Appendix%201%20Sexual%20Violence%20Strategy.pdf>

(2) <https://www.tandfonline.com/doi/abs/10.1080/09627251.2012.695498>

<http://www.object.org.uk/files/Inappropriate%20Behaviour,2007,%20Eaves%20Housing.pdf>

Within the parameters of the document, we submit the following comments:

- Paras 6.12 and the following paras talk about staff training. The Council should make it mandatory for staff working in a licensed sex establishment to have the Purple Leaf training which is targeted at the nighttime economy. The training records should be kept by the employer on each member of staff and the cost of providing the training covered by the proprietor.
- 6.18 refers to "feigned violence and horrific incidents" HC should take a stand on this as unacceptable.
- 7.4 deals with Modern Slavery and Human Trafficking. It should also include any coercion of employees.
- 7.5 states noncompliance would "not automatically exclude" the operator. It should.
- Para 46 in Appendix 1 states staff should be aware of domestic abuse, coercive control, rape and sexual assault. This should be included in staff training. The training records should be kept by the employer on each member of staff and the cost of providing the training covered by the proprietor.