

# Agenda

## Planning and Regulatory Committee

Date: **Wednesday 9 April 2025**

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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:

**Matthew Evans, Democratic Services Officer**

Tel: 01432 383690

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

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

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

## **Membership**

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

**Councillor Polly Andrews**  
**Councillor Bruce Baker**  
**Councillor Jacqui Carwardine**  
**Councillor Simeon Cole**  
**Councillor Dave Davies**  
**Councillor Matthew Engel**  
**Councillor Catherine Gennard**  
**Councillor Peter Hamblin**  
**Councillor Stef Simmons**  
**Councillor John Stone**  
**Councillor Charlotte Taylor**  
**Councillor Richard Thomas**  
**Councillor Mark Woodall**

## Agenda

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<b>GUIDE TO THE COMMITTEE</b>	
<b>NOLAN PRINCIPLES</b>	
<b>1. APOLOGIES FOR ABSENCE</b> To receive apologies for absence.	
<b>2. NAMED SUBSTITUTES (IF ANY)</b> To receive details of any Member nominated to attend the meeting in place of a Member of the Committee.	
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<b>4. MINUTES</b> To agree the minutes of the meeting held on 19 March 2025.	13 - 76
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<b>6. 243018 - LAND AT HELENSWOOD FARM, KINGSTHORNE, HEREFORDSHIRE, HR2 8AL</b> Outline application with all matters reserved for the proposed erection of two self-build dwellings.	77 - 110
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<b>8. DATE OF NEXT MEETING</b> Date of next site inspection – 6 May Date of next meeting – 7 May	



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## **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).
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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 Jacqui Carwardine	Liberal Democrat
Councillor Simeon Cole	Conservative
Councillor Dave Davies	Conservative
Councillor Matthew Engel	Independents for Herefordshire
Councillor Catherine Gennard	The Green Party
Councillor Peter Hamblin	Conservative
Councillor Stef Simmons	The Green Party
Councillor John Stone	Conservative
Councillor Charlotte Taylor	Independent for Herefordshire
Councillor Richard Thomas	Conservative
Councillor Mark Woodall	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 19 March 2025 at 10.00 am**

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

**Councillors:** Polly Andrews, Bruce Baker, Jacqui Carwardine, Simeon Cole,  
Dave Davies, Matthew Engel, Catherine Gennard, Peter Hamblin,  
Stef Simmons, Charlotte Taylor, Richard Thomas and Mark Woodall

**In attendance:** Councillors Bartlett, Bramer, Proctor and Swinglehurst

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

**48. APOLOGIES FOR ABSENCE**

Apologies were received from Councillor Stone.

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

No substitutes were present at the meeting.

**50. DECLARATIONS OF INTEREST**

Councillor Stef Simmons declared a personal interest in agenda item no. 6, application 231390, Land to the South of Peterstow Gas Compressor. The site was approximately 2 miles from Cllr Simmons home but the impacts of the site on her property were not deemed significant.

Councillor Simeon Cole declared that he had received a telephone call from a representative of the applicant for agenda item no. 6, application 231390, Land to the South of Peterstow Gas Compressor, on the evening before the committee meeting but had not entered into a discussion about the application.

Councillor Peter Hamblin declared that he had received a telephone call from a representative of the applicant for agenda item no. 6, application 231390, Land to the South of Peterstow Gas Compressor, on the evening before the committee meeting but had not entered into a discussion about the application.

Councillor Richard Thomas declared that he had received a telephone call from a representative of the applicant for agenda item no. 6, application 231390, Land to the South of Peterstow Gas Compressor, on the evening before the committee meeting but had not entered into a discussion about the application.

Councillor Bruce Baker declared that he had received a telephone call from a representative of the applicant for agenda item no. 6, application 231390, Land to the South of Peterstow Gas Compressor, on the evening before the committee meeting but had not entered into a discussion about the application.

**51. MINUTES**

**RESOLVED: That the minutes of the meeting held on 28 January be approved.**

**52. 231390 - LAND TO THE SOUTH OF PETERSTOW GAS COMPRESSOR STATION, HENTLAND, HEREFORDSHIRE (PAGES 43 - 58)**

*Councillor Dave Davies left the committee to act as the adjoining ward member for the following application.*

The Principal Planning Officer minerals and waste provided a presentation on the application and the updates/representations received following the publication of the agenda.

In accordance with the criteria for public speaking Mr Roe spoke on behalf of Peterstow Parish Council, Mr Wheeler, local resident, spoke in objection to the application and Mr Turner, the applicant, spoke in support.

In accordance with the Council's constitution the local ward member spoke on the application. In summary, she explained that she was speaking on behalf of local residents and Peterstow Parish who opposed the application. The parish council had considered the application and had determined that the development was not in a suitable location. It was noted that the landscape officer had made an objection to the application which remained unresolved. The impact of the application on the landscape was contrary to core strategy policies SS7, LD 1, LD2 and paragraph 187 of the NPPF. The location of the site was in a steep field and significant earth moving would be required. This would result in significant change to the character of the area. The development represented a major and adverse impact on the landscape and the local right of way. The application proposed the use of grade 2 agricultural land. This would result in the loss of arable land and was therefore contrary to core strategy policy SS7 and paragraph 174 B of the NPPF. The battery storage site would be located next to a gas line; this was hazardous and posed significant safety risks. It was noted that there were water tanks on site in case of fire but these would only discharge water flow for two hours; there was concern that there would be insufficient capacity to address larger fires. The Environment Agency provide advice that such proposals should not be situated near to rivers however the application site was close to local water courses which fed the River Wye. The application was contrary to the neighbourhood development plan policies PTS 1, 2, 3 and 17. It was contended that the application was not in the right place, represented a loss of farmland, contributed to the industrialisation of the area and therefore posed an adverse impact on the landscape.

In accordance with the Council's constitution the adjoining local ward member spoke on the application. In summary, he explained that the importance of the application to contribute towards energy storage and renewable energy was acknowledged however it was questioned whether the application was in the right location due to the loss of farmland and the impact on the landscape.

The committee debated the application. There was division among the members of the committee. Some members of the committee supported the application as an important element of the local electricity infrastructure and did not consider the impact of the development upon the landscape to be adverse. Other members of the committee considered the impact of development upon the local landscape to be unacceptable and that more suitable locations for the development existed within the county.

The Development Manager Service Manager explained that guidance from the chief fire officer had been followed in assessing the suitability of the fire precautions on site and the fire service had been consulted during the application. The water held on site would be used to treat thermal runaway and the drainage system proposed would contain the

water avoiding its discharge into local water courses. There was a need within Herefordshire for additional energy capacity and the development would provide energy security.

The local ward member was given the opportunity to close the debate. She explained that there was a conflict between the benefits contained in the application and the impact it posed to the landscape. It was commented that due regard should be paid to the neighbourhood development plan; this application was contrary to policies within that NDP. The objection from the landscape officer to the impact of the development on the landscape was unresolved and there remained concerns regarding drainage and the safety of the site.

Councillor Bruce Baker proposed and Councillor Peter Hamblin seconded a motion that the application be approved in accordance with the case officer's recommendation.

The motion was put to the vote and was 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 drawings as stated below:**

- **Application Plan – S0/415/12**
- **Development Layout – S0/415/07 L**
- **Development Platforms Elevation Cross Sections – S0/415/08 D**
- **Landscape & Ecological Mitigation Plan – S0/415/11 C**
- **132kV Substation Compound – Layout\_132kV-Sub-Type A\_P03**
- **Onsite Water Storage – Elevation\_Water-Storage\_P03**
- **Elevation\_Fence-Palisade-Type-A-2400\_P02**
- **Energy Storage System – Elevation\_Energy\_Storage\_System\_P02**
- **Customer Substation – Elevation\_Customer-Sub-Type A\_P01**
- **Control Room – Elevation\_Control-Room\_P02**
- **Communication Mast – Elevation\_Comms\_Mast-15000\_P02**
- **Drainage Addendum – 415 SP09 dated 4/12/2024**

**Reason: To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy, Policy PTS17 of the Peterstow Neighbourhood Development Plan and the National Planning Policy Framework.**

**3. Decommissioning should use cease**

In the event the development ceases to export electricity to the grid for a continuous period of 12 months, a scheme of restoration for the removal of the Battery Energy Storage Facility and any associated equipment, shall be submitted to and approved in writing by the local planning authority within 3 months from the end of the 12-month period. The restoration scheme shall include details of the retention of any approved boundary treatment(s) and planting. The approved scheme of restoration shall then be fully implemented within 6 months of written approval being given.

**Reason:** To ensure a satisfactory form of development, avoid any eyesore from redundant plant, prevent pollution, and safeguard the environment when the materials reach their end of life, in accordance with Policies SD1 and SD2 of the Herefordshire Local Plan – Core Strategy, Policy PTS2 of the Peterstow Neighbourhood Development Plan and the National Planning Policy Framework.

**Pre-Commencement Conditions**

**4.**

**Construction Traffic Management Plan**

Prior to the commencement of any development on site, a detailed Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include the following:

- Provision of wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway,
- Construction traffic access location,
- Parking and turning for vehicles of site operatives and delivery vehicles
- Timings of deliveries of construction infrastructure and materials

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, Policy PST10 of the Peterstow Neighbourhood Development Plan and the National Planning Policy Framework.

**5. Construction Environmental Management Plan**

Before any work; including site clearance or demolition begin or equipment and materials are moved on to site, a Construction Environmental Management Plan (CEMP) including a fully detailed and specified Ecological Working Method Statement and details of an appointed Ecological Clerk of Works, a section on works near the watercourse should include but not limited to detailed ecological working methods and consideration of all environmental effects, including biosecurity and direct water quality protection measures for all operations shall be supplied to the local planning authority for written approval. The approved CEMP shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have finally been removed; unless otherwise agreed in writing by the local planning authority.



**Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework , NERC Act (2006), Herefordshire Local Plan - Core Strategy policies LD1, LD2 and LD3 and Policy PTS3 of the Peterstow Neighbourhood Development Plan.**

**6. Earthing report**

**Before any work, including site clearance begin or equipment brought onto the site, a risk assessment/earthing report shall be submitted to and approved by the Local Authority, in consultation with national gas transmission. The report shall examine the effects of the earthworks, touch and step voltage, dc fault current and transfer potentials that the nearby pipeline may be exposed to, in normal operations and in the event of a fault.**

**Reason: To prevent damage or an impact to the nearby High Pressure Gas Line and to conform to Policies SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework**

**With the exception of site clearance and groundworks**

**7. Detailed Battery Safety Management Plan**

**With the exception of site clearance and groundwork, no further development shall take place until a Detailed Battery Safety Management Plan which builds upon the Outline Battery Safety Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include but not be limited to the following:**

- A statement on the battery system specifications, including fire detection and suppression system;**
- A statement on operational procedures and training requirements, including emergency operations;**
- A statement on the overall compliance of the system with applicable legislation;**
- An environmental risk assessment to ensure that the potential for indirect risks (e.g., through leakage or other emissions) is understood and mitigated;**
- An emergency plan covering construction, operation and decommissioning phases developed in consultation with Herefordshire and Worcestershire Fire and Rescue, to include the adequate provision of firefighting equipment on-site**

**The development shall be implemented in accordance with the approved details and shall be maintained as such thereafter.**

**Reason: In the interest of fire safety and to conform to Policies SD1 and SD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

**8. Landscaping Scheme**

**With the exception of site clearance and groundworks, no further development shall take place until a landscape scheme is submitted to and approved in writing by the Local Planning Authority. The scheme shall**

include a scaled plan identifying:

- a. All proposed planting, accompanied by a written specification setting out; species, size, quantity, density with cultivation details.
- b. All proposed hardstanding, boundary treatment and access gates.

Reason: To safeguard and enhance the character and amenity of the area in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy , Policy PTS3 of the Peterstow Neighbourhood Development Plan and the National Planning Policy Framework,

Before Development is brought into use

#### **9. Biodiversity Net Gain and Maintenance Plan**

Before the development is first brought into use, a schedule of landscape maintenance based on the Biodiversity Metric that includes full details and specifications for biodiversity net gain habitat enhancements, planted species, and management for a period of 10 years shall be submitted to and approved in writing by the local planning authority.

The approved enhancements shall be implemented in full with all new planting completed within 2 planting seasons and hereafter maintained as approved unless otherwise agreed in writing with the local planning authority.

Reason: To ensure that all protected species are considered and habitats enhanced having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife and Countryside Act 1981, National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan - Core Strategy (2015) policies SS1, SS6 LD1, LD2 and LD3 and Policy PTS3 of the Peterstow Neighbourhood Development Plan

#### **10. Drainage Scheme Verification**

Prior to the first use of the development hereby approved, a Drainage Verification Report, pertaining to the SuDS details shown and illustrated on approved plan SUDS Design, number SO-415-14 (dated 27 April 2023) and the details within the Flood Surface Water Management Plan, as outlined within the Addendum dated 4/12/2024 (prepared by Corylus), shall be prepared by a suitably competent person, and submitted to the Local Planning Authority for approval. The report shall demonstrate that the drainage system has been constructed in consistent with that which was approved. The report shall contain information and evidence (including photographs) of the details and location of inlets, outlets and control structures; full as built plans; and a management and maintenance schedule for the lifetime of the development.

Reason: In the interests of the visual amenity of the area; To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure risks to nearby water course and ecological systems are minimised the and to comply with Policy SD3 and LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy

## **Framework.**

### **11. External lighting**

**Prior to first beneficial use of the Battery Energy Storage System hereby approved an external lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented on site prior to first beneficial use of the development, and retained as such thereafter.**

**Reason: In the interest of visual amenity and to safeguard local amenities in accordance with Policies LD1 and SD1 of the Herefordshire Local Plan – Core Strategy, Policy PTS9 of the Peterstow Group Neighbourhood Development Plan and the National Planning Policy Framework.**

### **Compliance**

### **12.**

#### **Ecological Protection (including Protected Species)**

**The recommendations in the Great Crested Newt Reasonable Avoidance Measures by Aurochs Ecology dated 28/02/24, the Badger working method by Aurochs Ecology dated 07/03/24, and the PEA by Midland Ecology dated August 2022 in respect of ecological interests on the site, biodiversity net gain and habitat enhancement recommendations, including mitigation-compensation measures and requirement for any relevant protected species licences from Natural England, shall be implemented in full and hereafter maintained as approved unless otherwise agreed in writing by the local planning authority.**

**Reason: To ensure that all 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.**

### **13. Working Hours of construction**

**The hours during which construction work may take place shall be restricted to 0700 to 1900 Mondays to Fridays and 0800 to 1300 on Saturdays. There shall be no such working on Sundays, Bank or Public Holidays.**

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

## **INFORMATIVES:**

**The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition”) that development may not begin unless:**

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and**
- (b) the planning authority has approved the plan.**

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Herefordshire Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below. Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements listed below are considered to apply.

**Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.**

1. The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.
3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
  - (i) the original planning permission to which the section 73 planning permission relates\* was granted before 12 February 2024; or
  - (ii) the application for the original planning permission\* to which the section 73 planning permission relates was made before 12 February 2024.
4. The permission which has been granted is for development which is exempt being:
  - 4.1 Development which is not 'major development' (within the meaning of [article 2\(1\) of the Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#)) where:

- i) the application for planning permission was made before 2 April 2024;
  - ii) planning permission is granted which has effect before 2 April 2024; or
  - iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates\* was exempt by virtue of (i) or (ii).

- 4.2 Development below the de minimis threshold, meaning development which:
    - i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
    - ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

- 4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

- 4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

- 4.5 Self and Custom Build Development, meaning development which:
    - i) consists of no more than 9 dwellings;

- ii) is carried out on a site which has an area no larger than 0.5 hectares; and
- iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

4.6 Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

**Irreplaceable habitat**

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans. The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

**The effect of section 73D of the Town and Country Planning Act 1990**

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission (“the earlier Biodiversity Gain Plan”) there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted. Those circumstances are that the conditions subject to which the section 73 permission is granted:

- i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and
- ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

**Additional Informatives:**

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended) and the Habitats and Species Regulations (2019 as amended), with enhanced protection for special

**“Higher Status 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 is advised that advice from a local professional ecology consultant is obtained. If any protected species or other wildlife is found or disturbed during works then all works should stop and the site made safe until professional ecology advice and any required ‘licences’ have been obtained. Any additional lighting should fully respect locally dark landscapes and associated public amenity and nature conservation interests.

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

4. In relation to condition , the limits are set within BS EN 50121-1 which is the railway standard and sets the safe limits for non-electrically trained personnel, as well as NGT specifications ECP1 and ECP2. If you need contact the National Gas Transmission Asset Protection Team regarding the requirements of the condition please email [Box.AssetProtection@NationalGas.com](mailto:Box.AssetProtection@NationalGas.com) or phone :0800 970 7000.

*There was an adjournment at 11:00 a.m.; the meeting reconvened at 11:13 a.m.*

*Councillor Dave Davies resumed his seat on the committee.*

**53. 232807 - FIELD ADJACENT TO TUMP LANE, TUMP LANE, HEREFORD, HEREFORDSHIRE, HR2 8HW (PAGES 59 - 62)**

*Councillor Jennie Bartlett acted as local ward member for the application below. She was acting as a proxy for the local ward member for Birch who had declared an interest in the application.*

The Principal Planning Officer provided a presentation on the application and the updates/representations received following the publication of the agenda.

In accordance with the criteria for public speaking Mr James, local resident, spoke in objection to the application and Ms Shaw, the applicant, spoke in support.

In accordance with the Council's constitution the proxy local ward member spoke on the application. In summary, she explained that the application proposed a co-housing model which incorporated affordable housing elements with a priority for local residents of Much Birch. The development would contribute to the overall housing strategy in Herefordshire and locally, in accordance with the neighbourhood development plan (NDP) policy MB9. The development was environmentally sympathetic, existing planting would be maintained and additional planting would be provided on site. There would be an extension to the childrens' play area and new equipment would be provided as part of the application. During the consultation period the applicant had replied positively to

correspondence from consultees and to all queries received. Although there was no immediate plan to adopt the internal road as part of local authority highways it would be built to a high standard that could be adopted in future if appropriate. As part of the application, improvements to highway safety along Tump Lane had been proposed including a new footway. This was in accordance with NDP policy MB1. The applicant had attempted to address all concerns regarding the development including objections to the loss of garages which had been mitigated by the provision of new parking spaces on the site. There was a good level of support for the application and the site formed part of NDP policy MB8. The local parish council had no objections to the proposal and no objections had been raised at the parish council meeting at which the application was considered. The principle for development on the site had been established, the conditions provided a good framework to regulate the development and support was expressed for the production of a construction management plan.

The committee debated the application. There was support for the application across the committee. The committee raised the importance of protecting the existing play area during construction and the inclusion of a condition relating to EV charging on the site.

The proxy local ward member was given the opportunity to close the debate. She explained that the protection of the existing play area during construction was welcomed and the proposal included provision for 8 electric charging points in the communal parking area.

Councillor Richard Thomas proposed and Councillor Dave Davis seconded a motion that the application be approved with a change to the conditions to protect the existing play area during construction and to require the provision of EV charging points.

The motion was put to the vote and was carried unanimously.

## **RESOLVED –**

**That subject to the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement, officers named in the Scheme of Delegation to Officers are authorised to grant planning permission, subject to a change to the conditions to protect the existing play area during construction and to require the provision of EV charging points and subject to the conditions below and any other further conditions considered necessary**

## **STANDARD CONDITIONS**

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

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

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

**00-4001 P1 Site Location Plan  
1163-101 B Site Layout Sheet 1 of 2  
1163-102 B Site Layout Sheet 2 of 2  
1163-110 A Section 278 Works Overall Layout  
00-4102 P2 Proposed Site Entrance Plan  
00-4004 P2 Proposed Wider Site Plan**

00-4005 P2 Proposed Site Plan House Plots  
 00-4006 P3 Proposed Site Landscape & Roof Plan  
 00-4007 P2 Proposed Site Plan House Details  
 00-4014 P1 Communal House Proposed Plan  
 00-4015 P2 Communal House Proposed Elevations  
 00-4009 P1 Type A – Proposed 1 Bed Flat  
 00-4010 P1 Type B – Proposed 2 Bed Flat  
 00-4011 P1 Type C – Proposed 2 Bed House  
 00-4012 P1 Type D - Proposed 3 Bed House  
 00-4013 P1 Type E – Proposed 4 Bed House  
 00-4008 P1 Proposed Long Elevations  
 00-4018 P1 Proposed East West Elevations (Type B & C) Sheet 1 of 2  
 00-4019 P1 Proposed East West Elevations (Type D & E) Sheet 2 of 2  
 00-4207 P1 Proposed Open Space Plan  
 00-4204 P1 Proposed Waste Management Plan Sheet 1 of 3  
 00-4205 P1 Proposed Waste Management Plan Sheet 2 of 3  
 00-4206 P1 Proposed Waste Management Plan Sheet 3 of 3

Reason: To define the terms of the permission and ensure the development is carried out in strict accordance with the approved plans, in the interests of proper planning and to secure a satisfactory form of development in accordance the Herefordshire Local Plan – Core Strategy, the Much Birch Neighbourhood Development Plan and the relevant provisions of the National Planning Policy Framework.

#### **CONDITIONS THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

3. Prior to any development commencing on site the applicant shall submit a Resource Audit to identify the approach to materials. 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);
  - 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 unless agreed in writing by the Local Planning Authority.

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, the Much Birch Neighbourhood Development Plan and the National Planning Policy Framework and emerging policy SP1 of the Herefordshire Minerals and Waste Local Plan.



4. Prior to the commencement of development, including site preparation or enabling works, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The CEMP shall be prepared no earlier than twelve months prior to the commencement of works and shall include, but may not be limited to the following:

- Detailed ecological working methods and mitigation measures to safeguard protected species and habitats.
- Measures to minimise environmental impacts arising from construction activities, including noise, dust, lighting, and pollution prevention.
- Procedures for monitoring and compliance throughout the construction phase.

The development shall be carried out in full accordance with the approved CEMP for the duration of the construction period, unless otherwise agreed in writing by the local planning authority.

Reason: To protect biodiversity and minimise environmental impacts, in accordance with Policies SS1, SS6, LD1, LD2, and LD3 of the Herefordshire Local Plan - Core Strategy, the Much Birch Neighbourhood Development Plan and the National Planning Policy Framework (2024).

5. Prior to the commencement of development, a Construction Management Plan incorporating a method statement shall be submitted to and approved in writing by the Local Planning Authority and shall provide for:

- A method for ensuring mud is not deposited onto the public highway
- 24 hour emergency contact number
- Construction traffic access location
- Parking for site operatives
- Measures to control noise and dust impact;
- The use of a consolidation operation or scheme for the delivery of materials and goods
- Means by which a reduction in the number of movements and parking on nearby streets can be achieved (including measures taken to ensure satisfactory access and movement for existing occupiers of the neighbouring properties during construction):
- Routes for construction traffic, avoiding weight and size restrictions to reduce unsuitable traffic on residential roads;
- Locations for loading/unloading, waiting/holding areas and means of communication for delivery vehicles if space is unavailable within or near the site;
- Locations for storage of plant/waste/construction materials;
- Arrangements to receive abnormal loads or unusually large vehicles;
- Any necessary temporary traffic management measures;
- Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses;

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.

6. Prior to the commencement of development, a detailed landscaping and external works scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall include the following:
- a) A plan showing existing and proposed finished levels or contours.
  - b) A drawing detailing proposed hard surfacing materials.
  - c) Details of boundary treatments and means of enclosure.
  - d) Information on artefacts and structures, including but not limited to street furniture, play equipment (excluding dedicated play provision where details are required under Condition 6), and water features.
  - e) Identification of trees and hedgerows to be removed.
  - f) Identification of trees and hedgerows to be retained
  - g) A comprehensive planting scheme, including a written specification detailing species, size, quantity, density, and planting arrangements.
  - h) Details of retaining features, including walls, embankments, or other structural elements, and their design;
  - i) schedule of landscape maintenance for a period of 10 years

The approved scheme shall be implemented in full in accordance with the approved details and within the first available planting season following the commencement of development, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that the development contributes to the enhancement of the local environment and provides high-quality and well-maintained landscaping, in accordance with Policies LD1, LD2, and SS6 of the Herefordshire Local Plan – Core Strategy, the Much Birch Neighbourhood Development Plan and the National Planning Policy Framework.

7. No development shall commence, including demolition, and no site huts or temporary buildings, machinery, or materials shall be brought onto the site until a Tree and Hedgerow Protection Plan has been submitted to and approved in writing by the Local Planning Authority. This plan must include:

a) Root Protection Areas (RPAs): The identification and delineation of RPAs for all retained trees, hedgerows, or groups of trees in accordance with BS5837:2012 – Trees in Relation to Design, Demolition and Construction – Recommendations. The RPAs must be clearly shown on a site layout plan.

b) Protective Fencing Details: Specifications and locations of temporary protective fencing to be installed around each retained hedgerow, tree, or group of trees. The fencing must be at least 1.25 metres in height and fully enclose the RPAs, with its type and form agreed in writing with the Local Planning Authority.

c) Site Restrictions: Confirmation that no excavation, trenching, soil stripping, or ground level alterations will take place within the RPAs of any retained hedgerow, tree, or group of trees without the prior written approval of the Local Planning Authority. Additionally, no storage of soil, waste, or construction materials shall occur within these areas.

**d) Construction Exclusion Zone:** Confirmation that no site huts or buildings, vehicles, plant machinery, fuel, or construction equipment will be placed or operated within the RPAs of any retained hedgerow, tree, or group of trees.

**e) Burning Restrictions:** A commitment that no burning of materials will take place within 10 metres of the outermost edge of any retained hedgerow or the crown spread of any retained tree or group of trees.

**f) Pruning and Tree Works:** Details of any proposed pruning or tree works, which must be carried out in accordance with BS3998:2010.

The approved protection measures must be implemented in full before any development commences and shall be retained for the duration of the construction works.

**Reason:** To safeguard the amenity, biodiversity, and landscape character of the area by ensuring the retention and protection of existing hedgerows and trees, in accordance with Policies SD1 and LD1 of the Herefordshire Local Plan – Core Strategy, the Much Birch Neighbourhood Development Plan, and the National Planning Policy Framework 2024.

#### **CONDITIONS THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT**

8. With the exception of any site clearance and groundwork, no further development shall commence until full details of the play area have been submitted to and approved in writing by the local planning authority. The details shall include, but are not limited to, the following:

- Play equipment,
- Surfacing,
- Landscaping,
- Means of enclosure,
- Accessibility features,

The play area shall be constructed in strict accordance with the approved details and made available for use prior to the first occupation of any dwelling hereby approved. The play area shall thereafter be retained and maintained in accordance with the approved scheme, unless otherwise agreed in writing by the local planning authority.

**Reason:** In order to comply with Policies OS1 and OS2 of the Herefordshire Local Plan Core Strategy, the Much Birch Neighbourhood Development Plan and the National Planning Policy Framework.

9. No development shall commence in relation to any specified highways works indicated on plan reference: 1163-110 A Section 278 Works Overall Layout, until full details of the works have been submitted to and approved in writing by the local planning authority, following the completion of the technical approval process by the local highway authority. The development shall not be occupied until the highway works have been completed in full accordance with the approved details.

**Reason:** To ensure the safe and free flow of traffic, enhance pedestrian safety, and improve connectivity on Tump Lane to Much Birch and Wormelow, in accordance

with Policy MT1 of the Herefordshire Local Plan – Core Strategy, the Much Birch Neighbourhood Development Plan and the National Planning Policy Framework.

10. Prior to any construction work above damp proof course a specification and annotated location plan for proposed biodiversity net gain enhancement features including significant and meaningful provision of ‘fixed’ habitat features including a range of bird nesting boxes, bat boxes (or similar roosting features), hedgehog homes and hedgehog highways through all impermeable boundary features, must be supplied to and approved in writing by the local authority. The approved scheme shall be implemented in full and hereafter maintained as approved unless otherwise agreed in writing by the local planning authority.

Reason: To secure biodiversity net gain and ensure the long-term protection and enhancement of local wildlife habitats, in accordance with Policies SS1, SS6, LD1, LD2, and LD3 of the Herefordshire Local Plan - Core Strategy, the Much Birch Neighbourhood Development Plan, and the National Planning Policy Framework (2024).

11. With the exception of site clearance and ground works, no development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of the potential for disposing of surface water by means of a sustainable drainage system. The drainage scheme shall:

i) Provide information on the design storm period and intensity, the method for delaying and controlling surface water discharge from the site, and measures to prevent pollution of receiving groundwater and/or surface waters;

ii) Include a timetable for its implementation;

iii) Provide a management and maintenance plan for the lifetime of the development, including any arrangements for adoption by any public authority or statutory undertaker, and any other arrangements to secure the operation of the scheme throughout its lifetime.

The surface water drainage works shall thereafter be implemented in accordance with the approved details.

Reason: To manage surface water effectively, reduce flood risk, and ensure that sustainable drainage practices are incorporated into the development, in accordance with Policy SD3 of the Herefordshire Local Plan - Core Strategy, the Much Birch Neighbourhood Development Plan and the National Planning Policy Framework.

12. 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, the Much Birch Neighbourhood Development Plan and the National Planning Policy Framework.

13. Prior to the first occupation of the development hereby approved, a Travel Plan promoting alternative sustainable transport options for occupiers and visitors,

has been submitted to and approved in writing by the local planning authority. The Travel Plan shall be implemented in accordance with the approved details. A detailed written record of the measures undertaken to promote sustainable transport shall be kept, and the Travel Plan shall be reviewed annually. All relevant documentation shall be made available for inspection by the local planning authority upon reasonable request.

**Reason:** To promote sustainable transport initiatives and reduce reliance on private car use, in accordance with Policies SD1 and MT1 of the Herefordshire Local Plan – Core Strategy, the Much Birch Neighbourhood Development Plan and the National Planning Policy Framework.

14. Prior to the first occupation the development hereby approved, full details of the scheme for the provision of covered and secure cycle parking facilities as indicated on plan reference: 00-4004 P2 Proposed Wider Site Plan, shall be submitted to and agreed in writing by the local planning authority. 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, the Much Birch Neighbourhood Development Plan and the National Planning Policy Framework.

15. No dwelling hereby permitted shall be occupied until the details of the respective car parking areas as indicated on 4004 P2 Proposed Wider Site Plan, including its consolidation, surfacing, and drainage, have been submitted to and approved in writing by the local planning authority. The car parking shall then be laid out in accordance with the approved details prior to the first occupation of the dwellings and shall thereafter be retained solely for the parking of vehicles.

**Reason:** To ensure adequate parking provision and maintain highway safety, in accordance with Policy MT1 of the Herefordshire Local Plan – Core Strategy, the Much Birch Neighbourhood Development Plan and the National Planning Policy Framework.

16. Prior to the first occupation of the development hereby approved, a schedule of management and maintenance of all non-private areas (including wildflower meadow, and allotments) shall be submitted to and approved in writing by the Local Planning Authority. All management and 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, the Much Birch Neighbourhood Development Plan and the National Planning Policy Framework.

17. Prior to the first occupation of any of the residential development hereby permitted written evidence / certification demonstrating that water conservation and efficiency measures to achieve the 'Housing – Optional Technical Standards – Water efficiency standards' (i.e. currently a maximum of 110 litres per person per day) for water consumption as a minimum have been installed / implemented shall be submitted to the Local Planning Authority for their written approval. The development shall not be first occupied until the Local Planning Authority have

confirmed in writing receipt of the aforementioned evidence and their satisfaction with the submitted documentation. Thereafter those water conservation and efficiency measures shall be maintained for the lifetime of the development

Reason: In order to ensure that water conservation and efficiency measures are secured to safeguard water quality and the integrity of the River Lugg (Wye) SAC in accordance with policies SS6, SD2, SD4 and LD2 of the Herefordshire Local Plan Core Strategy, the National Planning Policy Framework, the Conservation of Habitats and Species Regulations (2017) and NERC Act (2006).

#### **CONDITIONS WHICH ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

18. No more than one external LED down-lighter shall be installed above or beside each external door, positioned below eaves height. Each light shall have a Corrected Colour Temperature of no more than 2700K and a brightness not exceeding 500 lumens. Lights shall be directed downwards with a 0-degree tilt angle and 0% upward light spill. All external lighting shall be fitted with a PIR sensor set to a maximum over-run time of one minute and shall be maintained in accordance with these details thereafter.

Reason: To protect biodiversity and preserve the area's dark skies, in accordance with Policies SS1, SS6, LD1, LD2, and LD3 of the Herefordshire Local Plan - Core Strategy, the Much Birch Neighbourhood Development Plan and the National Planning Policy Framework (2024).

19. The hours during which construction work may take place shall be restricted to 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays. There shall be no such working on Sundays, Bank or Public Holidays.

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

20. 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.

21. All planting, seeding or turf laying in the approved landscaping scheme approved under Condition 6 shall be carried out in the first planting season following the occupation of the building or the completion of the development, whichever is the sooner. Any trees or plants which die, are removed or become severely damaged or diseased within 5 years of planting will be replaced in accordance with the approved plans.

Reason: To ensure implementation of the landscape scheme approved by local planning authority in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy, the Much Birch Neighbourhood Development Plan and the National Planning Policy Framework

22. Notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any subsequent re-enactment thereof, no boundary walls, fences,

gates, or other means of enclosure shall be erected, constructed, or altered on the site without the prior written approval of the Local Planning Authority.

**Reason:** To ensure that the appearance of the boundary treatment is appropriate and in keeping with the character and visual amenity of the area, and to ensure a high quality form of development is maintained, in accordance with Policy SD1 and LD1 of the Herefordshire Local Plan – Core Strategy, the Much Birch Neighbourhood Development Plan and the National Planning Policy Framework 2024.

**INFORMATIVES:**

1. The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended) and the Habitats and Species Regulations (2019 as amended), with enhanced protection for special “Higher Status 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 is advised that advice from a local professional ecology consultant is obtained. If any protected species or other wildlife is found or disturbed during works then all works should stop and the site made safe until professional ecology advice and any required ‘licences’ have been obtained. Any additional lighting should fully respect locally dark landscapes and associated public amenity and nature conservation interests.
2. The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under Section 106 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)
3. 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.
4. The applicant is advised that under Section 185 of the Water Industry Act 1991, any works affecting a public sewer or other asset, including the diversion of a mains sewer, require approval from the relevant water undertaker (in this case, Welsh Water). The applicant must submit a formal

application to Welsh Water (or any succeeding asset owner) for the diversion of the asset. This process is separate from the planning permission process and must be completed before the development can proceed in accordance with the approved plans. The applicant is reminded that failure to secure the necessary diversion approval will prevent lawful implementation of the development

5. 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.
6. 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.
7. No work on the site should commence until engineering details of the improvements to the public highway have been approved by the Highway Authority and an agreement under Section 278 of the Highways Act 1980 entered into. Please contact the Senior Engineer, PO Box 236, Plough Lane, Hereford HR4 0WZ to progress the agreement.
8. 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. In connection with Condition 13, the applicant is advised that advice on its formulation and content can be obtained from the Travel Plan Team at Herefordshire Council's Transportation Team, PO Box 236, Plough Lane, Hereford HR4 0WZ.
10. 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'.
11. Biodiversity Net Gain Standard Informative

**54. 231202 - LAND NORTH OF A40 (GLOUCESTER ROAD) AND EAST OF HUNSDON MANOR, WESTON UNDER PENYARD, HEREFORDSHIRE**

The principal planning officer provided a presentation on the application.

In accordance with the criteria for public speaking Mr White spoke on behalf of Weston under Penyard parish council and Ms McPherson, the applicant's agent, spoke in support of the application.

In accordance with the Council's constitution the local ward member spoke on the application. In summary, he explained that an earlier application concerning the site proposed a controlled crossing across the A40. The current application should contain an identical provision in order to protect local residents from Penyard Gardens and the proposed development. The crossing would protect local residents from significant



highway safety risks posed by the road. The road was straight and vehicles had been recorded travelling in excess of 70 MPH and sometimes 100 MPH in the 30 MPH speed limit zone. A pedestrianised crossing was a much wanted and needed element of the earlier application which had now been removed from the current application. The current application contained a roundabout which was positioned off line from the existing road and was intended to deflect and slow cars. However, the position of the roundabout would not deflect or slow traffic travelling from Gloucester. The effectiveness of the roundabout had also been questioned in the applicant's own assessments. The local parish council had asked for a review of the roundabout but this had been refused. The inclusion of a roundabout in preference to a signalised crossing in the application was considered a cost saving measure. It was requested that a pedestrianised crossing should be required as part of the application which should be refused until such a measure was included.

The committee debated the application. There was division among members of the committee regarding the process to be followed to consider and potentially implement a signalised pedestrian crossing on the A40. The committee considered the importance of the roundabout in slowing traffic and discussed the preferred location of a pedestrianised crossing to protect the highway safety of local residents and contribute to an effective traffic calming scheme. The committee considered the heads of terms to be incorporated in the section 106 agreement, the transport contribution in the heads of terms which could be allocated towards a pedestrian crossing and the road safety audit. It was the contention of some members of the committee that the application should not be approved without the inclusion of pedestrian crossing whilst other members of the committee felt that the provision of a crossing should be taken forward as part of the section 106 agreement process following approval of the application.

The Development Manager Service Manager explained that the earlier application had concerned outline permission for the site and a crossing had been included in drawings but the crossing had not been secured in the section 106 agreement or in conditions. Funding had already been secured in the heads of terms towards the transport contribution, £86,000, which could be allocated to works for a pedestrian crossing but it was acknowledged that additional funding would need to be found.

The highways advisor explained that the road safety audit had concluded that the highway scheme proposed in the application including the mini roundabout was acceptable. Any proposed crossing would need to be technically achievable on the site and the precise cost of a crossing was open to a number of variables.

The local ward member was given the opportunity to close the debate. He explained that the objection to the application concerned the safety of local residents whilst using the A40. It was requested that a pedestrian crossing was provided across the A40 in the plans for the site before the application was approved. The proposed mini roundabout would not slow traffic significantly as the deviation from the line of the highway was not sufficient.

Councillor Bruce Baker proposed and Councillor Peter Hamblin seconded a motion that the application be approved in accordance with the case officer's recommendation.

The motion was put to the vote and was carried by a simple majority.

## **RESOLVED –**

**That subject to either the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement in accordance with the Heads of Terms stated in the report, or a condition requiring the completion of an agreement prior to the**

commencement of development, officers named in the Scheme of Delegation to Officers are authorised to grant full planning permission, subject to the conditions below and any other further conditions considered necessary:

**STANDARD**

**1 Time:**

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 Drawings:**

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

P22-2340-P101 SITE LAYOUT PLAN REV J  
P22-2340-P102 MATERIALS DISTRIBUTION PLAN REV E  
P22-2340-P103 PARKING STRATEGY PLAN REV E REV E  
P22-2340-P104 BOUNDARY TREATMENT PLAN REV F  
P22-2340-P105 STOREY HEIGHTS PLAN REV E  
P22-2340-P106 REFUSE STRATEGY PLAN REV D  
P22-2340-P201 BUSHMILLS BRICK (SO & FH) GA PLANS AND ELES REV A  
P22-2340-P202 BUSHMILLS RENDER (SO & FH) GA PLANS AND ELES REV B  
P22-2340-P203 CAVAN SEMI (SO&FH) RENDER GA PLANS AND ELES REVB  
P22-2340-P204 CAVAN TERRACE (AR) BRICK GA PLANS AND ELES REV B  
P22-2340-P206 GREENCASTLE GA PLANS AND ELEVATIONS REV B  
P22-2340-P207 HILLTOWN GA PLANS AND ELEVATIONS REV C  
P22-2340-P208 KNIGHTSTOWN GA PLANS REV  
P22-2340-P209 KNIGHTSTOWN GA ELEVATIONS REV B  
P22-2340-P210 KINGSCOURT GA PLANS REV  
P22-2340-P211 KINGSCOURT GA ELEVATIONS REV B  
P22-2340-P212 KINNEGAD GA ELEVATIONS (STONE) REV B  
P22-2340-P214 KINNEGAD GA PLANS REV A  
P22-2340-P215 KINNEGAD GA ELEVATIONS (BRICK) REV C  
P22-2340-P216 LIFFORD GA PLANS REV A  
P22-2340-P217 LIFFORD GA ELEVATIONS REV B  
P22-2340-P218 PORTSALON GA PLANS REV  
22-2340-P219 PORTSALON GA ELEVATIONS (BRICK) REV B  
P22-2340-P220 GARAGE STUDIO GA PLANS & ELEVATIONS REV A  
P22-2340-P223 GARAGE G1 SINGLE GA PLANS & ELEVATIONS REV A  
P22-2340-P224 GARAGE G2 TWIN GA PLANS AND ELEVATIONS REV A  
P22-2340-P225 GARAGE G3 DOUBLE GA PLANS & ELEVATIONS REV A  
P22-2340-P226 BANTRY BUNGALOW (STONE) GA PLANS & ELES REV C  
P22-2340-P227 KNIGHTSTOWN (STONE) GA ELES REV B  
P22-2340-P230 PORTSALON (STONE) GA ELEVATIONS REV B  
P22-2340-P231 KATESBRIDGE CT (STONE) GA PLANS & ELES REV C  
P22-2340-P232 KATESBRIDGE CT(RENDER) GA PLANS & ELES REV B  
P22-2340-P233 BUSHMILLS AR (BRICK) GA PLANS & ELES REV B  
P22-2340-P234 BUSHMILLS AR&SO (STONE) GA PLANS & ELES REV A  
P22-2340-P300 STREET SCENES REV F

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

**Pre commencement**

**3 Contaminated Land**

**No development shall take place until the following has been submitted to and approved in writing by the Local Planning Authority:**

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

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

**c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed shall be submitted in writing. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the Local Planning Authority for written approval.**

**Reason: In the interests of human health and to comply with policy SD1 of the Herefordshire Local Plan – Core Strategy, and Weston Under Penyard Neighbourhood Development Plan and the National Planning Policy Framework.**

**4 CEMP**

**No longer than twelve months prior to any works or site preparation commencing a detailed, comprehensive, Construction Environmental Management Plan – including but not limited to detailed ecological working methods, Risk Avoidance Measures Scheme for Reptiles, retained tree and hedgerow protection scheme and consideration of all environmental effects of construction processes shall be supplied to the Local Planning Authority for written approval. The approved CEMP shall be implemented in full for the duration of all construction works at the site.**

**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, Weston Under Penyard Neighbourhood Development Plan and the council's declared Climate Change & Ecological Emergency.**

**5 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 unless agreed in writing by the Local Planning Authority.

Reason: This condition is required pre-commencement as 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 Policies SD1 and SP1 of the Herefordshire Local Plan – Core Strategy, Herefordshire Minerals and Waste Local Plan and the National Planning Policy Framework.

## **6 CMP/CMS**

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:

- method for ensuring mud is not deposited onto the public highway
- 24 hour emergency contact number
- Construction traffic access location
- Parking for site operatives
- Measures to control noise and dust impact;
- The use of a consolidation operation or scheme for the delivery of materials and goods
- Means by which a reduction in the number of movements and parking on nearby streets can be achieved (including measures taken to ensure satisfactory access and movement for existing occupiers of the neighbouring properties during construction):
- Routes for construction traffic, avoiding weight and size restrictions to reduce unsuitable traffic on residential roads;
- Locations for loading/unloading, waiting/holding areas and means of communication for delivery vehicles if space is unavailable within or near the site;
- Locations for storage of plant/waste/construction materials;
- Arrangements to receive abnormal loads or unusually large vehicles;
- Any necessary temporary traffic management measures;
- Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses;

- Submission of tree protection plan in accordance with BS5837:201
- Detailed Construction Method Statement (CMS) containing
  - Hours of operation;
  - 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.

The development shall be carried with full implementation of all noise and overheating mitigation recommendations outlined in the acoustic assessment reference 26942-ENV-0401, carried out by MEC, dated March 2023.

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 tree protection and protect amenity of occupiers of nearby properties so as to comply with Policies SS6 and SD1 and Policy MT1,LD1 and LD3 of Herefordshire Local Plan – Core Strategy, Weston Under Penyard Neighbourhood Development Plan and the National Planning Policy Framework.

## **7 Archaeology Protection**

Prior to commencement of the development hereby permitted the area detailed as archaeological no go zone natural green space on P22-2340-P101 SITE LAYOUT PLAN REV J shall be protected by appropriate robust fencing. Once these protective measures have been erected but prior to commencement of the development a suitably qualified archaeological consultant appointed by the developer shall inspect the site and write to the Local Planning Authority to confirm that the protective measures are in-situ. Upon confirmation of receipt of that letter by the Local Planning authority the development may commence but the tree protective measures must remain in-situ until completion of the development.

Reason: To ensure suitable protection to the extensive archaeological remains of high significance in accordance with LD4 of Herefordshire Local Plan – Core Strategy, and Weston Under Penyard Neighbourhood Development Plan and the National Planning Policy Framework.

No development to take place, with the exception of any site clearance and groundworks.

## **8 Foundation detail**

With the exception of site clearance and groundworks, no development shall take place until a detailed design and method statement for the foundation design and all new groundworks has been submitted to, and approved in writing by, the Local Planning Authority. The development hereby permitted shall only take place in accordance with the detailed scheme pursuant to this condition.

Reason: The development affects a site on which archaeologically significant remains survive and a design solution is sought to minimise disturbance through a sympathetic foundation design in accordance with LD4 of Herefordshire Local Plan – Core Strategy, and Weston Under Penyard Neighbourhood Development Plan and the National Planning Policy Framework.

## **9 Electric Vehicle Charging**

With the exception of site clearance and groundworks, no development shall commence until written and illustrative details of the number, specification and location of electric vehicle charging points, has been submitted to and approved in writing by the Local Planning Authority. The electric vehicle charging points serving each plot shall be installed prior to first occupation of that plot 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, Weston Under Penyard Neighbourhood Development Plan and to accord with the provisions of the National Planning Policy Framework.

## **10 BNG**

Prior to any construction work above damp proof course a specification and annotated location plan for proposed biodiversity net gain enhancement features including significant and meaningful provision of ‘fixed’ habitat features including a range of bird nesting boxes, bat boxes (or similar roosting features), invertebrate homes, reptile hibernacula, hedgehog homes and hedgehog highways through all impermeable boundary features (except adjacent to main highways), must be supplied to and approved in writing by the local authority. The approved scheme shall be implemented in full and hereafter maintained as approved.

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 and Weston Under Penyard Neighbourhood Development Plan

## **11 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 (including details of any solar panels) 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 Polies SD1, of the

## **12 Highway works**

**Development shall not begin in relation to any of the specified highways works:**

- **New Access Road**
- **New Footway(s)**
- **Relocated Bus Stop**
- **Over run area**
- **Visibility Spays**
- **Mini Roundabout**

**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. The development shall not be occupied until the scheme has been constructed in accordance with the approved details as submitted in drawing 24470-02-7 rev E.**

**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, Weston Under Penyard Neighbourhood Development Plan and the National Planning Policy Framework**

## **13 Road 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 to 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 prior to the first occupation.**

**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, Weston Under Penyard Neighbourhood Development Plan and the National Planning Policy Framework.**

## **14 Landscape 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:**

**(delete as appropriate)**

- a) **A statement setting out the design objectives and how these will be delivered.**
- b) **A Soil Resource Survey (SRS) and Soil Resource Plan (SRP) in accordance with the ‘Construction Code of Practice for the Sustainable Use of Soils in Construction Sites’ (DEFRA 2009).**
- c) **A plan showing existing and proposed finished levels or contours.**
- d) **A drawing detailing hard surfacing materials**

- e) Detailed construction drawings of....
- f) Boundary treatments and means of enclosure.
- g) Artefacts and Structures e.g. street furniture, play equipment, water features.
- h) Vehicle /Cycle /Pedestrian access and circulation areas.
- i) Vehicle parking layouts
- j) Lighting and CCTV
- k) Trees and hedgerow to be removed.
- l) Trees and hedgerow to be retained, setting out measures for their protection during construction, in accordance with BS5837:2012.
- m) All proposed planting, accompanied by a written specification setting out species, size, quantity, density and cultivation details.
- n) A plan detailing water attenuation schemes.
- o) An environmental plan for the protection of sensitive landscapes during the construction phase.
- p) An Environmental Colour Assessment (ECA), to inform the choice of external colour of the development/feature/building.
- q) An implementation programme – setting out phasing of work where appropriate.

The development shall be carried out and thereafter maintained in accordance with the approved details prior to the first occupation.

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, Weston Under Penyard Neighbourhood Development Plan and the National Planning Policy Framework

Prior to occupation

- 15 Before the development is first occupied or brought into use, a schedule of landscape maintenance for a period of 5 years shall be submitted to and approved in writing by the Local Planning Authority. Maintenance shall be carried out in accordance with this approved schedule.

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

#### 16 Landscape Scheme

Before the development is first occupied or brought into use, a schedule of landscape maintenance for a period of 5 years shall be submitted to and approved in writing by the Local Planning Authority. Maintenance shall be carried out in accordance with this approved schedule.

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

#### 17 Surface Water drainage

Before the development is first occupied or brought into use, the provision of a revised surface water drainage strategy shall be submitted and approved in writing by the Local Planning Authority.



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

## **18 Floor levels**

Before the development is first occupied or brought into use details of an as-built topographical survey of the proposed raised ground north of Plots 41, 42 and 43, that demonstrates that finished ground levels are above 72.50m AOD shall be submitted to the Local Planning Authority and approved in writing by the Local Planning Authority. The survey shall be implemented following a suitable duration as deemed appropriate to allow adequate consolidation of the fill.

**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, Weston Under Penyard Neighbourhood Development Plan and the National Planning Policy Framework

## **19 Car Parking**

Prior to the first occupation of [any or the] dwellings to which this permission relates an area for car parking shall be laid out within the curtilage of that property, in accordance with the approved plans (P103) which shall be properly consolidated, surfaced and drained, in accordance with details to be submitted to and approved in writing by the Local Planning Authority and those areas shall not thereafter be used for any other purpose than the parking of vehicles.

**Reason:** In the interests of highway safety and to 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, Weston Under Penyard Neighbourhood Development Plan and the National Planning Policy Framework.

## **20 Open Space**

Prior to the first occupation of the development hereby approved details of the Management Company should be submitted. Details to include a written scheme detailing:

- the future management and maintenance requirements for the open space facilities
- how the Management company will be set up in order to fulfil its ongoing obligations and functions in relation to the open space facilities

The Management and maintenance shall be implemented in accordance with the approved details and be available for use prior to the first use of the dwelling to which it relates.

**Reason:** To ensure the successful establishment of the approved scheme, Local Planning Authority and in order to conform with policies OS2, OS3, SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy, the Weston Under Penyard Neighbourhood Development Plan and the National Planning Policy Framework.

## **21 Cycle Parking**

Prior to 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 dwelling to which it relates. 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, Weston Under Penyard Neighbourhood Development Plan and the National Planning Policy Framework

## **22 Refuse**

Prior to first occupation of the development, refuse and recycling collection arrangements shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and be available for use prior to the first use of the dwelling to which it relates.

Reason: To ensure satisfactory bin collection arrangements in line with Herefordshire Local Plan – Core Strategy Policies SD1 and MT1 Weston Under Penyard Neighbourhood Development Plan

## **23 Water Efficiency**

Prior to the first occupation of any of the residential development hereby permitted written evidence / certification demonstrating that water conservation and efficiency measures to achieve the 'Housing – Optional Technical Standards – Water efficiency standards' (i.e. currently a maximum of 110 litres per person per day) for water consumption as a minimum have been installed / implemented shall be submitted to the Local Planning Authority for their written approval. The development shall not be first occupied until the Local Planning Authority have confirmed in writing receipt of the aforementioned evidence and their satisfaction with the submitted documentation.

Thereafter those water conservation and efficiency measures shall be maintained for the lifetime of the development

Reason: In order to ensure that water conservation and efficiency measures are secured to safeguard water quality and the integrity of the River Lugg (Wye) SAC in accordance with policies SS6, SD2, SD4 and LD2 of the Herefordshire Local Plan Core Strategy, the National Planning Policy Framework, the Conservation of Habitats and Species Regulations (2017) and NERC Act (2006).

## **24 Contaminated Land**

The Remediation Scheme, as approved pursuant to condition no. (3) 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, Weston Under Penyard Neighbourhood Development Plan and the National Planning Policy Framework**

**Compliance**

**25 Contamination**

If, during development, contamination not previously identified is found to be present at the site then no further development 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.

**26 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, Weston Under Penyard Neighbourhood Development Plan and the National Planning Policy Framework.

**27 Archaeological Protection**

No materials shall be stored, no vehicles or machinery stored or parked and no fires lit within the fenced areas referred to in condition 7 above.

**Reasons:** To ensure that there is no damage during the construction phase to the trees on the site to be retained and that are recognised to be of amenity value, in accordance with Policy LD4 of Herefordshire Local Plan – Core Strategy, Weston Under Penyard Neighbourhood Development Plan and the National Planning Policy Framework.

**28 Surface Water**

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.

**29 Noise Assessment**

The recommendations set out in the noise assessment carried out by Mewies Engineering Consultants Limited (MEC), report reference 26942-ENV-0401 shall be implemented in full and hereafter maintained as approved.

Therefore believe that compliance can be achieved on this site providing that the recommendations within the above referenced report are implemented

**Reason:** To protect amenity in line with Herefordshire Local Plan – Core Strategy

**Policies SD1 of the Herefordshire Local Plan – Core Strategy, Weston Under Penyard Neighbourhood Development Plan and the National Planning Policy Framework**

**30 Foul Water**

All foul water flows created by the approved development shall be managed through connection to the Welsh Water mains sewer network managed by the Lower Cleeve Waste Water Treatment Works; and all surface water shall be managed through onsite Sustainable Drainage Systems.

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

**31 External Lighting**

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.

**32 Boundary Treatments**

Notwithstanding the approved plans, no works in relation to any boundary treatments required by this condition shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the position, type, design and materials of any boundary treatment to be erected. The boundary treatment shall be completed before the dwellings hereby permitted are occupied. Development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity, to ensure the development has an acceptable standard of privacy and to conform to Policies SD1, LD1, of the Herefordshire Local Plan – Core Strategy, and Weston Under Penyard Neighbourhood Development Plan and the National Planning Policy Framework.

**33 Solar Panels**

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

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

**INFORMATIVES:**

The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended) and the Habitats and Species Regulations (2019 as amended), with enhanced protection for special “Higher Status 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 is advised that advice from a local professional ecology consultant is obtained. If any protected species or other wildlife is found or disturbed during works then all works should stop and the site made safe until professional ecology advice and any required ‘licences’ have been obtained. Any additional lighting should fully respect locally dark landscapes and associated public amenity and nature conservation interests.

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. Revised documents have been submitted during the course of the application assessment 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.

This planning permission is issued pursuant to a Section 106 Town & Country Planning Act 1990 obligation agreement (Date of agreement to be inserted upon issue of permission).

The CEMP does not preclude the requirement for the applicant and their contractors to comply with all statutory ecological protection legislation that lies above any planning permission process. The CEMP should include consideration for all potential environmental effects and a helpful guide to all relevant considerations for a CEMP can be found at:

[https://www.designingbuildings.co.uk/wiki/Construction\\_environmental\\_management\\_plan](https://www.designingbuildings.co.uk/wiki/Construction_environmental_management_plan)

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.

*There was an adjournment at 1:08 p.m.; the meeting reconvened at 1:19 p.m.*

*Councillor Peter Hamblin left the meeting at 1:08 p.m.*

**55. 241536 - THE CHOUGHS, 68 PENN GROVE ROAD, HEREFORD, HEREFORDSHIRE, HR1 1BT**

The senior planning officer provided a presentation.

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

In accordance with the Council's constitution the local ward member spoke on the application. In summary, he explained the application was located in a distinctive part of Hereford with a mixture of different styles and character of houses. There were three key considerations with the current application, design, scale and location. It was noted that the City Council was not positive about the design of the house. The proposed was striking and substantially larger than the existing dwelling. Although the current house was not small it did not dominate its location. The proposed property was much bigger and closer to the road. The proposed dwelling would also be closer to the neighbouring property, number 66, which would be overlooked and imposed upon. The new house would impose upon the street frontage, the local area and other local properties. Due to the substantially negative impact of the proposed house the application should be refused.

The committee debated the application. There was division among members of the committee. The majority of the members deemed the application acceptable; contrary to this support other members did not support the demolition of an existing and habitable property.

The local ward member was given the opportunity to close the debate.

Councillor Stef Simmons proposed and Councillor Bruce Baker seconded a motion that the application be approved in accordance with the case officer's recommendations.

The motion was put to the vote and was carried by a simple majority.

**RESOLVED –**

That planning permission be granted subject to the following conditions and any other further conditions or amendments to the suggested conditions in the report that are considered necessary by officers named in the scheme of delegation to officers:

***Standard conditions***

**1. C01 - Time limit for commencement (full permission)**

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

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

**2. Development in accordance with approved plans**

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

6551-10-A (Location and Block Plan);  
6551-11-A (Proposed Site Plan);  
6551-12-A (Proposed Dwelling – Floor Plans); and  
6551-13-A (Proposed Dwelling – Elevations)

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.

***Pre-Commencement Conditions***

**3. Notwithstanding the details which have been provided, no works including any site clearance or demolition shall take place until the tree report protection plan (Mackley Davies Associates Ltd – April 2024) is updated to reflect the amended site layout which shall be submitted and approved in writing by the Local Planning Authority. The tree and hedgerow protection shall thereafter be carried out in accordance with these approved details and remain implemented for the duration of the construction phase of the approved development.**

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.

**4. Construction Environmental Management Plan**

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

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and

Species Regulations (2017), National Planning Policy Framework , NERC Act (2006), Herefordshire Local Plan - Core Strategy policies LD1, LD2 and LD3.

**5. Landscape Scheme**

Notwithstanding the details provided to date, no works shall commence until a landscape scheme shall be submitted and approved in writing by the local planning authority. The scheme shall include a scaled plan identifying:

- a) Trees and hedgerow to be retained, setting out measures for their protection during construction, in accordance with BS5837:2012;
- b) Trees and hedgerow to be removed;
- c) All proposed planting, accompanied by a written specification setting out; species, size, quantity, density with cultivation details; and
- d) All proposed hardstanding and boundary treatment.

All planting, seeding or turf laying in the approved landscaping scheme shall be carried out in the first planting season following the occupation of the building or the completion of the development, whichever is the sooner.

Any trees or plants which die, are removed or become severely damaged or diseased within 5 years of planting will be replaced in accordance with the approved plans.

Hard landscaping and Boundary Treatments (d) shall be completed prior to the occupation of the dwelling.

Reason: To safeguard and enhance the character and amenity of the area, and to implement the landscape scheme in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.

*Relevant commencement or prior to first occupation conditions*

**6. Restriction on working hours during construction**

During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times: Monday-Friday 7.00 am-6.00 pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.

Reason: To protect the amenity of local residents and to comply with Policy SD1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

**7. Samples of external materials**

With the exception of any site clearance and groundwork, no further development shall take place until details or samples of materials to be used externally on walls, roofs, windows and external door of the replacement dwellinghouse and garage, 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.



## **Framework.**

### **8. Secure covered cycle parking provision**

Prior to the first occupation of the replacement dwelling, details of a scheme for the provision of covered and secure cycle parking facilities within the curtilage of the replacement dwelling shall be submitted to the Local Planning Authority for 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 replacement dwelling 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.

### **9. Obscure glazing to windows**

Prior to the first occupation of the replacement dwellinghouse, and at all times thereafter, the first floor bathroom windows at the north elevation shall be glazed with obscure glass only and shall be non-opening.

The obscured glazing shall be retained in perpetuity.

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

### **10. Drainage in accordance with approved plans**

The drainage arrangements for replacement dwellinghouse shall be completed prior to first occupation in accordance with the Surface Water Management and Foul Drainage Strategy for 68 Penn Grove Road, Herefordshire, HR1 1BT Rev. 6 Contract Ref: FD150A dated 07/02/2025.

**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.

### **11. Efficient use of water**

Prior to the first occupation of the replacement dwelling, 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 (or successor policy) shall be submitted to and approved in writing by the local planning authority and implemented as approved.

**Reason:** To ensure water efficiency requirements are compliant with Policy SD3 of the Hereford Local Plan – Core Strategy and the National Planning Policy Framework.

### **12. Self Build**

The dwelling hereby permitted shall be constructed as a self-build dwelling within the definitions of self-build and custom housebuilding in the Self-Build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016).

The first occupation of the replacement dwellinghouse hereby permitted shall be by a person or persons who have had a primary input into the design and layout of the dwelling and two months prior to the first occupation of the unit, the Council shall be notified of, and shall agree in writing, details of the persons who intend to take up first occupation. The dwelling shall be occupied in accordance with the approved details.

Reason: The approved development is granted on the basis that it complies with the Self Build and Custom Housebuilding Act 2015 and is consequently exempt from the requirements to submit a Biodiversity Gain Plan in accordance with the provisions of Schedule 7A (Biodiversity Gain in England) of the Town and Country Planning Act 1990 and The Biodiversity Gain Requirements (Exemptions) Regulations 2024.

*Post occupancy monitoring and management/compliance conditions*

**13. Surface Water**

Surface water flows from the development shall only communicate with the public (combined sewer / surface water sewer) through an attenuation device that discharges at a rate not exceeding 2l/s.

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 SS6, LD2, SD1, SD3 and SD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

**14. Foul Water**

Unless otherwise agreed in writing by the Local Planning Authority all foul water flows created by the approved development shall be managed through connection to the local DCWW mains sewer system; and all surface water managed by onsite infiltration-Sustainable Drainage Systems.

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

**15. Lighting**

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

**16. No conversion of garage to habitable accommodation**

The garage and access thereto must be reserved for the garaging or parking of private motor vehicles and the garage shall at no time be converted to habitable accommodation.

Reason: To ensure adequate off street parking arrangements remain available at all times and to comply with Policy MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

**17. Retention of existing trees**

No retained tree or hedgerow, shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the construction phase and thereafter for 10 years from the date of first occupation of the replacement dwellinghouse for its permitted use, other than in accordance with the approved plans and particulars.

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

**18. Removal of householder permitted development rights (Class A, AA, B and E of Part 1; Class A of Part 2 Schedule 2 only)**

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

**INFORMATIVES:**

**1. IP2 – Application approved following revisions**

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

**2. INS – Non-standard 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 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, 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. The applicant should liaise with the relevant Local Authority Building Control department to discuss their water efficiency requirements.

**3. INS – Non-standard informative**

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

**4. INS – Non-standard informative**

This permission does not authorise any works to trees included in the Tree Preservation Order. Any such work shall be the subject of an application for consent to the Local Planning Authority, in accordance with the provisions of the Tree Preservation Order and the law on Tree Preservation Orders in force at the time of the application.

**5. I05 – No drainage to discharge to highway**

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

**6. I11 – Mud on highway**

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

*Councillor Thomas left the meeting room at 1:51 p.m. as the applicant of the next item.*

*Councillor Clare Davis left the meeting room at 1:51 p.m.*

*Councillor Stef Simmons left the meeting room at 1:51 p.m.*

**56. 242804 - HILLSIDE, ST WEONARDS, HEREFORD, HEREFORDSHIRE, HR2 8NX  
(PAGES 63 - 64)**

The planning officer provided a presentation on the application.

In accordance with the Council's constitution the local ward member provided a statement to be read to the committee. In summary, she explained that there were no objections to the application.

The committee debated the application.

Councillor Bruce Baker proposed and Councillor Polly Andrews seconded a motion that the application be approved 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:**

**1. Time limit for commencement (full permission)**

**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. HS2 A and HS4 A and document entitled Site Plan) and the schedule of materials indicated thereon.**

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

**3. Matching brickwork**

**The external walls of the extension to the north and west elevation shall be constructed with facing bricks of the same type, texture and colour as the external walls of the existing building.**

**Reason: In the interests of visual amenity 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.**

**INFORMATIVES:**

**1. Application Approved Without Amendment**

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

representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

## **2. Wildlife 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) and the Habitats and Species Regulations (2019 as amended), with enhanced protection for special “Higher Status Protected Species” such as all Bat species, Great Crested Newts, Otters, Dormice, Crayfish and reptile species that are present and widespread across the County. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it advised that advice from a local professional ecology consultant is obtained. If any protected species or other wildlife is found or disturbed during works then all works should stop and the site made safe until professional ecology advice and any required ‘licences’ have been obtained. Any additional lighting should fully respect locally dark landscapes and associated public amenity and nature conservation interests.

### **Biodiversity Net Gain (Exemption Informative)**

The meeting ended at 1.56 pm

Chairperson

## **PLANNING COMMITTEE**

**Date: 19 MARCH 2025**

### **Schedule of Committee Updates/Additional Representations**

**Note: The following schedule represents a summary of the additional representations received following the publication of the agenda and received up to midday on the day before the Committee meeting where they raise new and relevant material planning considerations.**

## SCHEDULE OF COMMITTEE UPDATES

### **231390 - INSTALLATION OF AN ENERGY STORAGE SYSTEM, SUBSTATION AND ASSOCIATED WORKS AT LAND TO THE SOUTH OF PETERSTOW GAS COMPRESSOR STATION, HENTLAND, HEREFORDSHIRE,**

**For: Turner per Mr Phillip Duncan, The Old Dairy, Yanworth,  
Cheltenham, GL54 3LQ**

#### Officer Update

#### Corrections to report

Paragraph 6.11 should read as follows:

- 6.11 *Policy SD2 of the CS deals specifically with renewables and low carbon energy generation. Although the proposal doesn't generate renewable energy, given the objective of supporting the transition towards a low carbon energy generation, the policy is considered relevant in this case. The policy supports developments that seek to deliver low carbon energy where they do not adversely impact upon international or national designated natural and heritage assets; do not adversely affect residential amenity; do not result in any significant detrimental impact upon the character of the landscape and the built or history environment; and can be connected efficiently to existing national grid infrastructure unless it can be demonstrated that energy generation would be used on site to meet the needs of a specific end user.*

#### Corrections to recommended conditions, with correct Neighbourhood Development Plan Policies identified and plan numbers.

#### **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 drawings as stated below:**

- **Applicaion Plan – S0/415/12**
- **Development Layout – S0/415/07 L**
- **Development Platforms Elevation Cross Sections – S0/415/08 D**
- **Landscape & Ecological Mitigation Plan – S0/415/11 C**
- **132kV Substation Compound – Layout\_132kV-Sub-Type A\_P03**
- **Onsite Water Storage – Elevation\_Water-Storage\_P03**
- **Elevation\_Fense-Pallisade-Type-A-2400\_P02**
- **Energy Storage System – Elevation\_Energy\_Storgae\_Systme\_P02**
- **Customer Substation – Elevation Customer-Sub-Type A\_P01**



- Control Room – Elevation\_Control-Room\_P02
- Communication Mast – Elevation\_Comms\_Mast-15000\_P02
- Drainage Addendum – 415 SP09 dated 4/12/2024

**Reason:** To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy, Policy PTS17 of the Peterstow Neighbourhood Development Plan and the National Planning Policy Framework.

### **3. Decommissioning should use cease**

In the event the development ceases to export electricity to the grid for a continuous period of 12 months, a scheme of restoration for the removal of the Battery Energy Storage Facility and any associated equipment, shall be submitted to and approved in writing by the local planning authority within 3 months from the end of the 12-month period. The restoration scheme shall include details of the retention of any approved boundary treatment(s) and planting. The approved scheme of restoration shall then be fully implemented within 6 months of written approval being given.

**Reason:** To ensure a satisfactory form of development, avoid any eyesore from redundant plant, prevent pollution, and safeguard the environment when the materials reach their end of life, in accordance with Policies SD1 and SD2 of the Herefordshire Local Plan – Core Strategy, Policy PTS2 of the Peterstow Neighbourhood Development Plan and the National Planning Policy Framework.

### **Pre-Commencement Conditions**

### **4.**

#### **Construction Traffic Management Plan**

Prior to the commencement of any development on site, a detailed Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include the following:

- Provision of wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway,
- Construction traffic access location,
- Parking and turning for vehicles of site operatives and delivery vehicles
- Timings of deliveries of construction infrastructure and materials

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, Policy PST10 of the Peterstow Neighbourhood Development Plan and the National Planning Policy Framework.

### **5. Construction Environmental Management Plan**

Before any work; including site clearance or demolition begin or equipment and materials are moved on to site, a Construction Environmental Management Plan (CEMP) including a fully detailed and specified Ecological Working Method Statement and details of an appointed

**Ecological Clerk of Works, a section on works near the watercourse should include but not limited to detailed ecological working methods and consideration of all environmental effects, including biosecurity and direct water quality protection measures for all operations shall be supplied to the local planning authority for written approval. The approved CEMP shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have finally been removed; unless otherwise agreed in writing by the local planning authority.**

**Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework , NERC Act (2006), Herefordshire Local Plan - Core Strategy policies LD1, LD2 and LD3 and Policy PTS3 of the Peterstow Neighbourhood Development Plan.**

**6. Earthing report**

**Before any work, including site clearance begin or equipment brought onto the site, a risk assessment/earthing report shall be submitted to and approved by the Local Authority, in consultation with national gas transmission. The report shall examine the effects of the earthworks, touch and step voltage, dc fault current and transfer potentials that the nearby pipeline may be exposed to, in normal operations and in the event of a fault.**

**Reason: To prevent damage or an impact to the nearby High Pressure Gas Line and to conform to Policies SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework**

**With the exception of site clearance and groundworks**

**7. Detailed Battery Safety Management Plan**

**With the exception of site clearance and groundwork, no further development shall take place until a Detailed Battery Safety Management Plan which builds upon the Outline Battery Safety Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include but not be limited to the following:**

- **A statement on the battery system specifications, including fire detection and suppression system;**
- **A statement on operational procedures and training requirements, including emergency operations;**
- **A statement on the overall compliance of the system with applicable legislation;**
- **An environmental risk assessment to ensure that the potential for indirect risks (e.g., through leakage or other emissions) is understood and mitigated;**
- **An emergency plan covering construction, operation and decommissioning phases developed in consultation with Herefordshire and Worcestershire Fire and Rescue, to include the adequate provision of firefighting equipment on-site**

**The development shall be implemented in accordance with the approved details and shall be maintained as such thereafter.**

**Reason: In the interest of fire safety and to conform to Policies SD1 and SD3**

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

**8. Landscaping Scheme**

With the exception of site clearance and groundworks, no further development shall take place until a landscape scheme is submitted to and approved in writing by the Local Planning Authority. The scheme shall include a scaled plan identifying:

a. All proposed planting, accompanied by a written specification setting out; species, size, quantity, density with cultivation details.

b. All proposed hardstanding, boundary treatment and access gates.

Reason: To safeguard and enhance the character and amenity of the area in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy , Policy PTS3 of the Peterstow Neighbourhood Development Plan and the National Planning Policy Framework,

Before Development is brought into use

**9. Biodiversity Net Gain and Maintenance Plan**

Before the development is first brought into use, a schedule of landscape maintenance based on the Biodiversity Metric that includes full details and specifications for biodiversity net gain habitat enhancements, planted species, and management for a period of 10 years shall be submitted to and approved in writing by the local planning authority.

The approved enhancements shall be implemented in full with all new planting completed within 2 planting seasons and hereafter maintained as approved unless otherwise agreed in writing with the local planning authority.

Reason: To ensure that all protected species are considered and habitats enhanced having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife and Countryside Act 1981, National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan - Core Strategy (2015) policies SS1, SS6 LD1, LD2 and LD3 and Policy PTS3 of the Peterstow Neighbourhood Development Plan

**10. Drainage Scheme Verification**

Prior to the first use of the development hereby approved, a Drainage Verification Report, pertaining to the SuDS details shown and illustrated on approved plan SuDS Design, number SO-415-14 (dated 27 April 2023) and the details within the Flood Surface Water Management Plan, as outlined within the Addendum dated 4/12/2024 (prepared by Corylus), shall be prepared by a suitably competent person, and submitted to the Local Planning Authority for approval. The report shall demonstrate that the drainage system has been constructed in consistent with that which was approved. The report shall contain information and evidence (including photographs) of the details and location of inlets, outlets and control structures; full as built plans; and a management and maintenance

**schedule for the lifetime of the development.**

**Reason:** In the interests of the visual amenity of the area; To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure risks to nearby water course and ecological systems are minimised the and to comply with Policy SD3 and LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

**11. External lighting**

**Prior to first beneficial use of the Battery Energy Storage System hereby approved an external lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented on site prior to first beneficial use of the development, and retained as such thereafter.**

**Reason:** In the interest of visual amenity and to safeguard local amenities in accordance with Policies LD1 and SD1 of the Herefordshire Local Plan – Core Strategy, Policy PTS9 of the Peterstow Group Neighbourhood Development Plan and the National Planning Policy Framework.

**Compliance**

**12.**

**Ecological Protection (including Protected Species)**

**The recommendations in the Great Crested Newt Reasonable Avoidance Measures by Aurochs Ecology dated 28/02/24, the Badger working method by Aurochs Ecology dated 07/03/24, and the PEA by Midland Ecology dated August 2022 in respect of ecological interests on the site, biodiversity net gain and habitat enhancement recommendations, including mitigation-compensation measures and requirement for any relevant protected species licences from Natural England, shall be implemented in full and hereafter maintained as approved unless otherwise agreed in writing by the local planning authority.**

**Reason:** To ensure that all 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.

**13. Working Hours of construction**

**The hours during which construction work may take place shall be restricted to 0700 to 1900 Mondays to Fridays and 0800 to 1300 on Saturdays. There shall be no such working on Sundays, Bank or Public Holidays.**

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



## Grid Scale Battery Energy Storage System planning – Guidance for FRS

Grid scale Battery Energy Storage Systems (BESS) are a fundamental part of the UK's move toward a sustainable energy system. The installation of BESS systems both in the UK and around the globe is increasing at an exponential rate. A number of high profile incidents have taken place and learning from these incidents continues to emerge.

In the UK, approval for the majority of BESS installations takes place through the Local Authority planning process. Fire and Rescue Services (FRSs) may be engaged throughout the planning process, but this is not a statutory requirement. However, the National Fire Chiefs Council would encourage early engagement with the local FRS, continuing throughout the planning process.

The NFCC's expectation is that a comprehensive risk management process must be undertaken by operators to identify hazards and risks specific to the facility and develop, implement, maintain and review risk controls. From this process a robust Emergency Response Plan should be developed.

Given the rapidly developing nature of the technology, and ever evolving understanding of risks and mitigation measures, there is a need for guidance to support FRSs in providing consistent and evidence-based contributions to the planning process.

The guidance does not seek to provide a full specification or opinion on the entirety of a BESS system design. Instead, the aim is to limit the content to such matters that directly relate to facilitating a safe and effective response, by the fire and rescue service, to a fire or vapour cloud release involving a BESS installation. This includes factors such as facilities for the fire and rescue service, and design factors that contribute to reducing the escalation in the severity of an incident.

This guidance relates specifically to grid scale (typically 1 MW or larger) BESS in open air environments, using lithium-ion batteries.

The guidance is based upon a range of supporting materials including academic research, national and international standards, case studies, and industry guidance. The content of this document is the result of analysis of that supporting material with subsequent professional judgement applied. Every BESS installation will be different and fire and rescue services should not limit themselves to the content of this guidance. Particular reference has been made to the following:

- State of Victoria (County Fire Authority) (2022), *Design Guidelines and Model Requirements: Renewable Energy Facilities*
- FM Global (2017) *Property Loss Prevention Data Sheets: Electrical Energy Storage Systems Data Sheet 5-33*
- NFPA (2023) *Standard for the Installation of Stationary Energy Storage Systems*

Further advice and guidance can be obtained through the NFCC Alternative Fuels and Energy Systems lead officer.

This document contains guidance on:

1. Information requirements
2. System design, construction, testing and decommissioning
3. Detection and monitoring
4. Suppression systems
5. Site access
6. Water supplies
7. Emergency plans
8. Environmental impacts
9. Recovery

## Principles

This guidance has been developed with the safety of the public and emergency responders in mind. It is based on trying to help reduce the risk as far as reasonably practicable, whilst recognising that ultimate responsibility for the safe design and running of these facilities rests with the operator.

The guidelines are a starting point and cannot cover every eventuality or type of design.

In developing these guidelines the hazards and risks from lithium-ion batteries, identified in National Operational Guidance, has been considered.

The following principles should be considered by Fire Services, when liaising with owners and operators, and form the basis of this guidance<sup>1</sup>:

1. Effective identification and management of hazards and risks specific to the siting, infrastructure, layout, and operations at the facility.
2. Impact on surrounding communities, buildings, and infrastructure.
3. Siting of renewable energy infrastructure so as to eliminate or reduce hazards to emergency responders.
4. Safe access for emergency responders in and around the facility, including to energy storage infrastructure and firefighting infrastructure.

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<sup>1</sup> State of Victoria (County Fire Authority) (2022), *Design Guidelines and Model Requirements: Renewable Energy Facilities*, p.4

5. Provision of adequate water supply and firefighting infrastructure to allow safe and effective emergency response.
6. Vegetation sited and managed so as to avoid increased bushfire and grassfire risk.
7. Prevention of fire ignition on-site.
8. Prevention of fire spread between site infrastructure (solar panel banks, wind turbines, battery containers/enclosures).
9. Prevention of external fire impacting and igniting site infrastructure.
10. Provision of accurate and current information for emergency responders during emergencies.
11. Effective emergency planning and management, specific to the site, infrastructure and operations.
12. Owner to have a comprehensive Emergency Response Plan, showing full understanding of hazards, risks, and consequences.

## Information Requirements

Grid scale BESS should form part of FRS planning in accordance with arrangements required under section 7(2)(d) of the Fire and Rescue Services Act (2004). Site Specific Risk Information (SSRI) should be made available to crews in the form of an effective Emergency Response Plan.

Details of any site access arrangements, such as key codes, should be provided to the FRS.

## System design, construction, testing and decommissioning

Information is required as early as possible from the applicant /developer/designer/manufacture etc., to allow an initial appraisal of the BESS to be made. This information should be provided to the FRS (via the Local Authority Planners in the first instance), with appropriate evidence provided to support any claims made on performance, and with appropriate standards cited for installation.

Such information should also be made available to FRSs for inclusion in Site Specific Risk Information (SSRI) records.

### System design and construction

Information required:

1. The battery chemistries being proposed (e.g. Lithium-ion Phosphate (LFP), Lithium Nickel Manganese Cobalt Oxide (NMC)). Because:
  - a. Battery chemistries will directly affect the heat released when a cell goes into thermal runaway<sup>2</sup>
  - b. Battery chemistries will influence vapour cloud formation.

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<sup>2</sup> [https://www.nasa.gov/sites/default/files/atoms/files/nabw20\\_fire\\_gas\\_char\\_studies\\_liion\\_cells\\_batt\\_djuarez-robles.pdf](https://www.nasa.gov/sites/default/files/atoms/files/nabw20_fire_gas_char_studies_liion_cells_batt_djuarez-robles.pdf)

- c. An understanding of the battery chemistry is useful when requesting scientific advice during an incident.
2. The battery form factor (e.g. cylindrical, pouch, prismatic)
3. Type of BESS e.g. container or cabinet
4. Number of BESS containers/cabinets
5. Size/capacity of each BESS unit (typically in MWh)
6. How the BESS units will be laid out relative to one another.
7. A diagram / plan of the site.
8. Evidence that site geography has been taken into account (e.g. prevailing wind conditions).
9. Access to, and within, the site for FRS assets
10. Details of any fire-resisting design features
11. Details of any:
  - a. Fire suppression systems
  - b. On site water supplies (e.g. hydrants, EWS etc)
  - c. Smoke or fire detection systems (including how these are communicated)
  - d. Gas and/or specific electrolyte vapour detection systems
  - e. Temperature management systems
  - f. Ventilation systems
  - g. Exhaust systems
  - h. Deflagration venting systems
12. Identification of any surrounding communities, sites, and infrastructure that may be impacted as a result of an incident.

## Testing

Details of any evidence based testing of the system design should be requested, for example, results of UL 9540A testing.

## Design

Design features should be made clear. These may include:

- Rack layout and setup
- Thermal barriers and insulation
- Container layout and access arrangements

## Detection and monitoring

An effective and appropriate method of early detection of a fault within the batteries should be in place, with immediate disconnection of the affected battery/batteries. This may be achieved automatically through the provision of an effective Battery Management System (BMS) and/or a specific electrolyte vapour detection system.



Should thermal runaway conditions be detected then there should be the facility in place for the early alerting of emergency services.

Detection systems should also be in place for alerting to other fires that do not involve thermal runaway (for example, fires involving electrical wiring).

Continuous combustible gas monitoring within units should be provided. Gas detectors should alarm at the presence of flammable gas (yes/no), shut down the ESS, and cause the switchover to full exhaust of the ventilation system<sup>3</sup>. Sensor location should be appropriate for the type of gas detected e.g. hydrogen, carbon monoxide, volatile organic compounds.

External audible and visual warning devices (such as cabinet level strobing lights), as well as addressable identification at control and indicating equipment, should be linked to:

1. Battery Management System (when a thermal runaway event is identified)
2. Detection and suppression system activation

This will enable first responders to understand what the warning is in relation to. This will aid in their decision-making.

## Suppression systems

Suitable fixed suppression systems should be installed in units in order to help prevent or limit propagation between modules.

Where it is suggested that suppression systems are not required in the design, this choice should be supported by an evidence based justification and Emergency Response Plan that is designed with this approach in mind (for example, risk assessed controlled burn strategies, and external sprinkler systems).

Whilst gaseous suppression systems have been proposed previously, current research indicates the installation of water based suppression systems for fires involving cell modules is more effective.

The installation of gaseous suppression systems for electrical fires that do not involve cell modules may be appropriate but should be built into a wider suppression strategy.

FM Global cite the following reasons for not recommending gaseous protection systems<sup>4</sup>:

1. **Efficacy relative to the hazard.** As of 2019, there is no evidence that gaseous protection is effective in extinguishing or controlling a fire involving energy storage systems. Gaseous protection systems may inert or interrupt the chemical reaction of the fire, but only for the duration of the hold time. The hold time is generally ten minutes, not long enough to fully extinguish an ESS fire or to prevent thermal runaway from propagating to adjacent modules or racks.

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<sup>3</sup> FM Global (2017) *Property Loss Prevention Data Sheets: Electrical Energy Storage Systems*, para. 2.5.5.2

<sup>4</sup> FM Global (2017) *Property Loss Prevention Data Sheets: Electrical Energy Storage Systems*, para. 3.3

2. **Cooling.** FM Global research has shown that cooling the surroundings is a critical factor to protecting the structure or surrounding occupancy because there is currently no way to extinguish an ESS fire with sprinklers. Gaseous protection systems do not provide cooling of the ESS or the surrounding occupancy.
3. **Limited Discharge.** FM Global research has shown that ESS fires can reignite hours after the initial event is believed to be extinguished. As gaseous protection systems can only be discharged once, the subsequent reignition would occur in an unprotected occupancy

The choice of a suppression system should be informed by liaison with a competent system designer who can relate the system choice to the risk identified and the duration of its required activation. Such a choice must be evidence based.<sup>5</sup>

Any calculations for sufficient water supply for an appropriate suppression system will need to be completed by a competent person considering the appropriate risk and duration of any fire.

Water run-off and potential impact on the environment, along with mitigation measures, should be considered and detailed in the Emergency Response Plan.

Lack of sufficient water supplies at a particular site location should not be considered as the basis for a suppression system choice. Such an approach could result in potentially ineffective and/or dangerous system designs.

## Deflagration Prevention and Venting

BESS containers should be fitted with deflagration venting and explosion protection appropriate to the hazard. Designs should be developed by competent persons, with design suitability able to be evidenced.<sup>6</sup> Exhaust systems designed to prevent deflagration should keep the environment below 25% of Lower Explosive Limit (LEL).

Flames and materials discharged as a result of any venting should be directed outside to a safe location and should not contribute to any further fire propagation beyond the unit involved or present further risk to persons. The likely path of any vented gasses or materials should be identified in Emergency Response Plans to reduce risk to responders.

Explosion/deflagration strategies should be built into the emergency plan such that responders are aware of their presence and the impact of their actions on these strategies.<sup>7</sup>

Where emergency ventilation is used to mitigate an explosion hazard, the disconnect for the ventilation system should be clearly marked to notify personnel or first responders to not disconnect the power supply to the ventilation system during an evolving incident.<sup>8</sup>

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<sup>5</sup> NFPA (2023) *Standard for the Installation of Stationary Energy Storage Systems*, para C.3

<sup>6</sup> BS EN 16009:2011 *Flameless Explosion Venting Devices*; BS EN 14373:2021 *Explosion Suppression Systems*; BS EN 14797:2007 *Explosion Venting Devices*.

<sup>7</sup> UL FRSI (2020) *Four Firefighters Injured in Lithium-ion Battery Energy Storage System Explosion – Arizona*, pp. 47-49

<sup>8</sup> NFPA (2023) *Standard for the Installation of Stationary Energy Storage Systems*, para G.1.4.3.3

## Access

### Site access

Suitable facilities for safely accessing and egressing the site should be provided. Designs should be developed in close liaison with the local FRS as specific requirements may apply due to variations in vehicles and equipment.

This should include:

- At least 2 separate access points to the site to account for opposite wind conditions/direction.
- Roads/hard standing capable of accommodating fire service vehicles in all weather conditions. As such there should be no extremes of grade.
- A perimeter road or roads with passing places suitable for fire service vehicles.
- Road networks on sites must enable unobstructed access to all areas of the facility.
- Turning circles, passing places etc size to be advised by FRS depending on fleet.

### Access between BESS units and unit spacing

In the event of a fire involving a BESS unit, one of the primary tactics employed will be to prevent further unit to unit fire spread. Suitable access for firefighters to operate unimpeded between units will therefore be required. This should allow for the laying and movement of hose lines and, as such, access should be free of restrictions and obstacles. The presence of High Voltage DC Electrical Systems is a risk and their location should be identified. Exclusion zones should be identified.

A standard minimum spacing between units of 6 metres is suggested<sup>9</sup> unless suitable design features can be introduced to reduce that spacing. If reducing distances a clear, evidence based, case for the reduction should be shown.

Any reduction in this separation distance should be design based by a competent fire engineer. There should be consideration for the fire separation internally and the total realistic load of fire. Proposed distances should be based on radiant heat flux (output) as an ignition source.

The NFCC does not support the stacking of containers/units on top of one another on the basis of the level of risk in relation to fire loading, potential fire spread, and restrictions on access.

### Distance from BESS units to occupied buildings & site boundaries

Individual site designs will mean that distances between BESS units and occupied buildings/site boundaries will vary. Proposed distances should take into account risk and mitigation factors. However, an initial minimum distance of 25 metres is proposed prior to any mitigation such as blast walls. Reduction of distances may be possible in areas of lower risk (e.g. rural settings). Where possible buildings should be located upwind.

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<sup>9</sup> FM Global (2017) *Property Loss Prevention Data Sheets: Electrical Energy Storage Systems*, para. 2.3.2.2

## Site Conditions

Sites should be maintained in order that, in the event of fire, the risk of propagation between units is reduced. This will include ensuring that combustibles are not stored adjacent to units and access is clear and maintained. Areas within 10 metres of BESS units should be cleared of combustible vegetation and any other vegetation on site should be kept in a condition such that they do not increase the risk of fire on site. Areas with wildfire risk or vegetation that would result in significant size fires should be factored into this assessment and additional cleared distances maintained as required.

## Water Supplies

Water supplies will depend on the size of the installation. In the majority of cases, initial firefighting intervention will focus on defensive firefighting measures to prevent fire spread to adjacent containers. As a result, proposals for water supplies on site should be developed following liaison with the local fire and rescue service taking into account the likely flow rates required to achieve tactical priorities. This should also take account of the ability of/anticipated time for the fire and rescue service to bring larger volumes of water to site (for example through the provision of High Volume Pumps).

IP ratings of units should be known so that risks associated with boundary cooling can be understood.

As a minimum, it is recommended that hydrant supplies for boundary cooling purposes should be located close to BESS containers (but considering safe access in the event of a fire) and should be capable of delivering no less than 1,900 litres per minute for at least 2 hours. Fire and rescue services may wish to increase this requirement dependant on location and their ability to bring supplementary supplies to site in a timely fashion.

Water supply for any automatic suppression system will be covered by the relevant standard/design depending on which system chosen as appropriate for the risk. For manual water, amounts should come from performance based requirement rather than a reference to a code, unless it can be proven that the code specifically covers BESS. Regarding water storage tanks, volumes will again need to be informed on a performance-based need. Isolation points should be identified.

Any static water storage tanks designed to be used for firefighting must be located at least 10 metres away from any BESS container/cabinet. They must be clearly marked with appropriate signage. They must be easily accessible to FRS vehicles and their siting should be considered as part of a risk assessed approach that considers potential fire development/impacts. Outlets and connections should be agreed with the local FRS. Any outlets and hard suction points should be protected from mechanical damage (e.g. through use of bollards).

Consideration should be given, within the site design, to the management of water run-off (e.g. drainage systems, interceptors, bunded lagoons etc).

## Signage

Signage should be installed in a suitable and visible location on the outside of BESS units identifying the presence of a BESS system. Signage should also include details of:

- Relevant hazards posed
- The type of technology associated with the BESS
- Any suppression system fitted
- 24/7 Emergency Contact Information

Signs on the exterior of a building or enclosure should be sized such that at least one sign is legible at night at a distance of 30 metres or from the site boundary, whichever is closer<sup>10</sup>.

Adherence to the Dangerous Substances (Notification and Marking of Sites) Regulations 1990 (NAMOS) should be considered where the total quantity of dangerous substances exceeded 25 tonnes.

## Emergency Plans

Site operators should develop emergency plans and share these with the Fire and Rescue Service. These include:

**A Risk Management Plan** should be developed by the operator, which provides advice in relation to potential emergency response implications including:

- The hazards and risks at and to the facility and their proposed management.
- Any safety issues for firefighters responding to emergencies at the facility.
- Safe access to and within the facility for emergency vehicles and responders, including to key site infrastructure and fire protection systems.
- The adequacy of proposed fire detection and suppression systems (eg., water supply) on-site.
- Natural and built infrastructure and on-site processes that may impact or delay effective emergency response.

**An Emergency Response Plan** should be developed to facilitate effective and safe emergency response and should include:

- How the fire service will be alerted
- A facility description, including infrastructure details, operations, number of personnel, and operating hours.
- A site plan depicting key infrastructure: site access points and internal roads; firefighting facilities (water tanks, pumps, booster systems, fire hydrants, fire hose reels etc); drainage; and neighbouring properties.

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<sup>10</sup> NFPA (2023) *Standard for the Installation of Stationary Energy Storage Systems*, para G.1.4.2.1.1

- Details of emergency resources, including fire detection and suppression systems and equipment; gas detection; emergency eye-wash and shower facilities; spill containment systems and equipment; emergency warning systems; communication systems; personal protective equipment; first aid.
- Up-to-date contact details for facility personnel, and any relevant off-site personnel that could provide technical support during an emergency.
- A list of dangerous goods stored on site.
- Site evacuation procedures.
- Emergency procedures for all credible hazards and risks, including building, infrastructure and vehicle fire, grassfire and bushfire

## Environmental impacts

Suitable environmental protection measures should be provided. This should include systems for containing and managing water runoff. System capability/capacity should be based on anticipated water application rates, including the impact of water based fixed suppression systems.

Sites located in flood zones should have details of flood protection or mitigation measures.

## Recovery

The operator should develop a post-incident recovery plan that addresses the potential for reignition of ESS and de-energizing the system, as well as removal and disposal of damaged equipment.<sup>11</sup>

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<sup>11</sup> FM Global (2017) *Property Loss Prevention Data Sheets: Electrical Energy Storage Systems*, para. 2.8.2.3

## SCHEDULE OF COMMITTEE UPDATES

**232807 - PROPOSED ERECTION OF 20 DWELLINGS, WITH ASSOCIATED NEW ACCESS (VIA TUMP LANE), CAR PARKING ARRANGEMENTS, COMMUNAL HOUSE, NEW POS (EXTENSION OF EXISTING PLAY AREA) AND NEW STRETCHES OF FOOTPATH WITH PASSING PLACES (NORTH AND WEST BOUND ALONG TUMP LANE) AT FIELD ADJACENT TO TUMP LANE, TUMP LANE, HEREFORD, HR2 8HW**

**For: Ms Shaw per Mr John Renshaw, 90a Constitution Street, Edinburgh, EH6 6RP**

**Update:**

One additional representation has been received (refer to Appendix 1), but it raises no new material considerations beyond those already addressed in the report; therefore, there is no change to the recommendation.

**NO CHANGE TO RECOMMENDATION**







TUMP LANE, MUCH BIRCH, MONDAY 2nd DECEMBER 2013 APPROX 3.20pm  
 WITH NO CONTINUOUS FOOTPATH UP TUMP LANE AND NO SAFE ROUTE  
 TO SCHOOL, MOTHERS AND YOUNG CHILDREN ARE DANGEROUSLY EXPOSED  
 TO TRAFFIC. CARS COMING UP TUMP LANE (SUCH AS CAR MADE "A")  
 HAVE NO WARNING OF PEDESTRIANS AROUND THE SLIGHT BEND.

**ASH FARM, TUMP LANE IS NO LONGER SINGLE USER.**

FROM REPURPOSED FARM BUILDINGS PLANNING  
 PERMISSION WAS GRANTED FOR INDUSTRIAL SCALE  
 AGRICULTURAL SALES, HIRE AND SERVICING  
 INCLUDING 7 TON TRACTORS



## **SCHEDULE OF COMMITTEE UPDATES**

**242804 - PROPOSED TWO STOREY EXTENSION AT HILLSIDE,  
ST WEONARDS, HEREFORD, HR2 8NX**

**For: Mr R Thomas, Sheepcote, St Owens Cross, Hereford,  
Herefordshire HR2 8JU**

### **ADDITIONAL REPRESENTATIONS**

St Weonards Parish Council: Supports this application

### **NO CHANGE TO RECOMMENDATION**



<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>9 APRIL 2025</b>
<b>TITLE OF REPORT:</b>	<b>243018 – OUTLINE APPLICATION WITH ALL MATTERS RESERVED FOR THE PROPOSED ERECTION OF TWO SELF-BUILD DWELLINGS AT LAND AT HELENSWOOD FARM, KINGSTHORNE, HEREFORDSHIRE, HR2 8AL</b>  <b>For: Ms M Jones &amp; Mr R Boney 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=243018">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=243018</a>
<b>Reason Application submitted to Committee – Redirection</b>	

**Date Received: 25 November 2024      Ward: Wormside      Grid Ref: 349769,232028**  
**Expiry Date: 20 January 2025**

Local Members: Cllr Richard Thomas (Wormside Ward)  
Cllr Toni Fagan (Birch Ward – Ward adjoining)

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

- 1.1 The application site comprises a largely rectangular parcel of improved grassland with a simple sheet metal and block walled barn located at Helenswood Farm, Kingsthorne (also known as King's Thorn). It lies approximately 5.5 miles south of Hereford City Centre. Whilst much of Kingsthorne is within the parish of Much Birch, it is acknowledged that part of the C1263 and land to the west of it, including the application site, falls within the parish of Much Dewchurch.
- 1.2 In terms of site characteristics, there are hedgerow boundaries to the east and south and partly to the north. Topography falls away from east to west across the application site. Whilst there are no heritage or landscape designations, there is woodland ('Helen's Wood' – identified as Ancient Woodland and a Local Wildlife Site (LWS)) to the west. To the north, across a private track, is a dwelling known as Helenswood (in applicants' ownership). To the north-east and east are dwellinghouses and associated curtilages which address the C1263. The application site is accessed off a private track directly off the C1263 which is located between the curtilages of Ivy Cottage and Croftbank. The track is used locally for recreational access to Helenswood and beyond.
- 1.3 This application seeks outline planning permission, with all matters reserved, for the erection of 2 no. self-build dwellinghouses and associated infrastructure. The existing barn on site would be demolished as part of the proposals.
- 1.4 To clarify, outline planning permission largely only considers whether a development is acceptable in principle. Should outline planning permission be granted, an applicant would be required to apply to the Local Planning Authority for further details known as 'Approval of Reserved Matters' before any works commence on site. Reserved matters are those aspects of a proposed development which an applicant can choose not to submit details of with an outline

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



planning application, (i.e. they can be 'reserved' for later determination). These are defined in article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (<https://www.legislation.gov.uk/uksi/2015/595/article/2/made>) as follows:

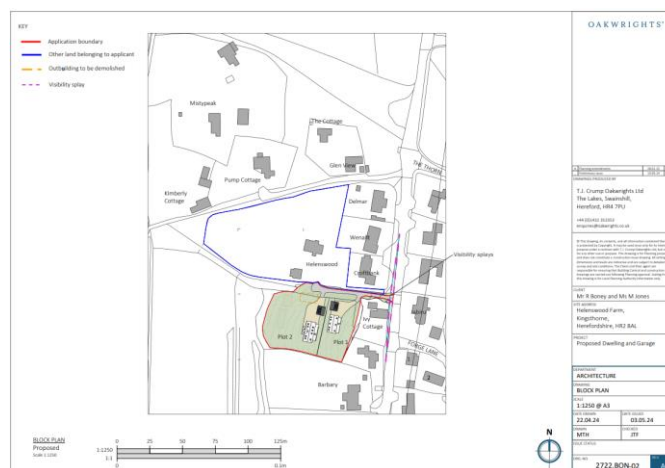
- 'Access' – the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network.
- 'Appearance' – the aspects of a building or place within the development which determine the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture.
- 'Landscaping' – the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes: (a) screening by fences, walls or other means; (b) the planting of trees, hedges, shrubs or grass; (c) the formation of banks, terraces or other earthworks; (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and (e) the provision of other amenity features;
- 'Layout' – the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development.
- 'Scale' – the height, width and length of each building proposed within the development in relation to its surroundings.

1.5 Reserved Matters can be withheld in their entirety, as is proposed in this particular case; or on an individual basis.

1.6 This application is submitted with the following plans/supporting documents:

- Application Form, including completion of Certificate D;
- Location Plan;
- Illustrative Site Plan (shown indicatively);
- Plot Passport Document (shown indicatively);
- Phase One Ecological Survey; and
- Drainage Strategy/Plan

1.7 The location plan also includes the private access road off the C1263 by which the site is currently accessed. It is understood that there is no title for this access road and accordingly Certificate D has been completed and the requisite notice placed in the local press by the applicant. The location plan has however been amended since validation to omit land which falls under the ownership of Ivy Cottage which has come to light since validation of this application. The revised location plan is provided below for completeness. It is advised that the position of the dwellinghouses, including their scale, layout, appearance, landscaping and point of access is shown indicatively at this time and is not a consideration at this time.



### Location Plan

- 1.8 Please note that the consultation period in relation to the amended location plan expires on 2<sup>nd</sup> April 2025. Any additional representations received following the publication of the officer report will be provided to the committee in the publicised Schedule of Updates along with any changes to the recommendation that may result from representations received.

## 2. Policies

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

- SS1 – Presumption in favour of sustainable development
- SS2 – Delivering new homes
- SS3 – Releasing land for residential development
- SS4 – Movement and transportation
- SS6 – Environmental quality and local distinctiveness
- SS7 – Addressing climate change
- RA1 – Rural housing distribution
- RA2 – Housing in settlements outside Hereford and the market towns
- H3 – Ensuring an appropriate range and mix of housing
- MT1 – Traffic management, highway safety and promoting active travel
- LD1 – Landscape and townscape
- LD2 – Biodiversity and geodiversity
- SD1 – Sustainable design and energy efficiency
- SD3 – Sustainable water management and water resources
- SD4 – Waste water treatment and river water quality

The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) and paragraph 34 of the revised National Planning Policy Framework (NPPF) require a review of local plans be undertaken at least every five years. In order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan - Core Strategy was adopted on 15th October 2015 and a review was required to be completed before 15th October 2020. The decision to review the Core Strategy was made on 9th November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application. In this case, the relevant policies have been reviewed, are considered consistent with the NPPF and therefore attributed significant weight. The Herefordshire Local Plan – Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

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

## 2.2 Much Dewchurch Neighbourhood Plan

A Neighbourhood Plan is not currently being prepared for the Neighbourhood Area

## 2.3 National Planning Policy Framework (NPPF)

Revised on 12 December 2024 (please note that the National Planning Policy Framework was amended on 7 February 2025 to correct cross-references from footnotes 7 and 8, and amend the end of the first sentence of paragraph 155 to make its intent clear. For the avoidance of doubt the amendment to paragraph 155 is not intended to constitute a change to the policy set out in the Framework as published on 12 December 2024):

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

The NPPF sets out the government's planning policies for England and how these are expected to be applied in both plan-making and decision-making. This supersedes the most recently revised version published on 20 December 2023. The revised NPPF can be viewed using the following link:- <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

## 2.4 National Planning Practice Guidance (NPPG)

The associated Planning Practice Guidance (NPPG) adds further context to the NPPF and it is intended that the two documents should be read together. The PPG can be accessed through the following link: <https://www.gov.uk/government/collections/planning-practice-guidance>

## 3. Planning History – None

## 4. Consultation Summary

*Statutory Consultations*

### 4.1 Forestry Commission – No objections; standard advice issued

*"Planning Application for Land at Helenswood Farm, Kingsthorpe, Herefordshire, HR2 8AL*

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

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

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

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



*and a suitable compensation strategy exists" (National Planning Policy Framework paragraph 186).*

*We also particularly refer you to further technical information set out in Natural England and Forestry Commission's Standing Advice on Ancient Woodland - plus supporting Assessment Guide and Case Decisions.*

*As a Non Ministerial Government Department, we provide no opinion supporting or objecting to an application. Rather we are including information on the potential impact that the proposed development would have on the ancient woodland.*

*Subsequent Enforcement Notices, may be materially relevant to planning applications in situations where the site looks to have been cleared prior to a planning application having been submitted or approved.*

*If the planning authority takes the decision to approve this application, we may be able to give further support in developing appropriate conditions in relation to woodland management mitigation or compensation measures. Please note however that the Standing Advice states that "Ancient woodland, ancient trees and veteran trees are irreplaceable. Consequently you should not consider proposed compensation measures as part of your assessment of the merits of the development proposal."*

*We suggest that you take regard of any points provided by Natural England about the biodiversity of the woodland.*

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

Case Officer Note: The summary of UK Government policy on ancient woodland can be found within the full representation made by the Forestry Commission, which is available on the application webpage.

Please note that the NPPF has subsequently been updated in terms of paragraph numbers since this representation was received. In having regard to Schedule 1 and 2 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (<https://www.legislation.gov.uk/ukxi/2017/571/schedule/2/made>), the proposal is not EIA Development and does not require an Environmental Statement. The Council has nevertheless undertaken a screening opinion for avoidance of doubt, and a separate Habitats Regulation Assessment has been undertaken in relation to the effects upon the River Wye Special Area of Conservation (SAC).

#### **4.2 Dwr Cymru Welsh Water – No objections**

*"We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development. This application is located in an unsewered area and since the proposal intends on utilising an alternative to mains drainage, we would advise that the applicant seek advice from the Environment Agency and the Building Regulations Authority as both are responsible to regulate alternative methods of drainage. Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to*

*make new representation. If you have any queries please contact the undersigned on 0800 917 2652 or via email at [developer.services@dwrwymru.com](mailto:developer.services@dwrwymru.com)*

#### 4.3 **Natural England – No response received (please refer to the comments of the Council's Natural Environment Officer (Ecology))**

*Internal Council Consultations*

#### 4.4 **Natural Environment Officer (Ecology) – No objections; conditions recommended**

*“Habitat Regulations Assessment – River Wye SAC*

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

*This HRA process needs to be completed based on all current requirements and considerations and on information supplied in support of this specific application and that is sufficiently detailed to allow any relevant conditions to be secured. The HRA process must be completed with legal and scientific certainty and using a precautionary approach.*

*From the start of August 2023, there have been changes in the conservation status of the River Wye SSSI - downgraded to “unfavourable declining” by Natural England; and these comments have been completed based on this recent change and updated SSSI Impact Risk Zone information available from Natural England (River Wye SAC – bespoke buffer – Any discharge of water or liquid waste including to mains sewer). The applicant must demonstrate with scientific and legal certainty that the proposed development will create no significant nutrient pathways into the River Wye that may make the current situation worse or hinder any recovery.*

*The demonstration of the use all best available ‘natural’ technology to minimise the discharge of phosphates in to the River Wye SAC catchment must be demonstrated.*

*Notes in respect of HRA*

- *The proposal is for TWO new self-contained residential dwellings with associated new foul water and surface water flows (nutrient pathways) created.*
- *The supplied Surface and Foul Water Drainage Strategy with supporting BS 6297 testing is noted.*
- *No mains sewer connection is available at this location.*
- *The proposal is to utilise a shared private foul water system serving the proposed dwellings comprising of a PTP discharging to a drainage field on land under the applicant's control.*
- *The supplied BS 6297 testing confirms that a drainage field can be achieved at this location.*
- *A ‘Bio Easy Flow 10’ PTP with a certified phosphate standard of 0.8mg/l discharging to drainage field on the applicants land has been proposed - this is considered as providing current Best Available Technology for this type of small residential development within the HRA process.*
- *The agreed shared private foul water system and its future management and maintenance can be secured by condition on any planning permission granted.*
- *It is noted that infiltration testing demonstrates that all additional surface water can be managed through appropriately sized on-site SuDS-infiltration systems.*

*With the foul water management system secured as an embedded part of the proposed development (project) it is considered that as there are no remaining adverse effects on the integrity of the River Wye SAC that the HRA appropriate assessment can be considered as being*

'screened out' at stage 1 of the process and no formal consultation with Natural England is triggered.

#### *Suggested conditions*

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

*Unless otherwise agreed in writing by the Local Planning Authority as detailed in the supplied plans and application form, all foul water flows created by the approved development shall be managed through a shared Haba Bio Easy Flow package treatment plant discharging to a drainage field; and all surface water managed through a Sustainable Drainage System. The approved foul and surface water scheme shall be managed and maintained as approved for the lifetime of the development it supports.*

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

#### *Ecology*

##### *Helens Wood SWS*

*The ecological report by HEC (2024) that was submitted is relevant and appropriate. Helens Wood (SWS) east of the proposed site is a sensitive habitat and is to be protected by the initiation of an ecological buffer zone, enhanced with additional habitats and protected from light spill. A comprehensive Construction Environmental Management to cover all potential ecological and wider environmental effects from the proposed construction of is recommended and this should be secured by a condition on any planning permission finally granted.*

##### *Ecological Protection and Construction Environmental Management Plan*

*No demolition or construction shall commence on site until a detailed Construction Environmental Management Plan including details of the person responsible for the implementation of the CEMP – has been supplied to the LPA for written approval. The measures of the approved CEMP shall be implemented prior to any development commencing on site and all construction works shall thereafter be carried out in accordance with the approved details.*

*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.*

*Informative: A helpful guide to all considerations within a CEMP can be found at [https://www.designingbuildings.co.uk/wiki/Construction\\_environmental\\_management\\_plan](https://www.designingbuildings.co.uk/wiki/Construction_environmental_management_plan)*

#### *Biodiversity Net Gain*

*The applicant has confirmed that the proposed plots within the outline planning proposal are for onward sale to self-builders who will each confirm their eligibility when making a RM submission. As a self-build dwelling this specific application is exempt from statutory Biodiversity Net Gain. The self-build exemption must be secured within any future RM submissions - should the dwelling become a commercial build then the statutory BNG requirement will become applicable and appropriate 'discharge' information must be submitted.*

*As identified in the NPPF, NERC Act, Core Strategy LD2 and action within the council's declared Climate Change & Ecological Emergency all developments should demonstrate how they are*

going to practically enhance (“Net Gain”) the Species (Biodiversity) potential of the area. These are in addition to any mitigation secured in respect of bats or required as part of any species licence issued by Natural England. To secure these enhancements a relevant Condition is suggested:

To obtain Species (Biodiversity) Net Gain

Prior to first occupation of the dwellings approved under planning permission, evidence of the suitably placed installation on the approved buildings, or on other land under the applicant’s control, of a minimum total of FOUR bird nesting boxes, TWO bat roosting boxes, ONE insect box, ONE hedgehog home and ONE hibernacula (or similar features), as recommended within the ecological report by HEC (2024), 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. No habitat boxes should be located in Ash trees due to future effects of Ash Dieback Disease and likely loss of these trees.

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.

The site is in an area with an intrinsically dark landscape that benefits local amenity and nature conservation interests, including nocturnal protected species (Bats) commuting/foraging in wider locality and adjacent habitats. A condition to ensure all local nature conservation interests are not impacted and external lighting is requested:

Protected Species and Dark Skies (external illumination)

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”.

Case Officer Note: The completed Habitat Regulations Assessment can be found through the application webpage: [https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=243018](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=243018) Please also note that Helen’s Wood is a Local Wildlife Site (LWS). For confirmation, please see the following link: <https://www.herefordshire.gov.uk/downloads/file/1797/appendix-8-sites-with-environmental-designations> (refer to Appendix 8i – Local Wildlife Sites (LWS))

#### 4.5 Transportation Area Engineer – No objection:

“The Local highways authority has considered the application for Outline planning permission with all matters reserved for the proposed erection of two self-build dwellings and makes the following comments. It is noted that the application is for all matters reserved including access, and as such this will be considered when a reserved matters application is submitted.

The proposed access to the site exits onto the C1263 with visibility splays shown on drawing DRG 2722.BON-03 of 2.4m by 49 m in both directions, these would be acceptable to the LHA.



All other highways details, access construction, parking and turning areas etc will be dealt with at the reserved matters application. All applicants are reminded that attaining planning consent does not constitute permission to work in the highway. Any applicant wishing to carry out works in the highway should see the various guidance on Herefordshire Council's website:

[www.herefordshire.gov.uk/directory\\_record/1992/street\\_works\\_licence](http://www.herefordshire.gov.uk/directory_record/1992/street_works_licence)

<https://www.herefordshire.gov.uk/info/200196/roads/707/highways>

#### 4.6 Land Drainage Engineer – Qualified comment:

*"Please find attached the drainage consultation response for the above site. We are happy for the additional details to be addressed at Approval of Reserved Matters stage. If you have any queries, please let me know.*

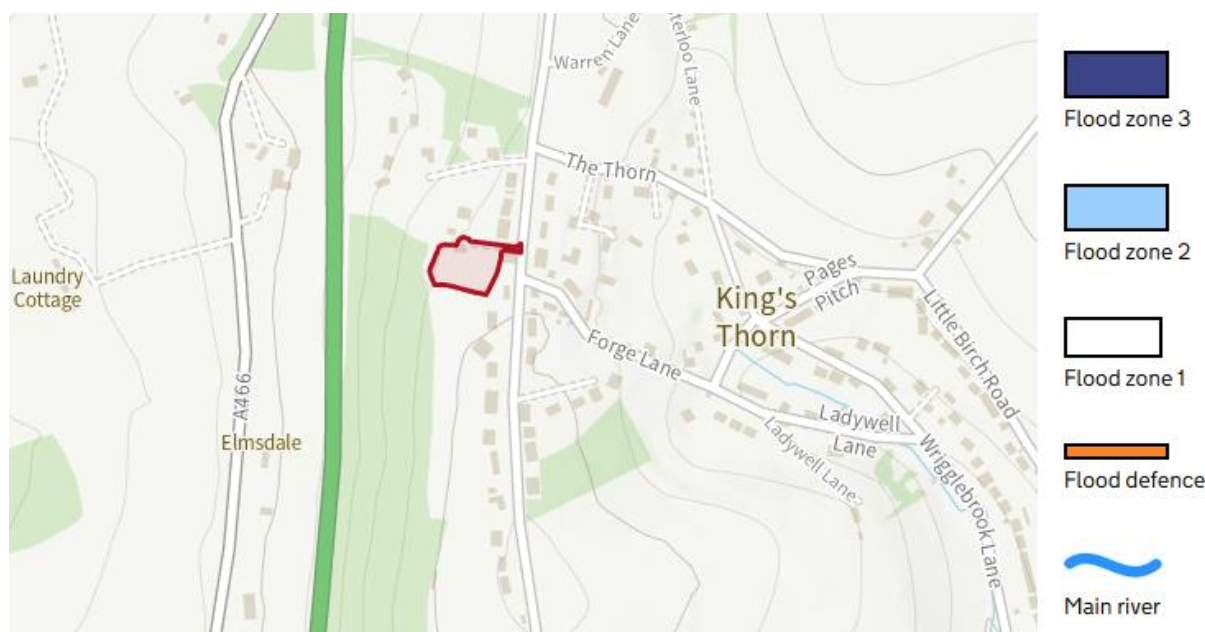
<b>SITE:</b>	Land at Helenswood Farm, Kingsthorpe, Herefordshire HR2 8AL
<b>TYPE:</b>	Outline
<b>DESCRIPTION:</b>	Outline application with all matters reserved for the proposed erection of two self-build dwellings
<b>APPLICATION NO:</b>	243018
<b>GRID REFERENCE:</b>	OS 349769 - 232028
<b>APPLICANT:</b>	Ms M Jones & Mr R Boney
<b>AGENT:</b>	Mr Matt Tompkins

Our knowledge of the development proposals has been obtained from the following sources:

- Application for Outline;
- AMENDED Proposed Illustrative Block and Site Plan 31.1.25 (Ref: 2722.BON-03 Rev A);
- Proposed Illustrative Site Plan with outline of previous building locations 31.1.25 (Ref: 2722.BON-03 Rev A);
- Planning Statement (Ref: JB 24029);
- Drainage Plan (Ref: Rev A).

#### Site Location

Figure 1: Environment Agency Flood Map for Planning (Rivers and Sea), February 2025.



#### Overview of the Proposal

The Applicant proposes the construction of two dwellings. The site covers an area of approx. 0.34ha and is currently greenfield. An ordinary watercourse flows near to the east of the site. The topography of the site slopes down from the southeast to the northwest by approx. 8m.

## Flood Risk

### Fluvial Flood Risk

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

As the proposed development is located within Flood Zone 1 and is less than 1ha, in accordance with Environment Agency standing advice, the planning application does not need to be supported by a Flood Risk Assessment (FRA). This is summarised in Table 1:

Table 1: Scenarios requiring a FRA

	Within Flood Zone 3	Within Flood Zone 2	Within Flood Zone 1
Site area less than 1ha	FRA required	FRA required	FRA not required*
Site area greater than 1ha	FRA required	FRA required	FRA required

\*except for changes of use to a more vulnerable class, or where they could be affected by other sources of flooding

### Surface Water Flood Risk

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

Figure 2: EA Surface Water Flood Risk Mapping.



### Other Considerations and Sources of Flood Risk

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

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

### Surface Water Drainage

Infiltration testing has been undertaken at the site whereby two trial holes were initially excavated to 1.2mBGL (IFT1) and 0.8mBGL (IFT2). We understand that these holes failed to drain sufficiently within 24 hours to produce an acceptable infiltration rate; this demonstrates poor soakage below 0.8mBGL. Subsequently, a third trial hole (IFT3) was excavated to 0.4mBGL; an acceptable infiltration rate of  $7.74 \times 10^{-6} \text{m/s}$  was established. Groundwater was encountered at 2.3mBGL.

We note proposals for a shared shallow infiltration basin located within the private curtilage of Plot 2. All shared drainage infrastructure should be located within shared open space to ensure future access for maintenance purposes. At Approval of Reserved Matters stage, the site layout should be reconsidered to accommodate individual drainage infrastructure in the first instance, or at a minimum, shared infrastructure sited within shared open space.

The proposed infiltration basin location does not correlate with the infiltration trial hole locations; the basin appears to be sited along the western site boundary whereas IFT1, 2 and 3 were excavated in the central site area. The infiltration and percolation test results provided demonstrate that the soakage potential onsite is varied and limited to shallower depths, except from in the north-western site corner (P5 and P6) for reasons detailed below. P1, P2, P3 and P4 appear to be in the approximate location of the proposed infiltration basin; as below, good soakage was observed at 0.6mBGL but tests failed at 0.8mBGL.

At present, the infiltration basin has been sized using the infiltration rate obtained in IFT3 despite this hole not being dug in the proposed basin location. IFT3 was also only 0.4m deep whereas the proposed infiltration basin depth is 0.5m deep. As such, at ARM stage, an additional infiltration test should be completed (in accordance with BRE 365) at a depth between 0.5m-0.7mBGL in the confirmed infiltration basin location to prove viable soakage, and to inform the sizing calculations with a more representative rate.

Furthermore, given that tests within the proposed basin location failed at 0.8mBGL, this feature should be oversized to minimise the risk of exceedance flows. We note that no third parties would likely be affected should any overland flows occur given the presence of a densely vegetated area immediately downgradient of the basin (to the west); this would likely intercept runoff before reaching the A49 given the small development size. However, the Applicant is responsible to ensure no runoff occurs from the site; as such, the advice regarding oversizing the basin should be considered. We await further details at ARM stage.

Should the proposed infiltration basin location change at ARM stage, additional infiltration tests undertaken in accordance with BRE 365 will be required to demonstrate adequate soakage at an appropriate depth to support the feature.

It is stated that a management company will be appointed to manage all shared drainage features.

#### *Foul Water Drainage*

Percolation testing has been undertaken at the site whereby six trial pits were excavated to depths of 0.6mBGL (P1 and P2) and 0.8mBGL (P3, P4, P5 and P6). The shallower pits (P1 and P2) found slow but marginally acceptable Vp rates of 84.67s/mm and 101.34s/mm, respectively, nearby to the central area of the western site boundary. The deeper pits (P3 and P4) failed to drain along the central area of the western site boundary; it suggests that there is an impermeable layer of ground at approx. 0.8mBGL.

P5 and P6 were excavated in the northwestern site corner and established much faster acceptable Vp rates of 22s/mm and 29.34s/mm, respectively. It is stated within the report that this is likely due to the presence of imported soils within the location of P5 and P6; this is a levelled area currently used for parking, believed to have been previously infilled (historic) to a depth of 3.1m.

Accordingly, we note proposals for individual package treatment plants located within the respective private plots, discharging to a shared drainage field sited within Plot 2 in the location of P5 and P6. As above, all shared drainage infrastructure should be sited within shared open space to minimise the likelihood of future access issues for maintenance purposes.

*The required drainage field area has been calculated using an average Vp rate from P5 and P6 (25.67s/mm) to determine an area of 52m<sup>2</sup>. We note that the drainage field location is downgradient of the proposed dwellings in order to achieve a gravity-fed discharge, as required.*

*Should the site layout be altered at ARM stage and result in amendments to the proposed foul water drainage infrastructure location, additional percolation testing undertaken in accordance with BS 6297 will be required to determine the viability of the revised layout given the varying soakage observed across the site.*

*The following must be adhered to for Drainage Fields:*

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

#### **Overall Comment**

*We recommend that all shared drainage infrastructure is sited within shared open space to minimise potential future access issues for maintenance purposes.*

*Should the site layout be revised at RM stage, resulting in changes to the drainage layout, further infiltration and/or percolation testing will be required in accordance with BRE 365 and BS 6297, respectively, to confirm the soakage viability in the revised drainage feature locations given that the current test results demonstrate varying soakage across the site.*

*We await the submission of revised surface water drainage system sizing calculations at RM stage, in line with the above advice. The proposed volumes and dimensions should also be clarified”.*

#### **4.7 Senior Landscape Officer – Qualified comments:**

*“In principle, there is scope for development as per the suggested two dwellings of modest scale and of an appearance that would be in keeping with the Wooded Brownstone Hills Landscape setting and Herefordshire’s rural character, and enhances the landscape, green infrastructure, and biodiversity in accordance with the Core Strategy policies LD1, LD2, LD3, and SS6.*

*The access impacts landscaping onto the main road, and this would need further detail and compensation for loss with respective parties at this intersection.*

*As this is, in principle, further details regarding design and landscaping would be required. The following outlines suggestions:*

*A Landscape Assessment is recommended to demonstrate that a rigorous investigation of the site, context, impacts, and mitigation methods to achieve an optimum design proposal for planning consideration. The assessment should address both effects on the landscape as a resource in its own right and effects on views and visual amenity. Refer to the Guidelines for Landscape and Visual Impact Assessment, 2013, Landscape Institute and Institute Environmental Management and Assessment.*



As part of the assessment it is recommended to look at the landscape character assessment (2023) that can be found on the Herefordshire Council website. This in depth study of the landscape can provide many sources of landscape related features, patterns, interpretations of cultural and time depth factor that can enrich the development.

#### Groundworks

For all sloping sites, a topographical survey should be provided, together with existing and proposed levels. Site sections should demonstrate how new development will work with the existing landscape sensitively so that the terrain can appear natural. Any cut-and-fill earthworks should be marked on the plan. Where possible aim to avoid the use of retaining walls and utilise gentle slopes where vegetation will establish and contribute to green infrastructure (usually 1:3 or more). If retaining walls are used, consider a material that fits with the vernacular of the region and the new development.

#### Tree survey

Provide a topographical survey, arboricultural method statement and relevant documentation as per BS5837:2012 'Trees in relation to design, demolition and construction – recommendations'. This should clearly identify all existing trees and hedges, and then show those that are to be retained and protected and any that are to be removed.

#### Hard landscape

- Provide hard landscape plan (scale 1:200 or equivalent scale to communicate the information clearly), with existing and proposed levels or contours; means of enclosure and retaining structures; boundary treatments; vehicle parking layouts; other vehicle and pedestrian access and circulations areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs etc.); proposed and existing functional services above and below ground (e.g. drainage, power, lighting etc.); and water elements
- Provide a written specification of materials (type, sizes and colours).

#### Soft landscape

- Provide a soft landscape plan (scale 1:200 or equivalent scale to communicate the information clearly), with trees and planting areas set out.
- Provide a written specification setting out species, size, quantity, density and cultivation details.

#### Landscape management

A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted for LPA approval. All landscaping shall be managed in accordance with the approved landscape management plan.

#### Landscape maintenance schedule

A schedule of landscape maintenance for a period shall be submitted for LPA approval. The schedule shall include details of the arrangements for its implementation. All landscaping shall be maintained in accordance with the approved schedule.

#### Drainage and water management

Provide a proposal that integrates water management (refer to Sustainable Drainage Systems (SuDS) Handbook [www.herefordshire.gov.uk](http://www.herefordshire.gov.uk) for guidance). Consideration could be given to water storage and rain gardens to capture roof water and hard surface runoff. Specify porous pavements to reduce road and hard standing storm water runoff if sub surfaces conditions are appropriate.

#### Material and colour design

Provide as part of the design and access statement, the external material and colour selection strategy. Utilise the local reference, Malvern Hills Areas of Outstanding Natural Beauty, Guidance on the Selection and Use of Colour.

Lighting

*Design of external lighting and lighting spill should take account of the relevant dark skies in and around Herefordshire, as well as the visual effect of its settings."*

## 5. Representations

### 5.1 Much Dewchurch Parish Council – Objection

#### 1<sup>st</sup> consultation 10 January 2025

*"Much Dewchurch Parish Council have concerns over this application as follows. The paddock has easement rights for sewage soakaway spreaders across the field from the properties above any development on this site would destroy the sewage systems from these properties. Maintenance of the shared access road has not been clarified".*

#### 2<sup>nd</sup> consultation – No response received

### 5.2 Much Birch Parish Council (adjacent parish) – Objection

#### 1<sup>st</sup> consultation 13 January 2025

*"The Much Birch Parish Council has received information from a local resident, which have identified considerations, and these have been relayed below along with additional concerns from the parish council.*

*1. Easement – Persons resident at the property known as "Blue Haze" paid a previous proprietor of Helenswood Farm, in the Mid 1980's, for the grant of easement over the land at Helenswood. The easement was to facilitate the use of drainage spreaders running through the centre of this land, and this was all documented and fees paid via a firm of solicitors. It is said to be a legally binding document to this day. The resident's representative understands that no permitted structure or encroachments can be permitted within or over any drainage easement. It would be anticipated that due diligence would be carried out, by the current owner, in regard to the easement situation.*

*2. Well being – The proposed properties are felt to be overbearing, and out of scale and height in open countryside. It is believed that they will have a detrimental effect on the well being of the residents in the properties situated on the land above the development, and will impede on the privacy and enjoyment of the homes of the current residents.*

*3. Access – The lane is not believed to be suitable for the additional accesses of the proposed properties nor the volume requirements of construction traffic.*

*4. Ancient Woodland – The parish council would advise that the comments of the Forestry Commission are given due regard and that consideration is given to the status of the ancient woodland adjacent to the site and consequent impact of house building on an ecological habitat. The Parish Council wish to object to the application as being unsuitable for the proposed location".*

#### 2<sup>nd</sup> consultation 7<sup>th</sup> March 2025

*"The Much Birch Parish Council note the amendments made to the original application but wish to reiterate the objection to the proposals and for the reasons previously submitted"*

### 5.3 The remaining 11 letters of representation comprise 8 interested parties from 7 different properties. They raise the following summarised concerns:

- Development of unacceptable scale and height
- Poor design
- Impact on character and appearance of area, including pattern of development
- Unsuitable access for traffic increasing increased vehicular traffic during construction phase.
- Loss of wildlife and plant life.

- Loss of peace and tranquillity
- Light and noise pollution
- Perceived loss of ancient woodland
- Overbearing, loss of privacy and amenity
- Ineffectiveness of any proposed landscaping
- Issues concerning land ownership/incorrect ownership certificate
- Loss of open space/green space and habitats
- Lack of mains sewer
- Loss of Grade 2 agricultural land
- Requirement for Environmental Impact Assessment (EIA)
- Nutrient Vulnerable Zone concerns
- Lack of sustainability credentials
- Lack of publicity
- Lack of affordable housing
- Over-development of village
- Grant of easements including drainage spreaders which prevents permitted structures or encroachments.
- Covenant on the land.
- Speculative future development.

- 5.4 All representations and further details on this application is viewable on the Council's website through the following link:-  
[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=243018](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=243018)

## 6. Officer's Appraisal

### ***Policy context***

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states: *"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*
- 6.2 In this instance, the adopted development plan comprises the Herefordshire Local Plan – Core Strategy (CS). 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 34 of the National Planning Policy Framework also require a review of local plans to be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating. The CS was adopted in October 2015 and a decision to review the CS was taken in November 2020.
- 6.4 In reaching a decision, the level of consistency of policies in the local plan with the NPPF will therefore need be taken into account by the Council. From reviewing those policies within the CS applicable to the determination of this application (see 2.1 of this report), these are consistent with the guidance contained within the NPPF. As such, significant weighting should be afforded to these policies. This position has also been crystalised at the Appeal Court prior to the recent revisions to the NPPF coming into effect following the *Suffolk Coastal DC v Hopkins Homes & SSCLG and Richborough Estates v Cheshire East BC & SSCLG [2016] EWCA Civ 168* were described by the Court thus *"We must emphasize here that the policies of the NPPF do not make "out-of-date" policies for the supply of housing irrelevant in the determination of a planning application or appeal. Weight is, as ever, a matter for the decision maker (as described the speech of Lord Hoffmann in Tesco Stores Ltd. v Secretary of State for the Environment [1995] 1 W.L.R. 759, at p.780F-H)"*.

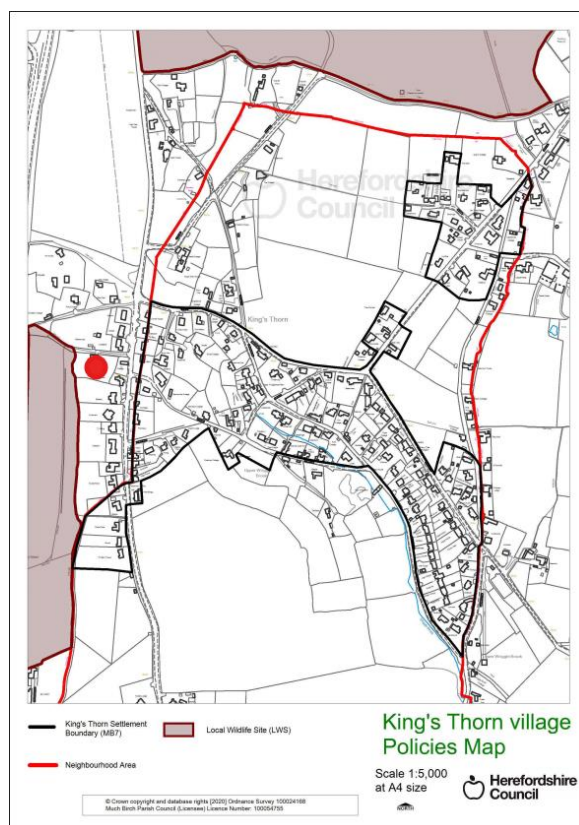
- 6.5 Paragraph 11 of the NPPF sets out a presumption in favour of sustainable development. For decision-taking on planning applications, Paragraph 11d states that where there are no relevant development plan policies, or the policies which are most important for determining the application are 'out-of-date' (namely, in instances where planning applications involve the provision of housing), granting planning permission unless the application of policies of the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (Paragraph 11di); or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination (Paragraph 11dii).
- 6.6 The local authority is currently failing to provide a five-year Housing Land Supply (the most recently published position is 3.06 years as of January 2025). As such, Paragraph 11d is engaged for decision-making purposes.
- 6.7 Paragraph 12 of the NPPF is also relevant, stating that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. The appraisal makes a detailed assessment of the proposal against the policies of the development plan, though the proposal does need to be considered in accordance with Paragraph 11d of the NPPF given the housing land supply position which needs to be balanced against other factors/technical material considerations in the development plan and NPPF. Nevertheless, the development plan does, in some ways, help to identify what is meant by a 'sustainable location', 'well-designed place' and 'making an effective use of land'.

### ***Principle of development***

- 6.8 Policy SS1 of the CS states that applications that accord with the policies in the CS will be approved unless material considerations indicate otherwise. CS Policy SS2 states that Hereford is the main focus for new housing development to support its role as the main centre in the county, then the market towns thereafter. Outside Hereford and the market towns, in the rural areas of Herefordshire, new housing development 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, as per Policies RA1 and RA2. In the wider rural areas, new housing will be carefully controlled reflecting the need to recognise the intrinsic character and beauty of the countryside in accordance with CS Policy RA3. The broad distribution of new dwellings in the county over the current plan period of the CS is expected to deliver approximately 5,300 new dwellings in the rural settlements, although this is not a ceiling.
- 6.9 Policy RA1 explains that the minimum of 5,300 new dwellings will be distributed across seven Housing Market Areas (HMAs) which recognises that different parts of Herefordshire have differing housing needs and requirements. The policy explains that the indicative target is also to be used as a basis for production of NDPs. The growth target figure is set for the HMA as a whole rather than for constituent Neighbourhood Areas, where local evidence and environmental factors will also determine the appropriate scale of development. The CS therefore leaves flexibility for NDPs to identify suitable housing sites through their policies and allocations.
- 6.10 Policy RA2 of the CS 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. This will enable development that has the ability to bolster existing service provision, improve facilities and infrastructure and meet the needs of the communities concerned. Supporting justification to Policy RA2 recognises that NDPs will be the principal mechanism by which new rural housing will be allocated. Where these are absent or not advanced in the process to be afforded weight in the planning balance, the main focus for development will be within or adjacent to the main built up parts of the settlement (see Paragraph 4.8.23 of the CS).



- 6.11 In having regard to the CS, Kingsthorpe is identified as a settlement which will be a main focus for proportionate housing development under Policy RA2 (refer to associated Table 4.14 of the CS under Ross-on-Wye HMA).
- 6.12 As explained in the introduction, the application site is within the parish of Much Dewchurch which does not have a NDP. As there is no NDP, assessing compliance with the spatial policies of the Development Plan in respect of the application site location is determined effectively by assessing the site and its relationship with the main built form of Kingsthorpe. The site is considered to be immediately adjacent to Kingsthorpe being bound by an existing pattern of dwellings to the north-east and east, and by association, their residential gardens. Whilst development along the western side of the C1362 is defined by a more linear pattern of development, in considering the location of the development in the context of CS policies for housing, the site is considered to be immediately adjacent to the main built-form of Kingsthorpe.
- 6.13 It is acknowledged that the majority of the settlement of Kingsthorpe is within the Much Birch Neighbourhood Area, which has a made NDP. The plan below is taken from the Kingsthorpe Village Policies Map within the made Much Birch NDP which demarks the boundary between the two Neighbourhood Areas with a redline (also acting as a parish and ward boundary):



*Kingsthorpe Village Policies Map taken from the Much Birch NDP (for context, the application site is denoted by the red circle, the settlement boundary is the black line with the Much Dewchurch Neighbourhood Area to the west of the red line and Much Birch Neighbourhood Area to the east)*

- 6.14 As can be identified above, the Neighbourhood Area boundary dissects dwellings on the eastern side of the C1362. Policies in the Much Birch NDP may only operate within the Neighbourhood Area for Much Birch and therefore, the settlement boundary for Kingsthorpe, as defined in the Much Birch NDP, was drawn to effectively exclude part of the settlement which falls within the Much Dewchurch Neighbourhood Area.

- 6.15 On that understanding, to suggest that the site is not within the settlement boundary for Kingsthorpe, as defined in the Much Birch NDP is immaterial to the determination of the application. There is no NDP for Much Dewchurch presently and therefore housing policies for the determination of the application are those contained in the CS only, namely Policy RA2.
- 6.16 Turning to the remaining criterion of Policy RA2 of the CS, it as summarised as follows:
- Development should deliver appropriate designs which respects the size, role and function of the settlement it is within;
  - Brownfield land should be utilised where possible;
  - Development should be high-quality design which is appropriate for and positively contributes to its setting; and
  - Housing types and sizes should be those which are needed in the area.
- 6.17 The proposed description of development is for two dwellinghouses. This represents appropriate growth of the settlement of Kingsthorpe, in a manner which would not unduly undermining the character or function of the settlement or lead to cumulative over-development of the settlement, noting that the indicative housing growth targets for settlements and neighbourhood areas are not a ceiling limit.
- 6.18 Whilst Policy RA2 advises the preferential re-use of brownfield land, this is not a requirement nor does it prevent acceptable development of greenfield land. In this particular case, the site is not brownfield land though the site benefits from the existing barn such that its presence is a material consideration when assessing the visual impact of development.
- 6.19 The proposal is made in outline whereby the design and size of the dwellings are not yet known. Indicative Plans and a Plot Passport Document illustrate how the proposal could respond to local character though assessment of scale, appearance and layout would form part of a approval of reserved matters application.
- 6.20 The proposals are also for 2 no. self-build dwellinghouse whereby the needs of the initial occupant would inherently be delivered in terms of layout and design. Housing sizes would therefore be reflective of need, though again the matters of scale, layout and appearance would form part of any future reserved matters application. Nevertheless, it is recognised that the delivery of self-build dwellinghouses provides a type of development for which there is a current shortfall of 33 plots (Herefordshire Council Self and Custom Build Monitoring Report August 2024 - <https://www.herefordshire.gov.uk/downloads/file/25672/amr-2023-section-6-self-and-custom-build-housing-august-2023>).
- 6.21 The scheme complies with Policy RA2 but whilst the principle of development has been considered, it is important to highlight relevant material considerations for completeness.

### ***Accessibility, traffic and highway safety***

- 6.22 Kingsthorpe has well-established public transportation links with multiple daily buses which run between Hereford and Ross-on-Wye. The bus stop is at the junction with The Thorn, less than 0.1 miles from application site to the north-east. The nearest primary school (Much Birch C of E) is 0.7 miles to the south, the same distance to nearest village hall to the east (Little Birch). The nearest GP Surgery (Much Birch, which incidentally has another village hall adjacent to it) is 1.1 miles south-east. The nearest shop is at Wormelow or the southern limits of Hereford.
- 6.23 The site is within reasonable distance of Much Birch which is one of Herefordshire's better served settlements, given the relationship too with the A49, as well as accessing other nearby settlements, the market town of Ross-on-Wye, and Hereford City. The development allows prospective occupants a genuine choice of active travel modes as to how they might travel in accordance with CS Policy SS4, which is consistent with the guidance contained within the NPPF.

- 6.24 In accordance with The Town and Country Planning (Development Management Procedure) (England) Order 2015, Article 5 (Applications for outline planning permission), (3), “*Where access is a reserved matter, the application for outline planning permission must state the area or areas where access points to the development proposed will be situated*”. The application ‘red line’ is drawn insofar that access intends to be via the private track and onto the C1263.
- 6.25 Having regard to the lack of objection by the Area Engineer, the existing access already accommodates movements associated with an existing dwellinghouse. The applicant has demonstrated visibility splays of 2.4m x 52.1m visibility in a southerly direction, and 2.4m x 49.0m in a northerly direction measured to the inside edge of the carriageway, in accordance with the guidance for Manual for Streets. The illustrative Site Plan also clearly demonstrates that these splays can be achieved within the highway extent.
- 6.26 It is acknowledged that the proposed development will inevitably give rise to a number of additional vehicle and pedestrian movements onto the local highway network both during the construction phase and once occupied. However, the uplift in such movements, combined with the private nature of the access, is unlikely to affect the continued highway and/or pedestrian safety of the access and that the additional movements could reasonably be accommodated on the local highway network. The illustrative site plan demonstrates that there is more than adequate space for parking and turning within the site to allow vehicles to enter and leave in a forward gear. Any future approval of reserved matters scheme would also provide for secure and covered cycle storage.
- 6.27 The proposals would not lead to an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios. Paragraph 116 of the NPPF is not engaged, which is consistent with Policies SS4 and MT1 of the CS.

### ***Design, energy efficiency and residential amenity***

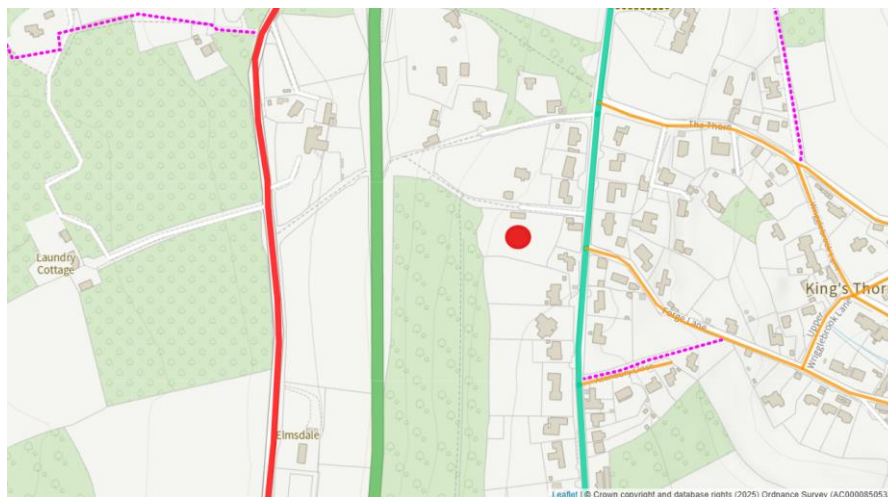
- 6.28 The NPPF advises that proposals should be of a high-quality design, with Section 12 dedicated to ensuring proposals achieving high-quality design and well-designed places. The CS, at Policy SD1, requires that development design responds to the distinctiveness of the area having particular regard for scale, massing, size, detailed design, layout and material use. It also requires that proposals utilise sustainable construction techniques to minimise the use of non-renewable resources and maximise the use of sustainably sourced materials and to utilise on-site renewable energy generation where possible.
- 6.29 The application proposal is in outline with all matters reserved for future consideration. However, an illustrative site plan and ‘Plot Passport Document’ accompanies the application to provide an indicative impression of what is envisaged and shows that the type of housing to be delivered would likely be two oak framed dwellinghouses of a rural vernacular.
- 6.30 The sustainability credentials is anticipated to achieve elemental U-Values which are better than those specified in Building Regulations, which aim to meet Future Homes Standards. Solar panels are proposed to generate electricity for the site, whilst an Electric Vehicle Charging Point will also be included within proposed garages.
- 6.31 Matters relating to residential amenity would take on further significance at Reserved Matters stage when one could really explore the potential implications in terms of overbearing/loss of privacy or light/overdevelopment etc. Nevertheless, in having regard to the quantum of development proposed, there is clearly ample space to deliver development without undue harm to adjoining amenity.

- 6.32 Accordingly, the application proposal responds to the provisions of CS Policies SS7 and SD1 and the design advice contained within the NPPF.

### ***Landscape and visual effects***

- 6.33 Policy SS6 seeks developments which contribute to the county's distinctiveness, its settlement pattern and landscape. Policy LD1 expects a development to be positively influenced by landscape and townscape to ensure that the setting of settlements is preserved. This is consistent with the guidance contained within the NPPF to conserve and enhance the natural environment.
- 6.34 Whilst not in a designated landscape, the settlement pattern of Kingsthorpe is quite varied. To the west of the C1362 however, it is visually characteristic that development is linear, flanking the highway network. Other development throughout Kingsthorpe is similar in terms of addressing minor roads and private roads which criss-cross the village and wider settlement.
- 6.35 A development of two dwellings on this site would be low density comprising larger dwellings served by private accesses set in quite generous site plots. The illustrative site plan demonstrates that the site can accommodate two dwellings in a manner which would not unduly harm the prevailing settlement pattern.
- 6.36 The character of the site itself is a small-scale paddock classified as improved grassland enclosed by mature vegetation on all sides. Nevertheless, the application site relates relatively well to the surrounding village environs, being immediately adjacent to existing dwellinghouses which are clearly representative of the village to the north-east and east.
- 6.37 The proposal will result in a residential use which will clearly assimilate with the established character of the site setting with landscaping details forming part of a future approval of reserved matters application. Nevertheless, the site is of such a scale that regional and national landscape character would not be affected and that any localised harm is negligible. Regard has also been afforded to the comments of the Council's Senior Landscape Officer who views that there is scope the suggested two dwellings albeit of modest scale and of an appearance, that would be in keeping with the Wooded Brownstone Hills Landscape setting and Herefordshire's rural character, and enhances the landscape, green infrastructure, and biodiversity in accordance with CS policies LD1, LD2, LD3, and SS6.
- 6.38 Turning to visual effects, the vegetative boundaries and nearby dwellinghouses largely screens the development from public receptors, namely in particular users of the C1263. Falling ground levels and the topography of this site would mean that the two dwellinghouses will sit lower than their neighbours to the east. Whilst a number of third party representations refer to the recreational benefits of the site, the PRoW map below clearly shows the publically accessible realms of the local public rights of way network:





#### List of streets

A road		Public footpath	
B road		Public bridleway	
C road		Restricted byway	
Unclassified road		Byway open to all traffic	
Footway			
Cycleway			

*PRoW and Highway Network (image taken C/O Herefordshire Council) with application site denoted by red dot*

- 6.39 Notwithstanding this, from the adjacent access road, which is a private and not a PRoW, and from nearby residential receptors, the development will appear as an appropriate addition to the landscape, which upholds the character of low-density linear development at this part of the village and an incongruous form of development. Site selection is appropriate and the development should be designed at approval of reserved matters stage to assimilate with its setting, along with sufficient supporting information, as advised by the Council's Senior Landscape Officer. The proposal accords with Policies SS6, LD1 and SD1 of the CS, with is consistent with the relevant paragraphs of the NPPF.

### Ecology/Biodiversity

- 6.40 CS Policy LD2 requires the retention and protection of nature conservation sites and habitats and species in accordance with their status. Opportunities for enhancement and restoration should also be taken where practicable. This reflects the advice in the NPPF and particularly paragraphs 192-195 inclusive of the NPPF.
- 6.41 The application is accompanied by an Ecological Appraisal which identifies that the site is of low ecology value. Much interest is more to do with the site boundaries, which includes the hedgerow and trees which might provide bird nesting and herpetological habitat. The Ancient Woodland to the immediate west of the Site is also a Local Wildlife Site and this is buffered by the requisite 15 metres from the boundary of the woodland to avoid any potential root damage, as per PPG.
- 6.42 The Ecological Appraisal has been reviewed by the Council's Ecologist who concurs with its findings in that the proposed development is not considered to affect protected species or their habitat. Enhancement is proposed, but not limited to, as follows:
- A Construction Environmental Management Plan (CEMP) to be produced – which can be secured by planning condition;
  - Ecological Clerk of Works would be carried out with a walkover to ensure badgers have not colonised site pre construction and site to operate under Badgers and Construction RAMs;

- In relation to bats, no external lighting, during construction and post construction of field boundary and internal site sensitive lighting design to be installed replacing current floodlighting;
  - Bat boxes are to be incorporated within the design;
  - Bird boxes are to be incorporated within the design;
  - Hibernacula to be constructed around boundaries along with enhancements for amphibians and insects; and
  - Planting of additional native hedging, trees and ecological buffer zone will increase the biodiversity of the area and protect sensitive external margin.
- 6.43 The report also clearly recognises that Helens Wood (Local Wildlife Site (LWS)) is a sensitive habitat and needs to be protected by the initiation of an ecological buffer zone, enhanced with additional habitats and protected from light spill.
- 6.44 Regard should also be had to the lack of objection raised by the Forestry Commission and their standard advice in terms of consideration upon Ancient Woodland in decision-making, to which Paragraph 193 is particularly relevant within the NPPF. The application does not proposed the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees), particularly noting how the red line has been drawn, together with appropriate buffer and mitigation by conditions.
- 6.45 A comprehensive CEMP would cover all potential ecological and wider environmental effects from the proposed construction of is recommended and this should be secured by a pre-condition on any permission granted. On this basis, the scheme complies with CS Policy LD2 and does not lead to engaging Paragraph 193c of the NPPF.
- 6.46 For clarity, mandatory BNG at the otherwise statutorily required amount of 10% is not required in this particular instance. This application is progressed as self-build dwellinghouses under the Selfbuild and Custom Housebuilding Act 2015, in accordance with S1(A1) of that Act. As such, the proposal would benefit under the Biodiversity Gain Requirements (Exemptions) Regulations 2024. This does not take away however the requirement to delivery habitat enhancement on site, as has been requested by the Council's ecologist.

### ***Flood Risk and Drainage***

- 6.47 The site lies within Flood Zone 1 according to Environment Agency mapping, which has a less than a 1 in 1000-year chance of flooding each year. It represents the land least susceptible to flooding. In principle, the NPPF also prefers that any new development is directed to land in Flood Zone 1. For clarity, the site is less than 1 hectare and it has not been identified as having critical drainage problems by the Environment Agency. There is no requirement for a site specific Flood Risk Assessment in this particular instance.
- 6.48 The submitted Drainage Strategy explains that surface water and foul water would be managed separately. It sets out that foul water would be treated by a shared Haba Easy Flow 10 Package Treatment Plants and discharged to ground via a shared Drainage Field measuring 52m<sup>2</sup> which is to be located on the west part of the Site, but clearly away from the Ancient Woodland and proposed buffer. In accordance with the hierarchial approach to Policy SD4 of the CS, as there is no mains drainage within 30 metres of the site (noting Dwr Cymru Welsh Waters' comments), the proposed drainage strategy states that the proposals will meet Building Regulations and British Standards.
- 6.49 In relation to surface water, considering SuDS and the specifics of this site, it is favourable to discharge surface water to ground. Therefore, the surface water drainage system will be designed as follows:

- Roof water from both proposed buildings will be discharged via rainwater goods and underground pipework conforming to Building Regulations Part H.
- Roof water from the proposed dwellings will be piped via roof water gullies in order to reduce debris entering the infiltration basin.
- The resulting roof water will be piped to a new shared infiltration basin.
- The new infiltration basin/ will be at least 14.6m wide x 5m long x 0.5m deep with a maximum inlet invert depth of 150mm below ground level (measured from the existing ground level).
- All new driveways and paths will be constructed to be permeable. By doing so, any run-off will be reduced. In addition, these porous surfaces will also reduce run-off pollution.
- A residents management company will be formed to complete the maintenance of all shared drainage features.

- 6.50 The Drainage Strategy proposes that all hardstanding will be permeable. Roof water will be piped to an infiltration basin measuring 3.9m x 5m x 0.4m deep, located on the west part of the site but away from the Ancient Woodland and Ecology buffer.
- 6.51 The Council's Land Drainage Engineer has reviewed the strategy and is content with the more technical details which can reasonably be dealt with through any approval of reserved matters application.
- 6.52 The proposals are designed to be safe and to deal with surface water appropriately as to minimise the effect of flooding, as required by CS Policy SD3 and presents a foul and surface water drainage strategy which meets Policies SD3 and SD4 of the CS, which is consistent with Sections 14 and 15 of the NPPF.

### ***Habitat Regulations Assessment***

- 6.53 The site is located within the Monnow sub-catchment of the River Wye Special Area of Conservation (SAC) and the proposed development triggers the legal requirement for a Habitat Regulations Assessment process to be carried out by the Local Planning Authority. The final HRA 'appropriate assessment' must be formally approved by Natural England PRIOR to any future planning consent being granted. This HRA process needs to be completed based on all current requirements and considerations and on information supplied in support of this specific application and that is sufficiently detailed to allow any relevant conditions to be secured. The HRA process must be completed with legal and scientific certainty and using a precautionary approach. From the start of August 2023, there have been changes in the conservation status of the River Wye SSSI - downgraded to "unfavourable declining" by Natural England; and these comments have been completed based on this recent change and updated SSSI Impact Risk Zone information available from Natural England (River Wye SAC – bespoke buffer – Any discharge of water or liquid waste including to mains sewer). The applicant must demonstrate with scientific and legal certainty that the proposed development will create no significant nutrient pathways into the River Wye that may make the current situation worse or hinder any recovery. The demonstration of the use all best available 'natural' technology to minimise the discharge of phosphates in to the River Wye SAC catchment must be demonstrated.
- 6.54 The proposed development proposes use of best available technology including the proposed shared package treatment plant which will reduce phosphate output at the application site to 0.8mg/l, which is less than most sewage treatment works in the County.
- 6.55 With the foul water management system secured as an embedded part of the proposed development (project) it is considered that as there are no remaining adverse effects on the integrity of the River Wye SAC that the HRA appropriate assessment can be considered as being 'screened out' at stage 1 of the process and no formal consultation with Natural England is triggered. Officers can conclude beyond no reasonable doubt that the proposals do not give rise to likely significant effects on the River Wye SAC.

**Other considerations**

- 6.56 Many of the third party representations received highlight material planning considerations that typically would form part of any future application for approval of Reserved Matters, such as the scale, appearance and layout of the dwellings. Whilst the applicant has sought to submit a plot passport to give an illustrative perspective of what development may come forward in future, it is not in the remit of a decision-maker to comment on the acceptability of these details at this time.
- 6.57 There is no requirement to secure affordable housing contributions or requirement to undertake a planning obligation on this particular application. Affordable housing contributions, as per Policy H1 of the CS, is only required for all new open market housing proposals on sites of more than 10 dwellinghouses which have a maximum combined gross floor space of more than 1000m<sup>2</sup> to contribute towards meeting affordable housing needs.
- 6.58 The representations received pertaining to the easements and covenants on the land are civil matters between the relevant interested parties. Along with applicant motives, they are all non-material planning considerations and do not prevent the Local Planning Authority from making a determination of this particular outline planning application.
- 6.59 In accordance with The Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has undertaken the required publicity for this application. This includes the erection of several site notice consultations outside the application site and publication of the application on the Council's website throughout consideration of the application. Given there are no statutory constraints associated with the application site and accordingly there is no requirement to publish this application within the Local Press although given the signing of Certificate D, the applicant has correctly published, in procedural terms, the required ownership certificate in the Local Press.
- 6.60 Having regard to Schedules 1 & 2 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017(<https://www.legislation.gov.uk/uksi/2017/571/schedule/2/made>), the proposal is not EIA Development and does not require an Environmental Statement. The Council has undertaken a screening opinion for avoidance of any doubt to confirm this.
- 6.61 It is not appropriate to remove householder permitted development rights in this instance.

**Planning Balance/Conclusion**

- 6.62 The application relates to the provision of housing and the NPPF is clear under Footnote 8 that the statutory development plan policies which are most important for determining the application are 'out-of-date'. As set out under Paragraph 11, the nature of the proposal engages Paragraph 11d and that planning permission should be granted unless conflicting with 11di) or 11dii).
- 6.63 In considering 11d i), the application of policies in this Framework that protect areas or assets of particular importance does not provide a strong reason for refusing the development proposed. Paragraph 11di is therefore not engaged. Turning to 11d ii), a 'tiled balance' is applied insofar that one needs to identify whether the adverse impacts significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
- 6.64 In reaching this view, the application site lies immediately adjacent to a 'sustainable location', noting this is the only matter for consideration at this stage.

- 6.65 The NPPF has at its heart a presumption in-favour of sustainable development. Sustainable development is considered to consist of three key elements, those being Economic, Social and Environmental objectives. Development proposals that are considered to meet these objectives (when taken as a whole) meet the first test and are considered to be sustainable development, benefiting from the presumption in favour of the development. The three pillars of sustainable development in the planning system are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):
- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
  - b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
  - c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.
- 6.66 In this particular instance, the proposal would result in the following positive economic, environmental and social benefits:
- A small contribution towards the Councils' housing land supply position of 2 no. dwellings;
  - Future occupiers having availability of active travel options to access nearby services and facilities, without undue or total reliance on privatised transportation;
  - Future occupiers providing a modest increase in spending in the local economy which can help to boost wider economic activity, supporting local jobs and businesses;
  - Directing residential development to immediately adjacent to a 'sustainable location', as defined within the development plan;
  - Self-build dwellings which would help further diversify the housing market and increase consumer choice;
  - Generation of housing in a local area can support social networks. People living in an area could reasonably upsize or downsize, and growing families can move into larger homes. New housing and regeneration projects can include new amenities which creates opportunities for social interaction and recreation;
  - Construction activity and jobs for possible local tradespersons during the relevant phase;
  - A proposed drainage arrangement that would not undermine the River Wye SAC, with improved water efficiency;
  - New homes can be built sustainably using recycled and low-carbon materials and use construction methods that reduce environmental impacts; easier and cheaper to heat and cool, and more energy efficient, with higher Energy Performance Certificate (EPC) ratings;
  - Property transactions;
  - Habitat and biodiversity enhancement;
  - Improved landscaping;
  - Addressing a slight shortfall in 'self-build' plots across Herefordshire; and
  - Additional funding (in the form of council tax and new homes bonus) for public services.



Weighing against the development proposals is effectively the following:

- The net loss of securing an increased quantum of development of smaller dwellinghouses in securing possibly a more effective use of land, although the application can only be assessed on its own merits.
- 6.67 Having particular regard to key policies for directing development to sustainable locations, the application is not considered to engage 11dii). Outline planning permission should be granted subject to the below conditions.
- 6.68 In accordance with the Town and Country Planning (Pre-commencement Conditions) Regulations 2018 (SI 2018 No. 566), any pre-commencement conditions will require the agreement by the applicant C/O agent in writing. Agreement of pre-commencement conditions will take place following resolution by the committee, if members are minded to grant outline planning permission.

## RECOMMENDATION

**That outline 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. C04 – Approval of reserved matters**

**Approval of the details of the layout, scale, appearance, access and landscaping (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced.**

**Reason: To enable the local planning authority to exercise proper control over these aspects of the development and to secure compliance with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

**2. Time limit for submission of reserved matters (outline permission)**

**Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.**

**Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.**

**3. Time limit for commencement (outline permission)**

**The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of the approval of the last reserved matters to be approved, whichever is the later.**

**Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.**

**4. Development in accordance with the approved plans**

**The development shall be carried out strictly in accordance with the approved plans (LOCATION PLAN), 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.**

## **5. 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; and
- Construction Traffic Management Plan
- Siting of site offices / compound / storage area
- Tree / Hedgerow protection

**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.**

## **6. Construction Environmental Management Plan**

**No demolition or construction shall commence on site until a detailed Construction Environmental Management Plan including details of the person responsible for the implementation of the CEMP – has been supplied to the Local Planning Authority for written approval.**

**The measures of the approved CEMP shall be implemented prior to any development commencing on site and all construction works shall thereafter be carried out in accordance with the approved details.**

**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.**

## **7. Restriction on hours during construction**

**During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times: Monday-Friday 7.00 am-6.00 pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.**

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

## 8. Details/Samples of External Materials

With the exception of any site clearance and groundworks, no further development shall take place until details or samples of materials to be used externally on the walls, roofs, windows and doors of the dwellinghouses and garages, 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.

## 9. Secured Covered Cycle Provision

Prior to the first occupation of each dwellinghouse, 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 dwelling to which it relates. 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.

## 10. Scheme of Foul and Surface Water Drainage Disposal

Any reserved matters application(s) relating to the reserved matter of ‘layout’ submitted pursuant to Conditions 1 and 2, shall be accompanied by a detailed scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and land drainage will be managed. The submission shall be based on the indicative Surface and Foul Water Drainage Strategy Revision A dated 11 September 2024 by H&H Drainage and shall, at a minimum, additionally include the following details:

- Demonstrate consideration of the management of overland flow and any necessary protection to the proposed dwellings and surface water drainage systems;
- Evidence to show why the site layout cannot accommodate individual drainage infrastructure in the first instance, or at a minimum, share drainage infrastructure sited within the shared open space;
- An additional infiltration test to be completed, in accordance with BRE 365, at a depth between 0.5 metres – 0.7 metres BGL in the confirmed infiltration basin location to prove viable soakage, and to inform the sizing calculations with a more representative rate, including oversizing the basin, as required, to include proposed volumes and dimensions to be clarified in relation to the infiltration basin; and
- Should the site layout result in amendments to the indicative foul water drainage infrastructure location, additional percolation testing shall be undertaken in accordance with BS 6297 and results provided to determine the viability of the revised layout given the varying soakage observed across the site.



The approved strategy shall thereafter be completed prior to first occupation of each dwellinghouse and maintained thereafter for the lifetime of the development.

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.

11. Prior to first occupation of the dwellings approved under planning permission, evidence of the suitably placed installation on the approved buildings, or on other land under the applicant's control, of a minimum total of FOUR bird nesting boxes, TWO bat roosting boxes, ONE insect box, ONE hedgehog home and ONE hibernacula (or similar features), as recommended within the ecological report by HEC (2024), shall 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. No habitat boxes should be located in Ash trees due to future effects of Ash Dieback Disease and likely loss of these trees.

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.

12. Scheme of refuse storage (residential)

Prior to the first occupation of each dwellinghouse, a scheme for the provision of storage, prior to disposal, of refuse for each dwelling hereby permitted shall be submitted to and be approved in writing by the local planning authority.

The approved scheme shall be implemented prior to the first occupation of the development hereby permitted.

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

13. Efficient Use of Water

Prior to the first occupation of each dwellinghouse, 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 (or successor policy) shall be submitted to and approved in writing by the local planning authority.

The approved details shall be implemented and completed prior to first occupation of each dwellinghouse and thereafter maintained for the lifetime of the development.

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

14. Self Build requirement (BNG exemption)

The dwellinghouses hereby permitted shall be constructed as self-build within the definitions of self-build and custom housebuilding in the Self-Build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016).

The first occupation of each dwellinghouse hereby permitted shall be by a person or persons who have had a primary input into the design and layout of the dwelling and two months prior to the first occupation of the unit, the Council shall be notified of, and shall agree in writing, details of the persons who intend to take up first occupation.

The dwelling shall be occupied in accordance with the approved details.

Reason: The approved development is granted on the basis that it complies with the Self Build and Custom Housebuilding Act 2015 and is consequently exempt from the requirements to submit a Biodiversity Gain Plan in accordance with the provisions of Schedule 7A (Biodiversity Gain in England) of the Town and Country Planning Act 1990 and The Biodiversity Gain Requirements (Exemptions) Regulations 2024.

**15. CNS – Non-standard condition**

Unless otherwise agreed in writing by the Local Planning Authority as detailed in the supplied plans and application form, all foul water flows created by the approved development shall be managed through a shared Haba Bio Easy Flow package treatment plant discharging to a drainage field; and all surface water managed through a Sustainable Drainage System. The approved foul and surface water scheme shall be managed and maintained as approved for the lifetime of the development it supports.

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

**16. CNS – Non-standard condition**

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

**17. C59 – No conversion of garages to habitable accommodation**

The garage and access thereto must be reserved for the garaging or parking of private motor vehicles and the garage shall at no time be converted to habitable accommodation.

**Reason:** To ensure adequate off street parking arrangements remain available at all times and to comply with Policy MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

**18. CNS – Non-standard condition**

All vehicles associated with the use of both dwellinghouses hereby granted shall solely use an access point off the C1263 only, which shall be maintained for the lifetime 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. IP2 - Application Approved Following Revisions**

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant outline 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. INS – Nonstandard informative**

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>

**3. I05 – No drainage to discharge to highway**

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

**4. I11 – Mud on highway**

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

**5. I35 – 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'.

6. **INS – Non-standard informative**

**Any applicant who intends to submit any approval of reserved matters application should clearly review statutory and internal technical consultee responses to understand the level of details expected to accompany any application.**

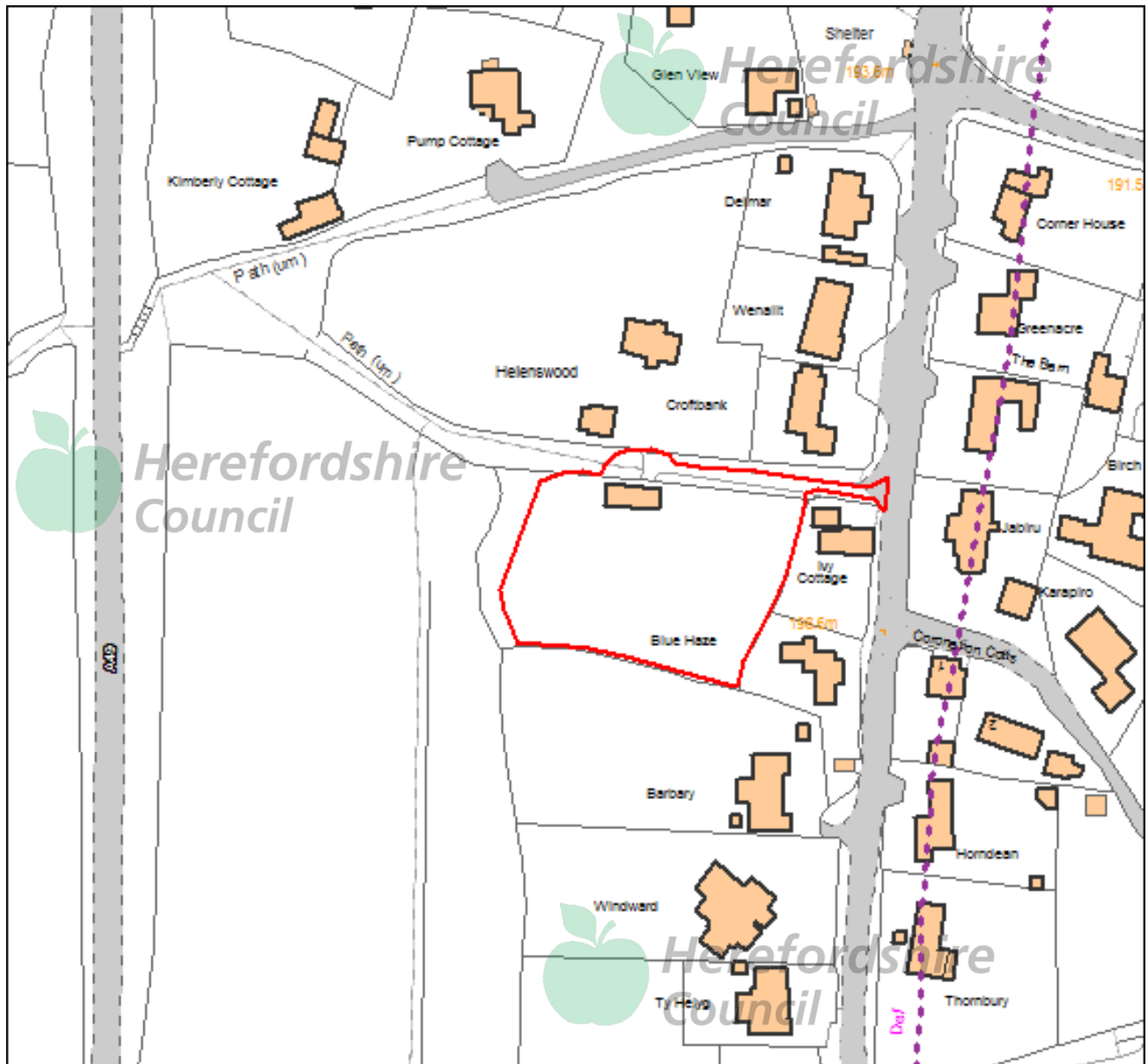
Decision: .....

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:** 243018

**SITE ADDRESS :** LAND AT HELENSWOOD FARM, KINGSTHORNE, HEREFORDSHIRE, HR2 8AL

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<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>9 APRIL 2025</b>
<b>TITLE OF REPORT:</b>	<p><b>243062 - PROPOSED CHANGE OF USE FROM A SINGLE DWELLINGHOUSE (C3) TO 4 NO. APARTMENTS FOR THE USE AS ACCOMMODATION FOR TRANSITIONAL TEMPORARY ACCOMMODATION, TO DEMOLISH THE EXISTING DETACHED GARAGE TO SITE A BESPOKE 'CONTAINER' CONVERTED FOR AND USE AS ACCOMMODATION FOR TRANSITIONAL TEMPORARY ACCOMMODATION, AND ASSOCIATED OPERATIONAL DEVELOPMENT AT 7 BLACKFRIARS STREET, HEREFORD, HEREFORDSHIRE, HR4 9HS</b></p> <p><b>For: Mrs Powell per Mr Robert Scott, Herefordshire Council, Plough Lane Offices, Plough Lane, Hereford, Herefordshire, HR4 0LE</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=243062">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=243062</a>
<b>Reason Application submitted to Committee – Council application/owned property</b>	

**Date Received: 28 November 2024      Ward: Widemarsh      Grid Ref: 350978,240376**

**Expiry Date: 10 April 2025**

Local Member: Cllr Polly Andrews

**Recommendation: To grant planning permission subject to conditions**

**1. Site Description and Proposal**

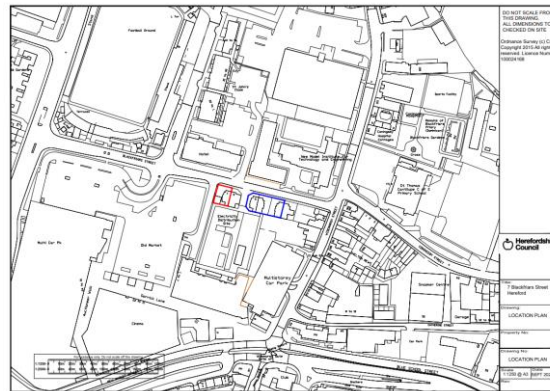
- 1.1 7 Blackfriars Street is a semi-detached Victorian property with detached garage located to the south of Blackfriars Street, Hereford. To the north of the application is a Hotel and its associated access road from Blackfriars Street. To the south is an extended compound housing an electricity substation. To the immediate east is a Hearing Clinic (6 Blackfriars Street) and to the west is a deliveries and emergency access road leading to the ground floor car park associated with the Old Market Shopping Centre.
- 1.2 This application seeks full planning permission for the change of use from 1 no. dwellinghouse (Use Class C3) into 4 no. apartments which are intended to support individuals who require transitional temporary accommodation. The proposals also include the proposed demolition of the garage to site a bespoke 'container' which would be converted for a single occupant as transitional temporary accommodation with a bedroom/living area and shower room. Each of the apartments would be serviced by a bedroom/living area, shower room and kitchenette. There are no other external alterations proposed within the application aside from associated operational development to include the siting of 'Sheffield' cycle stands to the immediate south of the 'container', a ramp attached to 7 Blackfriars Street and provision for bins and recycling.

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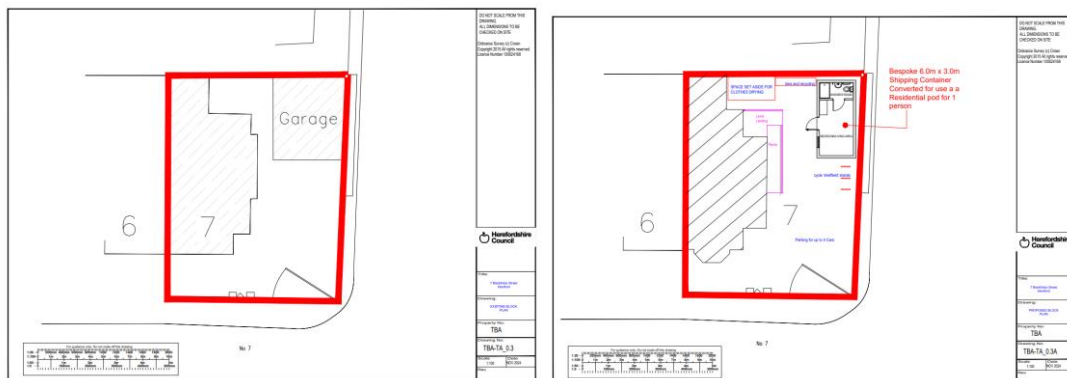
Further information on the subject of this report is available from Mr Josh Bailey on 01432 261903



### 1.3 Existing and proposed plans are provided for convenience below:



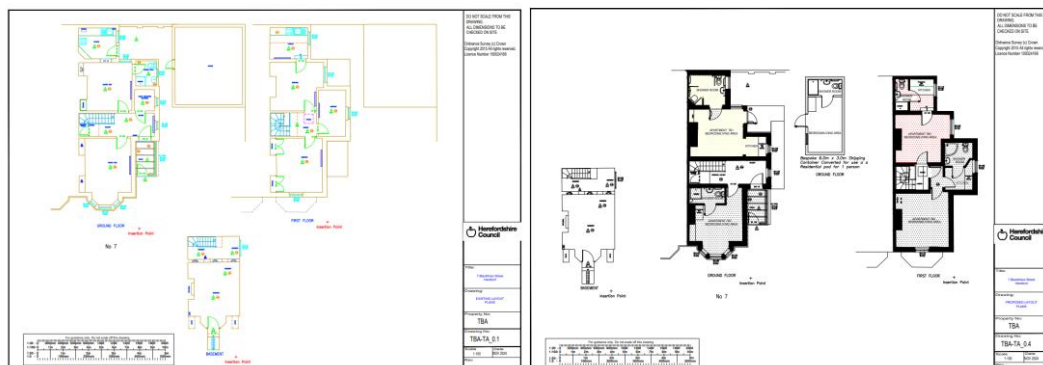
Location Plan



Existing Block Plan and Proposed Block Plan



Existing Elevations and Proposed Elevations including bespoke 'container'



Existing Floor Plans and Proposed Floor Plans



- 1.4 Further to clarification with the Council's Licensing Team, 7 Blackfriars Street was previously identified as an unlicensed House of Multiple Occupation (HMO). However, under Class L of Part 3, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), development consisting of a change of use of a building from a use falling within Class C4 (houses in multiple occupation) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule or vice versa, does not require planning permission in its own right, subject to the development not being used as two or more separate dwellinghouses. It is therefore considered that the description of development is correct in terms of the lawful use of the property.

## 2. Policies

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

SS1	-	Presumption in favour of sustainable development
SS2	-	Delivering new homes
SS3	-	Releasing land for residential development
SS4	-	Movement and transportation
SS6	-	Environmental quality and local distinctiveness
SS7	-	Addressing climate change
HD1	-	Hereford
HD2	-	Hereford City Centre
H3	-	Ensuring an appropriate range and mix of housing
MT1	-	Traffic Management, highway safety and promoting active travel
E5	-	Town Centres
E6	-	Primary shopping areas and primary and secondary shopping frontages
LD1	-	Landscape and townscape
LD2	-	Biodiversity and geodiversity
LD3	-	Green Infrastructure
LD4	-	Historic environment and heritage assets
SD1	-	Sustainable Design and energy efficiency
SD3	-	Sustainable water management and water resources
SD4	-	Waste water treatment and river water quality

The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) and paragraph 34 of the revised National Planning Policy Framework (NPPF) require a review of local plans be undertaken at least every five years. In order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan - Core Strategy was adopted on 15th October 2015 and a review was required to be completed before 15th October 2020. The decision to review the Core Strategy was made on 9th November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application. In this case, the relevant policies have been reviewed, are considered consistent with the NPPF and therefore attributed significant weight. The Herefordshire Local Plan – Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

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

### 2.2 National Planning Policy Framework (NPPF)

Revised on 12 December 2024 (please note that the NPPF was amended on 7 February 2025 to correct cross-references from footnotes 7 and 8, and amend the end of the first sentence of paragraph 155 to make its intent clear. For the avoidance of doubt the amendment to paragraph 155 is not intended to constitute a change to the policy set out in the Framework as published on 12 December 2024:

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

### 2.3 National Planning Practice Guidance (NPPG)

The associated Planning Practice Guidance (NPPG) adds further context to the NPPF and it is intended that the two documents should be read together. The PPG can be accessed through the following link: <https://www.gov.uk/government/collections/planning-practice-guidance>

### 3. Planning History – None

### 4. Consultation Summary

#### *Statutory Consultations*

#### 4.1 Dwr Cymru Welsh Water – No objections; conditions recommended

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

#### FOUL WATER

We can confirm capacity exists within the public sewerage network in order to receive the domestic foul only flows from the proposed development site. We recommend that the existing private drainage on site should be utilised to avoid any new direct connection to the public sewerage system.

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.

#### Condition

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

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

#### Advisory Notes

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary)

or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](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.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation."

#### *Internal Council Consultations*

#### **4.2 Ecology – No objections; conditions recommended**

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

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

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

From the start of August 2023, there have been changes in the conservation status of the River Wye SSSI - downgraded to "unfavourable declining" by Natural England; and these comments have been completed based on this recent change and updated SSSI Impact Risk Zone information available from Natural England (River Wye SAC – bespoke buffer – Any discharge of water or liquid waste including to mains sewer). The applicant must demonstrate with scientific and legal certainty that the proposed development will create no significant nutrient pathways into the River Wye that may make the current situation worse or hinder any recovery.

The demonstration of the use all best available 'natural' technology to minimise the discharge of phosphates in to the River Wye SAC catchment must be demonstrated

#### **Notes in respect of HRA**

The proposal is for a nett increase of FOUR new residential units with associated new/additional foul and potential surface water flows (nutrient pathways) created.

- The site is within the mains sewer catchment for Welsh Water's Hereford (Eign) Waste water Treatment Works that discharges into the River Wye at Hereford.
- Mains sewer is considered as the best available option to ensure foul water management with minimal effect from nutrient pathways.
- Welsh Water have confirmed that the Hereford (Eign) WWTW has capacity to manage the additional flows created by the creation of a new residential dwelling.
- The additional foul water flows can be considered as accommodated within the nutrient allowance secured through the current Core Strategy 'Hereford' housing allowances that were subject to a positive HRA process at the time the CS was adopted.
- The supplied information confirms no significant additional surface water flows will be created over the flows from the existing developed area footprint the proposed development also covers. This effect is not considered further

The approved foul water management systems can be secured by condition on any planning permission finally granted.

#### Habitat Regulations - Nature Conservation (River Wye SAC) – Foul Water

Unless otherwise agreed in writing by the Local Planning Authority as detailed in the application form, all foul water flows created by the approved development shall be managed through a connection to the local mains sewer network. The approved foul water scheme shall be managed and maintained as approved for the lifetime of the development it supports.

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

With all mitigation fully embedded with the project – planning permission the required HRA process can be considered as being 'screened out' at Stage 1 and no full appropriate assessment is required and no consultation with Natural England is triggered.

#### Other Ecology Comments

There is recorded Bat Roosting within roof voids of adjacent/other buildings in this location.

The supplied plans do not indicate that any works will be required to or within the roof or roof voids, soffits or bargeboards of the existing building. As no works have been indicated that appear to affect or involve these potential roosting features the LPA has no reason to require an ecological (bat) survey prior to determination of this planning application. No additional external lighting has been proposed or considered.

The council and their contractors should be aware that if any works do require access to the roof voids or associated roof features that a relevant ecological assessment and any relevant bat surveys is strongly advised prior to any such works commencing. A relevant advisory note is suggested on any planning permission granted.

#### Wildlife Protection Informative

The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended), with enhanced protection for special "protected species" such as Great Crested Newts, all Bat species, Otters, Dormice, Crayfish and reptile species that are present and widespread across the County. All nesting birds are legally

protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it is advised that advice from a local professional ecology consultant is obtained.

#### Statutory Biodiversity Net Gain

No works are proposed to any unsealed natural habitat, trees, shrubs or similar features and an exemption from statutory Biodiversity Net Gain would apply. Should this change at any time during the development process and 25m<sup>2</sup> or greater of any unsealed or natural surface is affected by works statutory BNG is likely to automatically become applicable.

As identified in the NPPF, NERC Act, Core Strategy LD2 and action within the council's declared Climate Change & Ecological Emergency all developments should demonstrate how they are going to practically enhance ("Net Gain") the Species (Biodiversity) potential of the area. Based on scale, location and nature of proposed development a relevant Condition is suggested to secure these enhancements:

#### To obtain Species (Biodiversity) Net Gain

Prior to first use of the residential accommodation approved under planning permission, evidence such as photographs or ecologists report of the suitably placed installation on the approved building, or on other land under the applicant's control, of a minimum of TWO bird nesting features and TWO bat roosting features, of mixed types, 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. No habitat boxes should be located in Ash trees due to future effects of Ash Dieback Disease and likely loss of these trees.

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."

A copy of the Habitat Regulations Assessment can be accessed through the following web link: [https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=243062](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=243062)

#### 4.3 Area Engineer (Highways) – No objections; conditions recommended

"The application proposes converting a single dwelling into four apartments designated for transitional temporary accommodation. Additionally, it includes demolishing the existing detached garage and installing a container to be converted into a single-occupant residential unit.

Situated in a sustainable location with excellent connectivity and adjacent to a paid car park, the site offers convenient access to amenities. The Local Highway Authority (LHA) has no objections to the proposal, provided that secure, covered cycle storage is incorporated into the development and a construction management plan is submitted. The construction management plan should detail parking arrangements for site operatives during the construction phase to ensure minimal disruption to the surrounding area.

CB2 – Secure, covered cycle storage

CAT – Construction management plan – Parking for site operatives



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>"

## 5. Representations

### 5.1 Hereford City Council – Objection

"A container has been proven to be poorly suited to human habitation, despite the assumptions in the application made. Unless measures were taken place to ensure the container is not too hot or too cold during seasonal changes, it would likely not meet the standards for comfortable living."

5.2 The remaining third party representations received comprise 3 letters of occupation from 2 interested parties. A summary of their representations is provided below:

- Noise pollution/impact on amenity;
- Unsuitability of using a 'container' as accommodation;
- Sets a poor precedent;
- Impacts on townscape;
- Impact on commercial district of Hereford;
- Impact on business, including security, viability and devaluation of property; and
- Lack of community consultation.

All consultation responses can be viewed on the Council's website using the following weblink:-  
[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=243062](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=243062)

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 comprises the Herefordshire Local Plan – Core Strategy (CS). The National Planning Policy Framework (NPPF) is a significant material consideration.
- 6.3 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 34 of the NPPF 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 was updated in November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any applications. In reaching a decision, the level of consistency of policies in the local plan with the NPPF will therefore need be taken into account by the Council. From reviewing those policies within the CS which are applicable to the determination of this application (see 2.1 of this report), these are considered to be consistent with the guidance contained within the NPPF. As such, significant weighting should continue to be afforded to these policies. This position has also been crystalised at the Appeal Court prior to the recent revisions to the NPPF coming into effect following the *Suffolk Coastal DC v Hopkins Homes & SSCLG and Richborough Estates v*

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

*Cheshire East BC & SSCLG [2016] EWCA Civ 168* were described by the Court thus “*We must emphasize here that the policies of the NPPF do not make "out-of-date" policies for the supply of housing irrelevant in the determination of a planning application or appeal. Weight is, as ever, a matter for the decision maker (as described the speech of Lord Hoffmann in Tesco Stores Ltd. v Secretary of State for the Environment [1995] 1 W.L.R. 759, at p.780F-H)*”.

- 6.4 This application must be considered in the context of the NPPF being revised on 12 December 2024 (with minor cross-referencing amendments made on 7 February 2025). Paragraph 11 of the NPPF, which is consistent with Policy SS1 of the CS, applies a presumption in favour of sustainable development. The NPPF stresses the importance of having a planning system that is genuinely plan-led. Where a proposal accords with an up-to-date development plan it should be approved without delay, as required by the presumption in favour of sustainable development at paragraph 11 of the NPPF. Where the development plan is absent, silent or the relevant policies are considered to be “out-of-date”, Paragraph 11 of the NPPF requires the application to be determined in accordance with the presumption in favour of sustainable development unless otherwise specified.
- 6.5 Paragraph 11(d) of the NPPF is considered to be engaged for decision-making purposes on this planning application. Planning permission should therefore be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the current NPPF as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination (11dii); or if specific assets or areas of importance within the current NPPF indicate development presents a ‘strong reason’ for refusal (11di).
- 6.6 Supreme Court judgements and subsequent appeal decisions have confirmed that policies relevant to the determination of this application can still be afforded weight in the decision-making process, and it is a matter of planning judgement for the decision-maker to attribute the degree of weight to be afforded depending on the context of the decision. Paragraph 232 of the NPPF is applicable. The key policies of the CS are considered to be consistent with the NPPF and should be attributed significant weight, particularly as it helps define what may amount to a ‘*sustainable location*’, ‘*effective use of land*’ and ‘*securing well-designed places*’, as outlined within the NPPF.
- 6.7 In considering the principle of development, strategic policy SS2 of the CS confirms that Hereford is identified to be the main focus for new housing development in the county. Policies HD1 and HD2 of the CS recognise that Hereford will accommodate a minimum of 6,500 new homes within the plan period, with 800 of these are expected to be delivered within the City Centre with further residential development in the wider Hereford area to take place through the implementation of existing commitments, re-development of existing brownfield sites, windfall development, re-use of upper floors above commercial premises or infill development.
- 6.8 The application site is located very close to Hereford City Centre where the need for such accommodation is likely to be at its most acute. The site is close to a range of commercial, service, residential and community areas, and reference should be made to recognising that similar transitional temporary accommodation uses have been approved by the Local Planning Authority along Blackfriars Street in recent years (see P243061/CD3 and P211955/F and P210535/CD3). It is considered that the proposed change of use would be in keeping with neighbouring land uses, having regard to cumulative effects also. The proposed change of use is broadly supported through Policies HD1 and HD2 of the CS, which is consistent with Section 5 of the NPPF, with the aim to offer supported and tailored accommodation for those who are in need of it. It is considered to be a use that offers significant and tangible social benefits.

- 6.9 Whilst the objections received by both Hereford City Council and third parties with regards to the principle of the siting of the bespoke 'container' which would be adapted for use as an overnight pod are noted, there is not considered to be any overriding adverse impacts associated with the choice of a 'container' at this location. Even if others felt otherwise, the harm should be viewed to be very limited and far outweighed by the social benefits of meeting the short term needs of Herefordshire residents who require such accommodation and is clearly a safer option than sleeping on the streets. The proposal is not considered to jeopardise or undermine the commercial character of this part of Hereford, recognising that there are alternative land uses in addition to simply commercial and there are no policies within the adopted development plan which strictly prohibits the change of use that is sought.
- 6.10 Nevertheless, in taking a consistent position with other applications this authority has determined for siting similar 'containers' for transitional temporary accommodation, most recently by this Committee at St David's Hall, Symonds Street in August 2024 (see P240480/CD3), a temporary period of five years provides more than ample time to enable a more long-term and permanent response alongside the proposed re-use of the property itself.
- 6.11 The principle of development is one which is accepted. The main technical considerations subsequently relates to the resultant quality of the accommodation in relation to the living conditions of future occupiers and adjoining amenity; highway safety and parking, townscape; heritage and drainage and biodiversity impacts.

### **Amenity**

- 6.12 Having regard to Policy SD1 of the CS, together with Paragraph 135f and 198 of the NPPF, accounting for cumulative impacts, the accommodation proposed will provide for the basic needs of future occupants and is considered to be appropriate for its intended use.
- 6.13 In addressing the objections raised, the request for noise insulation as a formal planning condition is legislated separately under Building Regulations. The refurbishment and remodelling of the proposal would need to comply fully with Approved Document Part E - Resistance to the passage of sound and be signed off by Building Control as complying fully with the relevant building regulations Approved Documents.
- 6.14 There is also no requirement to upgrade the 'Party Wall' internally for sound to meet current Building Regulations. However, in order to ensure that noise disruption to the business is mitigated, the applicant intends to appoint a specialist provider to carry out a UKAS Accredited Sound Test prior to the works commencing would measure the existing sound transmission (airborne and impact) between 6 and 7 Blackfriars Street, providing recommendations to upgrade the party wall to meet current building regulations. A Pre completion UKAS accredited sound insulation test service would also be carried out to ensure all the sound insulation improvements employed are fully compliant with the Building Regulations Document E Resistance to the passage of sound. Again, as this is legislated separately under Building Regulations, a planning condition is not considered reasonable or necessary.
- 6.15 A restriction on working hours can normally be added during the construction phase although given the third party does not wish to have a condition restricting during their own opening hours, it is considered that such a condition should not be added as it would otherwise lead to undue restriction on the part of the applicant and gives flexibility for the applicant to work outside the adjoining business hours. The applicant has also confirmed that a construction noise management plan would be discussed with the appointed Principal Contractor with a view to setting up clear lines of communication between the site team and neighbouring properties to ensure any disruption can be managed. Any critical dates/times where construction noise would be a nuisance would be discussed and mitigation agreed, although again this is beyond the planning regime.



- 6.16 The proposal is not considered to lead to any adverse impacts to the occupiers of adjoining and nearby properties. In reaching this position, whilst regard has been had to the objections raised by the adjoining property to the east (6 Blackfriars Street). Accounting for cumulative effects also, the proposal complies with policy SD1 of the CS, which is consistent with Paragraphs 135f and 198 of the NPPF.

### ***Highway safety***

- 6.17 Having regard to the active travel opportunities of this location and Policies MT1 and SS4 of the CS, which is consistent with Section 9 of the NPPF, it is considered that the proposal will not result in any adverse impacts to car parking provision or highway/pedestrian safety. Regard is particularly had to the lack of objection by the area engineer. Paragraph 116 of the NPPF is not engaged as a result of the proposed change of use.
- 6.18 Pre occupation implementation and installation of the cycle stand can be secured by condition.
- 6.19 The construction traffic management plan suggested by the Area Engineer is not considered necessary to condition. As can be seen on the proposed plans, there is more than sufficient parking provision for 3 vehicles on site which can provide parking for site operatives during construction works.

The proposal accords with Policies SS4 and MT1 of the CS, which is consistent with Section 9 of the NPPF.

### ***Design and Townscape impacts***

- 6.20 There are no external alterations save for the demolition of the garage for the siting of the container and associated operational development, as explained above and shown on the proposed plans. In considering design, townscape effects and impacts on the character and appearance of the area, regard has been had to Policies SD1 and LD1 of the CS, which is consistent with achieving well-designed places (Section 12) as identified within the NPPF.
- 6.21 The applicant has sought to propose the 'container' due to the area available where the current garage is situated and the urgent need to increase the availability of fully compliant wheelchair accessible accommodation. A purpose designed pod allows the applicant to do this, along with the ramp.
- 6.22 The works are considered to have negligible effects upon the townscape and is of accepted design, noting similarly approved uses at Symonds Street.
- 6.23 Any perceived harm should be considered to be mitigated by the temporary time period for the siting of the 'container' once first occupied as transitional temporary accommodation. The proposal accords with the relevant aforementioned policies.

### ***Heritage impacts***

- 6.24 The site is located outside but on the edge of the Hereford Central Conservation Area (referring to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990), but is not considered to be particularly sensitive given the location at the very northern extent of the Conservation Area boundary. The proposal also needs to be considered against Policies SS6 and LD4 of the CS which is consistent with Section 16 of the NPPF, which considers the conserving and enhancing of the historic environment.

- 6.25 The proposal is not one which would adversely affect the setting, significance or experience of the Hereford Central Conservation Area. There would be no overriding adverse impacts associated with the proposed use sought and any perceived harm should be considered to be mitigated by the temporary time period for the siting of the 'container' once first occupied as transitional temporary accommodation.000
- 6.26 Accordingly, the proposal accords with CS policies SS6 and LD4. In the absence of harm being identified, the 'public benefit' tests prescribed within the NPPF should not be undertaken and the aforementioned statutory duty should be considered discharged.

### ***Drainage/HRA/Ecology/Biodiversity***

- 6.27 Having regard to Policies SS6, LD2, SD3 and SD4 of the CS, which is consistent with sections 14 and 15 of the NPPF, in respect of foul drainage, the proposal will continue to be connected to the mains sewer. The proposal will not result in any net increase of residents to the City and the proposal will not result in the any increased likelihood of surface water run off which is acknowledged by Dwr Cymru Welsh Water as part of their representation. A condition relating to surface water should be imposed if planning permission is granted.
- 6.28 The proposed introduction of additional overnight accommodation also triggers the requirement to undertake a formal Habitat Regulations Assessment. The Council's Ecologist has reviewed the application and concludes that there will be no likely significant effects upon the River Wye Special Area of Conservation (Wye catchment) and it has been screened out at stage 1. With mitigation fully embedded with the project and secured by suitably worded conditions, no full appropriate assessment is required and no consultation with Natural England triggered. Paragraph 195 of the NPPF is also not engaged.
- 6.29 A relevant advisory note is suggested on any planning permission granted to remind the applicant of their duty of care.
- 6.30 As identified in the NPPF, NERC Act, CS Policy LD2 and action within the Council's declared Climate Change & Ecological Emergency, all developments should demonstrate how they are going to practically enhance ("Net Gain") the Species (Biodiversity) potential of the area. A relevant Condition is recommended to secure these enhancements.
- 6.31 Mandatory 'Biodiversity Net Gain' is not engaged here as the proposal benefits under the '*de minimis*' exemption (<https://www.gov.uk/guidance/biodiversity-net-gain-exempt-developments>)
- 6.32 The proposal is considered to accord with policies SS6, LD2, SD3 and SD4 of the CS, which is consistent with the relevant sections of the NPPF, namely with regards to conserving and enhancing the natural environment.

### ***Other considerations***

- 6.33 In accordance with The Town and Country Planning (Development Management Procedure) (England) Order 2015 and publicity for application for planning permission, the Local Planning Authority has undertaken the required publicity for this application. This includes the erection of a site notice outside the application site and publication of the application on the Council's website. Given there are no statutory constraints associated with the application site, there is no requirement to publish this application within the Local Press.
- 6.34 A third party has raised concern that the Council has not met its Statement of Community Involvement (SCI). The SCI is focussed largely on Development Plans such as Herefordshire Council's Local Plan – Core Strategy; the emerging review of the Herefordshire Local Plan 2021-2041; and Development Plan Documents (DPD) production. Effectively, the SCI sets out a framework which identifies how and when the Council will involve residents and businesses in

the preparation of planning documents. It also sets out how interested parties are consulted on planning applications which the Local Planning Authority has done so appropriately, as set out in the paragraph above.

- 6.35 The impacts on business security, viability and devaluation of property are not material planning considerations.

### ***Planning Balance/Conclusion***

- 6.36 The NPPF has at its heart a presumption in-favour of sustainable development. Sustainable development is considered to consist of three key elements, those being Economic, Social and Environmental objectives. Development proposals that are considered to meet these objectives (when taken as a whole) meet the first test and are considered to be sustainable development, benefiting from the presumption in favour of the development.
- 6.37 At the time of considering this application, the policies most relevant to the development are considered to be 'out-of-date', applying the tilted balance in favour of sustainable development, engaging Paragraph 11d of the NPPF. Paragraph 14 of the NPPF is not engaged.
- 6.38 Nevertheless, the application is considered to accord with the provisions of the development plan and although the plan is not considered to be 'up-to-date', Paragraph 232 of the NPPF sets out that policies should be given due weight depending on their consistency with the framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). In this regard the policies relevant to the determination of this application should continue to be afforded significant weight.
- 6.39 The proposal appropriately demonstrates that, subject to conditions, it would not result in a detrimental impact upon the character and appearance of the area, the living conditions of existing and future residents, highway safety, drainage, flood risk or ecology/biodiversity. The use of the site as transitional temporary accommodation is not prevented by the development plan.
- 6.40 Engaging Paragraph 11d of the NPPF, turning to Paragraph 11di, there are no assets of importance which presents a 'strong' reason for refusing the application. The only two assets of relevance are habitat sites (River Wye SAC) and the significance of heritage assets (setting of the Hereford Central Conservation Area setting), neither of which are considered to attract adverse harm as set out above. Paragraph 11di is not engaged.
- 6.41 Turning to Paragraph 11dii, in this instance, and having particular regard to key policies for directing development to sustainable locations and securing well-designed places, individually or in combination, the application is not considered to engage 11dii). This proposal responds to meeting the needs of some of Herefordshire's residents who are in need for transitional temporary accommodation. The proposal is considered to have no adverse economic, social or environmental effects and where any perceived harm may be identified, they are considered to be mitigated by conditions and outweighed also by acknowledging that the proposed change of use fulfils a valuable social role in meeting an increasingly pressing need for such accommodation and provision of much needed support. Paragraph 11dii is therefore not considered to be engaged.
- 6.42 Planning permission should therefore be granted as set out in the officer recommendation 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. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

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

Location Plan;  
TBA-TA\_0.3A (Proposed Block Plan);  
TBA-TA\_0.4 (Proposed Layout Plans); and  
TBA-TA\_0.5 (Proposed Layout Elevations)

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

3. Prior to first use as transitional temporary accommodation, the secure cycle parking facilities, as shown on drawing number TBA-TA\_0.3A dated Nov 2024, shall be installed and available for use. Thereafter these facilities shall be maintained for the lifetime of the development.

Reason: To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy and to conform with the requirements of Policies SS4 and MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

4. Prior to first use as transitional temporary accommodation, evidence such as photographs or ecologists report of the suitably placed installation on the application site, or on other land under the applicant's control, of a minimum of TWO bird nesting features and TWO bat roosting features, of mixed types, shall be submitted to and acknowledged by the local planning authority. Thereafter, these shall be maintained as approved unless otherwise agreed in writing with 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. The apartments and 'container' hereby approved shall not be occupied other than by individuals requiring transitional temporary accommodation.

Reason: To clarify the terms of the permission and enable further consideration to be given should alternative forms of supported living be required in future and to comply with Policy SD1 of the Herefordshire Local Plan Core Strategy and the National Planning Policy Framework.

6. Once first occupied, the 'container' shall thereafter be sited for a maximum time period of 5 calendar years, after which the use as transitional temporary accommodation hereby approved shall cease and the 'container' shall be removed from the site altogether. The applicant shall provide written confirmation of the first occupation of the container as soon as practically possible.

Details, to include the timescale for removal of the 'container', shall be submitted to and approved in writing by the Local Planning Authority no less than two calendar months before the use of the 'container' as transitional temporary accommodation expires. The removal of the 'container' shall thereafter be carried out in strict accordance with the approved timetable.

Reason: To enable the local planning authority to give further consideration to the acceptability of the container after the temporary period has expired in the interest of adequate amenity and wider townscape effects and to comply with Policies SD1 and LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

7. Unless otherwise agreed in writing with the Local Planning Authority, all foul water flows created by the approved development shall be managed through a connection to the local mains sewer network. The approved foul water scheme shall be managed and maintained as approved for the lifetime of the development.

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

8. No surface water from any increase in the roof area of the building, installation of the container or impermeable surfaces within the application site shall be allowed to drain directly or indirectly to the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment, and to accord with Policies SS6, LD2, SD1, SD3 and SD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

#### INFORMATIVES:

1. IP2 – Application Approved Following 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. INS – Non-standard informative

The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as

amended), with enhanced protection for special “protected species” such as Great Crested Newts, all Bat species, Otters, Dormice, Crayfish and reptile species that are present and widespread across the County. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it advised that advice from a local professional ecology consultant is obtained.

### 3. INS – Non-standard informative

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) and <https://www.herefordshire.gov.uk/info/200196/roads/707/highways>

### 4. INS – Non-standard 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 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 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. 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 the National Planning Policy Framework, 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. The applicant should liaise with the relevant Local Authority Building Control department to discuss their water efficiency requirements.

Decision: .....

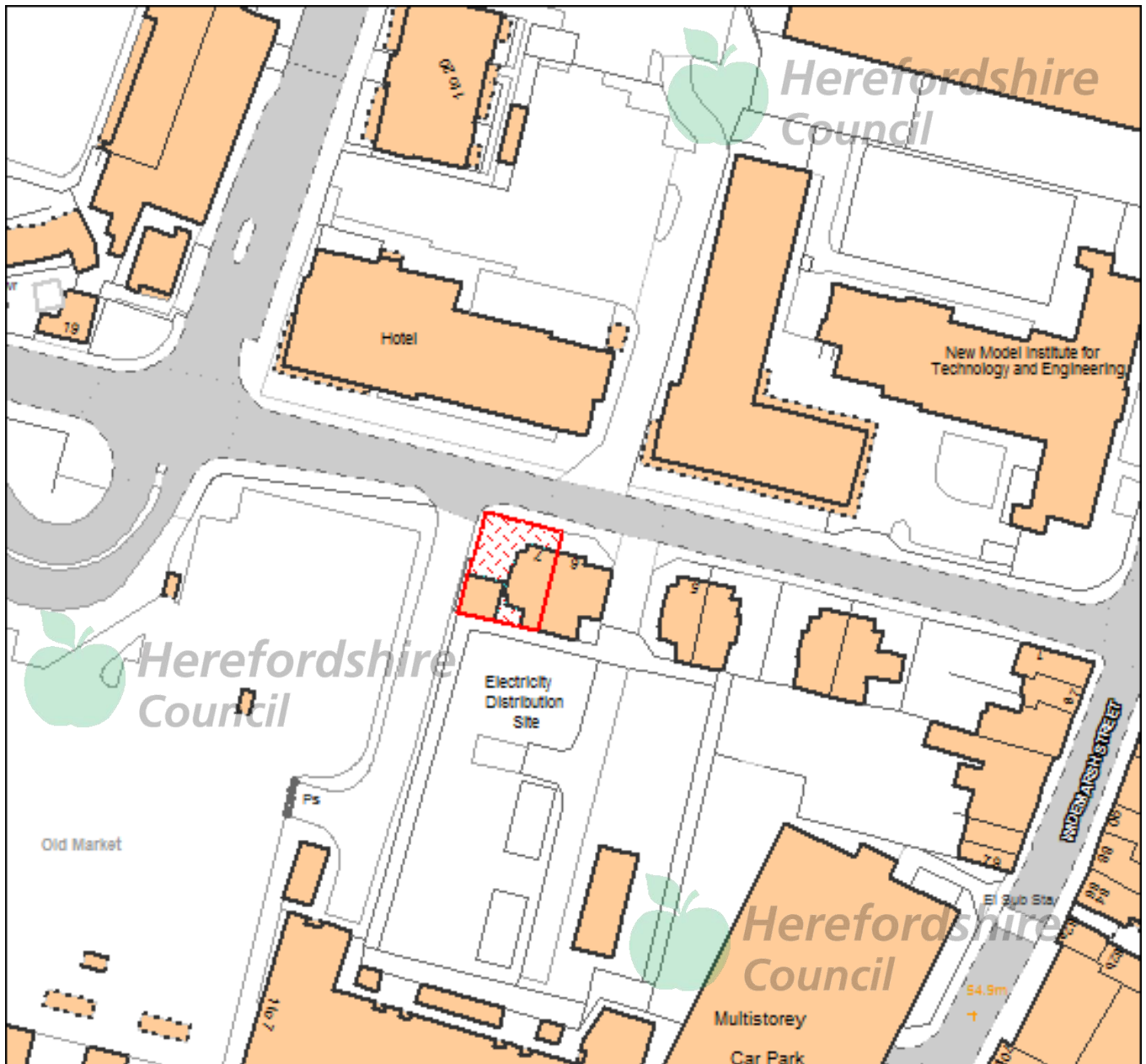
Notes: .....

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### Background Papers

None identified.





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**APPLICATION NO:** 243062

**SITE ADDRESS :** 7 BLACKFRIARS STREET, HEREFORD, HEREFORDSHIRE, HR4 9HS

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