

Agenda

Planning and Regulatory Committee

Date: **Wednesday 3 September 2025**

Time: **10.00 am**

Place: **Conference Room 1 - Herefordshire Council, Plough
Lane Offices, Hereford, HR4 0LE**

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

For any further information please contact:

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If you would like help to understand this document, or would like it in another format, please call Matthew Evans, Democratic Services Officer on 01432 383690 or e-mail matthew.evans@herefordshire.gov.uk 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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The Public's Rights to Information and Attendance at Meetings

YOU HAVE A RIGHT TO: -

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

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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 Conference Room 1 - Herefordshire Council, Plough Lane Offices, Hereford, HR4 0LE on Wednesday 30 July 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, Peter Hamblin, Robert Highfield, Stef Simmons, Charlotte Taylor, Richard Thomas and Mark Woodall

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

15. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Stone.

16. NAMED SUBSTITUTES (IF ANY)

Councillor Robert Highfield acted as a substitute for Councillor Stone.

17. DECLARATIONS OF INTEREST

Councillor Charlotte Taylor declared a non-registrable interest in agenda item no. 8 (Application 250688 – Bishopstone House); the applicant and applicant's family were close associates. Councillor Taylor would leave the meeting room during consideration of the application and take no part in its determination.

Councillor Polly Andrews declared a personal interest agenda item no. 6 (Application 242024 – Land opposite and East of Caenwood); the applicant was a distant known associate.

Councillor Terry James declared a personal interest agenda item no. 6 (Application 242024 – Land opposite and East of Caenwood); the applicant was a distant known associate.

18. MINUTES

RESOLVED: That the minutes of the meeting held on 4 July 2025 be approved.

19. CHAIRPERSON'S ANNOUNCEMENTS

20. 242024 - LAND OPPOSITE AND EAST OF CAENWOOD, HOWLE HILL, ROSS-ON-WYE, HEREFORDSHIRE (PAGES 21 - 22)

Councillor Simeon Cole acted as the local ward member for the following application.

The senior 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 De La Hay, the applicant, spoke in support of the application.

In accordance with the council's constitution the local ward member spoke on the application. In summary, he explained that the proposal was contrary to elements of the Walford neighbourhood development plan (NDP). The proposal did not accord with Walford NDP policies WALF2 and WALF20. The proposed development did not respect the character of the area, the contemporary design was at odds with other local properties and was too far from existing homes to accord with the requirements of the NDP for new properties. Drainage from the site was a significant concern and questions had been raised regarding the suitability of the compost toilet on the site and the impact this was likely to have on other local properties and water courses. In addition there were concerns about the smell produced from the compost toilet. There was concern that run off from the compost toilet would enter water courses and eventually the river Wye. Before any approval for the application was considered an Environment Agency drainage permit should be secured by the applicant. The impact of the development on the local landscape and views in the area meant the application was contrary to Core Strategy policies SD1 and LD1 and NDP policies WALF17 and WALF4. Due to the inconsistencies of the proposed development with the NDP and the Core Strategy the application should be refused.

The committee debated the application. The committee did not consider that the development had an adverse impact on the landscape as the property was lowered into the development site and was well screened. The use of a steel roof was questioned as being out of keeping with other local properties but it was felt that the property was modest and discreet and would not pose an unacceptable impact on the local landscape. It was noted that the local parish council had no objection to the application. The development had been subject to a habitats regulation assessment and drainage from the property would be subject to an Environment Agency permit.

Councillor Stef Simmons 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 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. **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 [(drawing nos. TPG-409-P-350; TPG-409-P-500; TPG-409-P-550; TPG-409-P-300; Garden Shed Elevations, Validated 7 August 2024 ; Greenhouse Elevations, Validated 7 August 2024)], except where otherwise stipulated by conditions attached to this permission.**

Reason. To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy, Policies WALF4, WALF6, WALF10, WALF17 and the National Planning Policy Framework.

- 3. 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 the National Planning Policy Framework.

- 4. The Remediation Scheme, as approved pursuant to condition 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 and the National Planning Policy Framework.

- 5. Unless otherwise approved in writing by the Planning Authority:**
- All foul water created by the dwelling permitted under this permission shall be managed by a composting toilet system with solids and liquids being separated and stored for further management.**
 - All solids created by the composting toilet shall be subject to a dry composting process for a period not less than 12 months and then shall be used a fertiliser within the curtilage of the permitted dwelling.**
 - All liquids created by the composting toilet shall be used a fertiliser within the curtilage of the permitted dwelling.**

- The permitted foul water system shall be managed and maintained as approved.

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, SD3, SD4, LD1, LD2 and LD3 and the council's declared Climate & Ecological Emergency.

6. Unless otherwise approved in writing by the Planning Authority:

- All 'grey water' created by the dwelling permitted under this permission shall be managed by a designed 'WET' system as detailed in approved plans
- No discharge or outfall of any grey water outside of the curtilage of the approved dwelling shall occur at any time.
- The permitted WET grey water management system shall be managed and maintained as approved.

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, SD3, SD4, LD1, LD2 and LD3 and the council's declared Climate & Ecological Emergency.

7. The ecological protection, mitigation, compensation and working methods scheme including the Biodiversity Enhancements, as recommended in the report by New ways Ecology dated 25 July 2024 shall be implemented and hereafter maintained in full as stated.

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 policy LD2.

8. 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

9. If during development, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer

has submitted and obtained written approval from the Local planning Authority, a Method Statement for remediation.

The Method Statement must detail how this unsuspected contamination shall be dealt with. A verification (validation) report demonstrating completion of the works set out in the method statement shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of any sampling and monitoring. It shall also include any plan (a long-term monitoring and maintenance plan) for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action and for the reporting of this to the Local Planning Authority.

Reason: To ensure that any unexpected contamination is dealt with, and the development complies with approved details in the interests of protection of ground and surface waters, Policy SD1 of the Herefordshire Local Plan- Core Strategy and the National Planning Policy Framework.

10. Before any other works hereby approved are commenced, visibility splays, and any associated set back splays at 45 degree angles shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 26 metres to the South west and 30m to the North East along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.

Reason: In the interests of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy, Policy WALF12 of the Walford Neighbourhood Development Plan and the National Planning Policy Framework.

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

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

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

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

12. Prior to commencement of works above the damp course hereby approved 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.
- d. All proposed hardstanding and boundary treatment.

Reason: To safeguard and enhance the character and amenity of the area in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan Core Strategy, Policies WALF6 and Policy WALF17 of the Neighbourhood Development Plan and the National Planning Policy Framework.

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

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

- 14.** Prior to first use of any dwelling approved under planning permission, evidence such as photographs or ecologists report of the suitably placed installation on the approved buildings, or on other land under the applicant's control, of a minimum of FOUR bird nesting features and TWO bat roosting features, of mixed types; and hedgehog highways through all impervious boundary features, 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), Environment Act, LURA, Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD2; and the Council's declared Climate & Ecological Emergency.

- 15.** Prior to the first occupation of the dwelling hereby approved an area shall be laid out within the curtilage of the property for the parking and turning of 1 cars 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 that area shall not thereafter be used for any other purpose than the parking of vehicles.

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

- 16.** 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 the dwellinghouse and thereafter maintained for the lifetime of the development.

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

- 17. All planting, seeding or turf laying in the approved landscaping scheme (Condition 12) 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, Policies WALF6 and Policy WALF17 of the Neighbourhood Development Plan and the National Planning Policy Framework

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

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

- 19. 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 and the National Planning Policy Framework.

- 20. 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 dwellinghouses 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.

INFORMATIVES:

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant 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. 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.
3. This permission does not authorise the laying of private apparatus within the confines of the public highway. The applicant should apply to Balfour Beatty Living Places (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford HR2 6JT, (Tel. 01432 349517), for consent under the New Roads and Streetworks Act 1991 to install private apparatus within the confines of the public highway. Precise details of all works within the public highway must be agreed on site with the Highway Authority. A minimum of 4 weeks notification will be required (or 3 months if a road closure is involved).

Under the Traffic Management Act 2004, Herefordshire Council operate a notice scheme to co-ordinate Streetworks. Early discussions with the Highways Services Team are advised as a minimum of 4 weeks to 3 months notification is required (dictated by type of works and the impact that it may have on the travelling public). Please note that the timescale between notification and you being able to commence your works may be longer depending on other planned works in the area and the traffic sensitivity of the site. The Highway Service can be contacted on Tel. 01432 845900.

4. This planning permission does not authorise the applicant to carry out works within the publicly maintained highway and Balfour Beatty Living Places (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford HR2 6JT, (Tel. 01432 349517)), shall be given at least 28 days' notice of the applicant's intention to commence any works affecting the public highway so that the applicant can be provided with an approved specification, and supervision arranged for the works.

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

that it may have on the travelling public). Please note that the timescale between notification and you being able to commence your works may be longer depending on other planned works in the area and the traffic sensitivity of the site. The Highway Service can be contacted on Tel. 01432 845900.

5. 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. Any work involving the removal or disturbance of ground or structures supporting or abutting the publicly maintained highway should be carried out in accordance with details to be submitted to and approved in writing by the Highway Authority or their agent. Please contact Balfour Beatty Living Places (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford HR2 6JT, (Tel. 01432 349517).

Councillor Cole resumed his seat on the committee.

21. 251273 - CAR PARK (PLOT 1A & 1B) TOGETHER WITH PLOTS 4 & 5, EAST OF WIDEMARSH STREET, HEREFORD, HEREFORDSHIRE, HR4 9JU (PAGES 23 - 24)

Councillor Polly Andrews acted as the local ward member for the application below.

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 Milln, local resident, spoke in objection to the application.

In accordance with the council's constitution the local ward member spoke on the application. In summary, she explained that the proposal had been subject to negotiation with environmental bodies and interested parties. It was part of the development of the Merton Meadow urban village and the proposed works were designed to protect against flooding from Widemarsh Brook and local watercourses. The proposal would improve large areas of scrubland in the locality.

The committee debated the application. The committee was in favour of the application and the following principal points were raised during the debate:

- the loss of parking locally was a concern and it was hoped that schemes would be put in place to offset the loss of parking places resulting from the application;
- the flood modelling that had been undertaken contained elements of uncertainty and concerns existed regarding the likely impact of the measures proposed upstream. It was noted that the Wildlife Trust had been developing an area for flood alleviation upstream from the development site and it was questioned how this would be affected by the proposed development;
- It was noted that the condition relating to the management and maintenance of the landscape was for a period of 10 years, this was not felt to be a sufficient period of time and it was requested that the condition be extended to the maximum period allowable or 30 years;

- The tensions with core strategy policies HD2 and E4, with relation to the canal restoration, were understood. However it was considered that the attenuation pond proposed close to the site of the canal basin would not be an impediment to the future restoration of the canal.
- The proposal would create wetland in the centre of Hereford. Schemes and measures needed to be put in place in order to protect the wildlife that would be attracted to the wetlands.
- Improved connectivity to the proposed wetlands from the transport hub was required for pedestrians to access the ponds.

The development manager provided the following clarification

- The application was very technical in detail and significant modelling of the flooding had been undertaken. The Environment Agency as the statutory consultee had reviewed the flood risk assessment and the modelling and had no objection. The Wildlife Trust had been involved in discussions regarding the scheme but comments regarding the impact of the scheme on work that the Wildlife Trust was undertaking would be fed back to the project team.
- The length proposed for the maintenance and management of the site in condition 13 could be extended.
- The provision of parking would be considered by the project team.
- The ecological impact of the application would be positive with a biodiversity net gain and wildlife corridors enhanced and maintained.

Councillor Robert Highfield proposed and councillor Richard Thomas seconded a motion that the application be approved with a change to condition 13 to ensure the management and maintenance of both soft and hard landscapes was undertaken over a period of at least 30 years or for the maximum amount possible.

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

RESOLVED:

That planning permission be granted subject to the following conditions, an update to condition 13 (to ensure the management and maintenance of both soft and hard landscapes was undertaken over a period of at least 30 years or for the maximum amount possible) 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:

- **Location Plan HRFRD-BUT-XX-00-DR-A-01100-P2**
- **Existing Site Plan – Plots 1A and 1B HRFRD-BUT-XX-00-DR-A-01101-P1**
- **Existing Site Plan – Plots 4 and 5 HRFRD-BUT-XX-00-DR-A-01102-P2**

- General Arrangement Plot 1A LD-SC-002 Rev A
- General Arrangement Plot 4 LD-SC-003 Rev B
- General Arrangement Plot 5 LD-SC-004 Rev C
- Zoning Plan LD-SC-001 Rev B
- Hardscape Plan-Plot 1A LD-SC-005 Rev A
- Hardscape Plan-Plot 5 LD-SC-006 Rev C
- Planting Plan-Plot 1A LD-SC-007 Rev A
- Planting Plan-Plot 4 LD-SC-008 Rev B
- Planting Plan-Plot 5 LD-SC-009 Rev C
- Tree Plan-Plot 1A LD-SC-010 Rev A
- Tree Plan-Plot 4 LD-SC-011 Rev B
- Tree Plan-Plot 5 LD-SC-012 Rev A
- Planting and Materials Legend LD-SC-013 Rev C
- Plot 1 Sections AA BB LD-SC-014 Rev A
- Plot 4 Sections AA LD-SC-015 Rev A
- Plot 5 Sections AA BB LD-SC-016 Rev B
- Existing Contours – Plot 1A/B 35849-HYD-1A-XX-M3-C-90100 P01
- Flood Compensation Plan - Plot 1A/B/C 35849-HYD-1-XX-M3-C-90110 P04
- Proposed Contours - Plot 1A/B 35849-HYD-1-XX-M3-C-90120 P01
- Sections Through – Plot 1A/B 35849-HYD-1-XX-D-C-90150 P01
- Site 1A/B/C Cut and Fill volume plan - 35849-HYD-5-XX-M3-C-90140 P02
- Existing Contours – Plot 4 35849-HYD--XX-M3-C-90100 P01
- Site 4 Cut and Fill analysis - 35849-HYD-5-XX-M3-C-90140 P01
- Flood Compensation Plan – Plot 4 35849-HYD-2-XX-MC-3-90110 P02
- Proposed Contours – Plot 4 35849-HYD-2-XX-M3-C-90120 P01
- Sections Through – Plot 4 35849-HYD-2-XX-M3-C-90150 P01
- Existing Contours – Plot 5 35849-HYD-5-XX-M3-C-90100 P03
- Site 5 Cut and Fill analysis - 35849-HYD-5-XX-DR-C-90140 P02
- Flood Compensation Plan – Plot 5 35849-HYD-5-XX-M3-C-90110 P04
- Proposed Contours – Plot 5 35849-HYD-5-XX-M3-C-90120 P02
- Sections Through – Plot 5 35849-HYD-5-XX-M3 -C 90151 P02 (sheet 2)
- Sections Through – Plot 5 35849-HYD-5-XX-M3 -C 90150 P02 (sheet 1)

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

Prior to Commencement

3 Ecology surveys

Prior to commencement of construction works other than site clearance, all required Optimal Period otter and bat surveys shall be completed and the resulting report submitted to the Local Planning Authority. The report shall include survey methodology and results, details of proposed mitigation and compensation with recommendations for required Protected Species Licences. The approved report, shall be implemented in

full, and hereafter maintained.

Reason: To ensure all protected species and habitats are protected and conserved having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan Core Strategy policies SS6, LD1, LD2 and LD3.

4 Air Quality Screening

Before any work; including site clearance or demolition begin or equipment and materials are moved on to site, an air quality screening assessment and a dust risk assessment shall be submitted to and approved in writing by the Local Planning Authority. The approved report, shall be implemented in full, and hereafter maintained.

Reason: To protect the amenities of nearby properties so as to comply with Policy SD1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

5 Construction Environment 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 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.

6 Landscape/Ecology Plan

No development shall take place until a Landscape, Habitat and Ecological Management Plan, has been submitted to, and approved in writing by, the Local Planning Authority in consultation with the Environment Agency. The development shall be carried out in accordance with the provisions of the approved Plan.

Reason: To ensure the protection of wildlife and supporting habitat. Also, to secure opportunities for optimising the enhancement of the site’s nature conservation value in line with national planning policy and Herefordshire Local Plan - Core Strategy policies LD1, LD2 and LD3 and the National Planning Policy Framework.

7 Waste Prevention

Prior to any development commencing on site, including any site clearance or groundworks, details of a site waste prevention plan and material management measures shall be submitted and approved in writing by the Local Planning Authority. This shall include the steps to be

taken to reduce, reuse and recycle waste (including hazardous wastes) that is produced through the construction phase. Construction works shall thereafter be carried out in full accordance with the details of the approved plan.

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, Policy SP1 of the Herefordshire Minerals and Waste Local Plan and the National Planning Policy Framework.

8 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 National Highways, 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
- Any lighting
- Construction Traffic Management Plan
- Hours of working
- Community engagement
- Location of any welfare buildings
- Noise and vibration controls (including the identification of noise sources and sensitive receptors (including residential) followed by a risk assessment)
- Complaint handling

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 mitigate any adverse impact from the development on the A49 trunk road in accordance with DfT Circular 01/2022 and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

9 Arboriculture Statement

Prior to the commencement of any construction works close to retained trees, an Arboricultural Method Statement (AMS) must be submitted and approved by the local planning authority. This should include all information to ensure impacts to retained trees are kept to an acceptable level. The development shall be carried out in strict accordance with the approved AMS.

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.

10 Basin design

Prior to the commencement of the development, details of the design of the proposed basins and offtakes shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved detail.

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

11 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 the National Planning Policy Framework.

Pre-occupancy or other stage conditions

12 Public Sewer

No development shall commence on plots 4 and 5 until the public sewers crossing the plots have been accurately located and if necessary, a scheme to divert the assets has been submitted to and approved in writing by the Local Planning Authority. Once agreed, the scheme shall be delivered prior to the construction of any SUDS. Thereafter the scheme shall be constructed in full and remain in perpetuity.

Reason: To ensure that the proposed development does not affect the integrity of the public sewerage system in the interests of public health and safety.

13 Landscape management and maintenance

Before the development is first brought into use, a schedule of

- **Soft landscape management and maintenance for a period of ten years.**
- **Hard landscape management and maintenance for a period of ten years**

shall be submitted to and approved in writing by the Local Planning Authority. Maintenance shall be carried out in accordance with the approved schedule.

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

14 Lighting

Details of any external lighting proposed to illuminate the development shall be submitted to and approved in writing by the Local Planning Authority before the use hereby permitted commences. Development shall be carried out in accordance with the approved details and there shall be no other external illumination of the development.

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

15 Maintenance plan for basins

Before the development is first brought into use details of the provision of a maintenance plan for basins shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be maintained in accordance with the approved plan.

Reason: To ensure the future establishment of the approved scheme, in order to conform with policies SD3, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.

16 Contaminated Land

The Remediation Scheme, as approved pursuant to condition 11 above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted and agreed in writing before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.

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

17 Archaeology investigation

The applicant shall commission a suitable archaeological investigation of the far southern corner of Application Area Plot 5. This investigation

should commence prior to any construction works in this part of the site, and the results of the investigation will form part of the continuing design process here. The investigation will in essence consist of an appropriate geophysical survey, and targeted archaeological excavation area(s). As would be normal, there will be a need to make the results, and any archive generated, publicly accessible in due course.

Reason: To allow the potential archaeological interest of the site to be investigated and recorded and to comply with the requirements of Policy LD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

Post occupancy monitoring and management/Compliance Conditions

18 Ecology Enhancements

Within 3 months of completion of the approved works evidence of the suitably placed installation within the site boundary of at least TWELVE bird nesting boxes; FOUR artificial kingfisher tunnels; FOUR number bat roosting features; ONE artificial otter hold as recommended within the Ecological Appraisal by Greengage (dated April 2025) should be supplied to the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority.

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

19 Tree protection

Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following documents and plan: Arboricultural Impact Assessment and Tree Protection Plan (All Silva_AIA/TPP_15429_24.04.25).

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

20 Contaminated Land

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

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

21 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.

22 Ecological recommendation secured

The recommendations set out in the Impact Assessment section of the Ecological Appraisal by Greengage dated April 2025 should be followed in relation to the identified protected species (badgers, bats, birds, invertebrates, hedgehogs and INNS) unless otherwise agreed in writing by the local planning authority.

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

INFORMATIVES:

- 1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 2 With regards to the contaminated land assessment required pursuant to condition 11, the assessment is required to be undertaken in accordance with good practice guidance and needs to be carried out by a suitably competent person as defined within the National Planning Policy Framework 2024.
 - 1) All investigations of potentially contaminated sites are required to undertake asbestos sampling and analysis as a matter of routine and this should be included with any submission.
 - 2) Where ground gas or vapour protection measures are required, they shall be validated in accordance with current best practice guidance.
- 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 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 The attention of the applicant is drawn to the provisions of the Wildlife and Countryside Act 1981 (as amended). This gives statutory protection to a number of species and their habitats. Other animals are also protected under their own legislation. Should any protected species or their habitat be identified during the course of the development then work should cease immediately and Natural England should be informed. They can be contacted at: Block B, Government Buildings, Whittington Road, Worcester, WR5 2LQ. Tel: 0300 060 6000.

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

Councillor Charlotte Taylor left the meeting at 11:19 a.m.

There was an adjournment at 11:19 a.m.; the meeting reconvened at 11:25 a.m.

Councillor Polly Andrews resumed her seat on the committee.

22. 250688 - BISHOPSTONE HOUSE, BISHOPSTONE, HEREFORD, HEREFORDSHIRE, HR4 7JG

The planning officer provided a presentation on the application and gave a verbal update to condition 3 of the recommended conditions. Recommendation 3 should read as below;

No below ground work should take place until the developer has secured the implementation of a programme of archaeological survey and recording open brackets to include recording of the standing historic fabric and any below ground deposits affected by the works close brackets. This programme shall be in accordance with the written scheme of investigation which has been submitted by the applicant and approved by the local planning authority and shall be in accordance with a brief prepared by the county archaeology service.

In accordance with the council's constitution the local ward member provided a statement on the application. In summary, he supported the application and the works proposed.

The committee debated the application and was content that the proposal was an enhancement to the existing development.

Councillor Stef Simmons proposed and councillor Dave Davis seconded a motion that the application be approved in accordance with the case officer's recommendation.

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

RESOLVED:

That planning permission be granted subject to the following conditions:

1. Time limit for commencement

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

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

2. Development in accordance with approved plans and materials

The development hereby approved shall be carried out strictly in accordance with the approved plans (drawing nos. 8533-01C; 8533-02; 8533-03; 8533-04; 8533-05; 8533-06; 8533-07) 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, Bishopstone Group Neighbourhood Development Plan and the National Planning Policy Framework.

3. Archaeological survey and recording

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

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

4. External Illumination

Having regard to known bat roosts in the locale, details of any external lighting proposed to illuminate the development shall be submitted to and approved in writing by the Local Planning Authority before the development is occupied. The lighting plan should be undertaken alongside an ecologist to ensure no adverse impacts to nearby bat roosts occur. Development shall be carried out in accordance with the approved details and there shall be no other external illumination of the development.

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.

5. European Protected Species (EPS) Licence

No development shall commence until a European Protected Species (EPS) licence for bats has been obtained from Natural England, and a copy of the licence has been submitted to the Local Planning Authority. The licence must include detailed mitigation

and compensation measures to safeguard the known bat roosts that would be adversely affected by the proposed works. These measures shall include, but not be limited to, the timing of works, provision of alternative roosting features, and post-construction monitoring (if required). All works shall thereafter be carried out in strict accordance with the approved licence and mitigation strategy.

Reason: 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.

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 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. Biodiversity Net Gain (Exemption Informative)

The meeting ended at 11.32 am

Chairperson

242024 - PROPOSED ERECTION OF SELF-BUILD DWELLING AND ANCILLARY OUTBUILDINGS AND CREATION OF ACCESS AT LAND OPPOSITE AND EAST OF CAENWOOD, HOWLE HILL, ROSS-ON-WYE,

For: Andrew De La Haye & Yolande Watson per Mr Ed Thomas, 13 Langland Drive, Hereford, Herefordshire, HR4 0QG

ADDITIONAL REPRESENTATIONS

Representation from Applicants: 22 July 2025 16:36

We have just picked up your report, thanks, and have quickly read through it. We have the following observations and comments.

- Under Planning History on page 3 - 233356 Pre Application Advice has not been included. It is important to note that this pre app advice stated that drainage was broadly accepted by the BBLP drainage team at that stage.
- The HC ecologist's (A.Coxixo) report dated 23rd September 2024 references the presence of knotweed. We have previously asked for this to be corrected because the HC ecologist misread the PEA and in fact there is no knotweed on site. We feel it is important for the committee to be aware of this fact as it is a notifiable invasive species.
- The public third party representations summary should read 12 representations of which 9 are supporting and 3 objecting. The objections summary implies that more than one objection was concerned with design, landscape impact and traffic impact. Whereas only one representation mentioned these subjects.

OFFICER COMMENTS

- The applicant confirmed on the 29th of July 2025 that the parcel of land is not a registered small holding. There are no registered livestock present within the application site.
- Addition to Section 2.1

Relevant Policies

Herefordshire Local Plan- Core Strategy

- **Correction to wording to reference one dwelling Condition 16**

Prior to the first occupation of the 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 the dwellinghouse and thereafter maintained for the lifetime of the development.

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

CHANGE TO RECOMMENDATION

No change to recommendation

251273 - PROPOSED FLOOD ALLEVIATION SCHEME TO ADDRESS HISTORIC FLOODING ACROSS THE MERTON MEADOWS AREA OF THE CITY AT CAR PARK (PLOT 1A & 1B) TOGETHER WITH PLOTS 4 & 5, EAST OF WIDEMARSH STREET, HEREFORD, HEREFORDSHIRE, HR4 9JU

For: Mr Holland per Ms Lucy Brackenbury, 41 Bengal Street, Ancoats, Manchester, M4 6AF

ADDITIONAL REPRESENTATIONS

There have been two further representations, received on 27th July 2025 that states:

This application, and the proposal for houses around the Football ground will do great harm to Hereford fc and shopping in Hereford, as someone with walking difficulties I would have to give up Attending Matches if there was nowhere close to park.

&

This Proposal will be a severe blow to shopping and the Football club with a large part of the support Hereford fc get travelling from out of the city.

OFFICER COMMENTS

The additional representations received raises no new material planning considerations. The considerations have already been highlighted and/or discussed throughout the officer report.

CHANGE TO RECOMMENDATION

No change to recommendation

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	3 SEPTEMBER 2025
TITLE OF REPORT:	243045 - PROPOSED ERECTION OF 31 NO. KEY WORKER DWELLINGS, INCLUDING ACCESS FROM CLUBTAIL DRIVE WITH ASSOCIATED INFRASTRUCTURE AND LANDSCAPING – LAND OFF CLUBTAIL DRIVE, HOLMER, HEREFORD. For: Bloor Homes Western per Mr George Elston-Bates, 3 Rd Floor, Regent House, 65 Rodney Road, Cheltenham GL50 1HX

WEB LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=243045&search-term=243045
Reason Application submitted to Committee – Redirection	

Date Received: 27 November 2024 Ward: Holmer
Ward Member: Cllr Frank Cornthwaite

Expiry Date: 17th July 2025

1. PROCEDURAL BACKGROUND

- 1.1 This application was originally presented to the Planning and Regulatory Committee at its meeting on Friday 4th July 2025 with an Officer recommendation of approval. The application has been made in full and seeks permission for the following:

“The erection of 31no. key worker dwellings, including access from Clubtail Drive with associated infrastructure and landscaping.

- 1.2 Members of Committee debated the application and, following a motion proposed by Cllr Stef Simmons and seconded by Cllr Richard Thomas, voted unanimously to defer the application to allow for further consideration of landscaping as set out in the resolution below:

RESOLVED: that the application be deferred to enable a reconsideration of the plans, particularly to secure the introduction of additional landscaping measures along the northern and eastern edges of the site (alongside any layout and design changes considered necessary to facilitate this) to ensure the scheme assimilates appropriately into the local context whilst delivering enhancement of green infrastructure as required by policies LD1, LD2, LD3 and SD1 of the Core Strategy.

- 1.3 The full minutes of the previous meeting are available in the following link:
<https://councillors.herefordshire.gov.uk/documents/g9806/Public%20minutes%20Friday%2004-Jul-2025%2010.00%20Planning%20and%20Regulatory%20Committee.pdf?T=11>
- 1.4 Following this resolution, the Applicant has sought advice from Officers in respect of an alternative approach to landscaping and this has culminated in the submission of amended plans on 15th August 2025. This report gives consideration to those amendments and provides an updated Officer recommendation. It is intended to be supplementary and should be read in conjunction with the original Officer Report dated 4th July 2025 (Appendix 1).

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

2. AMENDED PROPOSAL

- 2.1 The proposal was presented to members of Planning Committee on 4th July 2025. A variety of matters were debated during the meeting, however the final resolution solely concerned the approach towards landscaping at the north and eastern boundaries of the site (particularly along the shared boundary with the adjacent Park and Chose site). The Minutes of the meeting note that Members considered there was a need to amend the plans to include additional mitigating landscaping and landscape features to address the intensive appearance of the development.
- 2.2 The Applicant has submitted an amended suite of plans in response to these concerns. The amendments are focused to the north east corner of the site and relate to the landscaping measures around the three storey Adeline and Albany apartment buildings. The changes captured within the plans can be broadly summarised as follows:
- The re-siting of the Adeline and Albany apartment buildings further to the west to create more space between the buildings and boundary the Park and Chose site. The width of separation between the buildings and boundary is not uniform along its length, however the Adeline and Albany are now respectively 3.5m and 4.5m from the eastern site boundaries at the widest points. This compares to 1.8m and 2.7m previously.
 - The reconfiguration of the access and parking arrangements on the northern parcel of the site, to accommodate the amended siting of the Adeline and Albany units. The position of bin stores, cycle stores and footways within the site are also reconfigured. The level of parking provision is maintained at a rate of one space per bedroom.
 - The provision of additional landscaping measures along the eastern and part-northern boundary, including provision of new hedgerow; columnar fastigiated trees; smaller ornamental trees within gaps and a larger feature tree to the north-east corner.
 - Updated 3D visualisations have also been provided to show the development alongside the updated landscaping scheme. The visuals now only show planting measures proposed within the red line area of the development and do not show any landscaping measures that may be delivered as part of the adjoining Park and Choose development.
- 2.3 The Applicant (Bloor Homes Western) has provided the following Cover Statement to explain the evolution of the landscaping scheme and the underlying design rationale:

Following the Committee meeting Bloor reflected further on the sensitivities of the northern and eastern site boundaries and reviewed the scheme layout arrangements. As a result, through adjustments to the siting of the proposed Adeline apartment block, the re-positioning of supporting car and cycle parking spaces and a relocated bin store, a landscape strip of sufficient width has been created along the eastern and part-northern boundary in order to accommodate a new hedgerow and an appropriate mix of boundary trees that can be wholly accommodated within the 'red line' application site.

Notably, the revised landscape arrangements have been planned and designed with no 'cumulative' reliance placed on any landscaping coming forward within the approved, neighbouring Park and Choose site. Concern over any such 'reliance' was specifically mentioned by Councillors at the Committee meeting and is reflected in the deferral resolution.

The revised landscaping now provides for a continuous ornamental hedge around the north and east boundary of the site with the 3-storey Adeline and Albany apartment blocks. This hedge is interspersed with 14 no. trees with an additional tree within the proposed ornamental hedge extension along part of the southern boundary of the Albany apartment block with Clubtail Drive.

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In respect of the appropriate species and planting arrangements for this boundary location, the advice of the Council's Landscape Officer was provided to Bloor which suggested a row of columnar fastigiata trees with smaller ornamental trees set within the gaps and a larger / display tree on the corner. Appropriate species were suggested including an Acer as the potential 'display tree'.

In response, we have alternated taller columnar fastigiata Hornbeam (Carpinus betulus 'Frans Fontaine') with smaller ornamental Amelanchier x grandiflora 'Robin Hill' for its lower rounded canopy to create a somewhat formal avenue.

We have also added, as suggested, two display trees at either end of the eastern boundary; Acer rubrum 'Armstrong' for an autumn display, though one of the Acers has been 'set in' from the southern corner of the Albany Apartment block to avoid affecting foundations.

The advice of the Council's Planning and Landscape Officers has been welcomed and has significantly influenced the proposed landscaping arrangements, as can be seen by the replacement Plot Landscaping, Specification and Schedule drawing WE086-LS-036h. To illustrate the visual impact that can be expected, a revised series of hi-resolution visuals have also been prepared to be 'read' alongside the replacement Plot Landscaping drawing, to include key views from Hedgerow Way.

Bloor appreciate the comments of Councillors as conveyed at the Planning Committee Meeting held on the 4th July. We trust that the revised landscaping details, as informed and influenced by the advice of Officers, demonstrates the constructive approach taken by Bloor to positively address Councillors concerns and will ensure that the proposed development successfully assimilates into the wider Hereford Point development

- 2.4 The amended landscaping plan for the relevant section of the site is shown at Figure 1. Updated visualisations for this section of the site, including views from Hedgerow Way and the A49 to the north-east are shown at Figures 2 and 3.

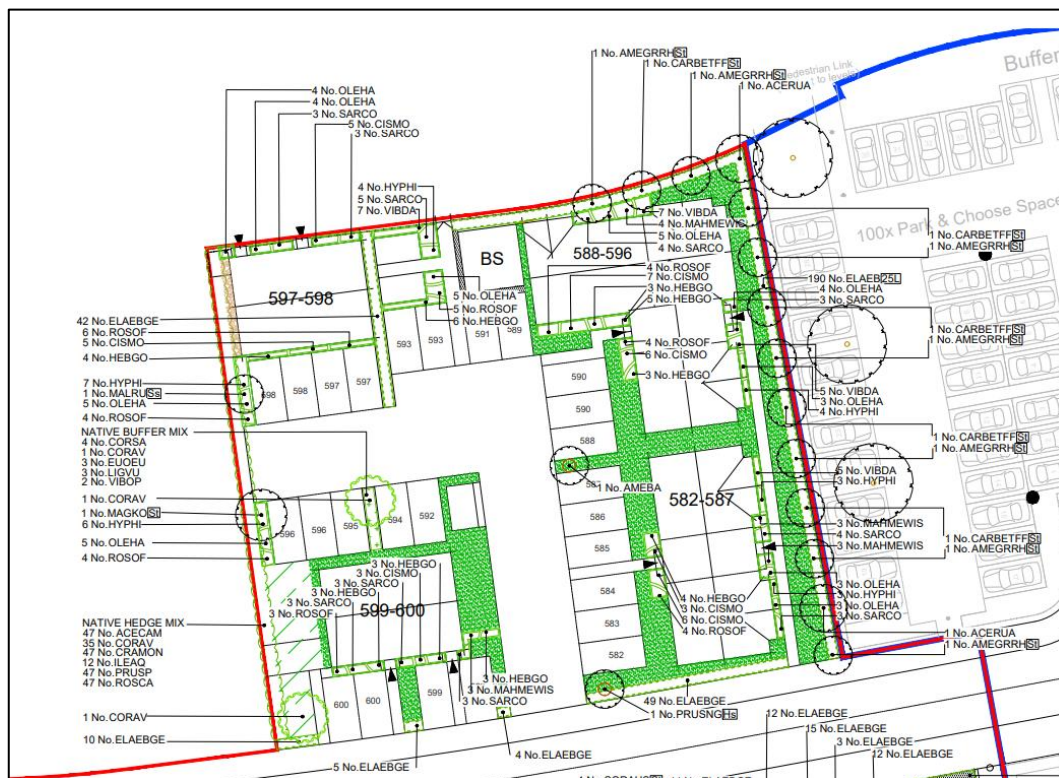


Figure 1: Amended Landscaping Scheme (Northern Parcel)



Figure 2: Amended Visualisation from Hedgerow Way to north east



Figure 4: Amended Visualisation from Park and Choose site to east

3. CONSULTATION SUMMARY

3.1 The changes made to the plans are relatively minor and Officers have not considered it necessary to carry out a full public consultation exercise. Further advice has however been sought from technical consultees whose remit has the potential to be affected by the changes:

3.2 **Landscape Officer** – No Objections subject to conditions

Along the boundary with the car park, there is an ornamental evergreen hedge (*Elaeagnus x ebbingei*), with alternating small, narrow tree species (*Carpinus betulus* 'Frans Fontaine' and *Amelanchie x grandiflora* 'Robin Hill'). There are a different species on the corners (*Acer rubrum* 'Armstrong'). This is suitable to soften the boundary and provide some green infrastructure to benefit both wildlife and particularly pedestrians using the path to access front doors.

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I would recommend that details of the planting area and specification are added as a condition to be agreed prior to planting being carried out. The tree pit and planting pit detail provided are standard, however given the narrow strip of land here, a site specific detail should be provided. This should combine the grass verge, hedgerow and tree pit as a trench to maximise the available root volume for them all to grow together. It should show details (in both plan and section) of kerb / edging stones and associated foundations, and the timber post and rail fence + metal estate railing, as this also takes up underground space. Consider whether any underground root barriers are required along the car park side. It should also take consideration of watering points for establishment and long term maintenance. Given the adjacent site has been used as a construction compound the ground is therefore likely to be highly compacted, and therefore details of drainage should also be provided.

We don't have a standard HC condition for the planting pit / trench design. It would require the applicant to submit a scale drawing and specification showing the above mentioned site specific details, prior to construction of external works beginning. It would also need to allow for evidence of the approved details being implemented on site – eg HC site inspection prior to planting and backfilling or submission of evidence (photographs with clearly shown measures on (depth and width).

3.3 Local Highways Authority – No Objections subject to conditions

The access and internal site layout on the northern parcel of the site have been subject to minor amendments in order to accommodate the amended landscaping scheme. The Local Highway Authority has no objections to the proposed changes. Vehicle tracking has been submitted demonstrating that the site can adequately accommodate a large wheelbase van. The level of parking provision accords with the previously agreed requirements.

4. OFFICER APPRAISAL

4.1 A full appraisal of the application was presented to committee in the Officer Report dated 4th July 2025 (Appendix 1). The assessment set out therein, including the relevant policies and legislation, remains broadly applicable and hence a full appraisal of the scheme is not repeated again here. This report seeks to deal with the amended landscaping plans and gives consideration to any material planning implications arising from this. It is noted in this sense that the deferral resolution of Members did not raise any issues beyond landscaping and hence it is reasonably assumed the scheme is regarded as being acceptable in all other respects.

4.2 Policy LD1 of the Core Strategy is most relevant to matters of landscaping. Amongst other things, it requires that developments incorporate new landscape schemes to ensure development integrates appropriately into its surroundings. It also requires that schemes include new planting to support green infrastructure, as well as incorporating measures for the management of these. Policy LD3 also seeks that scheme make provision for the delivery of new green infrastructure. From the Holmer and Shelwick NDP, policy HS4 f) states:

‘Landscaping should be an integral part of the design, should take account of, and where possible, preserve existing trees, hedges and other green infrastructure on site. New roads and streets should include street trees, and other landscape features that create green, walkable, multi-use thoroughfares’

4.3 There are similar principles in the NPPF (Chapter 12 &15). Paragraph 136 in particular states:

‘Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined⁵², that opportunities are taken to incorporate

trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible. Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users’.

- 4.4 The concerns raised by Committee on 4th July related to the northern parcel of the site, with a particular focus upon the limited new landscaping proposed along the eastern and northern boundaries. There was a perceived risk that, in the absence of any meaningful new planting to soften their appearance, the three storey apartment buildings could appear as being overly-large in the context of the wider scheme. There were also a concern that the scheme placed reliance on landscaping measures likely to come forward as part of the Park and Choose development on the neighbouring site, which was not appropriate in the context that there was limited certainty regarding the nature of this and no ability to secure it as part of this application.
- 4.5 In response to these concerns, the siting of the Adeline and Albany units has been moved by approximately 2m to the west in order to create a larger buffer between them and the eastern site boundary. Additional landscaping measures are then proposed in the space created, which comprises an ornamental hedge along the outer site boundary which is interspersed with columnar fastigiated trees. Smaller shrubs are proposed against the building itself, with a larger canopy spread ‘feature’ tree being proposed at the north eastern corner of the site. The revised strategy has been informed by discussions with Council Officers and is illustrated in the amended visualisations provided (an example of which is at Figure 4). It is also noted that these renderings no longer show any landscaping measures on the Park and Choose development.



Figure 4: Amended Landscaping Strategy Visualisations (from P&C site to east)

- 4.6 In the opinion of Officers, the amended scheme is an appropriate response to the concerns raised by the Committee and would serve to soften the appearance of the development when viewed from key vantage points to the east and north-east. Along with the landscaping strategy put forward for the rest of the site, it would also ensure that the development integrates into its surroundings and provides meaningful new tree cover - which is beneficial to both biodiversity and the amenity of local residents.
- 4.7 The amended scheme has been reviewed by the Council’s Landscape Officer and their response confirms that the amended strategy is an appropriate response to the site context. It is noted that

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the scheme has favoured narrow, fastigiated tree species along the eastern boundary and this an appropriate recognition of the constrained amount of space available here. In that context however, it is noted that the scheme has only provided a generic tree pit detail to illustrate the means of planting. It is instead considered that a bespoke method is required to account for the site constraints here in order to ensure the new trees are provided with the conditions they need to establish and grow. This can be addressed through the imposition of a bespoke condition, a recommended wording for which is set out below:

With the exception of site clearance and groundworks, no further development shall commence until a bespoke plan and planting specification for the trees, hedgerows and shrubs along the eastern and northern boundary of the site (adjoining the Adeline and Albany units) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:

- a) A site-specific planting trench design in both plan and section, showing integration of tree pits, hedgerow and grass verge to maximise root volume.
- b) Details of kerbs/edging stones and their foundations, and the alignment of boundary treatments including the timber post and rail fence and metal estate railing.
- c) Provision of root barriers where necessary (particularly on the car park side).
- d) Arrangements for watering points for establishment and long-term maintenance.
- e) Specification for imported planting soil, including details of preparation of existing soil to address potential compaction caused by use of land as construction compound.

Development shall subsequently be carried out in accordance with the approved details prior to the occupation of the development. Evidence of completion of the works in accordance with the approved details (such as photographs and/or Clerk of Works completion statement) shall be submitted to the Local Planning Authority for acknowledgement within 2 months of the works being completed.

Reason: To ensure appropriate provision for the successful establishment and long-term health of trees and associated planting within the restricted planting area, in the interests of visual amenity, biodiversity and the character of the development in accordance with policies LD1 and LD3 of the Herefordshire Local Plan Core Strategy; policy HS4 of the Holmer and Shelwick Neighbourhood Development Plan and Chapters 12 and 15 of the National Planning Policy Framework.

- 4.8 Discussions with the Members have also highlighted the need to ensure that adequate measures are in place to support the landscaping scheme's successful establishment and future longevity. The earlier deferral made clear that the acceptability of the scheme was dependent on effective landscaping mitigation being achieved, which heightens the need to ensure that the scheme is successful and achieves its intended purpose. A scheme of future management and maintenance was previously recommended under Condition 11, however it is considered appropriate to strengthen this by extending the maintenance period to 15 years and also add a clause to ensure any failures during this period are replaced. Recommended wording for this condition is provided below:

Before the development is first occupied, a scheme of landscape management and maintenance for a period of 15 years following the first occupation of the development shall be submitted to and approved in writing by the local planning authority. This scheme shall make provision to ensure that any planting failures within this period are replaced with a plant of the same species and similar size in the next planting season following the failure occurring. The works shall subsequently be carried out in accordance with the approved management and maintenance schedule.

Reason: In order to ensure the successful establishment of the approved landscaping scheme in accordance with policies SS6, LD1, LD3 and HD4 of the Herefordshire Local

Plan Core Strategy, policy HS4 of the Holmer and Shelwick Neighbourhood Development Plan and the National Planning Policy Framework.

- 4.9 Drawing the above together, it is considered that the amended landscaping scheme is appropriate response to the Committee's concerns and would serve to ensure the development aligns with the objectives of development plan polices LD1, LD3, SD1 and HS4.
- 4.10 The delivery of an amended landscaping scheme has also required minor amendment to the site layout and the potential implications of this also require consideration.
- 4.11 In order to create the space required to deliver additional landscaping along the eastern boundary for the site, minor alterations have been made to the orientation and siting of the Albany and Adeline apartment units. Both units have been moved approximately 2m further to the west than in the previous iteration of the plans. As detailed in the Officer Report at Appendix 1, the previous arrangement was considered to be acceptable from a character and amenity perspective and the same conclusions are drawn in respect of the amended plan. The extent of change is considered to be minor and the difference between the two iterations likely to be barely perceptible when expected on the ground, as highlighted by the section plans at Figure 4. It is hence considered that the scheme would continue to comply with policies LD1, SD1, HS4 and HS5 with regards to layout, scale, design and residential amenity.

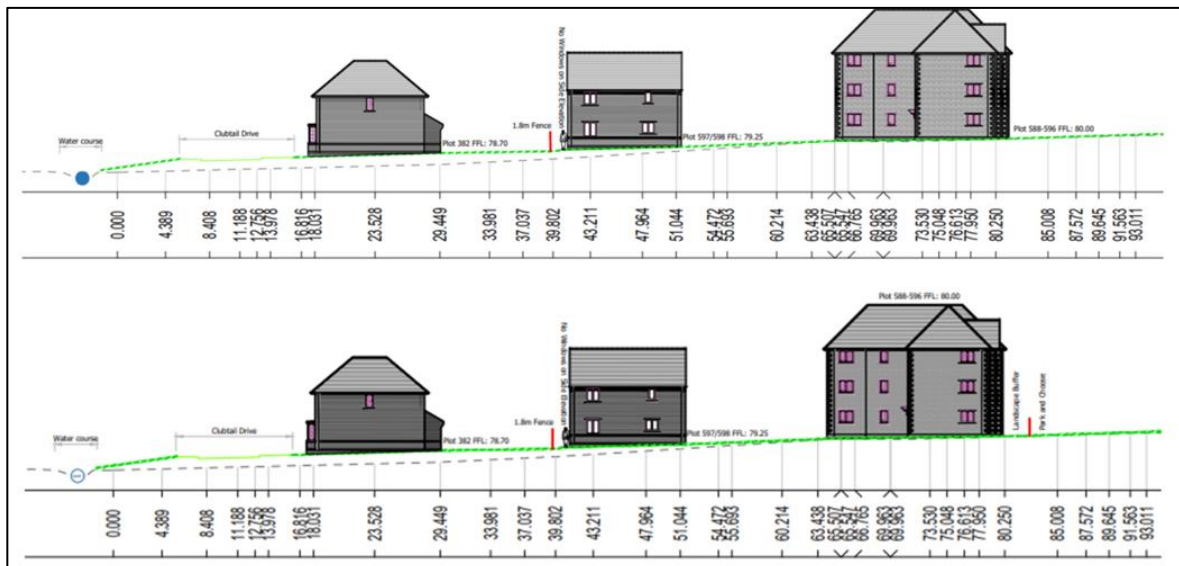


Figure 5: Site Cross Sections – Original Proposal (Top) and Amended Plans (Bottom)

- 4.12 The amended plans also include changes to the vehicular access arrangements, with the site access to the northern parcel from Clubtail Drive being relocated ~7m to the west of the previous position. The internal site configuration and parking layout has also been amended. The Local Highways Authority have been re-consulted and advise that they have no objections to the changes. The access arrangement continues to be acceptable; tracking plans have been supplied to demonstrate internal manoeuvring space remains adequate; and parking provision continues to be made at a rate of one space per bedroom in accord with the Holmer and Shelwick NDP. There are hence no impacts arising from the changes that would bring the scheme into conflict with policies SS4, MT1 or HS4.
- 4.13 The changes proposed are not considered to give rise to any further material planning implications that have not already been addressed in the earlier Officer Appraisal (Appendix 1).
- 4.14 It therefore follows that Officers continue to consider the scheme to be in general accordance with the provisions of the development plan. It is representative of sustainable development and recommended for approval accordingly, subject to the imposition of the conditions scheduled

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below and the completion of the S106 Agreement. The schedule of conditions have been revised to insert additional conditions (as referenced earlier in this report) and to update plan references to the latest version where necessary.

RECOMMENDATION:

It is recommended that subject to the completion of a legal agreement under Section 106 of the Town and Country Planning Country Act to secure the delivery of affordable housing for sole occupancy by military personnel (Appendix 2) and the imposition of the conditions detailed below (and any other further conditions considered necessary by officers named in the scheme of delegation), that Planning Permission be granted.

Standard Planning Permission Conditions

1 Time limit for commencement (full permission)

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

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

2 Development in accordance with Approved Plans

The development hereby approved shall be carried out in accordance with the following approved plans and the schedule of materials set out there on:

General:

- Development Boundary WE086-SL-9240 Development Boundary
- Site Layout WE086-SL-920G - DIO F
- Parking Strategy WE086-SL-9250A C
- External Works WE086-SL-9230B D
- Materials Layout WE086-SL-9220A B
- Visualisations Land Off Clubtail Drive, Holmer_Visuals Rev C

House Types:

- ADELINE 973.PL-02
- ADELINE 973.PL-03
- ADELINE 973.PL-04
- ADELINE 973.PL-05
- ALBANY 953.PL-02
- ALBANY 953.PL-03
- ALBANY 953.PL-04
- SATTERFIELD 2BF03-1V1.PL-07
- SATTERFIELD 2BF03-1V2.PL-07
- SATTERFIELD 2BF03V1.PL-07
- SATTERFIELD 2BF03V3.PL-07
- SATTERFIELD 2BF03V3-1.PL-07
- VT0134.2BF03_SATTERFIELD V1
- VT0134.2BF03-1_SATTERFIELD V1
- VT0135.2BF03-1_SATTERFIELD V2
- VT0136.2BF03_SATTERFIELD V3
- VT0136.2BF03-1_SATTERFIELD V3
- VT0137.953_ALBANY_GREY

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|---------------------|---|
| Landscaping: | <ul style="list-style-type: none"> • Plot Landscaping Specification & Schedule WE086-LS-036H |
| Engineering: | <ul style="list-style-type: none"> • Vehicle Tracking Plan WE086- DIO-003B • Planning Engineering WE086-EN-DIO-001B • Site Cross Sections WE086-EN-DIO-002A • |
| Reports: | <ul style="list-style-type: none"> • Outline Construction Environmental Management Plan 302007-CTR059 • Planning Statement 5026845 • Design & Access Statement –B • The Statutory Biodiversity Metric Calculation Tool • Ecological Technical Note - CSA CSA/7361/01 A • Transport Statement - PJA 08569 C • Biodiversity Net Gain Assessment – CSA - CSA/7361/02 A • Drainage Statement - BWB 244783-SDS P02 • Energy Statement – Briary Energy • Noise Impact Assessment e3p 51-421-R1-1 • Response to LHA Comments 18/3/2025 • Drainage Technical Note: Response to LLFA Comments May 25 |

Reason: To ensure the development is carried out in accordance with the approved details in the interests of securing a satisfactory form of development with accords with policies SD1, LD1 and HD4 of the Herefordshire Local Plan Core Strategy, policies HS3 and HS4 of the Holmer and Shelwick Neighbourhood Development Plan and the National Planning Policy Framework.

Pre-Commencement Conditions

3. Construction Environmental Management Plan

Prior to the commencement of the development hereby permitted, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority (in consultation with the Highway Authority for the A49 trunk road). The plan shall include, as a minimum:

1. Construction phasing
2. An HGV routing plan to include likely origin/destination information, potential construction vehicle numbers, construction traffic arrival and departure times, signage, accesses, and construction delivery times (to avoid peak hours)
3. Details of any special or abnormal deliveries or vehicular movements
4. Clear and detailed measures to prevent debris, mud, and detritus being distributed onto the local highway and SRN
5. Mitigation measures in respect of noise and disturbance during the construction phase including:
6. Vibration and noise limits
7. Monitoring methodology
8. Screening
9. A detailed specification of plant and equipment to be used
10. Construction traffic routes
11. A scheme to minimise dust emissions arising from demolition/construction activities on the site. This scheme shall include:

12. Details of all dust suppression measures
13. Methods to monitor emissions of dust arising from the development
14. Waste management
15. Wheel washing measures
16. Protection measures for hedgerows and grasslands

Thereafter, all construction activity in respect of the development shall be undertaken in full accordance with such approved details unless otherwise approved in writing by the Local Planning Authority in consultation with the Highways Authority.

Reason: To mitigate any adverse impact from the development on the A49 trunk road and to satisfy the reasonable requirements of road safety.

4. Resource Audit

Prior to any development commencing on site, a Resource Audit 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: The treatment/handling of any site waste is a necessary initial requirement before any groundworks are undertaken in the interests of pollution prevention and efficient waste minimisation and management so as to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

Conditions to Discharge

5. Overheating Assessment / Noise Impact Mitigation

Prior to the first occupation of any dwelling with a façade frontage facing the A49 to the east (as identified on Figure 5 of Noise Impact Assessment 51-421-R1-1), an Overheating Assessment using CIBSE TM52 shall be undertaken and submitted to the Local Planning Authority for written approval. The supplied scheme shall be undertaken with reference to the Acoustics Ventilation and Overheating Residential

Design Guide January 2020 (Association of Noise Consultants) and shall include mitigation measures to ensure that predicted temperatures inside the specified dwellings do not exceed overheating criteria. The scheme of approved measures shall subsequently be implemented prior to first occupation of the dwellings and thereafter maintained in perpetuity.

Reason: To ensure that the amenity of future residents is not adversely affected by traffic noise and the potential effects of overheating, in the interests of securing good standards of living in accordance with policy SD1 of the Herefordshire Local Plan Core Strategy; policy HS3 of the Holmer and Shelwick Neighbourhood Development Plan and Chapter 12 of the National Planning Policy Framework.

6. Vehicular access construction

With the exception of site clearance and groundworks, no further development shall take place until a construction specification for the new vehicular accesses to the public highway network have been submitted to and approved in writing by the Local Planning Authority. The access shall subsequently be delivered in accordance with the approved details prior to the first occupation of any dwellings.

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.

7. Driveway and Maneuvering Area Specification

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

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

8. Parking Specification – Shared Private Drives

Prior to the first occupation of any dwelling hereby approved, a detailed scheme for the surfacing and drainage of the parking areas shown on approved plan WE086-EN-DIO-001B shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented prior to the occupation of the dwellings and thereafter those arrangements shall be maintained in perpetuity.

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

9. Cycle Storage

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

available for use prior to the first use of the development hereby permitted. Thereafter these facilities shall be maintained in perpetuity.

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

10. Scheme of Ecological Enhancement

Prior to the first occupation of the development hereby approved, an detailed plan and specification for the scheme of ecological enhancement measures set out at Section 5.4 of the Ecological Technical Note by CSA Environmental dated November 2024 shall be submitted to and approved in writing by the Local Planning Authority. The measures shall subsequently be implemented in accordance with the approved details prior to the first occupation of the development.

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 policy LD2.

11. Scheme of Landscape Maintenance and Management

Before the development is first occupied, a scheme of landscape management and maintenance for a period of 15 years following the first occupation of the development shall be submitted to and approved in writing by the local planning authority. The works shall subsequently be carried out in accordance with the approved management and maintenance schedule.

Reason: In order to ensure the successful establishment of the approved landscaping scheme in accordance with policies SS6, LD1, LD3 and HD4 of the Herefordshire Local Plan Core Strategy, policy HS4 of the Holmer and Shelwick Neighbourhood Development Plan and the National Planning Policy Framework.

12. Water Efficiency

Prior to the first occupation of the development hereby approved, a scheme demonstrating that water efficiency measures will be provided to each dwelling to achieve the optional technical standards of 110 litres per person per day shall be provided to the Local Planning Authority for written approval. The measures shall be implemented in accordance with the approved details prior to the first occupation of that dwelling.

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

13. With the exception of site clearance and groundworks, no further development shall commence until a bespoke plan and planting specification for the trees, hedgerows and shrubs along the eastern and northern boundary of the site (adjoining the Adeline and Albany units) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:

- a) A site-specific planting trench design in both plan and section, showing integration of tree pits, hedgerow and grass verge to maximise root volume.**

- b) Details of kerbs/edging stones and their foundations, and the alignment of boundary treatments including the timber post and rail fence and metal estate railing.
- c) Provision of root barriers where necessary (particularly on the car park side).
- d) Arrangements for watering points for establishment and long-term maintenance.
- e) Specification for imported planting soil, including details of preparation of existing soil to address potential compaction caused by use of land as construction compound.

Development shall subsequently be carried out in accordance with the approved details prior to the occupation of the development. Evidence of completion of the works in accordance with the approved details (such as photographs and/or Clerk of Works completion statement) shall be submitted to the Local Planning Authority for acknowledgement within 2 months of the works being completed.

Reason: To ensure appropriate provision for the successful establishment and long-term health of trees and associated planting within the restricted planting area, in the interests of visual amenity, biodiversity and the character of the development in accordance with policies LD1 and LD3 of the Herefordshire Local Plan Core Strategy; policy HS4 of the Holmer and Shelwick Neighbourhood Development Plan and Chapters 12 and 15 of the National Planning Policy Framework.

Compliance and Monitoring Conditions

14. Delivery of Visibility Splays

Prior to the first occupation of the development hereby approved, visibility splays (and any associated set back splays at 45 degree angles) shall be provided for the new access points onto the cul-de-sac road leading to Clubtail Drive from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 45 metres in each direction along the nearside edge of the adjoining carriageway (in accordance with plan 08569-CI-A-001 Internal Visibility Assessment & Geometry Plan – Appendix C Transport Statement). Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.

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

15. Surface Water Drainage Implementation

No dwelling shall be occupied until the scheme of surface water management arrangement have been fully implemented and are operational in accordance with the details set out within approved plans and documents: WE086-EN-DIO-001B Planning Engineering; Drainage Technical Note WE086-EN-DIO-TN01 and Drainage Statement (Ref: 244783-BWB-XX-XX-T-C-0001_SDS).

Reason: In order to ensure that satisfactory drainage arrangements are provided and to comply with Policies SD3, SD4 and HD4 of the Herefordshire Local Plan – Core Strategy and the principles set out at Chapters 14 and 15 of the National Planning Policy Framework.

16. Landscaping Implementation

All planting, seeding or turf laying in the approved landscaping scheme (Plot Landscaping Specification & Schedule WE086-LS-036H)) 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. All hard landscaping shall be carried out concurrently with the development and completed prior to first occupation of the development.

Reason: To ensure implementation of the landscape scheme approved by local planning authority in order to conform with policies SS6, LD1, LD3 and HD4 of the Herefordshire Local Plan Core Strategy, policy HS4 of the Holmer and Shelwick Neighbourhood Development Plan and the National Planning Policy Framework.

17. Habitat Regulations - Nature Conservation (River Wye SAC) – Surface Water

Unless otherwise agreed in writing by the Local Planning Authority as detailed in the application information and plans all surface water flows created by the approved development shall be managed through an approved Sustainable Drainage System (SuDS). No surface water shall be discharged to any local mains sewer. Hereafter, the approved surface water scheme (SuDS) 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.

18. 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.

19. Protected Species and Dark Skies (external illumination)

No external lighting of any kind 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.

20. Habitat Regulations – Construction Environmental Management Plan

Unless otherwise approved in writing by the planning authority the measures detailed in the Construction Environmental Management Plan (RSK - November 2024) shall be implemented in full and maintained until all construction has been completed and all machinery and spare materials removed from 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 and the council's declared Climate Change & Ecological Emergency.

21. Implementation of Renewable Energy Measures

Prior to the first occupation of the development hereby approved, the scheme of energy efficiency and renewable energy measures set out within the Energy Strategy Statement by Briary Energy shall be implemented in full and thereafter maintained in perpetuity.

Reason: To ensure implementation of the measures to contribute towards energy efficiency and low carbon energy generation, as required by policies SD1 and SD2 of the Herefordshire Local Plan Core Strategy and the National Planning Policy Framework.

22. Implementation of EWM's

The development hereby approved shall be carried out in accordance with the scheme of risk avoidance and precautionary working methods set out at Chapter 5 of the Ecological Technical Note by CSA Environmental dated November 2024, unless otherwise approved in writing by the Local Planning Authority.

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

23. Working Hours During Construction Phase

During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or dispatched from the site outside the following times: Monday - Friday 7.30am - 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.

BIODIVERSITY NET GAIN

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 statutory 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.

Based on the information supplied with the application, none of the statutory exemptions or transitional arrangements apply and hence this permission is considered to one which will require the approval of a biodiversity gain plan before development commences.

INFORMATIVES

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. This planning permission is pursuant to a planning obligation under Section 106 of the Town and Country Planning Act 1990.
3. This permission does not authorise the laying of private apparatus within the confines of the public highway. The applicant should apply to Balfour Beatty (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford HR2 6JT, (Tel: 01432 261800), for consent under the New Roads and Streetworks Act 1991 to install private apparatus within the confines of the public highway. Precise details of all works within the public highway must be agreed on site with the Highway Authority. A minimum of 4 weeks notification will be required (or 3 months if a road closure is involved).

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

4. The attention of the applicant is drawn to the provisions of the Wildlife and Countryside Act 1981 (as amended). This gives statutory protection to a number of species and their habitats. Other animals are also protected under their own legislation. Should any protected species or their habitat be identified during the course of the development then work should cease immediately and Natural England should be informed. They can be contacted at: Block B, Government Buildings, Whittington Road, Worcester, WR5 2LQ. Tel: 0300 060 6000.

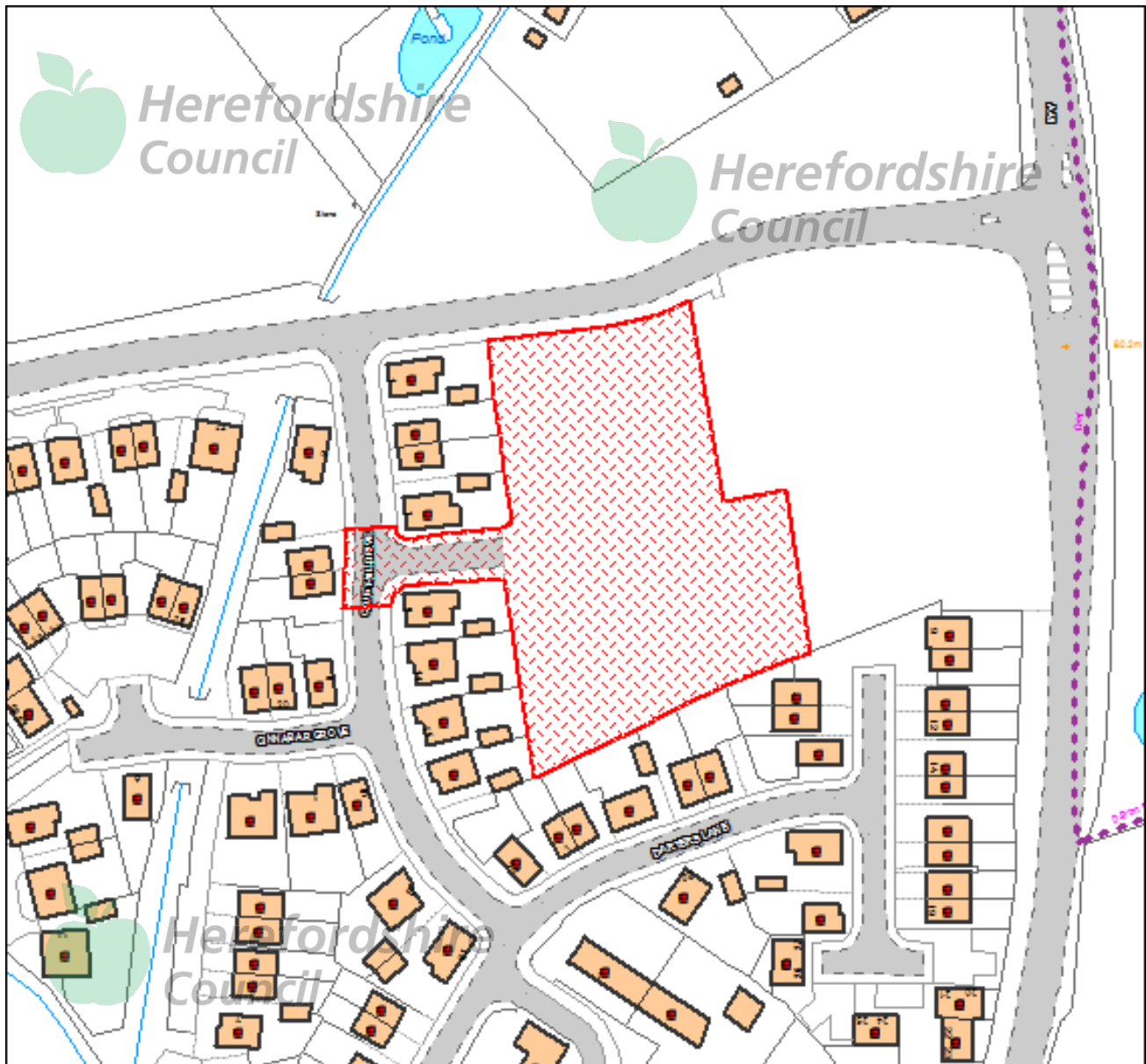
The attention of the applicant is also drawn to the provisions of the Conservation of Habitats and Species Regulations 2010. In particular, European protected animal species and their breeding sites or resting places are protected under Regulation 40. It is an offence for anyone to deliberately capture,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

5. 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. With regards to Condition 5, a good acoustic design process should be followed in accordance with the 'Professional Practice Guidance on Planning and Noise: New Residential Development' (May 2017 or later versions) to ensure that the noise criteria are achieved with as many windows open as possible. Any design measures that are used to control the ingress of noise must be consistent and compatible with the requirements of Approved Documents O and F.

APPENDIX 1 – Officer Report 4th July 2025

APPENDIX 2 – Draft S106 Legal Agreement

Background papers – none identified.



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APPLICATION NO: 243045

SITE ADDRESS : LAND OFF CLUBTAIL DRIVE, HOLMER, HEREFORD

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

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	4 JULY 2025
TITLE OF REPORT:	243045 - PROPOSED ERECTION OF 31 NO. KEY WORKER DWELLINGS, INCLUDING ACCESS FROM CLUBTAIL DRIVE WITH ASSOCIATED INFRASTRUCTURE AND LANDSCAPING – LAND OFF CLUBTAIL DRIVE, HOLMER, HEREFORD. For: Bloor Homes Western per Mr George Elston-Bates, 3 Rd Floor, Regent House, 65 Rodney Road, Cheltenham GL50 1HX

WEB LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=243045&search-term=243045
Reason Application submitted to Committee – Redirection	

Date Received: 27 November 2024 Ward: Holmer
Ward Member: Cllr Frank Cornthwaite

Expiry Date: 4 July 2025

1. Site Description and Proposal

- 1.1 The application relates to a site on the northern edge of Hereford, forming part of a larger parcel of land known as Holmer West, which is identified as a strategic urban extension in the Herefordshire Local Plan Core Strategy under policy HD4. The site falls within the redline boundary of outline permission 150478/O, which allowed for the erection of up to 460 dwellings and is currently in the process of being built out. The land to the south east of the estate, previously associated with Holmer House Farm, has also been developed for housing but under the provisions of a separate permission (P184662/O). The sites are being developed together by Bloor Homes and are part of a housing scheme collectively known as 'Hereford Point'.
- 1.2 The application relates to a parcel of land comprising 0.51 hectares, located to the north east of Hereford Point near to the junction between the site 'spine road' of Hedgerow Way and the A49. The land is bound by Hedgerow Way to the north, on the opposite side of which lies open countryside. It adjoins existing housing to the south and west. To the east of the site, there is a parcel of land that has been set aside for the delivery of a 'park and choose' site in accordance with the outline planning permission and Reserved Matters approval 201446/RM. The proposal site is accessed off Clubtail Drive to the west. The land is currently laid to grass and is of a generally consistent gradient, which rises from the south west to the north east. Close boarded fences define the boundaries with neighbouring houses, whilst a post and rail fence demarks the boundary with Hedgerow Way to the north. The location of the site relative to the wider Hereford Point development is shown on aerial image at Figure 1.



Figure 1: Site Location in the context of wider Hereford Point development

- 1.3 The current application is made in full and seeks permission for the following:

“The erection of 31no. key worker dwellings, including access from Clubtail Drive with associated infrastructure and landscaping.”

- 1.4 The application has been made by Bloor Homes, however the supporting documentation sets out that the dwellings would be constructed for the Defence Infrastructure Organisation (DIO) and the accommodation is intended for occupation by military personnel based at sites around Hereford. The Planning Statement reports that many military personnel are currently housed in rented accommodation in the central area of Hereford and the application seeks to provide purpose built accommodation to replace this, freeing up private housing stock within the city.
- 1.5 As above, the proposal seeks to deliver 31 C3 residential units. These would be delivered as a mix of apartments and maisonettes, comprising 12 x one bed units and 19 x two bed units. The proposal seeks to utilise the existing access off Clubtail Drive, which will also serves the approved ‘park and choose’ scheme to the east. The alignment of the extension to Clubtail Drive severs the site into two parcels to the north and south of the highway. On the northern side, it is proposed to deliver two blocks of apartments which would be three stories in height and sited along the eastern and northern boundary. A further two buildings would be delivered on the northern parcel, being two storeys in height and each supporting two maisonettes which have an external appearance akin to a pair of semi-detached houses. All units on the southern parcel would be delivered as two storey buildings, again in a form akin to semi-detached houses. Central parking areas would be provided for each block of development, which includes shared external spaces in lieu of dedicated private curtilages. The proposed site layout for the site is shown below (Figure 2), along with elevations for one of the apartment units (Albany – Fig 3), an example maisonette unit (Satterfield –Fig 4) and visualisations from Hedgerow Way (Fig 5).



Figure 2: Proposed Site Layout Plan



Figure 3: Proposed Elevations – Albany House Type (Apartments)



Figure 4: Proposed Elevations – Satterfield House Type (Maisonette)



Figure 5: Indicative Elevations – site from Hedgerow Way to north east

- 1.6 The application is promoted on the basis that it meets the accommodation needs of essential local workers and would also fulfil the definition of Affordable Housing. It is proposed that the accommodation would be delivered on a 'Build to Rent' basis, whereby the accommodation would be offered for rent to qualifying persons at a rate set in accordance with Government's rent policy for Affordable Rent or is at least 20% below local market rents. This is captured within a S106 Agreement, a draft form of which is included at Appendix 1 and this also includes provisions to restrict occupancy to military personnel only.

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

1.7 In addition to the plans, the application is supported by

- Planning Statement – Ridge and Partners LLP
- Design and Access Statement
- Transport Statement
- Noise Impact Assessment
- Ecology Technical Note
- Ecology BNG Report and Metric
- Drainage Strategy (and Technical Note May 2025)
- Construction Environmental Management Plan (CEMP)
- Sustainability Strategy

2. POLICIES

2.1 Herefordshire Local Plan – Core Strategy

- SS1 - Presumption in favour of sustainable development
- SS2 - Delivering new homes
- SS3 - Releasing land for residential development
- SS4 - Movement and transportation
- SS5 - Employment provision
- SS6 - Environmental quality and local distinctiveness
- SS7 - Addressing climate change
- HD1 - Hereford
- HD3 - Hereford movement
- HD4 - Northern Urban Expansion (Holmer West)
- H1 - Affordable housing – thresholds and targets
- H3 - Ensuring an appropriate range and mix of housing
- SC1 - Social and community facilities
- OS1 - Requirement for open space, sport and recreation facilities
- OS2 - Meeting open space, sport and recreation needs
- MT1 - Traffic management, highway safety and promoting active travel
- E3 - Homeworking
- LD1 - Landscape and townscape
- LD2 - Biodiversity and geodiversity
- LD3 - Green Infrastructure
- LD4 - Historic environment and heritage assets
- SD1 - Sustainable design and energy efficiency
- SD2 - Renewable and low carbon energy
- SD3 - Sustainable water management and water resources
- SD4 - Waste water treatment and river water quality
- ID1 - Infrastructure delivery

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

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

It is highlighted that the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)(the 2012 Regulations) and paragraph 34 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy was made on 9th November 2020 and the review process is currently underway. The level of consistency of the policies in the local plan

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

with the NPPF will be taken into account by the Council in deciding any application. In this case, the most relevant policies of the CS – which are considered to be those relating to meeting housing needs, guiding rural housing provision and safeguarding features of environmental value (amongst others) – have been reviewed and are considered to be consistent with the NPPF. As such, it is considered that they can still be attributed significant weight.

2.2 Holmer and Shelwick Neighbourhood Development Plan (made March 2020)

Policy HS1: Meeting the Housing Requirement
Policy HS3: New housing development in Holmer
Policy HS4: Design
Policy HS5: Landscape and Natural Environment
Policy HS7: Community Facilities
Policy HS9: Hereford Western Relief Road

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

<https://www.herefordshire.gov.uk/directory-record/3127/holmer-and-shelwick-neighbourhood-development-plan>

2.3 Minerals and Waste Local Plan (MWLP) (made March 2024)

Policy SP1 – Resource Management

The MWLP 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/local-plan-1/minerals-waste-local-plan/5>

2.4 National Planning Policy Framework (December 2024)

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

The NPPF can be viewed in full via the link below:

https://assets.publishing.service.gov.uk/media/67aafe8f3b41f783cca46251/NPPF_December_2024.pdf

2.5 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>

2.6 Supplementary Planning Documents

- Affordable Housing Supplementary Planning Document (SPD) 2 June 2021.
- Planning Obligations Supplementary Planning Document (SPD) April 2008

3. Planning History

- 3.1 The following applications are considered relevant to the current proposal. These include applications which relate directly to the current proposal site, but which also relate to the development of the wider Holmer West / Hereford Point development of which the site is a constituent part.

Relevant to wider Holmer West development:

REFERENCE	DESCRIPTION	DECISION	DATE
150478/O	Proposed erection of up to 460 dwellings including affordable housing, public open space, a Park & Ride facility, with associated landscaping access, drainage and other associated works	Approved	May 2017
P171073/RM	Application for approval of reserved matters following outline approval (P150478/O). For the erection of 82 dwellings, including open space, access, drainage and other associated works'	Approved	July 2017
P180618/RM	Application for approval of reserved matter following outline approval (150478) for the creation of main link road (spine road) linking access between the Roman Road and the A49	Approved	June 2018
P182712/RM	Application for approval of Reserved Matters (Phase 2) following outline approval (150478/O) for the erection of 221 dwellings including open space, access, drainage and other associated works	Approved	Feb 2019
P201445/RM	Application for approval of reserved matters following outline approval. (150478) Site for 77 dwellings	Approved	Nov 2020
P201183/RM	Application for approval of reserved matters (Specialist Housing Scheme) following outline approval. (150478). Proposed erection of 80 residential units and communal facilities retirement accommodation over a mixture of 3 and 2 storey blocks with associated parking and landscape	Approved	Sept 2020
P184662/O	Hybrid application – Approval sought for access for the whole development. Approval sought for appearance, layout and scale for 17 dwellings identified on drawing number. PA 5057-2a. Description Proposed demolition of modern ag buildings and replacement with a development of up to 100 market and affordable dwellings including the conversion of traditional barns into four dwellings, conversion and replacement extension of Holmer House to create	Approved	November 2019

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

	seven apartments & associated sustainable drainage works, de-culverting of Ayles Brook, roads, footpaths, cycleways, public open space & landscaping		
P201682/RM	Application for approval of Reserved Matters following hybrid approval(P184662/O) for the erection of 83 dwellings including open space, access, drainage and other associated works	Approved	December 2020

Relevant to this specific parcel of land:

REFERENCE	DESCRIPTION	DECISION	DATE
P201446/RM	Reserved Matters following outline approval (150478/O) for a Park and Choose Facility, Allotments, landscaping, drainage and associated highway infrastructure	Approved	April 2021

4. CONSULTATION SUMMARY

4.1 Statutory Consultations

4.1.1 Welsh Water – No Objections

Having reviewed the submitted drainage statement which indicates the proposal to discharge foul flows into the public sewerage system, in principle Dŵr Cymru Welsh Water have no objection to this proposal. However, we do advise that the applicant contacts the adjacent development as although the sewerage for the adjacent development has been offered for adoption to DCWW, it is currently the developer who is responsible for this drainage at this time and any alterations to this drainage could affect the S104 adoption agreement.

Turning to surface water, as above, in principle Dŵr Cymru Welsh Water have no objection to this proposal. However, as mentioned with the foul, the surface water sewerage system in the adjacent development is currently the responsibility of the developer and we would advise the applicant to engage with the developer. Furthermore, as the surface water would eventually discharge into the water course, we would advise the applicant discuss the proposal with the Land Drainage Authority, Natural England and/or the Environment Agency.

Sewage Treatment

No problems are envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from this site.

Potable Water Supply

We anticipate this development will require the installation of a new single water connection to serve the new premise. Capacity is available in the water supply system to accommodate the development. The applicant will need to apply to Dŵr Cymru Welsh Water for a connection to the potable water supply system under Section 45 of the Water Industry Act 1991. The applicant's attention is drawn to our new water connection application guidance notes available on our website.

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

Condition

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

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

4.1.2 National Highways

Referring to the consultation on a planning application dated 14th April 2025 referenced above, in the vicinity of the A49 that forms part of the Strategic Road Network, notice is hereby given that National Highways' formal recommendation is that we:

- recommend that conditions should be attached to any planning permission that may be granted (see Annex A – National Highways Recommended Planning Conditions)

National Highways has been appointed by the Secretary of State for Transport as a strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority, and street authority for the Strategic Road Network (SRN). The SRN is a critical national asset, and as such, we work to ensure that it operates and is managed in the public interest, both in respect of current activities and needs, as well as in providing effective stewardship of its long-term operation and integrity.

National Highways considers planning applications for new developments under the requirements of the National Planning Policy Framework (NPPF) and DfT Circular 01/2022: The Strategic Road Network and The Delivery of Sustainable Development ("the Circular"). The latter document sets out our policy on sustainable development and our approach to proposals which may have an impact on our network.

The SRN in the vicinity of the proposed development is the A49 trunk road.

Development Proposal

The application is for the development of 31 dwellings off Clubtail Drive.

Traffic

The Transport Statement (dated November 2024) states that there will be eleven additional trips in the AM peak and nine additional trips in the PM peak. This should have a negligible impact on traffic. Therefore, National Highways has no further comments to make on this.

Construction Impact

National Highways would expect to see a Construction Traffic Management Plan (CTMP) which should include the following details:

1. Hours of working; date works will commence and anticipated completion date/duration.
2. Anticipated average two-way daily traffic numbers associated with the construction phase of the project.
3. Confirmation of the intended construction access arrangements to and from the site from the SRN (A49).
4. The arrangements for routing of construction vehicles to and from the site.
5. Details of any special or abnormal deliveries or vehicular movements.
6. Site contact details responsible for ensuring Health & Safety and handling of complaints.
7. With respect to a CTMP, however, National Highways is content that the above can be undertaken post-planning consent, ensured through a suitably worded planning condition.

Condition 1: Prior to the commencement of the development hereby permitted, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority (in consultation with the Highway Authority for the A49 trunk road). The plan shall include, as a minimum:

1. Construction phasing
2. An HGV routing plan to include likely origin/destination information, potential construction vehicle numbers, construction traffic arrival and departure times, signage, accesses, and construction delivery times (to avoid peak hours)
3. Details of any special or abnormal deliveries or vehicular movements
4. Clear and detailed measures to prevent debris, mud, and detritus being distributed onto the local highway and SRN
5. Mitigation measures in respect of noise and disturbance during the construction phase including:
 6. Vibration and noise limits
 7. Monitoring methodology
 8. Screening
 9. A detailed specification of plant and equipment to be used
 10. Construction traffic routes
 11. A scheme to minimise dust emissions arising from demolition/construction activities on the site. This scheme shall include:
 12. Details of all dust suppression measures
 13. Methods to monitor emissions of dust arising from the development
 14. Waste management
 15. Wheel washing measures
 16. Protection measures for hedgerows and grasslands

Thereafter, all construction activity in respect of the development shall be undertaken in full accordance with such approved details unless otherwise approved in writing by the Local Planning Authority in consultation with the Highways Authority.

Reason: To mitigate any adverse impact from the development on the A49 trunk road and to satisfy the reasonable requirements of road safety.

4.1.3 **Hereford and Worcester Fire Service – No Response**

4.2 **Internal Council Consultations**

4.2.1 **Local Highways Authority – No Objections subject to conditions**

Initial Comments January 2025:

The LHA is aware that the approved plans for the park and choose site (20146/RM) identified this land as being 'potential future expansion land'. However, there is no legal mechanism or adopted policy which safeguards the land as being reserved exclusively for that purpose.

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

Based on the current information submitted, the following observations can be made:

- Visibility Splay: The visibility splay (2m x 2m) for Plot 1 is obstructed by the adjacent fence from the previous application.
- Turning Heads: No turning heads have been provided. While the development does not necessitate a standard turning head due to its size, it should still accommodate turning for a long wheelbase van.
- Cycle Storage: Secure, covered cycle storage should be provided for all units, ideally as individual storage facilities where possible. The location of the units for 1-12 do not provide this as they are located in the corner of the site away from many of the properties, therefore would probably not be used as residents would worry about the security and practicality of the location of this provision.

Without the above information and changes to the proposed layout the LHA cannot look to support this application

Further Comments on additional plans:

Whilst it does not providing an official turning heads, it does show a van can be turned around even if it's tight. Clubtail Drive currently has limited movements therefore it will also be assumed that both the refuse vehicles and delivery vehicles will reverse in. Even if and when the park and choose site comes into operation then it will still be acceptable.

CAB - Visibility Splays 2 x 2 m

CAE - Vehicular access construction

CAH - Driveway gradient

CAI - Parking – single/shared private drives

CAT - Construction Management plan

CB2 - Secure covered cycle parking provision

CB3 - Travel Plan

I11 – Mud on highway

I09 – Private apparatus within the highway

I45 – Works within the highway

I47 – Drainage other than via highway system

I41 – Travel plans

I35 – Highways Design Guide and Specification

4.2.2 **Landscape Officer – Qualified comments / Objection**

The development appears to be shoehorned into a space, and then leaves little in between to make it a liveable place for residents of Adeline House and Albany House next to a large car park. The view from A49 looking over the car park towards the development needs to reflect the transition between the rural character and the urban character.

The visualisation (Refer to figure 1) gives an impression of a leafy, community feeling car park (trying to make it feel acceptable, but could do more to make the allotments feel sheltered or away from the hardness of the carpark), but it does not seem to reflect the plan of the car park (Refer to figure 2).

Overall, the visualisation (with more tree and landscape buffering along the allotment) needs to be reflected in the plan. The car park needs to be given the necessary spaces to be able to take large trees (as shown), with the understanding that engineered sub surface planting pits are

used to reduce compaction and give adequate soil structure to sustain large trees in hard surfaces. This along with the appropriate irrigation and drainage requirements to ensure that the trees are reflective of the visualisation. There are many examples of car park trees that do not succeed if not given the adequate and appropriate space, detail and specification.

4.2.3 **Environmental Health Officer (Noise and Nuisance) – No Objections subject to conditions**

A noise impact assessment has been submitted with this application, ref.51-421-R1-1, Ep3, dated November 2024. Road traffic noise has been measured in accordance with Calculation of Road Traffic Noise (CTRN) methodology and subsequent noise modelling to BS8233:2014 criteria.

Internal noise levels:

The assessment shows that desirable internal noise levels as outlined in BS8233:2014 can be achieved with windows partially open across most of the site but that some dwellings along the eastern boundary (closest to the A49) will exceed those levels.

At night time, the road facing facades will experience noise levels of between 49 and 52dB (LAeq, 8hr). The assessment proposes a standard glazing specification of 4 mm glass/20 mm air space/4 mm glass across the majority of the site but road facing facades (as outlined in figure 5, appendix 3) will require an alternative ventilation strategy and need to be assessed for overheating.

If relying on closed windows to meet BS8233 values, there needs to be appropriate alternative ventilation that does not compromise the façade insulation or resulting noise level. Where mechanical services are used as part of the ventilation or thermal comfort strategy for the scheme, the impact of noise generated by these systems on occupants should be assessed.

External noise levels:

There are no garden areas outlined on the plan. Green space across the site has been assessed with the majority of areas falling below the maximum desirable levels, meaning further mitigation is not required.

Therefore, whilst this department does not object to this proposal, it is recommended that the following conditions are added to any permission granted

Conditions

Design and construction of the development shall ensure that the following noise criteria are met with windows open*:

- a. bedrooms shall achieve a 16-hour LAeq (07:00 to 23:00) of 35dB(A), and an 8-hour LAeq (23:00 to 07:00) of 30dB(A), with individual noise events not exceeding 45dB LAFmax more than 10 times (23:00 to 07:00 hours)
- b. living rooms shall achieve a 16-hour LAeq (07:00 to 23:00) of 35dB(A)
- c. dining rooms shall achieve a 16-hour LAeq (07:00 to 23:00) of 40dB(A)

Prior to works commencing on site, an assessment must be provided to and agreed with the LPA, as to the risk of overheating using CIBSE TM52 to ensure the predicted temperatures inside the road facing dwellings achieve overheating compliance criteria. This must also be with reference to the Acoustics Ventilation and Overheating residential design guide January 2020 (Association of Noise Consultants).

Reason: In the interests of residential amenity so as to comply with policy SD1 of the Herefordshire Local Plan Core Strategy 2011-31.

4.2.4 **Ecologist** – No Objections subject to Conditions

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 31 new residential units with associated foul and surface water flows created (nutrient pathways)

- 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 all surface water can be managed through an appropriate Sustainable Drainage System
- The approved foul water management systems can be secured by condition on any planning permission finally granted.

Refer to recommended conditions

The Construction Environmental Management Plan by RSK dated November 2024 are noted and appear relevant and appropriate to the location and scale of the project. The CEMP will ensure there are no effects from construction on the River Wye SAC, or other local nature conservation interests. The recommendations in the CEMP should be secured for implementation by condition on any planning permission granted.

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.

Statutory Biodiversity Net Gain

The supplied information appears relevant and appropriate and it is noted that all onsite BNG enhancements are located on shared/public open space. The balance of required BNG that cannot be delivered onsite will be purchased from suitable and nationally recorded offsite Habitat Bank(s). Full details with confirmation of purchase, updated statutory Metric and all other relevant details and information must be supplied for 'discharge' subsequent to planning permission being granted but PRIOR to any approved works commencing on site.

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: *Refer to recommended conditions*

The site is in an area with an intrinsically dark landscape that benefits local amenity and nature conservation interests, including the River Wye SAC/SSSI and 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. *Refer to recommended conditions*

For all other 'public' lighting this should be minimum required and design/luminaire specification based on current best practice such as that developed by the Bat Conservation Trust and Institute of Lighting Professionals. Areas being proposed with any significant for Biodiversity Net Gain contribution should not be subject to any additional illumination so as to ensure the BNG achieves maximum potential.

4.2.5 Strategic Housing Team – No Objection

I can confirm that I have seen the Heads of Terms provided, which captures the delivery of the dwellings on a Build to Rent basis and for occupation by military personnel only. I have no objection to the proposal on that basis.

4.2.6 Historic Building Officer – No Objection

Thank you for consulting me on the above application. I can confirm that the site lies outside a conservation area and that the nearest listed buildings are;

- UID 1296577 Holmer House
- UID 1099290 Church of St Bartholomew grade I

I note that there is existing new development between the site and the grade I listed church and as such would not consider that this proposal would impact on the setting of this listed building as it would be screened by existing development.

In terms of Holmer House UID 1296577, I note that the development of Darters Lane lies between the application site and the listed building. The development closest to Darters Lane would be 6 house types of the Sattersfield house type. That is 2 storey with traditional fenestration detailing.

The Adelaine and Albany are larger being 3 storey flats with a steep pitched roof. Given the distance from the listed buildings, it is not considered that the proposal would harm the setting of the listed buildings and as such no objection is raised in built heritage terms in respect of setting of heritage assets.

4.2.7 Land Drainage – No Objections

Flood Risk

Review of the Environment Agency's Flood Map for Planning (Figure 1) indicates that the main site area is located within the low probability Flood Zone 1. The existing site entrance is partially sited within Flood Zone 3.

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).

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

Surface Water Drainage

Infiltration testing was completed across the wider Bloor Holmer site at Outline stage. As the ground is largely impermeable a surface water drainage strategy utilising attenuation has been proposed.

Surface water will be attenuated in the balancing pond installed to serve the 184662 Holmer House Farm development. Restricted flows (8 l/s) from an adjacent Crest Nicholson development approved under 173405 'Land to the east of the A49', are directed into the balancing pond (these flows discharge directly to the watercourse via an existing highway drain).

Alterations have been proposed to the weir within the overflow / flow control manhole.

BBLP 10.06.2025 – The proposals include raising the weir and replacing the existing hydrobrake (as explained in the drainage strategy). There are also proposals to raise bank levels slightly. The hydrobrake approved for the original Holmer House Farm development (drawing 05596/A/0505/P4) had a different pass forward flow and so has to be replaced. The bank levels (surveyed April 2025) are shown as being too low (as explained in the technical note), so some bank raising will be required.

The hydrobrake and weir are being adopted by HC. A meeting will be convened to discuss the modifications that will need to be completed to allow the adoption to proceed.

We have reviewed the 173405 Crest Nicholson surface water strategy. There are proposals for two sets of geocellular tanks, with two hydrobrakes. Manhole S10 incorporates a flow control that could pass 8.1 l/s in a 100-year storm. The flow control at Manhole S12 could pass 2.7 l/s. The hydrobrakes serving these tanks could discharge up to 10.8 l/s.

As discussed above, the simulation assumes slightly lower flows from the Crest Nicholson site and so should be re-run.

BBLP 10.06.2025 Bloor have advised that the agreement reached with Crest Nicholson was for 8 l/s. BBLP have raised the issue with the LPA and will reconsult with Crest Nicholson

The MicroDrainage simulation that has been provided is only for the 6-hour storm. For the purpose of comparison we request that the Applicant presents the results of a 6-hour storm with (and without) any inflow from the Crest Nicholson site.

Spills from the balancing pond could increase the risk of downstream fluvial flooding. The Ayles Brook is a small watercourse, it is likely that the more acute floods relate to a 3-hour storm.

BBLP 10.06.2025. The calculations that have been presented include 180 minute and 360 minute simulations which include for 8l/s from the Crest Nicholson site.

We request the provision of MicroDrainage calculations relating to a 3-hour storm, with and without inflow from the Crest Nicholson site. This is also needed as there is also a risk of some water being retained if the small flow control were to block.

Two geocellular crates are proposed in the proposed key worker housing estate. The flow controls (2.5 l/s) and crates will be privately owned, discharging into a surface water drain that will be adopted as a sewer. The crates are shown below estate roads. We request that the crates are positioned below the parking areas.

BBLP 10.06.2025. The crates have been relocated

We request the provision of a topographical survey data for the edge of the existing pond, to confirm that there is adequate freeboard at all locations.

Foul Water Drainage

Welsh Water have confirmed no objection to the proposed foul water connection to the public foul sewer.

Overall Comment: No Objection

We have no objections to the development, the modifications to the hydrobrake, weir and pond edge will be made under the SuDS pond adoption process.

4.2.8 **Education Authority – Planning Contributions Sought**

Contribution sought for enhanced education infrastructure in relation to:	<ul style="list-style-type: none">• North Hereford Early Years provision,• Holmer CE Academy,• St Francis Xavier RC Primary School• Whitecross Hereford• St Mary's RC High School,• North Hereford Post-16 provision,• North Hereford Youth services,• Special Educational Needs and Alternative Provision in Herefordshire.
Total contribution sought: (based on mix above and cost per dwelling detailed below)	£93,784

For full response, refer to following link:

<https://myaccount.herefordshire.gov.uk/documents?id=74ebe56c-ccfd-11ef-9087-005056ab3a27>

4.2.9 **Archaeologist – No Objections**

4.2.10 **Planning Obligations Manager – No Objections / Qualified Comments**

The application proposes a mix of 1 bedroom and 2 bedroom military housing for occupation by military personnel.

Military housing means housing that is:

- owned by the Defence Infrastructure Organisation, Ministry of Defence or any other organisation which is responsible for the provision of built estates for Military Personnel and / or members of the armed forces.
- to be exclusively used and occupied by military personnel and / or members of the armed services (and which shall not include dependent children).

Military personnel is defined as meaning individuals who serve in the armed forces including the army, navy, air force and marine corps.

The accommodation will be let at an affordable rent by the Defence Infrastructure Organisation to those who are eligible for Affordable Rented Housing. Affordable Rent requires a rent and service charge of no more than 80% of the local market rent including service charges (where applicable).

The accommodation is being built on a Build to Rent basis which has the meaning given to it in Annex 2 of the National Planning Policy Framework as being 'purpose built housing that is typically 100% rented out. It can form part of a wider multi-tenure development comprising either flats or houses, but should be on the same site and/or contiguous with the main development. Schemes will usually offer longer tenancy agreements of three years or more, and will typically be professionally managed stock in single ownership and management control.'

The application requires the completion of a section 106 legal agreement to ensure:

1. The obligations are conditional upon the owner entering into a binding contract with the Defence Infrastructure Organisation to take a transfer of the dwellings and the owner covenants not to commence development until a binding contract is entered into with the Defence Infrastructure Organisation to deliver the scheme.
2. The dwellings shall not be used or occupied otherwise than as military housing in perpetuity.
3. On the first disposal of each dwelling a restriction shall be placed upon the registered title to each dwellings restricting the occupation of the dwelling otherwise than as military housing in perpetuity.
4. The dwellings will be provided as affordable rent and shall be let at gross rents which should not exceed 80% of the open market rent.

The Herefordshire Council Planning Obligations Supplementary Planning Document sets out when financial contributions are required to provide infrastructure to mitigate the impact of the development.

It provides for exemptions from contributions including 1 bedroom units or from other specialist housing where it can be demonstrated that the nature of the accommodation will not lead to contributions being required. In addition, schemes for affordable housing are exempt from contributions.

Having regard to this, the proposal is for 31 dwellings comprising 12 x 1 bedroom dwellings and 19 x 2 bedroom dwellings. The section 106 agreement controls the accommodation to be exclusively used and Occupied by Military Personnel and / or members of the armed services (and which shall not include dependent children). In addition it is a build to rent affordable scheme to be let at 80% of the open market rent.

Therefore, in accordance with the Herefordshire Council Planning Obligations Supplementary Planning Document financial contributions are not required.

5. REPRESENTATIONS

5.1 Holmer and Shelwick Group Parish Council – Objection

1. Application contravenes Holmer & Shelwick's NDP - Policy HS4. - 42 parking spaces provided for 50 bedrooms, therefore a shortfall of 8 spaces. Design - Application fails due to privacy, outlook, sunlight and daylight to existing residents.
2. The proposed site is approximately 1.5 metres higher than the adjacent two-storey private houses and therefore will lead to an over-bearing effect due to the proposal's three-storey form. leading to over-shadowing.
3. The 2 three-storey blocks of flats, when approaching from the A49, will create an over-dominating presence when entering The Point development.
4. This was not an original allocated area for development, but there has been no proposed drainage strategy. The visualisations forming part of the application in "View 3" does not show the true reality of the adjacent properties in height. nor solar panels to the south facing roofs therefore non-compliance with Net Zero.

5.2 Letter of Objections have been received from 25 individuals. They are summarised as follows:

- Lack of justification and clarity regarding type of 'key worker' accommodation proposed
- Concerns that proposal would represent an overdevelopment of a parcel of land that was originally intended for a park and choose or allotments site
- Concerns regarding risk of flooding and adequacy of drainage arrangements, particularly in terms of how the scheme will link into the infrastructure serving the wider development.
- Concerns regarding appropriateness of design relative to existing development – including scale, massing, height, use of materials and orientation of fenestration
- Concerns regarding potential for loss of privacy, overlooking, overbearing and overshadowing of existing dwellings in a manner that is detrimental to amenity. Specific concerns include scale of new development proposed; differences in ground levels; separation between plots; orientation of fenestration; and adequacy of screening / landscaping proposed.
- Concerns regarding potential for noise and disturbance to existing residents, particularly as a result of type of accommodation proposed that is likely to be occupied by young single people.
- Concerns regarding potential impact upon habitat and wildlife on the site
- Concerns regarding generation of additional traffic on estate and wider network, including A49
- Conflict between residential traffic and future users of the park and chose site
- Concerns that scheme will exacerbate existing parking issues
- Development would compromise the operation of the Park and Choose, which in turn will undermine sustainable transport and promote car dependency. ATE should be consulted.
- Concerns regarding additional pressure on local facilities and services, including access to schools and healthcare provisions.
- Use of the site for housing goes against previous permissions and the intentions for the future use given by developer to purchasers of neighbouring housing.
- Concerns for potential impact during construction phase (noise, traffic etc)
- Effect on the character of listed building or conservation areas
- Development does not make adequate provision for affordable housing

5.3 Defence Infrastructure Organisation (DIO) – Support

We refer to the above application and write to express support for the proposals. Specifically, the proposed accommodation forms an important part of the strategic thinking and analysis for the future provision of Service Family Accommodation (SFA) to support the Hereford Garrison.

The MOD has a major presence in the City of Hereford and the surrounding area with many service personnel and families living in the local community. The military will have enduring presence for the foreseeable future.

At a strategic level, the MOD has recently completed a deal with Annington Homes to take back control of 36,000 homes that provide SFA in England and Wales. Indeed, the department is currently undertaking a review of all of the SFA estate to inform a new military housing strategy.

It follows that an important first step in the strategy is the rapid development of an action plan to identify and deliver potential SFA opportunities. This will support the Government's Plan for Change and will include measures to support the Homes for Heroes pledge to support veterans.

Holmer is extremely well located for our housing needs and the detailed application proposals submitted by Bloor for 31 key worker dwellings on the site would make a valuable contribution to the military housing strategy: in the form of flats for 50 individual personnel.

We appreciate Bloor's planning application will be determined in due course 'on its merits', though trust that the rare opportunity presented by this proposal will be viewed as having the potential to further support the military in Hereford as 'essential, local workers' and will, in turn, be supported by the Council.

5.4 NHS Clinical Commissioning – Planning Contributions Sought

Primary Care Network	Additional Population Growth (31 dwellings) ¹	Floorspace required to meet growth (m ²) ²	Capital required to create additional floor space (£) ³
Hereford Medical Group PCN	75	4.8	19,200

For full response, refer to following link:

<https://myaccount.herefordshire.gov.uk/documents?id=8fbabbdf-da46-11ef-9088-005056ab3a27>

5.5 The consultation responses can be viewed on the Council's website:

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=243045&search-term=clubtail

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

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

6. Officer's Appraisal

6.1 Policy Context

6.2 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."

6.3 In this instance the adopted development plan comprises the Herefordshire Local Plan – Core Strategy (CS) and the Holmer and Shelwick Neighbourhood Development Plan. The latter was

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

made part of the statutory development plan in March 2020. The National Planning Policy Framework (NPPF) is also a significant material consideration.

- 6.4 A range of CS policies are relevant to development of this nature. Strategic policy SS1 of the CS sets out the presumption in favour of sustainable development, which is reflective of the positive presumption that lies at the heart of the NPPF. Policy SS1 confirms that proposals which accord with the policies of the Core Strategy (and, where relevant, other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise.
- 6.5 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy was made on 9th November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application. In this case the relevant policies of the CS have been reviewed and are considered entirely consistent with the NPPF with regards to promoting sustainable types and patterns of development. As such, it is considered that they can still be attributed significant weight.
- 6.6 The Council is currently in the process of preparing a new local plan. A draft was published in the March 2024 for Regulation 18 consultation. Following the changes to the NPPF made at national level in December 2024 however, the Council decided to cease further work on the Draft Regulation 18 Local Plan because a new spatial strategy is required to address the significant uplift in housing growth. The council will now progress its Local Plan under the new plan making process introduced by the Levelling up and Regeneration Act (LURA) 2023. No draft of the plan under the new plan making system has yet been published. As such, there is no emerging plan to which any weight can currently be attributed.
- 6.7 The NPPF makes clear that all decisions need to apply the presumption in favour of sustainable development as set out at Paragraph 11 of the NPPF. This states that development which accords with an up-to-date development plan should be approved without delay. Where there are no relevant policies or the most relevant policies are considered to be 'out-of-date', then the presumption in favour of sustainable development as set out by Paragraph 11 d) ('the tilted balance') is engaged. This means that planning permission should be granted, unless:
- I. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or
 - II. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, 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.
- 6.8 Footnote 8 makes clear that, for applications involving the provision of housing, policies should be regarded as being out of date if the Local Planning Authority is unable to demonstrate a five year supply of deliverable housing sites. Following changes to the standard method for calculating housing targets which accompanied the revised NPPF in December 2024, the Council is no longer able to demonstrate a five year supply of housing land. The current supply figure in the county is **3.06 years**. The relevant policies of the development plan should therefore be regarded as being 'out of date' and the positive presumption as set out at Paragraph 11 d) is engaged.

- 6.9 Paragraph 14 of the NPPF concerns the relationship between the Paragraph 11d presumption and Neighbourhood Development Plans. It states that where the presumption is engaged for applications involving the provision of housing, then the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply:
- a) the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and
 - b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement (see paragraphs 69-70).
- 6.10 The Holmer and Shelwick Group NDP was made in March 2020 and is now therefore more than 5 years old. As such, the plan does not benefit from the enhanced protection set out in NPPF Paragraph 14.
- 6.11 **Principle of Development**
- 6.12 The Core Strategy sets out that Hereford is to be the main focus for housing growth in the county. The land subject of this application forms part of a wider parcel known as 'Holmer West' which is identified by Core Strategy policy HD4 as a sustainable urban extension to Hereford. The site is also within the settlement boundary for Holmer as identified within the NDP through policies H1 and H3. The latter confirms that new housing within this boundary will be supported and the NDP recognises the wider parcel of land as a commitment site under 150478/O. Together, this establishes that the site is a suitable one for residential development in principle.
- 6.13 In the context that the site forms part of a wider parcel identified as 'Holmer West' urban extension, policy HD4 of the CS is relevant and this calls for a comprehensively planned scheme which sensitively integrated into both the built environment and landscape setting, with a target of delivering 500 new homes. The outline planning permission granted under 150478/O allowed for up to 460 dwellings which have now all been 'exhausted' through the various RM phases, whilst a further 100 dwellings have been approved at Holmer House Farm under 184662/O. A further 105 units secured full planning permission under P224270/F. It is hence evident that the land has delivered well in excess of the policy expectation of 500 dwellings. However, it is clear from the supporting text to the CS 4.2.50 that the 500 dwelling expectation is a minimum requirement; as such it is not a ceiling in terms of quantum and further units can be supported provided this responds to relevant site constraints and the requirements of policy. It is also pertinent that national guidance seeks to ensure the new development makes the most efficient use of land, whilst contributing to significantly boosting the supply of new homes. With that in mind, it is considered that no "in principle" policy tension arises from the additional provision over and above the quantum of dwellings originally envisaged for the urban extension. Both this application and earlier phases of the development have made efficient use of land, whilst responding to the established development patterns on the north side of Hereford. There is hence no harm arising from the further application and the proposal aligns with the government aspiration to boost housing supply – which is a particularly important consideration at a time when the Council is unable to demonstrate a five year supply of housing land.
- 6.14 **Relationship with Park and Choose Site**
- 6.15 The application site forms part of the larger red line area for outline planning permission 150478/O, which is the main permission for Hereford Point and provided for up to 460 dwellings. It also provided for various elements of supporting infrastructure, which included a Park and Ride facility as required by policy HD4. A Reserved Matters application 201446/RM was approved in 2021 which provided for a 100 space Park and Choose facility, allotments, landscaping, drainage and associated highway infrastructure. The approved plans for this are shown in Figure 5, with the current application site indicated by the dashed red line:

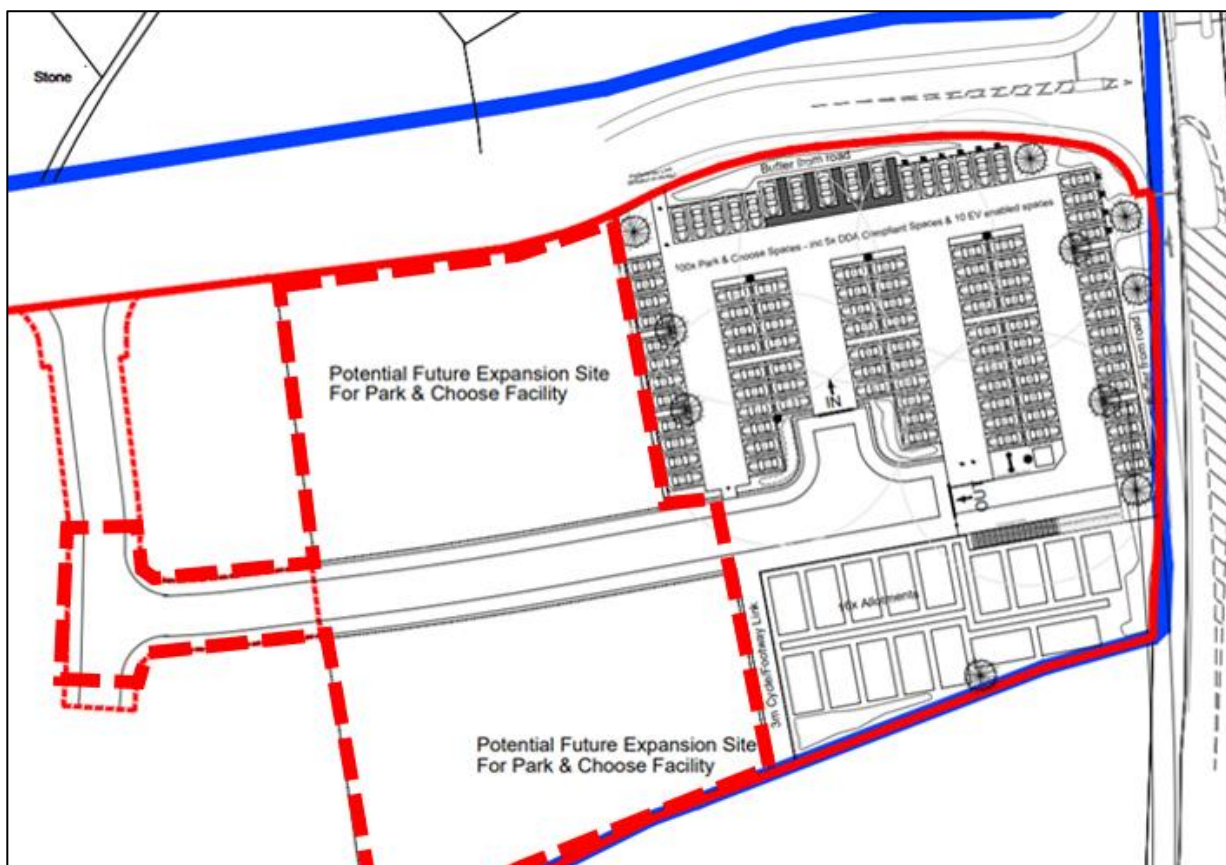


Figure 5: Approved plans for Park and Choose site under 201446/RM

- 6.16 The approved plans at Figure 5 highlight that the current proposal site corresponds to a residual area of land which formed part of the RM application, but did not form part of the approved Park and Choose facility. Instead, the plans mark the land as being for a 'Potential Future Expansion Site for Park and Choose Facility'. Despite this note on the plans however, there are no conditions on either the outline permission or the RM approval which serve to safeguard this land for potential future expansion and/or prevent possible alternative uses being pursued. Neither is there any legal agreement attached to RM, and no such restriction is found within the S106 Agreement (and subsequent variations thereof) which accompany the outline. The proposal site is therefore essentially 'white land' – meaning that it is not subject to any policy allocation or other restriction upon its use. Any future applications should hence be assessed with regards to the wider policies of the development plan.
- 6.17 Notwithstanding this, the close relationship with the adjoining land parcel is such that it is important to ensure that the housing proposal would not compromise the delivery and function of the approved Park and Choose site. It is acknowledged that concerns to that effect have been raised in some of the representations received. It is clear from the plans however that the latest proposal does not encroach onto the site approved for the Park and Choose site under 201446/RM and neither would it compromise the way the facility functions. It is also reasonable to assume that the LPA were satisfied that the scale of the facility (offering 100 spaces) was adequate to meet anticipated demand when they approved the scheme in 2021 and a review of the Officer report of the time raises no concerns in this sense. It therefore follows that no formal mechanisms were put in place to secure the residual land for future expansion or to safeguard against alternative uses and, as such, Officers do not consider there to be any planning reason why a proposal for residential use cannot be considered positively. Provided the scheme is designed in a way which takes into account the proximity of the Park and Choose site (discussed at later sections of this report), there is no reason to believe that the function of the facility and the contribution it makes towards promoting sustainable travel would be compromised. There is thus no conflict found with policies HD4, SS4, MT1 or HD3.

6.18 Meeting Housing Needs

- 6.19 The NPPF requires that planning policies and decisions support the delivery of housing to meet locally assessed needs. It requires that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. Paragraph 63 sets out that these groups should include (but are not limited to):

‘those who require affordable housing (including Social Rent); families with children; looked after children; older people (including those who require retirement housing, housing with-care and care homes); students; people with disabilities; service families; travellers; people who rent their homes and people wishing to commission or build their own homes’

- 6.20 It goes on to set out at Paragraph 66 that where ‘major’ development involving housing is proposed, this should be expected to provide a mix of affordable housing to meet local needs, across Social Rent, other affordable housing for rent and affordable home ownership tenures. Annex 2 provides a definition of the various types of affordable housing, with the overarching requirement that it is designed to provide for people whose needs are not otherwise met by the market – which includes for ‘essential local workers’. These are defined by the same Annex as public sector employees who provide frontline services – which includes military personnel.
- 6.21 From the local plan, policy H3 of the CS encourages development to provide a range and mix of housing units which can contribute to the creation of balanced and inclusive communities. Policy H1 sets the expectation that on sites of 10 or more dwellings within the relevant housing market area, a target of at least 35% of housing should be provided under affordable tenures.
- 6.22 The scheme here is being promoted on the basis that it seeks to meet the housing needs of essential ‘key workers’ – those specifically being military personnel based in Herefordshire. A material consideration is therefore the Council’s commitment under the Armed Forces Covenant, which the Council should have regard to when fulfilling functions in the areas of housing, healthcare and education. The three core principles of the covenant are to recognise:
- a) the unique obligations of, and sacrifices made by, the armed forces
 - b) that it is desirable to remove disadvantages arising for Service people from membership, or former membership, of the armed forces
 - c) That special provision for Service people may be justified by the effects on such people of membership, or former membership, of the armed forces
- 6.23 It is understood that the application has been made in partnership with the Defence Infrastructure Organisation (DIO – the arm of the Ministry of Defence responsible for housing and estates) and seeks to provide accommodation to house individual Service people (i.e. those not living with dependents). It is understood that the DIO currently rents properties throughout Hereford on the private market to meet the needs of these personnel – which represents a significant cost burden; leads to issues of control and consistency in accommodation; and removes properties from the open market which could otherwise meet the needs of the wider population. There are hence concerns regarding the longer term sustainability of this local arrangement, which persist in the context of a national government drive to bring military housing back into public ownership and a commitment to deliver a national Defence Housing Strategy by the end of 2025. The proposal is promoted by the Applicant as an opportunity to help address this issue by providing a specialised accommodation scheme in a focused location within a wider mixed-tenure housing site, which would then be transferred to the DIO on completion for sole occupation by military personnel based at Herefordshire sites. Although not formally party to the application, representatives of the DIO have provided representations in support of the application which broadly outlines the benefits to the organisation, military personnel themselves and the population more generally.

- 6.24 The scheme would provide 31 dwellings in total, comprising 12 x one bedroom apartments and 19 x two bed maisonettes (to be occupied by two sharing individuals). The application is advanced on the basis that it would comprise 100% affordable housing, with all units to be delivered in manner which fulfils the definition of 'Affordable Rent' set out by Annex 2 of the NPPF. Specifically, the proposal is to be delivered on a 'Build to Rent' basis which is defined as:

'purpose built housing that is typically 100% rented out. It can form part of a wider multi-tenure development comprising either flats or houses, but should be on the same site and/or contiguous with the main development. Schemes will usually offer longer tenancy agreements of three years or more, and will typically be professionally managed stock in single ownership and management control'

- 6.25 Securing this requires the completion of a S106 legal agreement. A copy of this agreement is supplied at Appendix 1, which whilst still a working draft captures the following key points:

1. The obligations are conditional upon the owner entering into a binding contract with the Defence Infrastructure Organisation to take a transfer of the dwellings and the owner covenants not to commence development until a binding contract is entered into with the Defence Infrastructure Organisation to deliver the scheme.
2. The dwellings shall not be used or occupied otherwise than as military housing in perpetuity.
3. On the first disposal of each dwelling, a restriction shall be placed upon the registered title to each dwellings restricting the occupation of the dwelling otherwise than as military housing in perpetuity.
4. The dwellings will be provided as affordable rent and shall be let to occupants at gross rents which should not exceed 80% of the open market rent

- 6.26 The draft S106 agreement has been reviewed by the Council's Senior Solicitor and Planning Obligations Manager and is considered to robustly capture the relevant restrictions needed for Officer's to conclude the scheme genuinely fulfils the definition of affordable housing. The Council's Strategic Housing Team has also offered no objections to the scheme on the basis of the agreement, which secures the use of the accommodation by military personnel in perpetuity.

- 6.27 In light of the above, Officers consider that the proposal aligns with the policy objectives of the NPPF and local plan in that it would provide specialist accommodation to help meet the housing needs of essential local workers in the form of military personnel. The accompanying S106 agreement ensures the accommodation is occupied in the manner prescribed and operated in a way which means it can be considered to constitute 100% affordable housing – thereby avoiding any conflict with policy H1 of the CS. Experienced alongside earlier phases of the Holmer West development, the scheme would contribute to the creation of balanced and mixed housing communities whilst also indirectly supporting the retention and resilience of military sites in Herefordshire. These are benefits to which Officers attribute significant weight.

6.28 **Local Character and Design**

- 6.29 Policy HD4 requires that Holmer West delivers a coordinated urban extension which will be sensitively integrated into the existing urban fabric of Hereford and the wider landscape. This is reflected by LD1, which requires that schemes are positively influenced by the character of the townscape in terms of their design, scale and site selection. SD1 also requires that schemes are designed to maintain local distinctiveness by respecting scale, height, proportions and massing of surrounding development whilst making a positive contribution to the character of the area. From the NDP, policy HS4 sets out detailed requirements in respect of design with the

overarching objective that all development within the neighbourhood area should be of good quality design sensitively integrated into both the existing urban fabric and the surrounding rural landscape. This includes that the layout of larger schemes should create a sense and appearance of incremental growth, with each phase comprising legible streets that inter-connect with previous (and subsequent) phases. It confirms that typical, suburban estate type layouts with “loops and lollipops” should be avoided. HS5 sets out further requirements in terms of the relationship with landscape character.

- 6.30 The site here forms part of a larger parcel that has been identified as a housing allocation and subsequently had permission granted under 150478/O. It formed a component part of a reserved matters phase for the Park and Choose scheme, however the land was not assigned any specific use and is now regarded as ‘white land’. In this context, the site is considered to have an acceptable relationship with patterns of surrounding development on the north side of Hereford – being bound by housing to the south and west, the future Park and Choose site to the east and Hedgerow Way to the north. The provision of additional housing here would not, subject to an appropriate design and form, not appear as an incongruous feature when experienced in the context of Holmer West / Hereford Point as a whole.
- 6.31 In terms of layout, the site is already divided into two clear parcels by the road format approved by earlier phases. Housing is to be positioned at the peripheries of each parcel, with the majority of parking being located at the centre in courtyard style arrangement. This is considered to be an appropriate approach in the context and with reference to surrounding patterns of housing. The majority of the buildings are of the ‘Satterfield’ house type, appearing as two storey dwellings which are in keeping with the scale of surrounding development. The approach towards materials and detailing is also consistent with adjoining dwellings, being predominantly brick under tiled roofs which will ensure assimilation with earlier phases of the wider Holmer West / Hereford Point development. At the north eastern corner of the site two x three storey apartment buildings are proposed and Officers are mindful that some local representations raise concerns regarding the scale of these buildings. The approach has however been informed, in part, by policy HS4 d) of the NDP, which is relevant to the design of development in Holmer and directs that *‘Scale and height of buildings should vary across the site up to a maximum of three storeys, with landmark buildings occupying key positions, such as corners, on the site’*. The scheme seeks to reflect these principles by placing a larger focal point building at a key entrance to the site from the A49, albeit in a setback position from the main road which ensures it does not dominate when approaching the city of the north. An active frontage is delivered to the north and east, whilst the use of smaller two storey units across the rest of the site combined with falling ground levels makes for an appropriate transition to the wider Holmer Point development when travelling along Hedgerow Way. The use of materials for the apartment buildings, which includes tumbled reconstituted stone for walls, is considered to be appropriate to the context. Taking all of the above together therefore, Officers do not identify any conflict with policies LD1, SD1, HS4 and HS5 with regards to layout, scale and design.
- 6.32 Some concerns have been raised with regards to density of development, which is accepted as being quantitatively high when compared to earlier phases of Holmer West. However, this is a reflection of the manner in which accommodation is being delivered – which is in the format of apartments and comprises smaller one or two bedroom units. Accommodation in this form naturally leads to a higher density of development when described in terms of dwellings per hectare, however it is conducive with making efficient use of land and the actual physical density of built form is not considered to be out of keeping with the surrounding context. No significant harm or policy conflict is hence identified in these terms.
- 6.33 The proposal is supported by a scheme of landscaping, which includes a range of hedge, tree and shrub planting in communal spaces and around the parking courtyard. These measures will assist with the assimilation of the development to the local context, whilst also providing biodiversity enhancement and serving as visual buffering between neighbouring properties. The Council’s Officer has raised some concerns with the consistency of the visualisation images

provided, however these are intended to be indicative only and a fully detailed specification for the scheme has been provided on plan WEO86-LS-036e. Implementation of the supplied scheme will be secured by condition, alongside a condition to secure a scheme of management and maintenance for a period of 10 years. Subject to these conditions being attached, there is no conflict identified with LD1, HD4, HS4 or HS5.

6.34 Residential Amenity

- 6.35 Chapter 12 of the NPPF requires, amongst other things, that all developments should deliver a high standard of amenity for existing and future users. From the CS, policy SD1 requires all new development to safeguard residential amenity for existing and proposed residents whilst ensuring that is not adversely affected by issues such as noise. From the NDP, policy HS3 requires that the design and layout of all sites within Holmer must take into account the acoustic environment with a view to mitigating any adverse effects of road traffic noise.
- 6.36 It is noted that some concerns have been raised in the representations received regarding the potential for adverse impact upon the amenity and living standards of existing occupants of neighbouring dwellings. The concerns highlighted include the potential for overbearing, overshadowing, overlooking and impacts through noise / disturbance.
- 6.37 In the first instance, it noted that the proposal is for a C3 residential use and this is inherently compatible with neighbouring residential uses. Although the proposal is deposited in a manner which secures a specific end user in terms of occupation by locally based military personnel, there is no reason to believe this would increase the potential for adverse impacts upon the amenity of existing residents through noise or other nuisance.
- 6.38 With regards to the physical impact of development, the scheme has taken steps to mitigate for potential impacts on neighbours by means such as overbearing, overshadowing or overlooking. The largest buildings for instance, in terms of the three storey apartments, are focused to the north east corner of the site where there is the greatest level of separation from neighbouring dwellings which are predominantly two storeys in height. The remaining units are all variations of the 'Satterfield' house type, which is two storeys in height and entirely commensurate with the scale and massing of existing neighbouring dwellings on Clubtail Drive and Darters Lane. It is noted that the levels of the land do rise from a low point at the south western corner towards higher ground to the north east, however the gradient is relatively shallow and levels are not markedly different to those of neighbouring plots. Planning Engineering Plan WE086-EN-DIO-001A provides details on levels and supplementary plan WE086-EN-DIO-002 provides cross sections through the site at key points (Figure 6):



Figure 6: Cross Section of Levels through Site WE086-EN-DIO-002

- 6.39 The plans above confirm that the levels differences and relationship between existing and proposed development are appropriate, being similar to the undulating levels seen throughout the wider Homer Point development and ensuring that good standards of amenity are preserved for existing dwellings. The greatest area of relative difference is to the south western corner of the site along the boundary with Nos. 9 – 17 Clubtail Drive, where levels between existing and proposed dwellings on adjoining plots vary between 1.5m and 1.8m. This difference is however mitigated by the separation distances between buildings, which is greater in this area of the site compared to elsewhere and varies between 18m and 25m. This serves to offset the relative difference in levels and creates an arrangement which is, again, not uncharacteristic throughout the wider site. When combined with the orientation of the new dwellings and the positioning of fenestration, the separation distances are sufficient to ensure the proposal would not unacceptably compromise living standards or amenity through overshadowing or overbearing.
- 6.40 With regards to the potential for overlooking, the units sharing a boundary with existing dwellings are all variations of the ‘Satterfield’ maisonette house type. As noted previously, these are of similar scale to existing dwellings and four variations of the type are utilised in the scheme – with the main differences relating to the positioning of fenestration. The scheme has taken care to avoid (or limit) windows at first floor level on elevations which have less than ~20m separation distances from neighbours, which ensures that the potential for overlooking of existing dwellings is limited. A similar approach is taken to the orientation of dwellings within the site itself, which secures good standards of privacy for future residents. It is noted that some concerns have been raised regarding the provision of Juliet balconies to the three storey apartment units, however these are orientated towards countryside to the north or the park and choose site to the east – meaning they do not negatively affect amenity. Taking all of this

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

together, Officers are satisfied the scheme would not lead to any harm to amenity which brings the scheme into conflict with the relevant requirements of SD1.

- 6.41 Policy HS3 of the NDP specifically requires that consideration be given to the acoustic environment. Such considerations are relevant here in so far as the site is approximately 70m from the A49, which is one of the county's main trunk roads and a source of noise. The application is supported by a Noise Impact Assessment, which finds that the majority of units will achieve acceptable noise levels with windows open and when utilising 'standard' construction methods as required by the Building Regulations. However, some of the dwellings on the façades closest to the A49 are predicted to only achieve acceptable standards with windows closed. The reliance on closed windows (particularly at night time) is considered to be acceptable from an amenity perspective and the Council's Environmental Health Officer offers no objection on that basis; however the solution does restrict natural ventilation and this can lead to consequent overheating issues which may necessitate additional ventilation measures over and above what would otherwise be required by the Building Regulations. A condition is therefore recommended to secure an assessment of this and implementation of any necessary mitigation measures prior to the first occupation of the affected units.
- 6.42 Given the apartment nature of the accommodation, the scheme does not propose any private areas of curtilage. External spaces are instead proposed to be for communal use and would remain under the control of a central management company, whilst future occupants of the dwellings would also have access to various areas of public open space on Hereford Point. This is considered to be conducive with ensuring future occupants have good standards of living and benefit from convenient access to green space of recreation and leisure.
- 6.43 **Access and Connectivity**
- 6.44 Core Strategy Policy MT1 relates to the highways impacts of new development, and requires that proposals demonstrate that the strategic and local highway network can absorb the traffic impacts of the of the development without adversely affecting the safe and efficient flow of traffic on the network It also requires under (4) that developments are designed and laid out to ensure that safe entrance and exit can be achieved and that adequate operational and maneuvering space is available. From the NDP, policy HS4 requires that schemes should allow for adequate off-street parking, excluding garages, at a rate of one space per bedroom. The policies of the development plan are consistent with the principles and advice set out within the National Planning Policy Framework (NPPF). Chapter 9 in particular relates to the promotion of sustainable transport, and paragraph 114 requires that in considering specific applications for development it should be ensured that safe and suitable access to the site can be achieved for all users. At paragraph 116, it is advised that development should only be prevented or refused on highways grounds if there would be an unacceptable impact upon highways safety, or the residual cumulative impacts on the road network would be severe.
- 6.45 Access to the site would be via the existing access onto Clubtail Drive, which in turn leads onto Hedgerow Way to the north. The latter serves as a 'spine road' through the wider Hereford Point development, providing access to the wider public network through either the A49 to the north east or the A4103 to the south west. The A49 forms part of the strategic road network (SRN) and the eastern end of the link road joins to this via a signal controlled junction which was approved as part of 150478/O. National Highways have been consulted as the relevant statutory body and have no objections to the development in terms of highways safety and capacity. Details of how traffic movements will be managed during the construction phase are sought by pre-commencement condition and this will be secured as part of a CMP. The imposition of such a condition has been agreed with the Applicant.
- 6.46 The proposed development is split into two land parcels on either side of the cul-de-sac road leading off Clubtail Drive, which is also to provide access to the Park and Choose site approved under 201446/RM. Access from each parcel onto this is provided by a simple junction with

splays of 2.4m x 45m, which is adequate for the environment. Delivery will be secured by condition. The existing arrangements leading to the wider public highway network, in terms of the junction onto Clubtail Drive and subsequently onto Hedgerow Way, are considered appropriate to support the intensification in use associated with the development and their use would not adversely impact upon the safe and efficient function of the network or the use of the Park and Choose site that is also served off this minor arm.

- 6.47 The internal layout of each parcel is considered to be acceptable, with adequate turning and maneuvering space for larger vehicles such as delivery vans. With regards to parking, policy HS4 of the NDP requires that off-street parking to be provided to each dwelling at a rate of one space per bedroom. The scheme here comprises 12 x one bed dwellings and 19 x two bed dwellings, which is a cumulative total of 50 bedrooms. The scheme provides 50 off-road parking spaces and hence the level of provision accords with the standards imposed by policy HS4. The LHA have raised no issue with the parking strategy from a safety and function perspective.
- 6.48 National and local policy both seek to reduce car dependency and encourage means of travel by sustainable means such as walking, cycling or public transport. In the spirit of this, policy HD4 requires that the Holmer West urban extension provide links to walking and cycling routes that integrate into the existing network in Hereford. There is also a requirement for a Park and Choose facility, which has been secured as part of earlier phases. These provisions are reflective of SS4 and MT1. From the NDP, policy HS4 requires that the design of urban extension should provide easy access for all members of the community and create a network of streets and other routes that allows significant movement around the site. Strong links should be created with the existing surrounding communities so that the site is fully integrated. Earlier phases of the development following P150478/O have already made provision for various new pedestrian and cycle connections to the wider city network and the scheme here seeks to make use of those, which is appropriate and proportionate to development proposed. In time, future occupiers will also benefit from convenient access to public transport anticipated to serve the adjacent park and choose site. The scheme is thus considered to be conducive with promoting sustainable travel and no conflict with the requirements have HD4, SS4 or MT1 is hence found.
- 6.49 The Local Highways Authority has offered no objections to the scheme, subject to the imposition of a range of conditions set out at in the schedule at the end of this report.
- 6.50 **Setting of Heritage Assets**
- 6.51 The Holmer West allocation as a whole is located within the setting of a number of heritage assets, including the Grade I listed Church of Bartholomew, various Grade II listed structures ancillary to this and the Grade II listed Holmer House Farm. The parcel of land subject to this application is approximately 70m to the north of Holmer House Farm and 20mm to the north of the Grade I church. However, the intervening land is now occupied by housing development built pursuant to P184662/O and the relationship is such that the proposal site does not form part of the setting of the assets in way which contributes to significance. There would hence be no demonstrable harm to the assets. The Council's specialist Conservation Officer supports this view and the scheme is considered to accord with policy LD4 of the CS, with the duties placed upon the LPA by Section 66 of the act fulfilled.
- 6.52 **Flood Risk and Water Management**
- 6.53 The main proposal site for housing is not identified as being at risk of flooding, being within the EA defined 'low risk' Flood Zone 1 for fluvial flooding and not known to be at risk of surface water flooding. A small area of the red line area for the proposal is located within a fluvial flood risk zone, however this relates to the existing access road onto Clubtail Drive where no alterations or operation development is proposed. The scheme would hence not contribute to any increased risk for existing or future occupants, with safe access and egress for the latter

being delivered given the relationship between the site and surrounding routes. No conflict with relevant flood risk management policies of the NPPF or local development plan is found.

6.54 In relation to foul water management, policy SD4 sets out a hierarchical approach whereby a connection to the mains sewer is the preferred option of management. The scheme here proposes to connect to the mains sewer network for Hereford and Welsh Water have confirmed they have no objections to this arrangement. The proposed development would connect to the existing mains infrastructure that has been relatively recently installed to serve earlier phases of the development and it has been confirmed that sufficient capacity exists within this to accommodate the additional dwellings. The scheme therefore accords with SD4.

6.55 With regards to surface water management, the application is supported by a Sustainable Drainage Statement which sets out that surface water would be attenuated through a crate system before being discharged to the SUDS system serving the wider site. This ultimately discharges to Ayles Brook at a restricted flow rate based on Greenfield runoff rates. The Council's Land Drainage Engineer has confirmed that the arrangement is acceptable and will be offered for adoption by the Authority. The scheme is hence acceptable with regards to SD3.

6.56 **Habitats Regulations**

6.57 The site is within the River Wye SAC catchment and this proposed development triggers the legal requirement for a Habitat Regulations Assessment process to be carried out in accordance with the Conservation of Habitats and Species Regulations. The main potential for effects upon the designated site are from foul and surface water, however the scheme has included adequate arrangements to manage this which ensure there would be no adverse impact upon the integrity of the designated site. Similarly any potential for impact during the construction phase can be managed through implementation of measures set out in the supplied CEMP. The Council's Ecologist has completed the required Appropriate Assessment and concludes that there would be no adverse impact upon the River Wye SAC, with the response received from the relevant statutory body Natural England agreeing with this conclusion. The scheme is hence acceptable with regards to the Habitats Regulations and there is no conflict found with policies LD2 or SD4

6.58 **Ecology and Green Infrastructure**

6.59 Policy LD2 of the CS states that all development proposals should conserve, restore and enhance the counties biodiversity assets wherever possible. Amongst other things, this should be achieved through the retention and protection of nature conservation sites and habitats in accordance with their status. In relation to trees and green infrastructure. Policy LD3 of the CS requires that development proposals should protect, manage and plan for the preservation of existing and delivery of new green infrastructure such as trees, woodlands and hedgerows. These policies are all underpinned by Chapter 15 of the NPPF.

6.60 The application is supported by an Ecological Technical Note, which notes the site to be dominated by low diversity modified grassland which is of limited ecological value. This accords with the LPA's own observations of the site, which has evidently been sown to grass relatively recently after being used to support the development of the wider Holmer Point site. The nature of the site is such that the development is not likely to have any significant impact on species or habitats, however a range of risk avoidance measures are set out which will be secured by condition. An outline scheme of ecological enhancement is also suggested at Section 5.4 of the report and a further condition is recommended to secure a detailed specification for this which is tailored to the approved site plans. Subject to their imposition, there are no policy conflicts.

6.61 The site does not support any notable existing green infrastructure. New planting of hedgerows and trees can be secured as part of the landscaping scheme, which will contribute towards the achievement of the goals set out in policy LD3.

6.62 Biodiversity Net Gain (BNG)

- 6.63 The requirement for qualifying developments to deliver a mandatory 10% net gain to biodiversity value relative to pre-development conditions came into force on 12th February 2024 under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). The development proposed in this case does not meet any of the relevant exemptions and hence there is a statutory requirement to deliver a minimum 10% gain.
- 6.64 In delivering a strategy to achieve the mandatory gain, developers must have regard to the biodiversity gain hierarchy. As a first preference, biodiversity gains should be delivered on-site and within the red line boundary of the permission. If this cannot be achieved, then gains can be delivered off site – either by the developer themselves on land elsewhere or through the purchase of biodiversity units on the open market. If these options, either alone or in combination, are not sufficient to deliver a 10% gain then developer may purchase statutory biodiversity credits from central government. The PPG is however clear that reliance on statutory credits should be a last resort.
- 6.65 The application in this case has been supported by a BNG assessment by CSA Environmental. The assessment highlights that the scheme will deliver a net gain of 1.08 hedgerow units, however to account for impacts on grassland and secure the minimum 10% gain over baseline site condition 0.07 units from an off-site provider will be required. These will likely be purchased through an appropriate off-set provider. The LPA Ecologist has reviewed the strategy and offered no objections to the metric or proposed approach to delivering the required gain.
- 6.66 The ‘Stepped’ guidance of the PPG regarding the use of off-site units is clear that a purchase does not need to be secured at the point at which a planning application is made or at which permission is granted. The responsibility to find, purchase and secure appropriate off-site units falls to the developer and details of this must be supplied to the LPA as part of the Biodiversity Net Gain Plan when discharging the statutory condition. The Applicant is reminded that this is a pre-commencement condition and development cannot lawfully begin until the BNG Plan has been approved by the LPA.

6.67 Sustainable Use of Energy and Resources

- 6.68 Core Strategy policies SD1 and SD2 respectively deal with ‘Sustainable Design and Energy Efficiency’ and ‘Renewable and Low Carbon Energy Generation’. They encourage all developments to make provision for sustainable construction techniques, energy efficiency and renewable energy generation. The scheme in this case is supported by an Energy Strategy Statement which provides background on the techniques that have been considered for the development and confirms the final strategy, which comprises a highly insulated ‘Fabric Approach’ and installation of Solar Photovoltaics. These measures would contribute to reductions in energy demands and carbon measures, as sought by SD1 and SD2. Implementation of the measures prior to occupation will be secured through condition.
- 6.69 The Herefordshire Minerals and Waste Local Plan was made in March 2024 and this places additional emphasis upon the resources and waste associated with delivering development. Policy SP1 specifically deals with resource management and the supporting text to the policy at 4.5.16 sets out that all ‘major’ development will be required to supply a comprehensive Resource Audit to consider the source and end of life considerations for the materials used in the proposed development. This can be secured by way of pre-commencement condition.

6.70 S106 Agreement and Planning Obligations

- 6.71 As discussed earlier in this report, the scheme is accompanied by a S106 agreement which restricts occupation of the housing to military personnel and secures their use as affordable housing in perpetuity. The agreement passes the necessary tests in terms of being necessary

to make the development acceptable in planning terms; directly related to the development; and being fairly and reasonably related in scale and kind to the development.

- 6.72 The scheme in this case is considered ‘major’ development and therefore above the quantum threshold whereby developer contributions may be sought towards essential infrastructure through a S106 agreement. The Council’s has adopted a Planning Obligations SPD which sets out the obligations to be sought in respect of various kinds of development. There are however a number of exceptions outlined where contributions are not sought for specific types of development, which includes where development only provides one bedroom accommodation; is for specialist housing; or is delivered under affordable tenures. The application of the exceptions in this case is such that no financial contributions are sought and this has been confirmed by the Council’s Planning Obligation Manager.

6.73 **Planning Balance and Conclusion**

- 6.74 Both Core Strategy policy SS1 and Paragraph 11 of the National Planning Policy Framework engage the presumption in favour of sustainable development and require that developments should be approved where they accord with the development plan without delay. The NPPF is clear that the achievement of sustainable development is dependent on achieving three overarching objectives, which are interdependent and must be pursued in mutually supportive ways. These are an economic objective; a social objective; and an environmental objective.
- 6.75 The application here is to be considered in the context of the presumption in favour of sustainable development as set out by Paragraph 11 d) of the NPPF. The preceding appraisal has not identified any harm relating to the matters identified at Footnote 7 and hence Paragraph 11 d) i. is not engaged. The proposal is instead to be considered with regards to the ‘tilted balance’ at 11 d) ii, which directs that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 6.76 The starting point for decision making however remains with the statutory development plan. The application site here forms part of a larger parcel of land that has been identified by policy HD4 of the CS as being a sustainable location for urban expansion and is within the settlement boundary defined by policy HS3 of the Holmer and Shelwick NDP. The principle of residential development is therefore supported by the development plan in locational terms.
- 6.77 The site is recognised as having a contextual relationship with the adjacent Park and Choose facility. The delivery of such a facility is a requirement of the allocation policy for Holmer West (Policy HD4), with the specific design and layout approved under application 201446/RM. While some representations have raised concerns that the current proposal could compromise the future use or function of the Park and Choose site, it is important to note that delivery of the transport facility is not dependent on the land within the current application site, and there are no policy or planning constraints that would prevent alternative uses—such as residential development—from coming forward. Moreover, the proposed scheme has been designed in a way that does not interfere with or undermine the operational function of the Park and Choose facility. On this basis, Officers are satisfied that the proposal would not result in any adverse impact on the delivery or functionality of the Park and Choose site.
- 6.78 The proposed development is to be delivered entirely as affordable rent accommodation, with an additional restriction that occupancy will be limited to military personnel - who are recognised as Essential Local Workers by the NPPF. The scheme would provide good quality, secure housing to meet the specific needs of this group, supporting both the retention of military sites within the county and helping to alleviate pressure on the wider rental market by freeing up other accommodation for general use. These are clear social and economic benefits, which Officers consider to attract significant weight in favour of the proposal. The sole use of the dwellings by military personnel and operation in accordance with ‘affordable rent’ criteria will be

secured through a Section 106 agreement, in accordance with the relevant legal tests under Regulation 122 of the Community Infrastructure Levy Regulations 2010.

- 6.79 The scheme incorporates measures to ensure there would be no adverse impacts in respect of matters such as residential amenity, local character, highways safety, flood risk and drainage, ecology and green infrastructure. There are no objections received from relevant technical consultees in relation to these issues, subject to the imposition of conditions. The preceding appraisal has not identified any demonstrable harms which lead to tensions to policy.
- 6.80 As such, and notwithstanding the positive presumption of Paragraph 11 d), the scheme is considered to be in general accordance with the development plan. It is hence representative of sustainable development and recommended for approval accordingly.

RECOMMENDATION:

It is recommended that subject to the completion of a legal agreement under Section 106 of the Town and Country Planning Country Act to secure the delivery of affordable housing for sole occupancy by military personnel (Appendix 1) and the imposition of the conditions detailed below (and any other further conditions considered necessary by officers named in the scheme of delegation), that Planning Permission be granted.

APPENDIX 1 - Draft S106 Legal Agreement

Standard Planning Permission Conditions

1. Time limit for commencement (full permission)

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

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

2. Development in accordance with Approved Plans

The development hereby approved shall be carried out in accordance with the following approved plans and the schedule of materials set out there on:

General:

- Development Boundary WE086-SL-9240 Development Boundary
- Site Layout WE086-SL-920F - DIO F
- Presentation Layout WE086-PD-0600E E
- Parking Strategy WE086-SL-9250A A
- External Works WE086-SL-9230B B
- Materials Layout WE086-SL-9220A A
- Visualisations Land Off Clubtail Drive, Holmer_Visuals

House Types:

- ADELIN 973.PL-02
- ADELIN 973.PL-03
- ADELIN 973.PL-04
- ADELIN 973.PL-05
- ALBANY 953.PL-02
- ALBANY 953.PL-03
- ALBANY 953.PL-04
- SATTERFIELD 2BF03-1V1.PL-07
- SATTERFIELD 2BF03-1V2.PL-07
- SATTERFIELD 2BF03V1.PL-07
- SATTERFIELD 2BF03V3.PL-07

- SATTERFIELD 2BF03V3-1.PL-07
 - VT0134.2BF03_SATTERFIELD V1
 - VT0134.2BF03-1_SATTERFIELD V1
 - VT0135.2BF03-1_SATTERFIELD V2
 - VT0136.2BF03_SATTERFIELD V3
 - VT0136.2BF03-1_SATTERFIELD V3
 - VT0137.953_ALBANY_GREY
- Landscaping:**
- Plot Landscaping Specification & Schedule WE086-LS-036f f
- Engineering:**
- Vehicle Tracking Plan WE086- DIO-003a a
 - Planning Engineering WE086-EN-DIO-001A A
 - Site Cross Sections WE086-EN-DIO-002
 -
- Reports:**
- Outline Construction Environmental Management Plan 302007-CTR059
 - Planning Statement 5026845
 - Design & Access Statement –B
 - The Statutory Biodiversity Metric Calculation Tool
 - Ecological Technical Note - CSA CSA/7361/01 A
 - Transport Statement - PJA 08569 C
 - Biodiversity Net Gain Assessment – CSA - CSA/7361/02 A
 - Drainage Statement - BWB 244783-SDS P02
 - Energy Statement – Briary Energy
 - Noise Impact Assessment e3p 51-421-R1-1
 - Response to LHA Comments 18/3/2025
 - Drainage Technical Note: Response to LLFA Comments May 25

Reason: To ensure the development is carried out in accordance with the approved details in the interests of securing a satisfactory form of development with accords with policies SD1, LD1 and HD4 of the Herefordshire Local Plan Core Strategy, policies HS3 and HS4 of the Holmer and Shelwick Neighbourhood Development Plan and the National Planning Policy Framework.

Pre-Commencement Conditions

3. Construction Environmental Management Plan

Prior to the commencement of the development hereby permitted, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority (in consultation with the Highway Authority for the A49 trunk road). The plan shall include, as a minimum:

1. Construction phasing
2. An HGV routing plan to include likely origin/destination information, potential construction vehicle numbers, construction traffic arrival and departure times, signage, accesses, and construction delivery times (to avoid peak hours)
3. Details of any special or abnormal deliveries or vehicular movements
4. Clear and detailed measures to prevent debris, mud, and detritus being distributed onto the local highway and SRN
5. Mitigation measures in respect of noise and disturbance during the construction phase including:
6. Vibration and noise limits
7. Monitoring methodology
8. Screening
9. A detailed specification of plant and equipment to be used
10. Construction traffic routes

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

11. A scheme to minimise dust emissions arising from demolition/construction activities on the site. This scheme shall include:
12. Details of all dust suppression measures
13. Methods to monitor emissions of dust arising from the development
14. Waste management
15. Wheel washing measures
16. Protection measures for hedgerows and grasslands

Thereafter, all construction activity in respect of the development shall be undertaken in full accordance with such approved details unless otherwise approved in writing by the Local Planning Authority in consultation with the Highways Authority.

Reason: To mitigate any adverse impact from the development on the A49 trunk road and to satisfy the reasonable requirements of road safety.

4. Resource Audit

Prior to any development commencing on site, a Resource Audit 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: The treatment/handling of any site waste is a necessary initial requirement before any groundworks are undertaken in the interests of pollution prevention and efficient waste minimisation and management so as to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

Conditions to Discharge

5. Overheating Assessment / Noise Impact Mitigation

Prior to the first occupation of any dwelling with a façade frontage facing the A49 to the east (as identified on Figure 5 of Noise Impact Assessment 51-421-R1-1), an

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

Overheating Assessment using CIBSE TM52 shall be undertaken and submitted to the Local Planning Authority for written approval. The supplied scheme shall be undertaken with reference to the Acoustics Ventilation and Overheating Residential Design Guide January 2020 (Association of Noise Consultants) and shall include mitigation measures to ensure that predicted temperatures inside the specified dwellings do not exceed overheating criteria. The scheme of approved measures shall subsequently be implemented prior to first occupation of the dwellings and thereafter maintained in perpetuity.

Reason: To ensure that the amenity of future residents is not adversely affected by traffic noise and the potential effects of overheating, in the interests of securing good standards of living in accordance with policy SD1 of the Herefordshire Local Plan Core Strategy; policy HS3 of the Holmer and Shelwick Neighbourhood Development Plan and Chapter 12 of the National Planning Policy Framework.

6. Vehicular access construction

With the exception of site clearance and groundworks, no further development shall take place until a construction specification for the new vehicular accesses to the public highway network have been submitted to and approved in writing by the Local Planning Authority. The access shall subsequently be delivered in accordance with the approved details prior to the first occupation of any dwellings.

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.

7. Driveway and Maneuvering Area Specification

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

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

8. Parking Specification – Shared Private Drives

Prior to the first occupation of any dwelling hereby approved, a detailed scheme for the surfacing and drainage of the parking areas shown on approved plan WE086-EN-DIO-001A shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented prior to the occupation of the dwellings and thereafter those arrangements shall be maintained in perpetuity.

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

9. Cycle Storage

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

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

10. Scheme of Ecological Enhancement

Prior to the first occupation of the development hereby approved, an detailed plan and specification for the scheme of ecological enhancement measures set out at Section 5.4 of the Ecological Technical Note by CSA Environmental dated November 2024 shall be submitted to and approved in writing by the Local Planning Authority. The measures shall subsequently be implemented in accordance with the approved details prior to the first occupation of the development.

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 policy LD2.

11. Scheme of Landscape Maintenance and Management

Before the development is first occupied, a scheme of landscape management and maintenance for a period of 10 years following the first occupation of the development shall be submitted to and approved in writing by the local planning authority. The works shall subsequently be carried out in accordance with the approved management and maintenance schedule.

Reason: In order to ensure the successful establishment of the approved landscaping scheme in accordance with policies SS6, LD1, LD3 and HD4 of the Herefordshire Local Plan Core Strategy, policy HS4 of the Holmer and Shelwick Neighbourhood Development Plan and the National Planning Policy Framework.

12. Water Efficiency

Prior to the first occupation of the development hereby approved, a scheme demonstrating that water efficiency measures will be provided to each dwelling to achieve the optional technical standards of 110 litres per person per day shall be provided to the Local Planning Authority for written approval. The measures shall be implemented in accordance with the approved details prior to the first occupation of that dwelling.

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

Compliance and Monitoring Conditions

13. Delivery of Visibility Splays

Prior to the first occupation of the development hereby approved, visibility splays (and any associated set back splays at 45 degree angles) shall be provided for the new access points onto the cul-de-sac road leading to Clubtail Drive from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 45 metres in each direction along the nearside edge of the adjoining carriageway (in accordance with plan 08569-CI-A-001 Internal Visibility Assessment & Geometry Plan – Appendix C Transport Statement). Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.

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

14. Surface Water Drainage Implementation

No dwelling shall be occupied until the scheme of surface water management arrangement have been fully implemented and are operational in accordance with the details set out within approved plans and documents: WE086-EN-DIO-001A Planning Engineering; Drainage Technical Note WE086-EN-DIO-TN01 and Drainage Statement (Ref: 244783-BWB-XX-XX-T-C-0001_SDS).

Reason: In order to ensure that satisfactory drainage arrangements are provided and to comply with Policies SD3, SD4 and HD4 of the Herefordshire Local Plan – Core Strategy and the principles set out at Chapters 14 and 15 of the National Planning Policy Framework.

15. Landscaping Implementation

All planting, seeding or turf laying in the approved landscaping scheme (Landscaping Specification and Schedule WEO86-LS-036e) 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. All hard landscaping shall be carried out concurrently with the development and completed prior to first occupation of the housing. 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, LD3 and HD4 of the Herefordshire Local Plan Core Strategy, policy HS4 of the Holmer and Shelwick Neighbourhood Development Plan and the National Planning Policy Framework.

16. Habitat Regulations - Nature Conservation (River Wye SAC) – Surface Water

Unless otherwise agreed in writing by the Local Planning Authority as detailed in the application information and plans all surface water flows created by the approved development shall be managed through an approved Sustainable Drainage System (SuDS). No surface water shall be discharged to any local mains sewer. Hereafter, the approved surface water scheme (SuDS) 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.

17. 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.

18. Protected Species and Dark Skies (external illumination)

No external lighting of any kind 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.

19. Habitat Regulations – Construction Environmental Management Plan

Unless otherwise approved in writing by the planning authority the measures detailed in the Construction Environmental Management Plan (RSK - November 2024) shall be implemented in full and maintained until all construction has been completed and all machinery and spare materials removed from 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 and the council's declared Climate Change & Ecological Emergency.

20. Implementation of Renewable Energy Measures

Prior to the first occupation of the development hereby approved, the scheme of energy efficiency and renewable energy measures set out within the Energy Strategy Statement by Briary Energy shall be implemented in full and thereafter maintained in perpetuity.

Reason: To ensure implementation of the measures to contribute towards energy efficiency and low carbon energy generation, as required by policies SD1 and SD2 of the Herefordshire Local Plan Core Strategy and the National Planning Policy Framework.

21. Implementation of EWM's

The development hereby approved shall be carried out in accordance with the scheme of risk avoidance and precautionary working methods set out at Chapter 5 of the Ecological Technical Note by CSA Environmental dated November 2024, unless otherwise approved in writing by the Local Planning Authority.

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

22. Working Hours During Construction Phase

During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or dispatched from the site outside the following times: Monday - Friday 7.30am - 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.

STATUTORY CONDITION - BIODIVERSITY NET GAIN

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 statutory 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.

Based on the information supplied with the application, none of the statutory exemptions or transitional arrangements apply and hence this permission is considered to one which will require the approval of a biodiversity gain plan before development commences.

INFORMATIVES

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. This planning permission is pursuant to a planning obligation under Section 106 of the

Town and Country Planning Act 1990.

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

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

4. The attention of the applicant is drawn to the provisions of the Wildlife and Countryside Act 1981 (as amended). This gives statutory protection to a number of species and their habitats. Other animals are also protected under their own legislation. Should any protected species or their habitat be identified during the course of the development then work should cease immediately and Natural England should be informed. They can be contacted at: Block B, Government Buildings, Whittington Road, Worcester, WR5 2LQ. Tel: 0300 060 6000.

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

5. 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. With regards to Condition 5, a good acoustic design process should be followed in accordance with the 'Professional Practice Guidance on Planning and Noise: New Residential Development' (May 2017 or later versions) to ensure that the noise criteria are achieved with as many windows open as possible. Any design measures that are used to control the ingress of noise must be consistent and compatible with the requirements of Approved Documents O and F.

Decision:

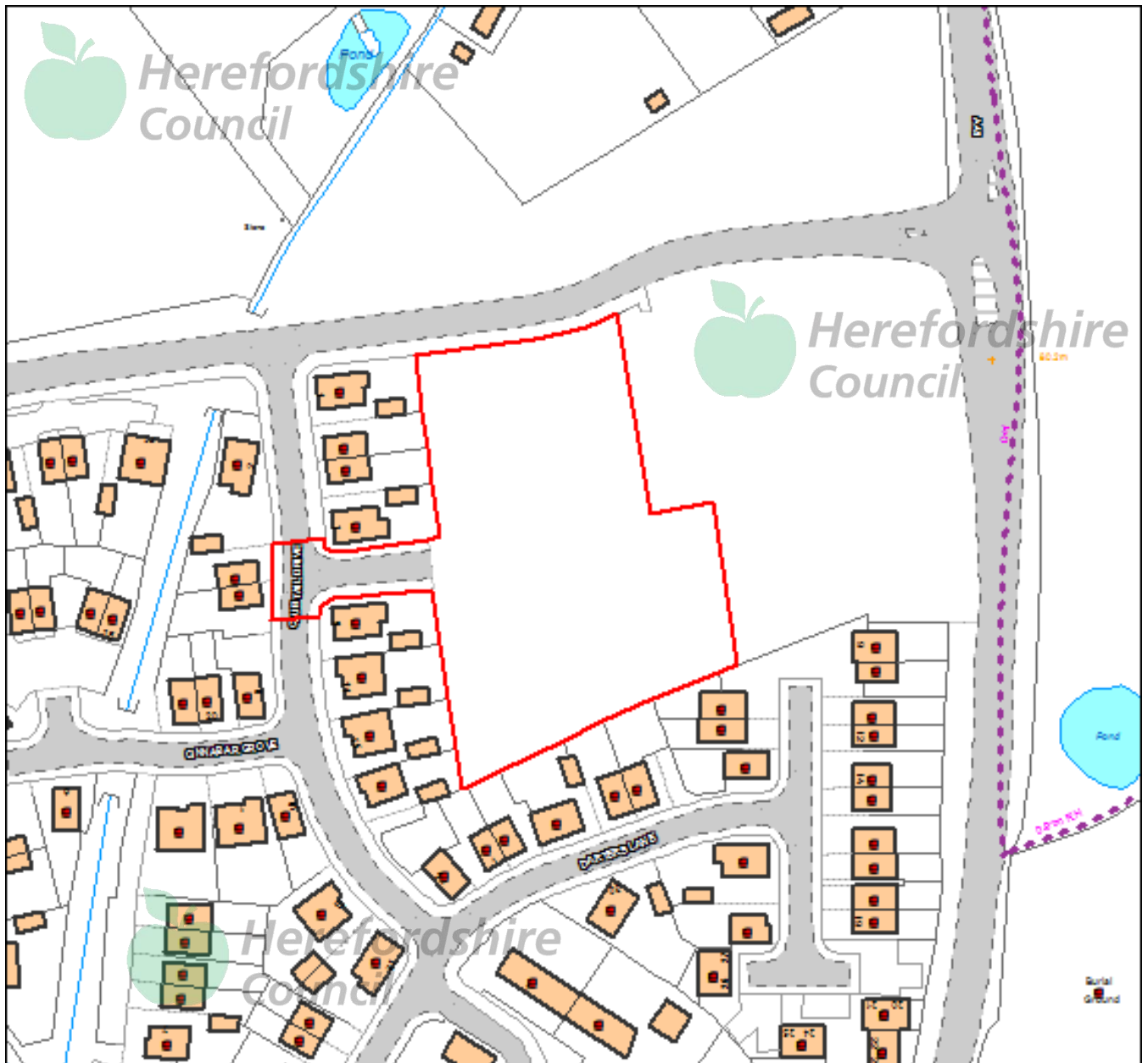
Notes:

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APPENDIX 1 - Draft S106 Legal Agreement

Background Papers

None identified.



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APPLICATION NO: 243045

SITE ADDRESS : LAND OFF CLUBTAIL DRIVE, HOLMER, HEREFORD

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Dated

2025

THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

AND

BLOOR HOMES LIMITED

**PLANNING OBLIGATION BY AGREEMENT PURSUANT TO SECTION 106
OF THE TOWN AND COUNTRY PLANNING ACT 1990 AND ASSOCIATED POWERS**

**RELATING TO
LAND OFF CLUBTAIL DRIVE HEREFORD**

Herefordshire Council

Legal Services

Plough Lane

Herefordshire

HR4 0LE

Council's Legal Ref: 104169

Council's Planning Ref: P243045/F

THIS DEED is made the _____ day of _____ 2025

BETWEEN

- (1) **THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL** of Plough Lane Offices, Plough Lane, Hereford HR4 0LE (the **Council**);
- (2) **BLOOR HOMES LIMITED** incorporated and registered in England and Wales with company number 02162561 whose registered office is at Ashby Road, Measham, Swadlincote, Derbyshire, DE12 7JP (the **Owner**)

BACKGROUND

- A.** For the purposes of the 1990 Act the Council is the local planning authority for the area within which the Site is situated and the party who is entitled to enforce the obligations contained in this Deed.
- B.** The Owner is the freehold owner of the Site free from encumbrances and which is registered at HM Land registry with title absolute under title numbers HE57799 and HE68092.
- C.** The Owner submitted the Planning Application to the Council for permission to develop the Site for the purposes and in the manner described in the Planning Application.
- D.** The Council is minded to grant Planning Permission subject to conditions and the prior completion of this Deed.
- E.** The Council has considered the provisions of the development plan and taken into account material planning considerations affecting the site and considers that in the interests of the proper planning of its area the Development of the Site ought to be only permitted subject to the terms of this Deed and for that purpose the parties are expressly willing to enter into this Deed.

F. The Owner has agreed that the Development shall be carried out only in accordance with the rights and obligations set out in this Deed and that they may be enforced by the Council against the Owner and its respective successors in title.

G. THIS DEED is made pursuant to Section 106 of the Act, Section 111 of the Local Government Act 1972 as amended, Section 1 of the Localism Act 2011 as amended and all other enabling powers and enactments which may be relevant for the purposes of giving validity hereto or facilitating the enforcement of the obligations herein contained with the intent to bind the Site.

THIS DEED WITNESSES AS FOLLOWS:-

OPERATIVE PROVISIONS

1. INTERPRETATION

1.1 For the purposes of the recitals and the covenants in this Deed the following words and expressions have the following meanings:

“Act”	means the Town and Country Planning Act 1990 (as amended);
“Affordable Housing”	means housing provided to eligible households whose needs are not met by the Open Market. Eligibility is determined with regard to local incomes and local house prices. Affordable Housing should remain at an affordable price for future eligible households or the subsidy recycled for alternative Affordable Housing provision. The descriptions of all types of Affordable Housing in Herefordshire are contained in the Technical Data;
“Affordable Housing Units”	means the 31 Affordable Private Rented Units and ancillary areas to be constructed on the Site pursuant to the Planning Permission and to the Development Standard and “Affordable Housing Unit” means any one of the said dwellings;
“Affordable Private Rented Housing”	means housing let as part of a Build to Rent scheme that is owned and managed by the Defence Infrastructure Organisation to persons

	who are eligible for Affordable Housing and Affordable Private Rented Housing is subject to rent controls that require a rent of no more than 80% of the Open Market rent (including service charges, where applicable) for which guideline target rents are determined through the Armed Forces Pay Review Body and “Affordable Private Rented Unit” means any Affordable Housing Unit designated for Affordable Private Rented Housing;
"Armed Forces Pay Review Body"	means the non-departmental public body established to review and recommend the pay and terms and conditions of employment of the armed forces;
"Armed Forces Member"	means a serving member of the Royal Navy the Royal Marines the British Army or the Royal Air Force;
"Build to Rent"	has the meaning given to it in Annex 2 of the National Planning Policy Framework;
"Commencement Notice"	means a written notice to be in the form set out in Third Schedule to be served by the Owner on the Council;
"Commencement Date"	<p>means the carrying out in relation to the Development of any material operation (as defined within section 56(4) of the 1990 Act) on the Site pursuant to the Planning Permission but (for the purposes of this Agreement) excluding operations consisting of:</p> <ul style="list-style-type: none"> - site clearance, - demolition work, - environmental site investigations, - archaeological investigations, - site survey works; - investigations for the purpose of assessing ground conditions, - preparatory and remedial work in respect of any decontamination or other adverse ground conditions; - erection of any temporary means of enclosure and the temporary display of site notices or advertisements. <p>The words “Commence”, “Commenced” “Commencement” shall be construed accordingly;</p>

“Defence Infrastructure Organisation”	means the part of the Ministry of Defence responsible for providing, managing and maintaining the infrastructure that supports the armed forces;
“Development”	means the development of the Site as authorised by the Planning Permission for the erection of 31 key worker dwellings including access;
“Development Standards”	means a standard to fully comply with the following: <ul style="list-style-type: none"> (a) “Technical housing standards – nationally described space standards” published by the Department for Communities and Local Government in March 2015 (b) All national construction standards and planning policy relating to design which may be published by the Secretary of State or by the Council from time to time (c) Part 2 of Secured by Design standards published by Police Crime Prevention Initiatives Limited (d) Optional requirement M4(2) of Building Regulations 2010 (Part M) (Accessible and Adaptable Dwellings);
“Interest”	means interest at 4.5% above the base lending rate of National Westminster Bank PLC from time to time;
“Local Connection”	means an Armed Forces Member based in the County of Herefordshire;
“Military Housing”	means housing that is: <ul style="list-style-type: none"> • owned by the Defence Infrastructure Organisation, Ministry of Defence or any other organisation which is responsible for the provision of built estate for Armed Forces Members. • to be exclusively used and Occupied by Armed Forces Members (and which shall not include dependent children);
“Occupation”	means occupation for residential purposes for which Planning Permission has been granted but not including occupation by personnel engaged in the construction, fitting out or occupation for

	marketing or display purposes and for security purposes and “Occupied” “Occupy” and “Occupier” shall be construed accordingly;
“Open Market”	means the open market for the sale or letting of housing by a person or body other than: (a) a local housing authority; (b) a Registered Provider; or (c) any other person or body offering housing accommodation to the public at less than the prevailing market sale/rent price;
“Plan”	means the plan annexed hereto;
“Planning Application”	means the application for planning permission under the Planning Reference and validated by the Council on 5 December 2024, for planning permission for the full permission for the Development;
“Planning Obligations Manager”	means the Council employee who manages, implements and monitors Section 106 agreements;
“Planning Permission”	means the planning permission under the Planning Reference subject to conditions which may be granted in respect of the Planning Application;
“Planning Reference”	means planning reference P243045/F ;
“Reasonable Endeavours”	means that the party under the obligation shall not be required to take proceedings (including any appeal) in any court public inquiry or other hearing (unless specified to the contrary) but subject hereto such party shall be bound to attempt to fulfil the relevant obligation by the expenditure of such effort and/or sums of money and the engagement of such professional or other advisers as in all the circumstances may be reasonable;
“Site”	means the land at Clubtail Drive Hereford shown edged red on the Plan against which this Deed may be enforced and registered at HM Land Registry under title numbers HE57799 and HE68092;

“Supplementary Planning Document “	means the Supplementary Planning Document dated 1 April 2008 which is the Council's guidance for planning obligations in Herefordshire, for all those involved in the submission and determination of planning applications;
“Technical Data”	means the data updated annually by the Council entitled ‘Provision of Affordable Housing Technical Data to Support the Affordable Housing Supplementary Planning Document June 2021 (or any technical data published by the Council in support of any replacement planning policy document);
“Working Day(s)”	Mondays to Fridays (excluding days that in England are public holidays) inclusive.

1.2 In this Deed:

- 1.2.1 the clause headings in this Deed are for convenience only and do not affect its interpretation;
- 1.2.2 unless otherwise indicated references to clauses and Schedules are to clauses of and Schedules to this Deed and references in a Schedule to a Part or paragraph are to a Part or paragraph of that Schedule;
- 1.2.3 a reference to any legislation or legislative provision is a reference to:
- (a) legislation having legal effect in the United Kingdom as directly or indirectly amended, consolidated, extended, replaced or re-enacted by subsequent legislation; that statute or statutory provision as from time to time amended extended re-enacted consolidated or replaced; and
 - (b) any orders, regulations, instruments or other subordinate legislation made under that statute or statutory provision whether before or after the date of this Deed;
- 1.2.4 the headings in this Deed are inserted for convenience only and shall not affect the construction or interpretation of this Deed;
- 1.2.5 where the agreement, approval, consent or an expression of satisfaction is required by the Owner under the terms of this Deed from the Council; that agreement, approval, consent or satisfaction shall be given in writing and shall not be unreasonably withheld or delayed;

- 1.2.6 references to the Site include any part of it;
- 1.2.7 references to any party in this Deed include the successors in title of that party and assigns and any person deriving title through or under that party. In addition, references to the Council include any successor to its functions as local planning authority exercising planning powers under the Act;
- 1.2.8 “including” means “including, without limitation”;
- 1.2.9 any covenant by the Owner not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing;
- 1.2.10 where two or more people form a party to this Deed the obligations of that party will be joint and several and may be enforced against them all jointly or against each of them individually;
- 1.2.11 if any provision of this Deed is held by a Court of competent jurisdiction to be illegal unlawful invalid or unenforceable then to the extent possible the offending provision(s) will be severed from the Deed and the legality lawfulness validity and enforceability of the remainder of the Deed shall be unaffected and continue in full force and effect;
- 1.2.12 words importing the singular shall include the plural and vice versa;
- 1.2.13 words importing the masculine gender include the feminine and neuter genders and words denoting actual persons include companies corporations and firms and all such words shall be construed interchangeable in that manner.
- 1.3 Without prejudice to the terms of any other provision contained in this Deed the Owner shall pay all costs, charges and expenses (including without prejudice to legal costs and Surveyor’s fees) reasonably incurred by the Council for the purpose of or incidental to the enforcement of any right or power of the Council or any obligation of the Owner arising under this Deed;
- 1.4 The parties to this Deed do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 as amended, by any person not a party to it and the terms of this Deed may be varied by a deed agreed between the parties without the consent of any third party being required;

- 1.5 No party will be liable for any breach of the terms of this Deed occurring after the date on which they part with their entire interest in the Site or the part of the Site in respect of which such breach occurs but without prejudice to liability for any breaches of this Deed occurring before parting with such interests. Neither the reservations of any rights nor the inclusion of any covenants or restrictions over the Site in any transfer of the Site will constitute an interest for the purposes of this sub-clause;
- 1.6 This Deed shall not be enforceable against a statutory undertaker, service company, or any other entity to whom any part of the Site may be transferred, let or otherwise disposed of for the provision of service media, electricity sub-stations, pumping stations, gas governor stations or similar matters, after the transfer of the statutory apparatus and any land upon or in which the statutory apparatus is situated by the Owner to that statutory undertaker service company, or other such entity;
- 1.7 No waiver (whether expressed or implied) by the Council or Owner of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council or Owner from enforcing any of the relevant terms or conditions or from acting upon any subsequent breach or default; and
- 1.8 Entry into this Deed does not constitute a transaction for a chargeable consideration for which Stamp Duty Land Tax is required.

2. EFFECT OF THIS DEED

- 2.1 This Deed is made pursuant to section 106 of the Act and to the extent that they fall within the terms of section 106 of the 1990 Act the obligations contained in this Deed are planning obligations for the purposes of section 106 of the Act and are enforceable by the Council.
- 2.2 To the extent that any of the obligations contained in this Deed are not planning obligations within the meaning of the Act, they are entered into pursuant to the powers contained in section 111 Local Government Act 1972, section 2 of the Local Government Act 2000, section 1 Localism Act 2011 and all other enabling powers, with the intend to bind the Owners and successors in title.

- 2.3 The covenants, restrictions and requirements of the Owner contained in this Deed are planning obligations for the purposes of Section 106 of the Act and are entered into by the Owner with the intention that they bind the interests held by them in the Site and their respective successors and assigns.
- 2.4 Nothing in this Deed restricts or is intended to restrict the proper exercise at any time by the Council of any of its statutory powers, functions or discretions in relation to the Site or otherwise.
- 2.5 This Deed will be registered as a local land charge by the Council.

3. MISCELLANEOUS

- 3.1 Nothing in this Deed prohibits or limits the right to develop any part of the Site in accordance with a planning permission, other than one relating to the Development as specified in the Planning Application, granted after the date of this Deed, whether or not pursuant to an appeal.
- 3.2 Nothing in this Deed shall be construed as a grant of planning permission.
- 3.3 Unless expressly agreed otherwise in this Deed, the covenants in this Deed shall be enforceable without any limit of time against the Owner and any successors in title to the Site and assigns of the Owner in an interest or estate to the Site or any part or parts of the Site as if that person had also been an original covenanting party in respect of the interest or estate for the time being held by that person.

4. COMMENCEMENT

The provisions of this Deed shall have immediate effect on the date upon which it is completed.

5. OBLIGATIONS OF THE OWNER

The Owner covenants with the Council as set out in the First and Second Schedules of this Deed.

6. TERMINATION OF THIS DEED

- 6.1 This Deed will cease to have effect (insofar only as it has not already been complied with) if:
- 6.1.1 the Planning Permission is quashed, revoked or otherwise withdrawn prior to the Commencement Date so as to render this Deed or any part of it irrelevant, impractical or unviable or;
- 6.1.2 the Planning Permission expires prior to the Commencement Date.
- 6.2 The Council shall upon receipt of a written request by the Owner and without unreasonable delay at any time after this Deed has come to an end under clause 6.1 or the obligations contained in the Schedules hereto have been discharged issue written confirmation thereof and note all related entries in the Register of Local Land Charges provided that the Owner has adequately set out the basis for making such a request.

7. NOTICES

- 7.1 A notice under this Deed is valid only if it is given by hand or sent by recorded delivery and it is served at the address shown in this Deed for the receiving party or at any address specified in a notice given by that party to the other parties.
- 7.2 A notice sent to the Council:
- 7.2.1 in relation to any matters arising from this Deed shall be addressed to the Planning Obligations Manager Development Management Team, Herefordshire Council, Plough Lane, Hereford, HR4 0LE quoting the Planning Reference.
- 7.3 A notice:
- 7.3.1 if delivered by hand, it to be treated as served on signature of a delivery receipt or at the time the notice or document is left at the address provided that, if delivery occurs:
- (a) before 9.00 am on a Working Day, the notice will be deemed to have been received at 9.00 am on that day; and
 - (b) if delivery occurs after 5.00 pm on a Working Day, or on a day which is not a Working Day, the notice will be deemed to have been received at 9.00 am on the next Working Day; or

7.3.2 sent by recorded delivery is to be treated as served on the second working day after posting if sent by first class post or on the third working day after posting if sent by second class post;

8. CHANGE IN OWNERSHIP

8.1 At the time of execution of this Deed, the Owner warrants that no person other than the Owner has any legal or equitable interest in the Site.

8.2 The Owner agrees to give the Council immediate written notice of any change in ownership of any of its interests in the Site occurring before all the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office (if a company address or usual address if not) together with the area of the Site or unit of occupation purchased by reference to a plan.

9. ENFORCEMENT

9.1 This Deed is to be governed by and interpreted in accordance with the law of England;

9.2 The Courts of England are to have jurisdiction in relation to any disputes between the parties out of or related to this Deed. This clause operates for the benefit of the Council who retains the right to sue the Owner and enforce any judgment against the Owner in the courts of any competent jurisdiction.

10. DISPUTE

Any dispute or disputes between any of the parties to this Deed arising out of the provisions of this Deed (other than a dispute or difference relating to a matter of law or concerning the meaning or construction of this Deed) shall be referred to a single arbitrator to be agreed between the parties or in default of agreement on the application of any party by the President of the Royal Institute of Chartered Surveyors in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment for the time-being in force.

11. COUNCIL'S COSTS

- 11.1 The Owner covenants and agrees with the Council that prior to completion of this Deed the Owner shall pay to the Council its reasonable and proper legal costs in connection with the preparation of this Deed, together with all disbursements, incurred in connection with the negotiation, preparation, completion and registration of this Deed; and
- 11.2 The Owner covenants and agrees with the Council that prior to Commencement to pay to the Council the Council's reasonable Planning Obligations Manager monitoring costs in the sum of 2% of the total Contribution.

12. LATE PAYMENT

Without prejudice to the Council's rights to enforce any breaches of this Deed (including by way of injunction) if any sum due to the Council from the Owner under this Deed is not paid on or before the date upon which it is due then Interest shall be payable from the due date of payment until the actual date of payment

13. COMMUNITY INFRASTRUCTURE LEVY

The terms of this Deed comply in all respects with the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 in that the obligations contained herein are necessary to make the Development acceptable in planning terms, directly relate to the Development and fairly and reasonably relate in scale and kind to the Development.

14. VAT

- 14.1 All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.
- 14.2 The Owner hereby acknowledges and agrees that if at any time VAT is required to be paid in respect of the Site and the Contributions then to the extent that VAT had not been previously charged in respect of that payment the Council shall have the right to issue a VAT invoice to the Owner and the VAT shall be paid accordingly.

15. RIGHT OF ACCESS

Without prejudice to the Council's statutory right of entry the Owner shall permit the Council and its authorised employees and agents upon reasonable written notice to enter the Site at all reasonable times for the purpose of verifying whether or not any obligation arising under the Deed has been performed or observed.

16. RESERVATIONS

For the avoidance of doubt, nothing in this Deed shall prevent the Council from exercising any of its statutory powers or functions in relation to the development of the Site.

17. SECTION 73 VARIATION

17.1 In the event that any new planning permission(s) are granted by the Council pursuant to Section 73 of the 1990 Act and unless otherwise agreed between the parties, with effect from the date that the new planning permission is granted pursuant to Section 73 of the 1990 Act:

17.1.1 The obligations in this Deed shall (in addition to continuing to bind the Site in respect of the Planning Permission) relate to and bind all subsequent planning permission(s) in respect of the Site granted pursuant to Section 73 of the 1990 Act and the Site itself without the automatic need to enter into any subsequent deed of variation or new agreement pursuant to Section 106 of the 1990 Act;

17.1.2 The definitions of Application, Development and Planning Permission in this Deed shall be construed to include references to any applications under Section 73 of the 1990 Act, the planning permissions granted thereunder and the development permitted by such subsequent planning permission(s); and

17.1.3 This Deed shall be endorsed with the following words in respect of any future Section 73 application:

“The obligations in this Deed relate to and bind the Site in respect of which a new planning permission reference [] has been granted pursuant to Section 73 of the Town and Country Planning Act 1990 (as amended)”

ALWAYS PROVIDED THAT nothing in this clause shall fetter the discretion of the Council in determining any application under Section 73 of the 1990 Act or the appropriate nature and/or quantum of Section 106 obligations insofar as they are materially different to those contained in this Deed and required pursuant to a determination under Section 73 of the 1990 Act whether by way of a new deed or supplemental deed pursuant to Section 106 of the 1990 Act.

18 COUNCIL'S POWERS

Nothing contained or implied in this Deed shall prejudice or affect the rights discretions powers duties and obligations of the Council under all statutes bye-laws statutory instruments orders and regulations in the exercise of their functions as local authority.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

FIRST SCHEDULE
(Commencement)

1. Notice of Commencement

The Owner hereby covenants as follows:

- 1.1 not less than five Working Days prior to Commencement Date to serve the Commencement Notice on the Council;
- 1.2 Not to permit or cause or allow the Commencement of Development until the Commencement Notice has been served upon the Council.

SECOND SCHEDULE

(Affordable Housing)

1. Affordable Housing

The Owner covenants and agrees with the Council:

- 1.1. Not to Commence Development unless and until the Owner has entered into a legally binding contract with the Defence Infrastructure Organisation to transfer the Affordable Housing Units to the Defence Infrastructure Organisation for use as Military Housing for Occupation by Armed Forces Members.
- 1.2. Following the Commencement of Development to construct or procure the construction of the Affordable Housing Units at no cost to the Council to the Development Standards and in accordance with the Planning Permission and to ensure the Occupation in accordance with the provisions of this Second Schedule.
- 1.3. Not to Occupy or cause or permit the Occupation of any of the Affordable Housing Units unless and until the Affordable Housing Units have been transferred by freehold transfer with title absolute and full title guarantee to the Defence Infrastructure Organisation subject to covenants by the Defence Infrastructure Organisation not to use the Affordable Housing Units other than as Military Housing for Occupation by Armed Forces Members in perpetuity.
- 1.4. The transfer of the Affordable Housing Units to the Defence Infrastructure Organisation shall include the following provisions:-
 - 1.4.1. the grant to the Defence Infrastructure Organisation of all rights of way access and passage of services and all other rights reasonably necessary for the beneficial enjoyment of the Affordable Housing Units; and
 - 1.4.2. a reservation of all rights of access and passage of services and rights of entry reasonably necessary for the purposes of the Development.
- 1.5. not to let or manage or allow the Affordable Housing Units to be let or managed other than as Affordable Private Rented Housing Units for the purposes of providing Military Housing to Armed Forces Members who have a Local Connection and who are eligible for Affordable Housing in accordance with the allocation policies of the Defence Infrastructure Organisation.

THIRD SCHEDULE
Commencement Notice

TO: Planning Obligations Manager
Hereford Council
Plough Lane
Hereford
HR4 0LE

(“the Council”)

FROM:

(“the Owner”)

DEVELOPMENT: (*description of development and site name*):

RELEVANT PLANNING PERMISSION (*reference number*):

RELEVANT SECTION 106 AGREEMENT (*date and parties*):

(“the Section 106 Agreement”)

I/We Owner * hereby put the Council on notice that we intend to commence development on [{}] 20[{}]. This notice is the Commencement Notice served pursuant to the Section 106 Agreement.

DATED this day of 202[]

.....

Signed by the Owner or an authorised signatory of the Owner

ANNEX 1
SITE PLAN

IN WITNESS of which the parties have executed this Agreement as a Deed on the date first written above

EXECUTED AS A DEED when the)
COMMON SEAL of the)
COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL)
was hereunto affixed **BY ORDER**)

Authorised Signatory

EXECUTED as a **DEED** by
BLOOR HOMES LIMITED
acting by:

.....
Director

.....
Director / Company Secretary

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	3 SEPTEMBER 2025
TITLE OF REPORT:	<p>242783 - A HYBRID PLANNING APPLICATION COMPRISING: AN APPLICATION FOR FULL PLANNING PERMISSION FOR THE ERECTION OF A DAY NURSERY (USE CLASS E (F)) AND FOODSTORE (USE CLASS E (A)) INCLUDING ACCESS, CAR PARKING LANDSCAPING AND ASSOCIATED WORK; & AN APPLICATION FOR OUTLINE PLANNING PERMISSION FOR THE ERECTION OF A MEDICAL CENTRE (USE CLASS E(E)), WITH AT LAND SOUTH OF LEADON WAY (A417) AND EAST OF DYMOCK ROAD (B4216), LEDBURY, HEREFORDSHIRE,</p> <p>For: Lidl GB Ltd per Mr Rob Mitchell, Brunel House, 2 Fitzalan Road, Cardiff, CF24 0EB</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=242783&search-term=242783
Reason Application submitted to Committee - Redirection request	

Date Received: 29 October 2024 Ward: Ledbury South Grid Ref: 370392,236681

Expiry Date: 30 May 2025

Local Members: Cllr Stefanie Simmons. Adjoining - Cllr Liz Harvey and Cllr Justine Peberdy

1. Site Description

- 1.1 The application site covers a broadly triangular parcel of land and is currently in agricultural use. It is primarily bound hedgerows, interspersed with trees. The land slopes down from the south-western corner to the north-east. The surrounding area comprises a mix of uses. To the west, along the B4216 Dymock Road, there are commercial and employment premises. To the north of the adjacent four-arm roundabout, land is occupied by a mix of residential development and a the 'Full-Pitcher' public-house. To the south-east, is a recently completed residential development – with its public open-space being located closest to the site's southeastern boundary.
- 1.2 The site is located roughly 600-metres from the boundary of the Malvern Hills National Landscape (NL) and is situated within its wider setting. Although lying within Flood Zone 1, The River Leadon is located around-200 metres to the west of the site. A small part of the site's western extent is identified as being at risk from surface water flooding.
- 1.3 The site is located approximately 850-metres to the south of the Ledbury Conservation Area, and there are no listed buildings within close proximity to the site.

Due to its position adjacent to Dymock Road and Leadon Way, both principal vehicular routes serving Ledbury, the site can be considered as a 'gateway' to the town.

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

2. Proposal

- 2.1 The application seeks planning permission for a mixed-use scheme comprising a retail foodstore, a day care nursery, and a medical centre. The application is made in hybrid format, with full planning permission sought for the foodstore and nursery, and outline planning permission sought for the medical centre. The proposed masterplan is illustrated at **Figure 1**.



Figure 1 – Proposed Masterplan

Full application

- 2.2 The proposed foodstore, to be operated by Lidl, would have a net sales area of 1,100 square metres and would be situated to the northern part of the site. It would be served by a dedicated surface-level car park to the west, providing around 101 spaces, including spaces for disabled users, parent and child parking, and electric vehicle charging. The foodstore is proposed to operate between 08:00 and 22:00 Monday to Saturday, and between 10:00 and 16:00 on Sundays. Unrestricted delivery hours are also sought.
- 2.3 Immediately to the south of the foodstore, a day care nursery is proposed, benefiting from a dedicated parking area. The proposed medical centre would occupy a separate parcel to the south-west of the site. This element of the proposal is submitted with parameters defined as

follows: building heights between 8 and 12-metres, widths between 27 and 33-metres, and lengths between 34 and 40-metres.

- 2.4 The proposed development would be accessed via a new junction taken from the B4216 Dymock Road, with internal roads providing access to each separate parcel and its respective use. The proposal would also provide 2no. for pedestrian and cycle links from the site to the northern boundary, connecting with the existing footway along the southern side of the A417 Leaddon Way. Landscaping and other associated works are proposed throughout the site.

Outline

- 2.5 The medical centre is proposed in outline form, with access to be determined and all other matters reserved. Indicative parameters have been provided, including building heights of 8 -12 metres and a footprint of approximately 865 sqm. The proposed location to the southwest of the site allows for integration with the wider scheme and provides space for associated infrastructure and landscaping.

3. Planning History

- 3.1 201718 - A hybrid application comprising: An application for full planning permission for the erection of a children's day nursery (Use Class D1), food store (Use Class A1), with associated access, landscaping and associated work; and An application for outline planning permission for the erection of a medical centre (Use Class D1), with all matters bar access reserved. Refused 28 January 2021 (APP/W1850/W/21/3279731 – Appeal Dismissed – 21 September 2022).
- 3.2 It is pertinent to note the material changes since the above dismissed the appeal. Principally, these are considered to be as follows; -
- Adoption of Updated Ledbury Neighbourhood Development Plan (NDP) (2023): The application site is specifically allocated within the NDP at Policy EE1.2. This policy supports the delivery of sensitive employment or service uses, specifically encouraging proposals within Use Classes E(e) (medical/health services), E(f) (day nursery), E(g) (offices, R&D, and light industry), and C1 (hotels).
 - Herefordshire Town Centre and Retail Assessment (September 2022): The Council's updated retail evidence base (Nexus, 2022) provides a robust, up-to-date assessment of retail capacity, and quantitative/qualitative need across the county. This assessment identifies a quantitative need for additional convenience retail floorspace in Ledbury.
 - Significant new housing development coming forward in Ledbury.
 - Changes to the Scheme: The current proposal has been revised since the previous appeal, including a reduction in the scale of the foodstore and the introduction of a Section 106 mechanism to secure the delivery of the medical centre.
 - Site Ownership and Deliverability: Lidl now owns the site, providing increased certainty over delivery and enabling the transfer of land for the medical centre at nil value, as secured through the Section 106 agreement.

4. Relevant planning policy

4.1 Herefordshire Local Plan – Core Strategy

SS1 Presumption in favour of sustainable development
 SS4 Movement and transportation
 SS6 Environmental quality and local distinctiveness

MT1 Traffic management, highway safety and promoting active travel
 LB1 Development in Ledbury
 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
 SC1 Social and community facilities
 SD1 Sustainable design and energy efficiency
 SD3 Sustainable water management and water resources
 SD4 Waste water treatment and river water quality
 ID1 Infrastructure

4.2 Ledbury Neighbourhood Development Plan (2023)

SD1.1 Ledbury as a self-sustaining community
 SD1.2 Settlement boundary
 SD1.3 Sustainable design
 HO2.1 Reinforcing balanced housing communities
 EE1.2 Small employment sites within and adjoining the town
 EE3.1 Protection of shopping frontages and primary shopping area
 EE3.2 Defined town centre
 BE1.1 Design
 BE2.1 Protecting and enhancing heritage assets
 NE1.1 Protecting and enhancing biodiversity and geodiversity
 NE2.1 Conserving the landscape and scenic beauty of the parish
 NE2.2 Protecting important views and the setting of the town
 NE3.1 Green infrastructure and open space
 NE3.2 Local green space
 CL1.1 Community services and facilities
 CL2.1 Protection of open and green spaces and playing fields
 TR1.1 Footpaths and cycleways
 TR1.2 Public realm design requirements

4.3 National Planning Policy Framework

Chapter 2 Achieving sustainable development
 Chapter 4 Decision-making
 Chapter 6 Building a strong, competitive economy
 Chapter 7 Ensuring the vitality of town centres
 Chapter 8 Promoting healthy and safe communities
 Chapter 9 Promoting sustainable transport
 Chapter 11 Making effective use of land
 Chapter 12 Achieving well-designed places
 Chapter 14 Meeting the challenge of climate change, flooding and coastal change
 Chapter 15 Conserving and enhancing the natural environment
 Chapter 16 Conserving and enhancing the historic environment

5. **Consultation Summary**

5.1 Area Engineer (Local Highway Authority) – comment

5.1.1 17/7/25 -

1. Bus stop locations are agreed
2. The RSA Stage 1 has been signed off.

Issues which need changing

3. Drawing No. PL02/PL03 shows a hedgerow in the widened footway cycleway
4. The cycle storage location limits the width to the through flow to all of the site. With bikes parked in the bike racks the distance users are able to access the site is less than two metres therefore restricting the access.

If these issues can be changes please condition as follows:-

CAB - Visibility Splays-
 CAE - Vehicular access construction
 CAJ -Parking - Estates
 CAP -Highways Improvement/off site works
 CAT - Construction Management plan
 CB2 - Secure covered cycle parking provision
 CB3 - Travel Plan

I11 – Mud on highway
 I09 – Private apparatus within the highway
 I45 – Works within the highway
 I08 – Section 278 Agreement
 I07 – Section 38 Agreement & Drainage details
 I47 – Drainage other than via highway system
 I41 – Travel plans
 I35 – Highways Design Guide and Specification

- 5.1.2 22/5/25 - I recently held a meeting with Public Transport, Transport Planning, and Councillor Simmons to discuss the proposed bus service provision for the site.

The following requirements have been identified:

1. Bus Stops

A pair of bus stops should be provided adjacent to the nursery site access - one on each side of the carriageway. The proposed design must be supported by a Stage 1 Road Safety Audit (RSA), which should also include the proposed Toucan crossing facilities.

The bus stop should not obstruct or impact the functionality of the shared cycle and pedestrian.

2. Bus Stop Specifications

Final specifications are to be confirmed with the Public Transport team; however, each stop is expected to include the following:

Shelters: One full shelter and one cantilever shelter.

Real-Time Information (RTI): Solar-powered RTI units.

Bus Stop Markings: In accordance with local highway authority standards.

Signage/Flags: Appropriate bus stop signage and flags to be installed.

3. Hedgerow etc

Details should be provided on how much hedgerow needs to be removed/relocated to provide the bus stops.

4. Bus Service Provision

It is currently anticipated that the 232 bus service will serve these proposed stops, however I believe these discussions are ongoing.

Please ensure that these requirements are incorporated into the relevant design and planning documentation going forward.

One final comment to add—though brief, it feels important to mention, it should be noted how concerned Ledbury Town Council are about the relocation of the medical services to the outskirts of Ledbury and the connectivity of the site. The connectivity of the site should not only be just about Lidl, but also the medical centre; therefore, there needs to be a positive move forwards in the bus provision for the whole site.

We just have to be mindful about the previous LHA response, which didn't increase the bus services due to the lack of support by previous Public Transport comments.

- 5.1.3 26/2/25 - The previous application has agreed many issues, however there are several concerns which need to be changed to be acceptable.

Access

The proposed access arrangement requires modification. As shown in the submitted plans, the HGV manoeuvre does not maintain a consistent alignment when negotiating the junction and internal carriageway. To address this, potential adjustments may include relocating the junction further northwest, closer to the Lidl sign, or widening the junction to better accommodate HGV turning movements. Tracking needs to be provided for the altered access.

Pedestrian and cyclist access

The pedestrian and cyclist access into the site requires modification. The proposed access currently accommodates only pedestrians, with widths designed exclusively for pedestrian use. The non motorised accesses into the site appear to be narrow and not very welcoming, one of the aims of the site should be to increase connectivity to the site via means other than a private vehicle. To ensure adequate provision for cyclists, these access routes should be widened to a minimum of 3 metres. The access adjacent to the nursery should also be widened to at least 3 metres to facilitate shared use by pedestrians and cyclists. Links should be provided from the Hawk Rise development into the site to allow Hawk Rise residents to access the site without going via Leadon Way.

Additionally, the proposed Toucan crossing should be relocated further east to align with the existing and improved Public Right of Way (PROW), enhancing connectivity and providing a more direct route into the site. Connections should be provided around the western side of the Full Pitcher roundabout to connect Dymock Road to Ross Road.

Furthermore, the hedgerow along the eastern pedestrian access, which extends past the nursery, should either be removed or reduced in height to maintain visibility and prevent the route from becoming hidden. Good natural surveillance will encourage use.

It is noted that LTN 1/20 has not been used as part of the assessment submitted in the Transport Assessment. Details should be provided on how the proposals align with LTN 1/20.

In accordance with Herefordshire Council (HC) policy, a minimum of 10% of parking spaces must be allocated for disabled users. It is essential that the parking provision across all individual sites complies with this requirement.

The proposed parking for the nursery does not meet the standards set out in the HC Design Guide, which bases its calculations on Gross Floor Space (GFS). The guidance stipulates the need for 45 parking spaces, including 5 designated disabled bays. However, the current proposal provides only 24 spaces, with just 1 allocated for disabled users.

To address this shortfall, the parking provision should be revised to meet the HC Design Guide requirements. Alternatively, further details should be provided on how the nursery intends to manage drop-off and pick-up times to ensure safe and efficient access, minimise congestion, prevent adverse impacts on the local highway network, and avoid additional pressure on existing parking facilities during peak periods.

The submitted documents reference a looped area intended to facilitate drop-off and pick-up. However, given the limited number of parking spaces, there is concern that during peak times this could lead to vehicle stacking, potentially obstructing the other site accesses and affecting the adopted highway.

Further clarification is requested on the operational aspects of the nursery, including whether there are standardised drop-off and pick-up times and how many children are expected to be accommodated during these periods as well as staffing numbers. This information is essential to accurately assess the impact on traffic flow and parking demand.

The cycle parking should be relocated nearer the front of the store to allow for better security and convenience for customers while ensuring easier surveillance and accessibility. The proposed location is located too near the pedestrian access and bikes could easily be removed without noticing. Cycle electric chargers should also look to be provided.

Bus services - To promote sustainable transport and encourage the use of public transport for the site, it is essential to provide well-placed bus stops in close proximity. While existing bus stop facilities serve the area, an additional stop nearer to the site would enhance accessibility and improve service. Engaging with the Public Transport department and local bus providers to provide an extension of the 600 service, which operates around Ledbury, would ensure better connectivity for the site. An assessment of bus stop provision on Leadon way should be undertaken.

Medical centre – As this is an outline application, the specific details regarding the provision and nature of the proposed medical centre have not been defined. The only element under consideration at this stage is access. This site access is shared with the wider development and is therefore addressed alongside the associated applications. However, no details have been provided in regard to the highway impact of the development which is a consideration under access and therefore part of the application.

This issue is further compounded by the lack of detailed information on the intended services within the medical centre—whether it will function as a general practitioner's surgery, dental practice, or a diagnostic facility similar to the recently proposed centre in Hereford.

Each of these uses would generate varying levels of traffic and associated vehicle movements. Could the applicant provide further clarification on the intended scope and function of the medical centre to enable a more accurate assessment of its potential impact?

Travel plan comments from - Naomi Hailing, Travel Plan Officer:

Upon reviewing the Mixed-Use Site Framework Travel Plan (23-00942/TP/01, October 2024), I note the comment 10.1.3: " This FTP has been prepared to set out the general objectives and methodologies to be implement across the wider mixed-use site. Separate site-specific TPs however will be prepared which the end user of each occupied unit on the site will manage." This will provide a clearer understanding of what will occur at each business, and I look forward to reviewing each individual plan.

I would request that the site Travel Plan Coordinator join Herefordshire Council's Travel to Work network. It would also be helpful to include how the newsletter will be distributed to staff, ensuring it is available both in hard copy and electronically.

5.2 Built and Natural Environment Service (Landscape) – comment;

5.2.1 27/6/25 - I am satisfied that the applicant has addressed my previous comments, and have no objection.

There is no information or statement regarding the other points raised, as I can ascertain. This may be just a case of clarification, or implemented as conditions.

To recap (extract from comments, dated 06/01/2025).

Environmental Colour Assessment

The ECA report is welcomed as part of the design process and signifies a recognition of the setting of the building in the landscape and wider context, particularly in relation to the association with the Malvern Hills National Landscape and the Ledbury NDP, Policy NE2.1B, that states, 'Ensure associated elements such as hard landscape measures, boundary treatment, and building materials and colours are appropriate to the location.'

Addressing the typical Lidl building colour palette of light grey and white as seen in figures 4-6, the applicant has taken the recommendation of the ECA report to select colour based on an objective contextual way. This is supported; however, it would be prudent to ensure samples are provided to complete the final analysis of colours in the landscape/on site as you would expect for a development of this scale. It would be beneficial to see the samples and palette board in relation to the three buildings so that a harmonious comparison can be made. Note: It is recommended to provide matte finishes to reduce reflection and glare (this includes the solar panels).

Note: the palette board could be of similar look and feel as the elevations provided with this application but modified in accordance with the final product supplier.

The ECA report (page 11) suggest that some similar colours can be carried to all buildings within the development to create a uniformity, however I speculate that the roof colour of the Day Nursery could be different (a dark brown) to the Foodstore (dark grey) to signify the more intimate scale of the building in relation to the residential buildings, and appear when looking over Ledbury from Dog Wood Hill (page 13 of the ECA), the roofscape mosaic continued within the development.

Note: The response to material and colour should also take into account landscape elements (furniture, lighting, bollards, signage, and fencing). For example, the 1.8 high Paladin Fencing. This is proposed as dark green. Pending the actual green (not specified), artificial green can contrast against the landscape/building (i.e., around the Day Nursery/along the building frontage along Leaddon Way). A black or dark brown (a colour from the suggested Colourways/Developed palette) is recommended.

In terms of the stainless steel landscape elements, a brushed satin finish is visually softer and less reflective and would complement the architectural matte finishes and galvanised finishes.

Recommended condition

Provide samples of external materials (HC reference C13)

With the exception of any site clearance and groundwork, no further development shall take place until details or samples of material 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 LD1 of the Herefordshire Local Plan -Core Strategy and the National Planning Policy Framework.

Signage

Request: The external signage is provided on the plans, but there are no elevations or details. This should be provided to ensure they are complimentary to the overall appearance and scale of the development.

5.2.2 6/1/25 - It is understood this application is a hybrid planning application comprising:

1) Outline planning permission for the erection of a medical centre (Use Class E (e)), with access to be determined and all other matters reserved.

Regarding the outline part (1) of the application for the medical centre there is no objection to the access. In terms of the building, the principles of design (material and colour) should reflect that used for the Foodstore and Day Nursery.

2) Full planning permission for the erection of a Day Nursery (Use Class E (f)) and Foodstore (Use Class E (a)) including access, car parking landscaping and associated work; and

Regarding the full planning application there are comments:

Hedgerow along Leadon Way

Leadon Way is an important drive into Ledbury, and the existing hedgerow (with hedgerow trees) lines this drive with greenery and a sense of rural countryside, a feature of the Herefordshire landscape (refer to figure 1). The development retains this hedgerow as it is on the boundary between highways and the applicant site.

However, how will it ultimately look? – This is not defined. Will it be as per figure 1, overgrown, or clipped to a certain height? This is not defined, and there is some concern. There are some Lidl developments (refer to figure 4-6) that opt for a low-level landscape response for most likely visibility reasons. It would be expected for this development that the hedgerow is maintained to a high quality and thus retains a sense of rural distinctiveness and character in accordance with LD1 and SS6, whilst also contributing to biodiversity and green infrastructure, LD2 and LD3, respectively.

One of the concerns is that the representation of the hedgerow on the plan appears to be drawn as it looks in figure 1. Therefore, on the plan, it shows a hedge zone of between 4-6 metres. This representation does not show what it should look like as a managed and healthy hedgerow that I assume will be the case.

The other concern is that the hedgerow shows signs of a hedge neglected (refer to figure 2). It appears that the hedge has been cut at the same time (knuckle effect) at approximately 1.5 metres (as stated in the landscape report) for a long period of time and then let to outgrow (what appears to be 4+ years).

It is not recommended to cut back to the same knuckle height of 1.5 metres, and it is not recommended to leave the hedgerow to outgrow or start trimming at a point of, say, 2.0 metres. There is very good guidance (see below) on how to manage hedgerows (rejuvenation and provide routine management practices).

Note: The principle understanding of managed heights and maintenance regimes for all the boundary treatments should be provided.

For example: Management of existing native hedgerow

'A' shape structure

Trim the hedge to form an 'A' shape, thicker at the base, and narrower at the top. This provides maximum protection for wildlife while allowing light to reach the ground. The overall height to be

3 metres high, with variations to ensure a healthy form. Cut the hedge in intervals of 10-20cm per year (refer to the Peoples Trust for Endangered Species (PTES) recommendations)

Cutting to different lengths, rather than trimming back to the same point, allows hedges to increase in height and width by several centimetres at each cut, encouraging a dense, healthy hedgerow. A 'light touch' approach encourages fruit and biodiversity enhancement.

Leave at least 50% of the hedgerow uncut.

Every year on rotation, leave at least half of the total hedgerow length uncut to increase the amount of pollen, nectar, and berries for birds and insects.

Gapping up

Undertake assessments of the hedgerow to ascertain if gapping up is required and replacement planting will be provided. Aim to enrich and provide a high quality, diverse hedgerow that is both visually interesting and biodiversity enhanced.

Further guidance

Peoples Trust for Endangered Species (PTES)
GOV.UK

Hedge Link

Recommended condition:

A condition with a focus on the hedgerow is requested, with a detailed understanding of the form and management of the hedgerows provided for a period of 5-10 years.

Tree strategy

In general, the tree strategy is accepted; however, there could be further thought on the trees along Leaddon Way (and other boundaries) to take into consideration a more natural layout that would reflect the surrounding landscape and also respond to the spaces of the green wall (giving the green wall more light to grow effectively). The current tree layout is at 10 metre centres, similar to figure 5. This appears too wide when compared to the rhythm of spacing found along Leaddon Way. Therefore, an indicative suggestion (refer to figure 3) is provided.

Request: Review the tree strategy to create variety along Leaddon Way.

Environmental Colour Assessment

The ECA report is welcomed as part of the design process and signifies a recognition of the setting of the building in the landscape and wider context, particularly in relation to the association with the Malvern Hills National Landscape and the Ledbury NDP, Policy NE2.1B, that states, 'Ensure associated elements such as hard landscape measures, boundary treatment, and building materials and colours are appropriate to the location.'

Addressing the typical Lidl building colour palette of light grey and white as seen in figures 4-6, the applicant has taken the recommendation of the ECA report to select colour based on an objective contextual way. This is supported; however, it would be prudent to ensure samples are provided to complete the final analysis of colours in the landscape/on site as you would expect for a development of this scale. It would be beneficial to see the samples and palette board in relation to the three buildings so that a harmonious comparison can be made. Note: It is recommended to provide matte finishes to reduce reflection and glare (this includes the solar panels).

Note: the palette board could be of similar look and feel as the elevations provided with this application but modified in accordance with the final product supplier.

The ECA report (page 11) suggest that some similar colours can be carried to all buildings within the development to create a uniformity, however I speculate that the roof colour of the Day

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

Nursery could be different (a dark brown) to the Foodstore (dark grey) to signify the more intimate scale of the building in relation to the residential buildings, and appear when looking over Ledbury from Dog Wood Hill (page 13 of the ECA), the roofscape mosaic continued within the development.

Note: The response to material and colour should also take into account landscape elements (furniture, lighting, bollards, signage, and fencing). For example, the 1.8 high Paladin Fencing. This is proposed as dark green. Pending the actual green (not specified), artificial green can contrast against the landscape/building (i.e., around the Day Nursery/along the building frontage along Leaddon Way). A black or dark brown (a colour from the suggested Colourways/Developed palette) is recommended.

In terms of the stainless steel landscape elements, a brushed satin finish is visually softer and less reflective and would complement the architectural matte finishes and galvanised finishes.

Recommended condition

Provide samples of external materials (HC reference C13)

With the exception of any site clearance and groundwork, no further development shall take place until details or samples of material 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 LD1 of the Herefordshire Local Plan -Core Strategy and the National Planning Policy Framework.

Wall

Recommended condition

A condition is requested to provide details of the planting specification and maintenance regime for the life of the building (perpetuity) as the green wall is an integral part of the building façade along Leaddon Way.

Reason: It is important to ensure the planting is harmonious and 'natural' in appearance and relates to the overall façade material and colour to ensure that this complies requirements of Policy LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

Signage

Request: The external signage is provided on the plans, but not there are no elevations or details. This should be provided to ensure they are complimentary to the overall appearance and scale of the development.

Landscaping

Overall, the landscape proposal and specification provided are comprehensive. With revision as suggested above, this would be acceptable documentation for planning purposes. It is preferred to have this updated rather than conditioned.



Figure 1: Hedgerow along Leadon Way



Figure 2: Existing hedgerow left to grow out, from regularly trimmed height of approximately 1.5 metres.



Figure 3: Create variation in the perimeter tree character (with a variety of species), take into consideration the green walls and actual 'maintained' hedge width. Aim to create a rural character.

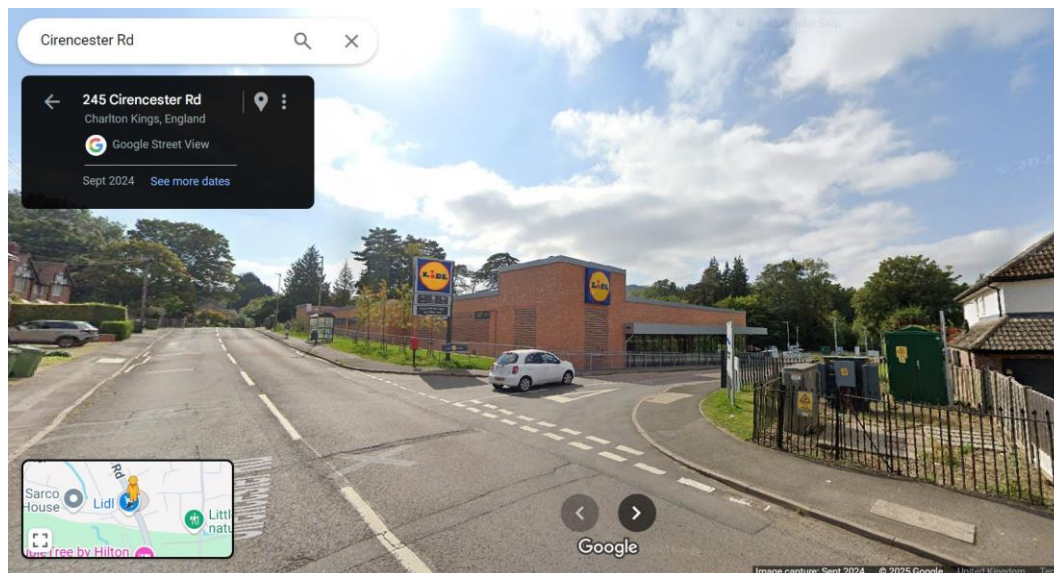


Figure 4: Lidl – Gloucester, September 2024 (Trees relative close with grass understorey)



Figure 5: Lidl – Shrewsbury, May 2024 (Trees at approximately 10 metre centres with grass understorey)



Figure 6: Lidl – Newtown, May 2024 (Trees at approximately 7.5 metre centres with low shrub planting understorey)

5.3 Built and Natural Environment Service (Ecology)

- 5.3.1 13/3/25 - It is noted that statutory Biodiversity Net Gain is proposed a hybrid mix of onsite delivery and addition purchase of offsite habitat Units. As the development is confined to a small area and the full application also directly impacts and supports the proposed outline application element it is expected that prior to any works commencing on the 'full application' or any part of the proposed development the whole BNG solution will be full secured and all relevant offsite habitat units fully secured and purchased. This is all within the required 'discharge of statutory BNG requirements' that must be fully completed prior to any works commencing onsite.

There are records of protected species within 500m of the site, including breeding Great Crested Newts. These are unlikely to access the site in their terrestrial phase due to barriers between ponds and habitats on site. It is relevant and appropriate to secure a Construction Environmental Management Plan as a pre-commencement condition on the 'full' part of the application, with an updated CEMP requested to support the future 'reserved matters' application. The CEMP should fully consider all potential ecological and wider environmental impacts of all works on site. A useful guide for all relevant considerations can be found at https://www.designingbuildings.co.uk/wiki/Construction_environmental_management_plan

Habitat Regulations – Construction Environmental Management Plan

No development approved under the full planning permission shall commence on site until a detailed Construction Environmental Management Plan – including but not limited to an ecological working method statement; and 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: The CEMP should clearly follow best practice guidance such as https://www.designingbuildings.co.uk/wiki/Construction_environmental_management_plan to ensure all potential wider environmental effects are fully considered.

Habitat Regulations – Construction Environmental Management Plan

No development approved under the outline planning permission or subsequent Reserved Matters application shall commence on site until a detailed Construction Environmental Management Plan – including but not limited to an ecological working method statement; and 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: The CEMP should clearly follow best practice guidance such as https://www.designingbuildings.co.uk/wiki/Construction_environmental_management_plan to ensure all potential wider environmental effects are fully considered.

All external and supporting lighting should demonstrate it is fully compliant with all current best practice guidance issued by the Institute of Lighting Professions/Bat Conservation Trust so as to clearly demonstrate it will not increase any existing local illumination levels that helps protect the local dark skies, setting of the Malvern Hills National Landscape and locally present light sensitive nocturnal wildlife – that includes multiple bat species. If considered appropriate a condition to secure a detailed lighting and illumination assessment and lighting specifications should be included as a pre-commencement of development above foundation levels.

5.4 Built and Natural Environment Service (Archaeology) – no objection

5.5 Built and Natural Environment Service (Trees) – comment;

5.5.1 15/7/25 - Comments: I have reviewed the submitted information in regard to the existing arboricultural resource within the site and have the following comments.

The AIA report (ARBTS – ArbTS_1650.3_Land off Leadon way_22.04.25) identifies at trees on the site and categorises their overall quality. The report highlights tree removals required to implement the proposals which relate to sectional removal of existing hedgerows to allow access as well as 4 other survey items. These were are categorised as low quality (Category C). It is considered that these removals have been mitigated through the proposed landscape plan (Corcadden associates_CA-2024-LDBY-03_RevH_01.12.23). All other arboricultural features will be retained.

I note that the northern hedgerow is proposed to be laid which is positive (highlighted in the hedgerow management plan – 2024-LDY-07-RevB_19.06.25). The submitted amended tree survey plan (2024-LDBY-02-RevC_19.06.25) does indicate that the north hedgerow will be removed (shaded red). This needs to be clarified.

Overall, I have no objection to the proposals as impacts to the existing arboricultural resource is limited. If permission is granted, planning conditions should be imposed to ensure adherence with the approved documents.

5.6 Environmental Health (Noise)

5.6.1 7/5/25 - I note comments made regarding noise impacts on the nursery and agree that, given the assessment made and points addressed, this could be dealt with by way of condition re adherence to BS93 criteria. It should be noted that 55dB LAeq,T is the max desirable level set by the WHO for external amenity areas. Also, the max permissible internal noise limit for teaching space set out in BS93 is 35 dBA. By combining this with a 15 dBA sound insulation for an open window, external noise levels should not exceed 50 dB LAeq.

Therefore, natural ventilation cannot be relied on, and an alternative ventilation strategy will be required.

I would suggest that conditions cover the following:

The performance requirements for all teaching spaces within this development are to be in accordance with the targets set out in BS93.

A ventilation strategy is to be provided to set out how adequate ventilation is to be achieved while achieving compliance with internal noise criteria outlined in BS93.

A condition to cover the installation of a solid boundary fence of at least 3 metres high between the food store and nursery.

Medical centre:

Agree that can be dealt with further down the line (though design phase – HTM 08-01Acoustics) but thought it prudent to raise at this stage.

- 5.6.2 20/4/25 - The applicant has supplied a noise impact assessment, dated 3rd April 2024 - ref.InAcoustic 23-601-2, which considers the noise impacts from the proposed Lidl store, nursery and medical centre on nearby sensitive receptors. Noise impacts on site (to nursery and medical centre) have not been specifically assessed in this report.

Food store external plant has been assessed in accordance with BS4142* and found to generate 'low impact' during the day and night time at the nearest sensitive receptors. Deliveries to the store have also been found to produce levels no higher than 'low impact'.

As other external plant on site is yet to be determined, noise limits have been set at 10dB below background to safeguard residential amenity. This limit applies to the cumulative impact of all plant on site at the nearest residential receptors.

Noise from the use of the nursery has been assessed based on a similar operational facility and deemed to constitute a 'low impact'. In the absence of any specific guidance on assessing noise from children using external amenity space, BS4142* has been used.

I do have concerns that neither road traffic noise nor plant and delivery noise have been assessed in terms of impact on the occupants of the proposed nursery (both inside the nursery and outside in the play areas), or the medical centre. This was assessed in a previous noise impact assessment and mitigation suggested.

Therefore, I would suggest that the noise impact assessment is revised to include consideration of the impact of noise from both road traffic and food store plant and delivery on the operational use of the nursery (internal and external) and medical centre. If mitigation is required, this should be included within the report. The revised assessment and any proposed mitigation measures will need to be agreed in writing by the LPA prior to works commencing on site.

Noise impact on the nursery should be assessed in accordance with BS93 'Acoustic design of schools: performance standards'.

Ventilation will also need to be addressed and therefore, in addition to the above, I suggest that the following condition it added to any permission granted:

Prior to the commencement of works on site, the applicant is required to supply a ventilation strategy for the nursery. This must set out how adequate ventilation is to be achieved while achieving compliance with the internal ambient noise criteria in current version of Building Bulletin 93 'Acoustic design of schools: performance standards'.

Reason: In order to protect the amenity of the area and that of future site users so as to comply with policy SD1 of the Herefordshire Local Plan Core Strategy 2011-31.

*BS4142:2014+A1(2019) 'Methods for rating and assessing industrial and commercial sound'.

5.7 Environmental Health (Air Quality) – comment

5.7.1 13/5/25 - Thank you for the information

On the basis of the response below, it appears that reasonable explanation has been made regarding committed developments from an air quality perspective.

Please note that the highways/traffic team are the specialists in reviewing traffic data. In the absence of any concerns being raised from the highways/ transport department regarding traffic assessment/ trip numbers, I have no further concern

- 5.7.2 16/1/25 - I refer to the above application and I would make the following comments in relation to air quality.

The application comprises of a supermarket, medical centre and nursery. The site is an existing greenfield site. The proposed uses will generate a significant number of car journeys and some HDV's mainly for deliveries to the supermarket.

Where increased vehicle movements are predicted, it is likely that there will be increased emissions associated with vehicle exhausts, namely Nitrogen dioxide and fine particulates (PM10/PM2.5).

To determine the potential impacts on air quality an air quality assessment has been submitted with the application.

Transport Assessment

The transport assessment prepared by Corun Associates estimates the number of trips that are likely to be generated as a result of the proposed development. This data was then used within in the Air Quality Assessment (AQA).

At the time of writing, the Transport Assessment has not been reviewed by Herefordshire Council Transport Team. Should significant changes be made to the transport data in terms of trip generation, the AQA may need to be reviewed and amended where necessary.

Air Quality assessment

An air quality assessment was prepared by SLR Consulting Ltd dated 26th July 2024. The report assessed;

- the potential impact of dust emissions during the construction phase on surrounding receptors (including PM10).
- the potential impact that the proposed development would have on air quality from increased traffic emissions around the development site and in locations where traffic movement is predicted to increase. Pollutants that were assessed were Nitrogen dioxide, PM10 and PM2.5.

The air quality assessment was modelled using the baseline year of 2023 and the opening year 2025.

It is not clear if committed development was included in the air quality assessment. The inclusion of committed developments is required to understand the cumulative impact of development on air quality. It was agreed with the air quality consultant that committed development should be included during prior to the assessment being undertaken.

Diffusion tube monitoring for Nitrogen dioxide (NO₂) was undertaken to verify the model. The monitoring locations and air quality assessment methodology were agreed prior to commencement of the monitoring.

The results of the air quality assessment modelling did not predict any exceedances of the air quality objectives of Nitrogen dioxide and fine particulates at sensitive receptor locations. The highest modelled predicted value of NO₂ was 23.0 ug/m³, with the objective level at 40 mg/m³. PM 10 and PM 2.5 were predicted to be that 50 % of the relevant air quality objective.

All changes to NO₂, PM10 and PM2.5 as result of the development were predicted to be negligible using the Institute of Air Quality Management (IAQM) descriptors.

Dust from Construction Phase

In accordance with IAQM guidance, dust soiling risks were considered to be medium in relation to people and property and low to human health.

The dust assessment found that where effective dust mitigation measures are implemented, dust effects on nearby receptors were considered to be not significant.

Conclusions

The detailed air quality assessment did not identify any likely exceedances of Air Quality Objectives as a result of the proposed development. Therefore, have I no adverse comments to make regarding air quality, in relation to the proposed development.

However, clarification is required from the applicant regarding whether committed developments are included within the traffic assessment and air quality assessment to ensure that cumulative impacts are considered.

5.8 Public Rights of Way Team – no objection.

5.9 Economic Development Team – comment

5.9.1 22/8/2025 – In light of the additional information and further responses made on planning application number 242783, the Economic Development Team would like to update our response to reflect this, and whilst our response is still supportive of the overall application, we wish to amend our comments on the healthcare from supportive, to neutral.

Whilst reviewing our original response, I noted a typo with respect to the use classes we referred, so can I also take the opportunity to update the fourth paragraph which started with This planning application is also in line with Policy EE1.2 and replace with....

Sensitive proposals for employment or services falling within Use Classes E(e), E(f) and E(g), and hotels within Use Class C1 will be encouraged on land amounting to 1.6 hectares opposite the Full Pitcher and east of Dymock Road, identified on the Ledbury Town Policies Map (Map 11).

5.9.2 18/2/2025 - Alongside the buildings there would also be “significant” landscaping and tree planting, as well as electric car charging points and cycle parking. The site is near bus stops, which will help ensure residents are able to access the site by cycle or bus”.

The Economic Development Team supports this planning application which will create 40 jobs, which is in line with Policy E1 - Employment Provision which states that the focus for new employment provision in Herefordshire is to provide a range of locations, types and sizes of employment building to meet the needs of the local economy.

This planning application is also in line with Policy EE1.2 (Small Employment Sites Within and Adjoining the Town) which states ‘Sensitive proposals for employment or services falling within Use Class E(e) medical services and Class F9f) a nursery. Likewise, the policy includes other uses e.g. retail/foodstore.

From an economic development perspective, this application presents an opportunity to invigorate the local economy and enhance the overall quality of life for residents, by expanding the provision of childcare, medical services and retail in the local area.

Economic Impact Assessment

Job Creation and Workforce Developments:

The proposed food store is projected to create a substantial number of job opportunities, not only during the construction phase, but also upon its completion. This development will likely result in the hiring of various positions, from entry-level roles to managerial and specialised positions. By

supporting a diverse range of employment opportunities, we can engage local residents, thereby reducing unemployment rates and increasing household income levels within the community.

Increased Local Economic Activities:

With the establishment of a new food store, there will be an anticipated increase in foot traffic in the area. This influx will encourage additional patronage of nearby businesses, potentially leading to a multiplier effect that stimulates the local economy. Increased local spending can significantly enhance the viability of existing businesses, attracting further investment in the region and fostering a diverse economic ecosystem.

Support for Small and Local Businesses:

A new food store contributes to a more competitive retail environment, which can benefit smaller local businesses by driving greater overall demand for local goods and services. The increased consumer choice will foster innovation and improvement in customer service standards across the board.

Diversification of Services:

The inclusion of a day nursery and medical centre, alongside the food store, is particularly crucial for economic development. Access to quality childcare services is a key factor in attracting and retaining families in the area, positively impacting workforce participation rates. Additionally, the medical centre will enhance the appeal of Ledbury as a place to live and work, ensuring that residents have access to necessary healthcare services without traveling significant distances.

Economic Resilience and Sustainability

Sustainable Growth:

This development is aligned with strategic goals for sustainable economic growth within Ledbury. By creating a mixed-use site that combines retail, childcare and healthcare will help to promote a more resilient local economy. It ensures that essential services are available locally, which can mitigate economic shocks and enhance the community's overall stability.

Attracting New Residents:

The availability of essential services such as childcare and healthcare can make Ledbury more attractive to new residents and businesses. As families seek communities with comprehensive amenities, the proposed development can position Ledbury as an appealing destination for prospective homeowners and businesses looking to relocate.

Potential for Future Developments:

The introduction of these facilities can act as a catalyst for further economic development initiatives in the area. Success in this project could pave the way for additional investments in infrastructure, housing, and community services, creating a virtuous cycle of growth and enhancement for Ledbury's economy.

In summary, planning application PP-13488832 represents a strategic investment in the economic future of Ledbury. The proposed food store, day nursery, and medical centre are not merely additions to the landscape; they are essential components of a thriving economic ecosystem that will improve residents' quality of life, while fostering community resilience and economic vitality.

5.10 Land Drainage (Lead Local Flood Authority) – comment;

5.10.1 24/3/25 - In principle we do not object to the proposals, however we recommend that the following information is provided within suitably worded planning conditions:

- Submission of detailed drainage design drawings/construction plans for both the proposed
- surface and foul water drainage systems. The foul drainage design will need to be developed in conjunction with Severn Trent Water.

- Confirmation of acceptance of the proposed surface water discharge to the public surface water
- sewer from Severn Trent.
- Confirmation of the proposed adoption arrangements in line with the above advice

The full comments are accessible via the Herefordshire Council website.

5.11 Retail Planning Consultant (Nexus Planning) – Herefordshire Council has utilised the services of experienced expert Retail Planning consultants to provide retail advice on the current application. Their iterative comments of September 2023 are contained at **Appendix 1(a-c)** of this report.

5.12 Welsh Water – comment

5.12.1 2/1/25 - We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

SEWERAGE

Dwr Cymru Welsh Water does not provide sewerage services in this area and therefore have no comment to make with regards to foul flows.

WATER SUPPLY

Capacity is currently available in the water supply system to accommodate the development. We reserve the right however to reassess our position as part of the formal application for the provision of new water mains under Section 41 and Section 51 of the Water Industry Act (1991) to ensure there is sufficient capacity available to serve the development without causing detriment to existing customers' supply as demands upon our water systems change continually.

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.

5.13 Severn Trent – comment;

5.13.1 8/1/25 - With reference to the above planning application the Company's observations regarding sewerage are as follows.

Severn Trent requests that any approval be conditioned as follows:

- The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and
- The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
- Planning Practice Guidance and section H of the Building Regulations 2010 detail surface water disposal hierarchy. The disposal of surface water by means of soakaways should be considered as the primary method. If this is not practical and there is no watercourse available as an alternative, other sustainable methods should also be explored. If these are found unsuitable satisfactory evidence will need to be submitted before a discharge to the public sewerage system is considered. No surface water to enter the foul or combined water systems by any means.

Reason To ensure that the development is provided with a satisfactory means of drainage as well as reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

IMPORTANT NOTE: With regard to network capacity, this response only relates to the public waste water network and does not include representation from other areas of Severn Trent Water, such as the provision of water supply or the protection of drinking water quality.

Please note for the use or reuse of sewer connections either direct or indirect to the public sewerage system the applicant will be required to make a formal application to the Company under Section 106 of the Water Industry Act 1991. They may obtain copies of our current guidance notes and application form from either our website (www.stwater.co.uk) or by contacting our Developer Services Team (Tel: 0800 707 6600).

Suggested Informative – affected sewers and water mains

Before undertaking any work on site, all applicants must determine if Severn Trent has any assets in the vicinity of the proposed works. This can be done by accessing our records at www.digdat.co.uk Severn Trent Water advise that even if our statutory records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under The Transfer of Sewer Regulations 2011.

Our records indicate that there are no assets that may be affected by this proposal, however it is the duty of the site owner to confirm this is the case before any work takes place.

Public sewers and Water mains have statutory protection and may not be built close to, or diverted without consent, consequently you must contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the proposed building

5.14 Hereford and Gloucester Canal – no response.

5.15 Herefordshire and Worcestershire Integrated Care Board – comment;

5.15.1 23/2/25 - Our response to the above consultation is as follows:

Currently, Ledbury Health Partnership is the sole GP practice in Ledbury and they occupy 3 buildings in the town. All sites have leasing arrangements that are coming to an end over the next 2 to 3 years and the ICB is working with the practice to explore options for the provision of sustainable premises for the future.

The current planning application, if approved, will provide an additional option that can be explored as part of the appraisal process – however this would be subject to being able to secure additional revenue and capital investment.

6. Representations

6.1 Ledbury Town Council

6.1.1 10/3/25 –

A Ledbury Town Council response taking into account the policies of the Ledbury Neighbourhood Development Plan 2021- 2031 which was adopted in June 2023.

The text includes only relevant extracts from the Local Plan and NDP to put its responses into context. LTC acknowledges the local enthusiasm for aspects of this application, but LTC and planners have to base decisions on policy and evidence.

LTC considers that the planning authority's decision that the applicant's previous proposals for the development of this site (P201718) would cause harm to the town centre and its economy - which was upheld at appeal - also applies to this new application, and for similar reasons.

Viability and Vitality of the Town Centre

Herefordshire Council updated its Town Centre and Retail Assessment (Herefordshire Town Centre and Retail Assessment September 2022) in 2022.

The assessment suggests that Ledbury may need a minimum of 900m² convenience retail space at 2041. However, this proposal intends providing that scale of additional retail space at least 15 years sooner.

The assessment shows significant decline in comparison goods turnover in Ledbury over the past 10 years – even when compared just to other town centres in the county. Conversely, with the opening of the Aldi store, the town is retaining 91% of its catchment convenience goods market share.

This indicates that there is very little retail leakage in this market sector for a new discount food retailer to claw back. Meaning that the applicant's convenience goods turnover – underestimated (based on trading figures quoted in the Herefordshire Council 2022 assessment for existing discount food retailers elsewhere in the county) at £8.2m p.a. across 880m² of floorspace – will inevitably be removed from the town's existing convenience goods retailers. These include the edge of town supermarkets (Tesco & Coop) which currently do contribute positively to linked trips on foot to the town centre in a way which the proposed out-of-town development will not.

The applicant proposes 20% of their retail floorspace (220m²) to be dedicated to a continuously changing mix of comparison goods which will compete with many of the independent comparison retailers in the town centre.

The recent change of use permission for the current Homebase premises to become a HomeBargains has increased the approved convenience and comparison retail area on another out-of-town site. The impact of this permission in taking account of the assessed retail growth potential needs to be carefully considered.

The proposed medical centre will further detract from town centre footfall, were it to go ahead. The Ledbury NDP states that it is preferred for healthcare services to continue to be accessed in the town centre.

Policy E5 of the Local Plan states development outside the town centres will only be permitted if it can be demonstrated that the requirements of the sequential test have been met (set out in the NPPF) and that the proposal would not have a significant adverse impact on the vitality and viability of the centres.

Policy LB1 states that: "Within Ledbury, new development proposals will be encouraged where they:

(2) maintain and enhance the vitality and viability of the existing town centre. Proposals for new retail, leisure or office development of over 400m² in gross floor space and located outside the town centre will need to be supported by an impact assessment to determine whether there could be any adverse impacts on the town centre;

(3) improve accessibility within Ledbury by walking, cycling and public transport, particularly where they enhance connectivity with, for example, local facilities, new employment areas and the town centre;

The application is not in conformity with Local Plan Policy E5 and LB1-2&3.

Although the retail element of the development is below the size triggering an independent retail impact assessment, according to the NPPF, LTC requests that such an assessment is commissioned by the Planning Authority in this case. Especially given the scale of the development with regard to the timing of the assessed likely future need.

Sequential Testing

The Town Council acknowledges that sequential testing is mentioned by the applicant for the following sites: Recreation Ground, Ledbury Park, Bye Street Car Park. Previous supermarket applications in the town have been required to include the existing edge of town centre

supermarkets of Tesco and Coop in the sequential site testing. The Town Council is unclear why this has not also been the case for this application. Especially given the data provided regarding the level of under-trading by the Coop store which has only received investment in signage and minor cosmetic improvements over the last 10 years by its operator.

Site Access and Induced Vehicle Movements

The Town Council is concerned that the proposed access to the site is not adequate with regard to its positioning with respect to the blind summit on the Dymock Road, with regard to sight lines for vehicles exiting the development and in the light of the significant underestimation of vehicle movements as a consequence of the three developments on-site: Lidl discount foodstore, Healthcare centre, Children's Nursery.

The Herefordshire Council Retail Assessment (2022) estimates the turnover by floorspace of supermarkets across the county on the same basis for Aldi and Lidl as is used for the other supermarket retailers. This approach is unsound, and is borne out by the comments in Lidl's own retail assessment (<https://myaccount.herefordshire.gov.uk/documents?id=8cddb62-b872-11ef-9089-005056ab11cd>) which states (para 3.1.2) that in 2008 the Competition Commission in its Groceries Market Investigation Final Report made it clear that Lidl, Aldi and Netto – collectively referred to as Limited Assortment Discounters (LADs), traded under very different business models which did not bear direct comparison to the main grocer supermarkets trading in the UK.

This is also demonstrated in the Herefordshire Council Retail Assessment (para 8.49-50) that the 5 LADs in the county have a benchmark turnover of £45.8m against an estimated survey derived turnover of £116.5m. Meaning that, on average, they are each overtrading by more than 250% compared to their originally expected turnover and against their grocer competitor supermarkets.

The reality of this overtrading is reflected in a much higher number of vehicle movements, which LTC do not believe are adequately reflected in the documentation supporting the application. LTC is concerned to ensure that the impact of the likely induced traffic on the local network is fully considered.

LTC is also concerned that there are presently no direct links proposed for footpaths and cycleways between the Barratt and Bovis/Vistry developments to the East of the proposed development, and that residents from these locations will be required to access the site via paths running adjacent to the very busy Leadon Way.

This is contrary to the requirements of the Local Plan and the Ledbury NDP for sustainable travel options and good connectivity to active travel networks.

S106 – Public Transport and Improvements to the Town Centre Public Realm

LTC are concerned to ensure that suitable contributions are obtained to secure sustained public transport links between this development, the town centre and significant residential areas of the town.

Significant S106 contributions (£110,000) were made by Aldi to improvements to the Public Realm in the town centre to assist in offsetting the impact on town centre footfall, vitality and viability as a consequence of that out of town discount foodstore development.

If this development were to be granted planning permission, LTC would be expecting planners to be requiring a similar scale of S106 monies for further public realm improvements for the same reasons. Such improvements could include, but are not limited to:

- Resurfacing, planting, improved lighting, demountable bollards and improved car park layout in St Katherine's Car Park

- Replacement of grit paths around the Masters House to provide all weather surfaces which enhance the visitor experience and do not damage the interior flooring of local heritage buildings
- Public Conveniences at the Recreation Ground and Queen's Walk access point to the Town Trail.
- Improved paving, pavement widening, shared space schemes and reduced level changes in the town centre to improve accessibility and safety for visitors.

Surface Water Handling

LTC is concerned to see that, as a consequence of this currently 100% infiltration draining site becoming almost 100% impermeable under the proposed development plans, the handling of surface water drainage is proposed to be via subsurface attenuation tanks scaled to a 1 in 100yr rainfall event +45% climate change allowance and draining at an assumed green field drainage rate of 5.8l/s into the public sewer.

It is evident from local experience in recent years, that even 100% grass covered fields are being overwhelmed with the increasing scale and intensity of heavy rainfall events which are then causing run-off onto the highway. In addition, the operation of the Barratts site has shown that the existing grey water handling infrastructure is unable to handle even the attenuated run-off rates from just the development to the south of Leadon Way that has so far taken place – let alone that given permission to come forward. And that is without this application site being developed at all.

LTC fear the benchmarks currently set for drainage provision are inadequate to cope with the reality of current and future rainfall events and that a 1 in 1,000 year provision for the handling of surface water for this development at the bottom of a significant incline which is already entirely slated for development, should be applied as an appropriately prudent measure.

In addition, that the proposal for handling surface water via sub-surface attenuation tanks is closely reviewed by officers as regards scale and suitability, and conditions applied that ensure permanent, proactive management and maintenance of the system is assured.

Ledbury NDP

LTC is concerned, that as stated in the planning policy comment sections, the application does not adequately address the Visions elements 1,7 and 8 (critically and especially) of the Ledbury NDP.

1. Preserve and Develop Prosperity As a prosperous market town, Ledbury will continue to be a vibrant, thriving community, both socially and economically, with an attractive, well managed and safe built environment in sympathy with the surrounding natural landscape. The town will continue to be a popular destination as an attractive place to shop for residents, the local rural community and visitors, with a successful tourist industry celebrating the town's heritage.

7. Preserve Environment Ledbury will have a defined settlement boundary which respects the constraints of topography, and protects and conserves Malvern Hills AONB, the River Leadon and its Riverside Park, and land to the south-west that meets present and future recreation needs. Sustainable transport options such as walking and cycling, will be encouraged and public transport and disabled access provisions enhanced in priority over vehicular traffic.

Easy footpath network access to the surrounding countryside and beyond will be improved and maintained. The Malvern Hills AONB is the backdrop to the town and all development will be complementary to the landscape and the views. Design sensitivity and sustainability is given a high priority in all forms of development.

Green space will be protected, biodiversity networks strengthened, and geodiversity preserved while the town's relationship with the open countryside will be strengthened through the prioritised use of urban trees, landscaping and decorative planting throughout all developments. Natural assets will be maintained and enhanced to mitigate and adapt to climate change. There will be

the opportunity to create local green corridors and enhancement zones under a green infrastructure strategy for Ledbury and its surroundings. This will include a 'green corridor' along the safeguarded route of the projected Gloucester and Hereford canal reinstatement, largely following the route of the River Leadon.

8. Nurture the Town Centre Ledbury's role as a prosperous market town with a diverse economy, including a burgeoning tourist industry, will be protected and enhanced, while the heritage of the town will be preserved and celebrated. The town will cherish and nurture its vibrant retail core and grow its reputation for markets and festivals. Traders will be encouraged to provide a wide range of products, in order to enhance the standing of Ledbury as a prime visitor destination. Increasing sustainability within the town will mean that Ledbury steadily gains the reputation for being a 'Green Town'.

Although LTC acknowledges that the applicant has satisfactorily covered perhaps the majority of the sustainable design requirements, the council is not convinced these are all sufficiently reflected in the application, particularly requirements b, d, e, f and g.

b) Seeking on-site measures that support energy conservation such as through tree planting and other forms of green infrastructure to provide shade and shelter, where this does not cancel solar gain.

d) Minimising the use of artificial light to limit the impact of light pollution on local amenity, intrinsically dark landscapes and nature conservation, and to reduce energy consumption.

e) Enabling a sustainable drainage system, including where this would increase resilience to buildings, infrastructure, and businesses at risk of increased flooding; promote biodiversity; improve water quality; and enhance amenity. The maximum use of permeable surfaces is encouraged.

f) Reducing the carbon intensity of development proposals (embodied carbon⁸), minimising construction traffic and reducing waste.

g) Supporting proposals that utilise construction materials produced as locally as possible, minimising travel distances.

As shown on Map 6 of the NDP, this application site sits squarely in the Herefordshire Council's Green Infrastructure Strategy for Local Strategic Corridors (LSCs) and Local Enhancement Zones (LEZs) for Ledbury. Appendix 2 of the HC strategy defines objectives for these corridors and zones, including for additional areas identified through further analysis and supported by the local community.

These are delivered by the NDP and supported by a very comprehensive 300-page Ledbury NDP Landscape & Visual Baseline Assessment Report January 2022 providing the evidence for stipulating these zones and their enhancement in the NDP. All the policies shown above have relevance to planning applications which affect these corridors.

The site is central to LedLSC2 of the strategy, as enhanced in the NDP; central to LedLEZ2 as enhanced in the NDP; and adjacent to a new LedLEZ4. As such it is one of the key focal points for ensuring continuity of the corridors for wildlife benefits across the NDP domain.

Although LTC acknowledges that the application does a great deal to reflect environmental planning requirements, it simply fails recognise or address the strategic implications and significance of the corridors in any way and does not show how the development will satisfy the relevant policies or the corridor objectives in the Local Plan.

Conclusion

LTC remains concerned at the likely impact this development will have on the town centre, both in terms of retail impact and in terms of reduced overall footfall. The council requests an independent retail impact assessment be commissioned to assess the impact of recent retail permissions and the likely impact of the proposed development.

A significant S106 contribution to town centre and public realm enhancements to mitigate the impact of the development would be required if the development were to be approved.

The council recognises that the ICB and local healthcare providers are slow in addressing the need for increased healthcare provision in the town to match and meet the needs of residents as the significant housing extensions become built out. However, an out-of-town location for those services is incompatible with the NDP.

A significant S106 contribution to town centre healthcare provision would be welcomed.

Additional nursery provision in the town is welcomed.

Site access and connectivity to walking/cycling and public transport networks is wholly inadequate. Induced traffic is significantly underestimated (as is likely turnover and consequent retail impact).

The approach to the handling of surface water may be inadequate to meet the need induced by the scale of impermeable surface area on-site and requires more detailed consideration

6.2 Pixley Parish Council – support

6.2.1 25/1/25 - Whilst the above application does not fall directly within this Parish's remit Ledbury is our residents shopping and health primary resource, (neither of which exist within our Parish), and therefore we would wish to make the following comments.

Additional shopping services, particularly with good car parking improves choice and competitiveness for consumers plus the proposed location allows for easy access from our Parish and the surrounding areas.

The Parish Council strongly supports the need for improved Community Health Services in the area. The current provision does not meet the needs of a growing population with many of our residents currently having to travel 20-30 minutes to Fownhope, therefore we welcome the proposal for a health centre in Ledbury in addition to the existing services. The proposed location and car parking again allows for easy access from our Parish and the surrounding areas.

The Parish Council accept that at this stage it can only be outline approval, as full approval can only be sought once the detailed plans have been agreed in accordance with NHS specifications. Outline approval is an essential first step in the process.

Therefore, the Parish Council strongly supports the above planning application.

6.3 Site Notices / Press

6.3.1 21 representations received in objection to the application. The comments can be summarised as follows;

- Lidl would divert trade from Ledbury High Street, threatening independents, anchor stores (Tesco, Co-op), and town centre vitality.
- Out-of-centre foodstores historically harm market towns; this repeats national patterns.
- Previous 2022 appeal for the same site was dismissed for identical reasons; no material change since.

- Vacancy rates are rising (9.3% to 11%); loss of independents risks decline, antisocial behaviour, and an irreversible hollowing-out.
- Profits would leave the local economy (Lidl HQ in Germany), unlike local independents.
- Conflicts with LNDP Policy EE3.2 and Core Strategy Policy E5, plus NPPF para 95 impact test
- Site allocated for employment land (Class E(e), (f), (g)), not food retail.
- Application therefore conflicts with local plan policy, Ledbury NDP, and Herefordshire Council's Climate Emergency commitments.
- Ledbury NDP vision explicitly seeks to nurture the town centre, protect heritage, and support independents.
- Economic Development support for jobs ignores offsetting job losses elsewhere.
- Proposed health centre is outline only, with no NHS funding or staffing guarantees; risk it is a "sweetener" that may not materialise.
- Possible replacement, not addition, to the existing centrally located Market Surgery -less accessible for elderly and less mobile residents.
- Lack of patient consultation; data from Market Surgery should inform needs assessment.
- Alternative suggested: relocate fire station and repurpose current town-centre site for healthcare.
- Nursery location problematic (beside busy road and plant room), exposing children to air/noise pollution.
- Community facilities would be better sited in the town centre to allow linked trips (e.g., chemists)
- Site reliant on car use; public transport is limited/unreliable.
- Active travel connectivity poor: Town Trail degraded, busy roads unsafe, key direct link to Hawk Rise estate missing.
- Cycling provision inadequate: shared paths where segregation is needed, poorly located/insufficient cycle parking.
- Proposed toucan crossing may worsen congestion; wider active travel improvements absent.
- Narrow B-road access unsuitable for increased traffic volumes.
- Significant increase in traffic poses risks to pedestrians (children, elderly, cyclists) and adds congestion near care homes and residences.
- Unrestricted HGV delivery hours raise concerns over noise, light pollution, and safety, replicating problems with nearby industrial uses.
- Inconsistent with earlier refusal of Hawk Rise housing due to proximity to industry and amenity impacts.
- 78% of site hardstanding increases surface water runoff; flood risk assessments outdated (pre-Autumn 2024 flooding).
- Pollution risk to River Leadon from additional impermeable surfaces.
- Landscaping/hedgerow management concerns, referencing poor maintenance on Dymock Road.
- Ledbury already has three supermarkets (incl. Aldi within 500m); no unmet need demonstrated.
- New Home Bargains store recently approved; cumulative impacts on town centre underestimated.
- Objectors note Sainsbury's/Waitrose/Asda would provide broader choice without same level of duplication.
- Economic decline for independents outweighs claimed 40 job creation at Lidl.
- Hotel or small business uses (as per NDP) would better align with town's needs.

6.3.2 39 representations received in support to the application. The comments can be summarised as follows;

- Ledbury's population is growing rapidly from new housing; existing GP facilities are already at or beyond capacity.
- Current single surgery suffers from long waits, split services across multiple sites, and limited parking, creating inefficiencies and access difficulties.

- Lack of space restricts recruitment, training of new GPs, and expansion of services.
- A purpose-built facility would consolidate care, expand capacity, and support sustainable healthcare.
- The lease on the current practice is nearing expiry, adding urgency.
- Ambiguity remains whether the proposed centre supplements or replaces the existing surgery; replacement would reduce accessibility for elderly town-centre residents.
- Healthcare must be delivered alongside improvements to transport and pharmacy provision.
- Pharmacies are overwhelmed (prescription waits now up to 7–10 days); a new dispensing chemist is required, ideally integrated with the new centre or supermarket.
- Public transport to the site is inadequate; reliance on overstretched community transport is unsustainable. Hopper bus service suggested.
- Proponents argue another supermarket is needed due to overcrowding at Aldi, with little evidence of harm to small shops from its presence.
- Location by new housing estates may reduce town-centre traffic, with access largely via bypass.
- Job creation and infrastructure investment seen as benefits for new residents.
- Solar panels on the supermarket and nursery welcomed; concern raised that the T-shaped medical centre design may reduce efficiency—recommend design adjustment.
- Strong recognition of critical healthcare need and imbalance between new housing growth and inadequate infrastructure.
- Support expressed for the Lidl scheme insofar as it delivers a well-located, purpose-built medical centre with adequate parking and integrated services
- Council urged not to miss this opportunity to provide essential facilities for community wellbeing and long-term sustainability.

6.3.3 Six representations received neither in support or objection to the application. The comments can be summarised as follows;

- Doubts over extent of proposed green infrastructure and adequacy of screening.
- Lack of wildflower grass areas and small trees in the supermarket car park.
- Concern about light pollution, especially near residential areas and care home.
- Question over hedgerows being evergreen or deciduous, and their effectiveness in winter.
- Protection needed for existing bat boxes at Hawks Rise open space.
- Flood issues already present at the northern site/Full Pitcher roundabout.
- Access should be taken from A417 Leadon Way, not Dymock Road.
- Proposed toucan crossing is too close to the roundabout, with potential safety/traffic impacts.
- A pedestrian link should be provided from Hawks Rise estate.
- Concerns over construction and delivery traffic affecting neighbouring residential areas.
- 88% of residents want the medical centre to remain in the town centre.
- Uncertainty whether the facility is an additional centre or a replacement; poor location if the latter.
- No detailed application submitted for the health centre; concern it may be a token gesture.
- Risk that if details don't come forward, the facility won't materialise.
- Nursery ownership unclear; location next to A417 raises safety and noise concerns.
- Care home residents could be disturbed by nursery activity
- A foodstore is seen as needed, but scale questioned; submission underplays importance of Co-op and Tesco for town centre vitality and parking.
- Design and Access Statement mistakenly references Planning Policy Wales, not local policy context.
- Rapid EV charging points should be sited safely, away from flammable surroundings.
- Measures needed to prevent pedestrians cutting through Hawks Rise open space.

7. OFFICER APPRAISAL

Principle of development

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this application, the development plan comprises the Herefordshire Local Plan – Core Strategy (2011–2031) (Core Strategy) and the Ledbury Neighbourhood Development Plan (2023) (NDP). The National Planning Policy Framework 2024 (NPPF) is a material consideration in decision-making.
- 7.2 As a starting point, national and local policy seek to promote sustainable economic growth, support the vitality of existing town centres, and direct appropriate uses to appropriate locations. Chapter 6 of the NPPF outlines the Government’s commitment to creating the conditions in which businesses can invest, expand, and adapt. This includes supporting economic development and employment-generating uses, provided they are in suitable and sustainable locations.
- 7.3 Chapter 7 of the NPPF sets out specific guidance in relation to ensuring the vitality of town centres. It encourages local planning authorities to support the role of town centres as the heart of their communities, promoting their long-term vitality and viability. The NPPF clearly states that proposals for ‘main town centre uses’ which include retail and office development, should be located within town centres in the first instance. This is reinforced through the application of the sequential test, which prioritises town-centre locations, followed by edge-of-centre sites, with out-of-centre sites only considered where suitable sites in more sequentially preferable locations are not available or viable.
- 7.4 At the local level, Policy E5 of the Core Strategy requires that development proposals contribute positively to the vitality and viability of existing centres, particularly Hereford and market towns across Herefordshire, without adversely impacting the town centre’s primary retail function. It also stipulates that main town centre uses proposed outside of defined centres must be subject to a sequential assessment to demonstrate that no suitable town-centre or edge-of-centre alternatives exist.
- 7.5 Policy LB1 of the Core Strategy sets out a strategic approach to the growth of Ledbury, supporting development that maintains and enhances the vitality of the existing town centre. Crucially, it states that proposals for new retail or office development with a gross floorspace exceeding 400m², and which are located outside of the defined town centre boundary, must be supported by an impact assessment to evaluate potential adverse effects on the vitality and viability of the town centre.
- 7.6 Since the previous appeal decision, there have been material changes in the policy context and the evidence base. The adoption of the updated Ledbury NDP in June 2023 is particularly significant, as it forms part of the development plan and provides further spatial clarity. It represents a material change given that the primary shopping frontage and defined town-centre for Ledbury is now more extensive, taking in the Co-op store which was previously not included.
- 7.7 Furthermore, in defining the boundary of Ledbury’s town centre, Policy EE3.2 makes it clear that the site does not lie within the town-centre or the primary shopping frontage. As such, and having regard to the definitions provided in Annex 2 of the NPPF, the site is considered to lie in an out-of-centre location. This triggers the requirement for both the sequential test and, given the scale of the proposed foodstore, an impact assessment under both Policy LB1 of the Core Strategy and Policy EE3.2 of the NDP.
- 7.8 It is also relevant to note that the current application follows the refusal and subsequent dismissal at appeal of a previous, similar scheme on this site (APP/W1850/W/21/3279731, decision dated 21 September 2022). The Inspector’s decision focused on the retail impact of the development, finding that the previous proposal would have a significant adverse effect on the vitality and viability of Ledbury Town Centre. The Inspector also noted the absence of a binding commitment to deliver the associated medical centre, which was presented as a benefit of the scheme.

- 7.9 Since the appeal decision, the published Herefordshire Town Centre and Retail Assessment (September 2022) now provides evidence of both quantitative and qualitative need for additional convenience retail provision in Ledbury. The assessment identifies a clear quantitative requirement for new foodstore floorspace in the town, with existing stores operating above benchmark levels and capacity (between 900 and 1,600 sq.m by 2041) for at least one further discount foodstore. Qualitatively, the evidence highlights the benefits of improving consumer choice, addressing overtrading, and supporting the needs of a growing local population. The proposed development could therefore help to meet these identified needs, reduce the need to travel further afield for main food shopping, and enhance the overall quality and accessibility of retail provision for Ledbury residents. This represents a significant material consideration in support of the application and reflects the material changes since the dismissed appeal.
- 7.10 Whilst the site is supported for Use Classes E(e), E(f) and E(g), and hotels within Use Class C1, it importantly does not explicitly preclude other uses. Furthermore, Paragraph 127a of the NPPF states that applications for alternative uses on the land (allocated for certain uses) should be supported, where the proposed use would contribute to meeting an unmet need for development in the area. The 2022 Herefordshire Town Centre and Retail Assessment (HTCRA) identifies a clear unmet need for retail provision within the area. In this context, retail use on the site can be supported, subject to compliance with the sequential and impact tests.
- 7.11 The current application proposes a smaller foodstore (1,100 sqm net sales area, compared to 1,347 sqm previously). It is supported by a Retail Impact Assessment which takes account of the latest retail evidence, including the 2022 HTCRA. The application also includes a proposed Section 106 agreement which is intended to secure the delivery of the medical use / centre, which was a key area of uncertainty in the previous appeal.

Sequential Test

- 7.12 The NPPF and Policy E5 of the Core Strategy require that the sequential approach to site selection should be applied to all development proposals for main town centre uses that are not in any identified town-centre and not in accordance with an up-to-date development plan. The NPPF further requires that applicants and Local Planning Authorities should demonstrate flexibility on issues such as format and scale.
- 7.13 As part of a sequential assessment the applicant is required to set out their site/unit requirements and national policy requires that applicants and local planning authorities should demonstrate flexibility on issues such as format and scale. The applicant's Planning & Retail Statement states that principally, the applicant requires a site that can accommodate a store in excess of 1,100 sqm gross- and that a minimum 0.5ha would be required in this regard; approximately 100no adjacent surface level parking spaces. The area of search comprises Ledbury. The LPA is of the view that the parameters set for the Sequential Test are sufficiently flexible.
- 7.14 The LPA has reviewed the applicant's sequential site assessment and agrees with the conclusions reached. Three alternative sites have been considered. The first, Bye Street Car Park, is a 0.15ha site currently in use as a public car park. It is constrained by its small size, surrounding built development, and there is no evidence that it is available or being marketed. It is concluded that this site is neither suitable nor available for the proposed development, even when allowing for an appropriate degree of flexibility.
- 7.15 The second site assessed is Ledbury Park, which lies wholly within the Malvern Hills National Landscape, and is subject to environmental and heritage constraints, including the presence of Tree Preservation Orders (TPO). The site forms part of the town's historic parkland and also remains in active public use. With these factors in mind, it is not considered to be a suitable or available location for the proposed development.

- 7.16 The third and final site, the park at Orchard Lane, comprises approximately 0.9-hectares of open space currently used for recreational purposes and includes football pitches. The site is understood to be in the ownership of Herefordshire Council, although is not being actively marketed and remains in public use. It is subject to planning policy protections against the loss of open space. As such, it is concluded that this site is not suitable or demonstrably available for the proposal.
- 7.17 In addition to these sites, the applicant has also considered existing vacant units within Ledbury town-centre. The Council's retail consultant agrees with the conclusion that none of these units are of sufficient size or configuration to accommodate the proposed development; the LPA have no evidence or substantive reason to reach an alternative view on this point.
- 7.18 It is important to note that the sequential test was a key consideration in the previous appeal decision (APP/W1850/W/21/3279731). At that time, the Inspector accepted that there were no sequentially preferable sites available, suitable, and viable for the proposed development, and this matter was not in dispute at the hearing. The current application maintains a similar approach, and the updated assessment confirms that no new sites have become available since the previous decision.
- 7.19 A key change in the current proposal is the reduction in the size of the foodstore (now 1,100 sqm net sales area, compared to 1,347 sqm previously), which has been reflected in the sequential site assessment. The applicant and LPA have demonstrated flexibility in format and scale, as required by national policy.
- 7.20 In summary, the sequential test is considered to be satisfied, and the position remains consistent with the Inspector's previous findings. However, it is essential that the officer report clearly sets out this continuity and explicitly references the Inspector's conclusions, to demonstrate that this key policy test has been robustly addressed in light of the site's planning history.
- 7.21 Taking the above into account, it is concluded that there are no sequentially preferable sites within, or on the edge of the town-centre that are both suitable and available to accommodate the proposed development.

Impact Assessment

- 7.22 Paragraph 94 of the NPPF states as follows;

"When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m² of gross floorspace). This should include assessment of:

- a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and*
- b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme)."*

- 7.23 In this case, Policy LB1 of the Core Strategy sets a local impact threshold of 400m² gross retail floorspace, which applies to proposals for new retail (and other) development in Ledbury. The proposed development exceeds this threshold, and accordingly, a Retail Impact Assessment (RIA) has been submitted by the applicant. The RIA has been updated during the determination period in response to officer feedback, updated retail evidence, and third-party representations including a detailed objection submitted by the Co-operative Group in relation to the potential impact on its town centre store.

- 7.24 The proposed development comprises a new discount foodstore to be operated by Lidl, providing a predominantly convenience goods offer with a smaller proportion of comparison goods. Due to the nature of the discount model, which offers a limited range of goods and does not replicate the full-line offer of large supermarkets or town-centre and on retailers, the proposal is not expected to compete directly with existing town centre comparison retailing.
- 7.25 The applicant's revised RIA assesses both the opening year (2027) and design year (2029), using the 2022 HTCRA as a baseline. It also incorporates the latest GlobalData (March 2025) sales density benchmarks, which reflect updated turnover assumptions. These revisions represent a conservative, worst-case scenario in terms of impact and have been reviewed by the Council's independent retail consultant, who confirms that the methodology is appropriate and is consistent with best practice.
- 7.26 The revised assessment incorporates committed developments, notably the approved Home Bargains store at New Mills Industrial Estate (241353 refers). The applicant has accounted for the turnover and trade draw of this scheme, which benefits from planning permission.
- 7.27 The most notable individual impact is expected to fall on the Tesco and Aldi stores (-12.5% and -11.9%, respectively), which lie outside of the town centre boundary as defined by the Ledbury NDP (Policy EE3.2). The Co-op, which since the updated Ledbury NDP – does now fall within the town-centre, is forecast to experience an impact of -8.4%. Other town centre stores, including Spar, One Stop, and independent convenience shops, are projected to experience impacts in the region of 7% to 12%.
- 7.28 Ledbury continues to benefit from a diverse retail offer, a relatively low vacancy rate (11% as of October 2024) which is below the UK average, and a strong mix of independent and national retailers. The town centre's vitality and viability are supported by its wide commercial base, and there is no evidence at the present time which suggests that the proposal would undermine planned or committed investment in Ledbury town-centre.
- 7.29 While the assessment is based on robust data sources and accepted methodologies, it is acknowledged that desktop-based studies may not always capture the full nuance of local trading conditions. The inclusion of now-closed outlets such as Abbey Bakery in the 2022 Survey reflects local naming conventions and historical associations. The Local Planning Authority are satisfied that any spend attributed to such outlets can be assumed to have been redistributed across the wider town-centre convenience offer, and that the overall turnover figure remains appropriate for assessing cumulative impact.
- 7.30 Furthermore, a significant majority of trade diversion, is expected to be drawn from existing out-of-centre stores such as Tesco and Aldi. These stores are not afforded policy protection because they are not located within the aforementioned defined town-centre. The Council's HTCRA 2022 does highlight both a qualitative and quantitative need for additional discount foodstore provision in Ledbury, which this proposal would help meet.
- 7.31 Concerns raised by the Co-op regarding store viability and potential effects on linked trips within the town centre have been fully considered and independently assessed (as set out in Appendices 1a – 1c). While some linked trips may be lost, the town centre's health, with a wider offer including cafés, services, and independent shops, is very likely to continue attracting footfall. Moreover, some linked trips may still occur by car or be substituted by other types of visits. This reflects the Inspector's previous concern that linked trips, particularly those associated with the Co-op and Tesco play a role in supporting town centre vitality. However, the updated Retail Impact Assessment and independent advice from the Council's Retail Planning Consultant confirm that the scale of diversion is moderate and that the town centre is sufficiently resilient to absorb any reduction in linked trips without material harm.

- 7.32 It is noted that the previous application on this site (APP/W1850/W/21/3279731) was dismissed at appeal in September 2022, with the Inspector concluding that the proposal would result in a 'significant adverse effect on the viability and vitality of Ledbury Town Centre'. The Inspector's concerns focused principally on the level of trade diversion from key town centre stores, including independent retailers, and the risk of undermining the town centre's role as the primary shopping destination for local residents.
- 7.33 In response, the current proposal has been revised to reduce the scale of the foodstore – and in turn resulting in a reduced turnover. Furthermore the Council's Retail Planning Consultant concludes the following points;
- *the vitality and viability of Ledbury town centre was good and the vacancy rates did not represent a cause for concern;*
 - *the Tesco and Aldi stores continue to trade above their respective benchmark averages. However, the Co-op store was identified to trade below benchmark, and lower than the figure presented within the previous, refused planning application;*
 - *the proportion of identified linked trips between the existing Tesco and Co-op stores to the wider town centre offer is limited; and*
 - *although not a policy test, the Study identified a convenience capacity within Ledbury of between 900 and 1,600 sq.m by 2041, indicating an under provision of convenience floorspace within the town.*
- 7.34 With the above in mind and the input of the independent assessment, it is considered that the overall impact on the vitality and viability of Ledbury Town Centre is not judged to be significantly adverse.
- 7.35 In conclusion, having regard to the methodology used, the scope of the assessment, the inclusion of cumulative schemes, and the independent review undertaken, there is considered sufficient level of satisfaction that the proposal would not result in a significant adverse impact on the vitality and viability of Ledbury town centre, nor on existing, committed, or planned investment in the centre. The proposal is therefore considered to comply with Policy LB1 and E5 of the Core Strategy, Policy EE3.2 of the Ledbury and the principles as set out at Paragraph 94 of the NPPF.

Medical Centre

- 7.36 Policy SC1 of the Core Strategy is broadly supportive of new community uses and facilities which includes education and medical services where they are appropriately located to the communities they serve.
- 7.37 The adoption of the updated Ledbury NDP represents a material change in the policy context since the Local Planning Authority and Planning Inspectorate determined the previous application for the site (201718 and APP/W1850/W/21/3279731 refers). This is because the application site is allocated as a small employment site adjoining the settlement boundary of Ledbury through Policy EE1.2 of the Ledbury NDP, adopted in June 2023. This policy supports the delivery of sensitive employment or service uses, specifically encouraging proposals within Use Classes E(e) (medical/health services), E(f) (day nursery), E(g) (offices, R&D, and light industry), and C1 (hotels).
- 7.38 The current proposal includes an outline element for a medical centre, which falls within Use Class E(e) of the Town and Country Planning (Use Classes) Order 1987 (as amended). This use class covers the provision of health services, including GP surgeries, dental practices, and health centres.
- 7.39 During consideration of the previous appeal, the Inspector acknowledged that a medical facility could contribute positively to the aims of Policies SD1.1 (Sustainable Development) and CL2.1 (Community Infrastructure) of the then-adopted Ledbury NDP. These objectives are now more

explicitly reflected in Policy EE1.2 of the updated plan, which supports such provision and specific use(s) on this site.

- 7.40 The need for a new medical facility is also supported by clear evidence of emerging local healthcare pressures. The Ledbury Health Partnership, the town's only GP practice, currently operates from three separate premises in the town centre. These are expected to close between 2027 and 2028 due to expiring lease agreements. NHS Herefordshire and Worcestershire has confirmed, in its formal consultation response to the application, that the site offers a potential location for future service provision, subject to securing the necessary revenue and capital funding.
- 7.41 While the proposal could therefore help facilitate a replacement or additional healthcare facility in Ledbury, the application does not specifically seek planning permission for a replacement of the existing GP practice which operates from Ledbury town-centre. As such, the Local Planning Authority must not assume that the new facility would deliver additional services, or that it would replace or directly relate to the existing town-centre provision. Moreover, the Use Class E(e) designation also allows for a range of medical and health-related uses and as such, does not guarantee that the facility would operate as a GP surgery open to the general public.
- 7.42 Whether the use of the medical centre could be restricted by condition to a GP surgery only has been considered. While this reflects *some* local aspirations, such a restriction would not be reasonable or enforceable in planning terms. The application explicitly seeks permission for a "medical centre" within Use Class E(e), which as stated above, encompasses a range of health-related services including GP surgeries, dental practices, physiotherapy clinics, and diagnostic centres. Conditions should not unreasonably restrict the use of land within a defined use class unless justified by a specific planning reason. In this case, it is considered that a restriction to GP use alone would not meet the tests of necessity, reasonableness, or enforceability under the NPPF. Furthermore, such a restriction could undermine deliverability, particularly given the evolving nature of NHS commissioning and the absence of a confirmed provider at this stage. The proposed Section 106 agreement provides a mechanism to secure the land for medical use, and prioritisation of GP provision could be explored through that route.
- 7.43 Deliverability of the proposed medical facility was also a concern raised by the Planning Inspector in the previous appeal, noting the absence of a binding mechanism to secure its development, despite indicative discussions with local medical providers having been documented.
- 7.44 To address this specific point, a material change in circumstances has now been introduced through a draft Section 106 agreement, which provides a legal mechanism to secure the transfer of land for medical use. The agreement requires the applicant (Lidl GB Ltd), who in fact now own, and is in control of the application site, to use reasonable endeavours to transfer the designated 'Medical Land', outlined in pink on the medical centre site plan (P409 rev E Proposed Site Plan GA Medical Centre refers), to a suitable medical provider within three years of the grant of planning permission. This transfer would be subject to the approval of a reserved matters application for the medical centre element of the scheme.
- 7.45 The land would be transferred freehold, at nil consideration, with absolute title and full title guarantee, and would include all necessary rights of access, services, and associated infrastructure to support the delivery and enable development and occupation for a medical use.
- 7.46 In the event that, after the prescribed three-year period, the applicant can demonstrate to the Local Planning Authority's satisfaction that all reasonable endeavours have been made but a transfer has not been secured, the obligation would fall away. This is considered to be a reasonable and proportionate mechanism that would support deliverability, while acknowledging that the applicant does not have control over third-party uptake of the land.

- 7.47 It is considered that this represents a significant improvement, compared to the previous scheme and directly responds to the Inspector's concerns regarding the lack of certainty around delivery of this specific element of the proposal. It provides a legal means to securing healthcare infrastructure at the site, in line with the aims of Policy SC1 and ID1 and Policy EE1.2 of the Ledbury NDP which now supports such a use on the site.

Nursery

- 7.48 The principle of the proposed day-care nursery is considered acceptable, since the site is identified through Policy EE1.2 of the Ledbury NDP for such a use, amongst others. With this being the case and the site situated within the settlement boundary whereby it would be well-placed to provide a welcomed facility for local residents, this element of the proposal can be supported.

Siting, scale and design and impact on visual amenity and landscape character

- 7.49 Core Strategy Policy LD1 requires that new development demonstrates how the character of the landscape and townscape has positively influenced its design, scale and siting, and that it conserves and enhances the natural, historic and scenic beauty of important landscapes and features.
- 7.50 Policy SD1 expects proposals to make efficient use of land, maintain local distinctiveness, safeguard amenity, and create safe, sustainable and well-integrated environments.
- 7.51 These principles are reinforced through the Ledbury NDP, notably Policies BE1.1, SD1.3, NE2.1 and NE2.2, which seek to ensure that development contributes positively to the town's character, landscape setting and visual amenity, including views from and towards the Malvern Hills National Landscape.
- 7.52 The NPPF, principally at Chapter 12 similarly emphasises the importance of high-quality, contextually responsive design and effective landscaping.
- 7.53 The site occupies a relatively prominent site which is situated to the southeast of the junction of the A417 Leadon Way, A449 Ross Road and B4216 Dymock Road / New Street, known as the 'Full-Pitcher Roundabout', owing to the public house of the same name which is situated to the north. With this in mind, it has previously been considered to serve a 'gateway' function to the town.
- 7.54 The site at present is relatively flat and laid to pasture; bound to most sides by established hedgerows. It is bound to the north by Leadon Way, the west by Dymock Road (and beyond is Hazel Park – an established commercial / industrial site). To the east is an established residential development of circa 320 dwellings, known as 'Hawks Rise'; (143116 & 212375 refers). As such, the site does feel enclosed and would not extend development southwards further than already exists. The site therefore reads as an infill vacant site within a developed built edge of town setting.
- 7.55 The proposed foodstore and childcare nurse details with regards their built form and curtilage areas are submitted in full.
- 7.56 The foodstore would be positioned to the northern side of the site, with its northern elevation flanking the boundary with Leadon Way, allowing for an 'r-shaped' car parking arrangement, wrapping around the west and south of the main building.
- 7.57 The design form, scale and mass is a template design utilised by Lidl. The store would feature a mono-pitch roof, with a projecting canopy along the main shopfront elevation. An entrance/exit

lobby is placed at the corner of the sales area on the southern elevation, and features a large glazed area.

- 7.58 As illustrated on the submitted elevation drawings shown at Figure 2, the main elevations would be finished in facing red-brick, with metal cladding at the higher level. The northern, Leadon Way elevation would be interspersed with green living walls, too. This would, with landscaping, avoid a monolithic and bland appearance along this corridor and would provide relief. This material palette is seen as appropriate and indeed an improvement on the previously refused application given the increased use of facing brick. Subject to securing details of the materials, the appearance should be acceptable.



Figure 2 – Submitted elevation drawings front and rear (food-store)

- 7.59 The roof design and material palette respond appropriately to the site's context, particularly in relation to the wider setting of the Malvern Hills National Landscape. While the building form is not bespoke, the proposal acknowledges its context, being viewed against existing employment and industrial buildings, and addressing Leadon Way.
- 7.60 In terms of the nursery - its design is befitting of its intended function, with the overall layout reflecting the functional requirements associated with the proposed use. This includes parking to the south and outdoor play space to the north. It would feature a full two-storey element with a pitched roof, reducing in scale to 1½-storeys along the southeast boundary adjacent to the housing development.
- 7.61 On the basis of the above, the design of the nursery is considered acceptable and represents an informed response to context which when combined with the landscaping proposal features both mitigation and enhancement of the site and locality.
- 7.62 The medical centre element is submitted in outline, with all matters reserved except for access. While detailed design, layout and landscaping are not for consideration at this stage, there is no evidence to suggest that a suitable scheme could not come forward which integrates effectively with the full elements of the proposal (foodstore and nursery), without causing undue harm to landscape character, visual amenity or the wider setting of the town. The indicative parameters and site arrangement suggest that the medical centre could be accommodated in a manner that complements the overall scheme and respects the site's sensitivities.
- 7.63 In terms of landscaping, these are considered to provide both mitigation and enhancement. The Council's Landscape Officer has confirmed that previous concerns have been addressed and raises no objection. The submitted Environmental Colour Assessment is welcomed, has been fully considered, and demonstrates a contextual approach to the proposed materials and finishes. The applicant has responded positively to recommendations regarding matte finishes, fencing colour, and the need for material samples. The hedgerow management plan is also acceptable, with rotational cutting and reinforcement planting proposed. The tree strategy is also broadly supported.

- 7.64 The submitted landscape report includes a comprehensive planting methodology and aftercare programme, with a 10-year maintenance plan and ecological enhancements. The inclusion of a living wall system, native hedgerows, wildflower grass areas, and biodiversity features such as bird and bat boxes, log piles and hibernacula, is considered to contribute positively to the site's green infrastructure and ecological value.
- 7.65 On the basis of the above, the siting, scale and design of the foodstore and nursery are considered acceptable, and the landscaping proposals are sufficient to ensure the development integrates appropriately with its surroundings.
- 7.66 The proposal is therefore considered to comply with Core Strategy Policies LD1 and SD1, as well as Ledbury NDP Policies BE1.1, SD1.3, NE2.1 and NE2.2. It also accords with the design principles set out in Chapter 12 of the NPPF, particularly paragraphs 131, 135 and 136, which emphasise the importance of contextually responsive design, landscape integration and long-term environmental stewardship.

Historic environment

- 7.67 The application site is not located within the Ledbury Conservation Area and does not lie adjacent to any listed buildings. The nearest designated heritage asset is the Ledbury Conservation Area, which is located approximately 850-metres to the northeast. This area contains numerous listed buildings, including the Grade I-listed Church of St Michael and All Angels.
- 7.68 The application site is separated from the Conservation Area by intervening post-war residential development, and there is no intervisibility or functional relationship between the two. Therefore, the site is not considered to contribute towards the significance of the Conservation Area, which derives principally from its historic townscape, architectural quality, and role as a market town.
- 7.69 In terms of indirect effects, it is acknowledged that the vitality and viability of the town centre contributes to the ongoing maintenance and occupation of historic buildings, many of which are in active commercial use. The Core Strategy supporting text recognise the interrelationship between a successful retail function and the preservation of the town centre's historic fabric. However, the applicant has submitted a Retail Impact Assessment which has been independently reviewed and found to be robust, as discussed in the forgone section of this report. The assessment concludes that the proposed development would not result in a significant adverse impact on the vitality and viability of Ledbury town centre, nor on existing, committed or planned investment therein.
- 7.70 On this basis, and in the absence of an identified significant adverse impact on town centre vitality and viability, it is not considered that the proposal would result in harm to the historic character or appearance of the town centre or indeed, its designated heritage assets.
- 7.71 Accordingly, financial contributions towards public realm or other heritage enhancements in the town centre are not considered to be justified in this instance, and the proposal is considered to accord with Policies SS6 and LD4 of the Herefordshire Core Strategy, Policy BE2.1 of the Ledbury NDP, the principles relating to conserving and enhancing the historic environment within the NPPF, and the statutory duties set out under Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Impact on amenity

- 7.72 Core Strategy Policy SD1 requires that development proposals safeguard residential amenity for existing and proposed occupants, and ensure that new development does not contribute to, or suffer from, adverse impacts arising from noise, light or air contamination.

- 7.73 These principles are reinforced through Ledbury NDP Policy SD1.3, which seeks to minimise light pollution, promote sustainable drainage, and avoid or mitigate the loss of landscape features that contribute to amenity and environmental quality.
- 7.74 The site is allocated for development and comprises a mixed-use scheme including a foodstore, nursery and medical centre. It is situated adjacent to existing commercial premises and is separated from the nearest residential properties, located within the Hawks Rise development to the east, by a distance of approximately 90-metres.
- 7.75 Landscaping is proposed along the eastern and southern boundaries, including hedgerow reinforcement and tree planting, which would assist in softening the visual transition and mitigating potential amenity impacts.
- 7.76 The medical centre, which is submitted in outline form with all matters reserved except for access, is positioned closest to the residential boundary. Its indicative layout and scale are considered appropriate, and there is no evidence to suggest that a reserved matters application could not come forward which integrates suitably with the full elements of the scheme (foodstore and nursery) without causing undue harm to residential amenity.
- 7.77 Within the site, concerns have been raised regarding the proximity of the nursery to the A417 Leadon Way and the potential for noise impacts. The Council's Environmental Health Team has reviewed the submitted noise impact assessment and advised that, while the nursery has not been specifically assessed in terms of internal and external amenity areas, the matter could be addressed through planning conditions.
- 7.78 With the above in mind, a safeguarding condition is recommended to secure details of noise management with respect to both the nursery and foodstore. This would be based on the already submitted Noise Assessment, and also cover the timing and management of deliveries serving the foodstore, so that these can be approved and then enforced by the Local Planning Authority, in the interests of residential amenity.
- 7.79 Noise from external plant and deliveries associated with the foodstore has been assessed in accordance with BS4142 and found to constitute a 'low impact' at the nearest sensitive receptors.
- 7.80 Subject to the imposition of appropriately worded planning conditions, the proposal is considered to comply with Core Strategy Policy SD1 and Ledbury NDP Policy SD1.3, and should not result in unacceptable harm to residential amenity.

Access and highway safety

- 7.81 Core Strategy Policy LB1 supports development that improves accessibility within Ledbury by walking, cycling and public transport, particularly where it enhances connectivity with local facilities, employment areas and the town centre. It also encourages proposals that contribute to infrastructure improvements, including transport and broadband, to promote sustainable development.
- 7.82 Core Strategy Policy MT1 requires that development proposals demonstrate safe and efficient access, mitigate traffic impacts, and promote active travel. Schemes must integrate with existing transport networks, protect public rights of way, and comply with design and parking standards. Layouts should accommodate all users, including those with disabilities and emergency services, and respect local character where traffic management is introduced.
- 7.83 These principles are reinforced through Ledbury NDP Policy TR1.1, which supports improvements and extensions to the network of footpaths and cycleways, especially where they provide safe and accessible connections between new development areas and key destinations such as the railway station, schools and town centre.

- 7.84 Ledbury NDP Policy TR1.2 sets out public realm design requirements, requiring that new development minimises traffic impacts, supports active travel, and provides inclusive layouts for pedestrians, cyclists and mobility users. It also requires adequate off-street parking, electric vehicle charging, and the use of permeable materials to reduce surface water runoff.
- 7.85 The application has been supported by a Transport Assessment, with trip generation calculated using both TRICS data and locally observed survey data from the overtrading Aldi store in Ledbury (June 2022), providing a robust and realistic forecast to inform the highways impacts of this development. The LHA has confirmed agreement with this approach.
- 7.86 The proposed development incorporates a comprehensive package of access and highway improvements.
- 7.87 A new principal vehicular access to serve the entirety of the development, taken from the B4216 Dymock Road has been amended during the course of the application following discussions with the LHA, to ensure safe alignment and visibility, including swept path analysis for articulated vehicles. The internal layout has also been revised to accommodate HGV movements without conflict, and visibility splays have been confirmed as acceptable.
- 7.88 Two pedestrian and cycle access links are proposed from Leadon Way, connecting directly to the foodstore and nursery/medical centre respectively. These links have been widened to 3-metres to support shared use and comply with LTN 1/20 guidance. Whilst efforts to seek a pedestrian /cycle link from the site, directly through to the 'Hawks Rise' development (143116 & 212375 refers) to the east has not been resolvable through the course of the application's determination period, given the positioning of the site and the improved infrastructure on, and connecting to the A417 Leadon Way (as outlined below), this is not considered a significant disbenefit of the overall scheme.
- 7.89 A relocated Toucan crossing on the A417 Leadon Way, positioned 60-metres to the east of the 'Full Pitcher roundabout', would align with the existing Public Right of Way and would therefore enable safe connectivity into the wider Ledbury area, including the town-centre.
- 7.90 The development would include 101no. car parking spaces for the foodstore, including 10no. accessible bays and 2no. EV charging points. The nursery would be served by 24no. spaces, including 1no. accessible bay.
- 7.91 While it is acknowledged that this would fall below the HC Design Guide standard, a shared parking arrangement with the foodstore has been agreed, supported by a parking accumulation study demonstrating sufficient capacity across the site. A direct pedestrian link between the nursery and foodstore car park would facilitate this arrangement, and a parking management strategy is recommended to be secured by condition, with details to be agreed by the Local Planning Authority prior to first use of the development.
- 7.92 The medical centre is proposed in outline only. A total of 53no. spaces are indicated, including 6 accessible bays (11%), with final layout and parking provision to be determined at reserved matters stage through the consideration of 'layout'. Trip generation has been assessed using robust assumptions based on a GP surgery use, and the Local Highway Authority has raised no objection on this basis.
- 7.93 Cycle parking would be provided in accordance with HC standards. The foodstore cycle stands would be located under the foodstore canopy, overlooked by the checkout area. The nursery would include secure long-stay provision for staff and children's bikes/scooters, with additional short-stay stands at the frontage. Final details and specifications are recommended to be secured by way of condition. Cycle parking for the medical centre would be confirmed at reserved matters stage, but is also required as part of the aforementioned condition.

- 7.94 To support sustainable travel further, a pair of bus stops are proposed on the A417 Leadon Way adjacent to the pedestrian and cycle access to the site, one on each side of the carriageway. These are supported by a Stage 1 Road Safety Audit and would be delivered via a Section 278 agreement with the Local Highways Authority. A new bus stop on Kipling Avenue, serving the adjacent residential site, further enhances public transport accessibility within the wider vicinity of the site.
- 7.95 In addition, the applicant has committed to a financial contribution of £100,000 (index linked) towards infrastructure to support the community transport service provided by Community Action Ledbury. This would fund the purchase of an electric wheelchair-accessible vehicle and associated EV charging infrastructure, with installation sites to be explored at locations including Bye Street, John Masefield High School, and Masters House Car Park. This contribution is considered necessary to support sustainable travel options for vulnerable users, directly related to the development's scale and location, and fairly and reasonably related in kind and in scale - thereby meeting the statutory tests under Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended). This would be included within the Section 106 agreement.
- 7.96 With the above in mind, the proposal is considered to comply with the relevant policies of the development plan – specifically Policy SS4, MT1 and LB1 of the Core Strategy, Policy TR1.1 and TR2.2 of the Ledbury NDP, and is also consistent with the objectives of the NPPF in terms of promoting sustainable transport, safe access, and inclusive connectivity.

Ecology

- 7.97 Policy LD2 of the Core Strategy requires development proposals to conserve, restore and enhance biodiversity and geodiversity. This includes the retention and protection of nature conservation sites, habitats and important species, the restoration and enhancement of existing features and connectivity to wider ecological networks, and the creation of new biodiversity features and wildlife habitats. Policy LD3 promotes the protection and enhancement of green infrastructure.
- 7.98 These principles are reinforced through Ledbury NDP Policy NE1.1, which supports the conservation, recovery and enhancement of biodiversity and geodiversity, including priority habitats, local wildlife sites, trees, woodlands, orchards, hedgerows, ponds and watercourses. Development is expected to contribute to ecological networks and green infrastructure, particularly within identified Strategic Corridors and Enhancement Zones, and to deliver biodiversity net gain through habitat creation, restoration and active management
- 7.99 Policy NE2.1 further requires development to conserve the landscape and scenic beauty of the parish, including the Malvern Hills Area of Outstanding Natural Beauty (AONB) (now formally known as 'National Landscape'), and to retain and enhance natural features such as trees, hedgerows and watercourses.
- 7.100 The application site comprises approximately 1.6 hectares of unmanaged modified grassland, bounded by species rich native hedgerow interspersed with trees. The application has been supported by a Preliminary Ecological Appraisal (PEA) which confirms that the site is of low ecological value, with limited suitability for protected species. No designated sites lie within 1km, though three Sites of Special Scientific Interest (SSSIs) are located within 1-2miles, including Mayhill Wood and Ledbury Cutting.
- 7.101 The site does not support any Priority Habitats, nor is it situated within a Strategic Corridor or Enhancement Zone as identified in the Ledbury NDP. The PEA identifies low potential for great crested newts, badgers, and reptiles, with no evidence of active use by these species. A precautionary approach is nonetheless recommended during construction and therefore a

Construction Environmental Management Plan (CEMP) is recommended to be secured as a pre-commencement condition.

- 7.102 Furthermore, the retention of boundary hedgerows and incorporation of native planting within the landscaping scheme would assist in bolstering green infrastructure and thus in turn, promoting habitat connectivity and the protection of locally significant ecological features.
- 7.103 The development is subject to the statutory requirement for Biodiversity Net Gain under the Environment Act 2021 and associated Biodiversity Gain Regulations 2024. The submitted BNG Assessment confirms that the development would result in a net loss of 4.01 habitat units (-62.69%) and a modest gain of 0.5 hedgerow units (+6.04%) on-site. The trading rules are not satisfied due to the loss of 2.21 high distinctiveness hedgerow units. As such, off-site units must be secured.
- 7.104 To achieve the mandatory 10% net gain, the applicant proposes a hybrid approach comprising:
- On-site habitat creation, including urban trees, neutral grassland, and species-rich hedgerows.
 - Off-site delivery of 4.65 habitat units and 2.21 hedgerow units via a Registered Offsite Gain Provider or, if necessary, through the purchase of statutory biodiversity credits.
- 7.105 This approach is consistent with the Biodiversity Gain Hierarchy set out in Article 37A of the Town and Country Planning (Development Management Procedure) Order, and reflects the applicant's efforts to maximise on-site delivery whilst noting the particular constraints of the scheme.
- 7.106 The BNG solution must be secured in full prior to commencement of any development, including the full application elements. This includes submission of a Biodiversity Gain Plan and Habitat Management and Monitoring Plan (HMMP) in accordance with DEFRA templates, and evidence of purchase of off-site units or credits from a legally secured and registered provider.
- 7.107 Although the biodiversity gain condition is deemed to apply by virtue of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990, a planning condition is recommended in this case to provide clarity and certainty. This reflects the hybrid nature of the BNG strategy, which includes off-site unit purchase. As the off-site units are to be acquired from a Registered Biodiversity Gain Site Provider, a separate legal agreement with the applicant is not required. The condition would ensure that the Biodiversity Gain Plan and HMMP are submitted and approved prior to commencement, and that monitoring is secured over a 30-year period.
- 7.108 As such, with the above in mind the proposal is considered to accord with Policy LD2 and LD3 of the Core Strategy, and Policy NE1.1 of the Ledbury NDP, as well as the relevant principles set out in the NPPF.

Flood risk and drainage

- 7.109 As well as the expectations of Policy SD3 and SD4 of the Core Strategy, Policy SD1.3 of the Ledbury NDP encourages the use of sustainable drainage systems (SuDS) to increase resilience to flooding, promote biodiversity, improve water quality, and enhance amenity. It also supports the use of permeable surfaces and tree planting to reduce runoff.
- 7.110 The application site lies within Flood Zone 1 and is therefore not at risk of fluvial flooding. However, the far western extent of the site is identified as being at low to medium risk of surface water flooding. In response, amended plans were submitted to ensure that no built development is located within this area, with only landscaping proposed. This has been suitably accommodated through minor adjustments to the alignment and positioning of the foodstore car park.

- 7.111 The submitted Flood Risk Assessment (FRA) and Surface Water Mitigation Note confirm that the finished floor levels of all buildings would be raised at least 150mm above surrounding ground levels. The car park and substation adjacent to the area at risk are proposed to be set at a minimum level of 48.833m AOD, which is approximately 933mm above the identified flood extent.
- 7.112 Each of the three proposed uses, foodstore, nursery, and medical centre would be served by separate attenuation tanks with associated HydroBrakes, discharging via a single pipe to the public surface water sewer. The discharge rates would be restricted to greenfield runoff rates, in accordance with drainage hierarchy principles.
- 7.113 Foul drainage is proposed via gravity-fed discharge to the public foul sewer, with Severn Trent confirming that capacity exists to accommodate the development.
- 7.114 The LLFA raises no objection to the proposals, subject to conditions requiring: submission of detailed drainage design plans; confirmation from Severn Trent regarding surface water discharge; and clarification of adoption arrangements for shared infrastructure. Subject to these, the scheme is considered to accord with Core Strategy Policies SD3 and SD4, Policy SD1.3 of the Ledbury NDP and relevant NPPF provisions on flood risk and sustainable drainage

Section 106 agreement

- 7.115 In light of the forgone considerations relating to the medical centre land and highways and transport, respectively, the following summary is provided of the draft Heads of Terms proposed for inclusion in the Section 106 agreement,
- Medical Centre Land Transfer
 - The developer will use reasonable endeavours to transfer the designated “Medical Land” (freehold, with title absolute and full title guarantee) to a medical provider within 3 years of the grant of planning permission.
 - The transfer will be for nil consideration and will include all necessary rights of access and services.
 - If, after 3 years, the developer can evidence reasonable endeavours, but no provider is secured, the obligation lapses.
 - Community Transport Contribution
 - £100,000 (index-linked) financial contribution to support Community Action Ledbury’s accessible transport service.
 - £70,000 allocated for the purchase of an electric wheelchair-accessible vehicle.
 - £30,000 allocated for EV charging infrastructure and dedicated parking bays.
 - Potential installation sites for EV infrastructure include:
 - Council land adjacent to Community Action Ledbury (4b Bye Street)
 - John Masefield High School
 - Bye Street Car Park
 - Masters House Car Park
- 7.116 The obligations would support the delivery of healthcare and inclusive transport infrastructure, in accordance with Policy ID1, MT1 and SC1 of the Core Strategy, and Policy EE1.2 and TR1.2 of the Ledbury NDP. The obligations are structured so that they meet the legal tests of necessity, direct relation, and proportionality under CIL Regulation 122.

Environmental Impact Assessment

- 7.117 An EIA Screening Opinion has not been requested however the Local Planning Authority have considered the proposals when having regard to The Town and Country Planning (Environmental Impact Assessment) Regulations 2017.
- 7.118 Whilst the proposals exceed the threshold 10. Infrastructure projects (b) (i), it is not considered an Environmental Impact Assessment is required having regards to the context and nature of the proposals and relevant considerations and constraints applicable to the site.

Conclusion

- 7.119 The site is allocated for employment and service uses through Policy EE1.2 of the Ledbury NDP, and this represents a material change in the policy context since the previous appeal decision (APP/W1850/W/21/3279731). It establishes the principle of development for uses falling within Use Classes E(e), E(f), E(g), and C1. While the proposed nursery and medical centre fall within the scope of this allocation and are therefore acceptable in principle, the proposed foodstore (Use Class E(a)) is not explicitly supported by the site's allocation.
- 7.120 In this case, the Local Planning Authority is satisfied that there are no sequentially preferable sites within or on the edge of Ledbury town centre that are both suitable and available. The Retail Impact Assessment has been independently reviewed and found to be robust, with the Council's retail consultant confirming that the proposal would not result in a significant adverse impact on the vitality and viability of Ledbury town centre, nor on existing, committed or planned investment therein. The current proposal represents a materially different scheme to that previously refused and dismissed at appeal. The foodstore has been reduced in scale, and the application is now supported by updated retail evidence which has been independently reviewed and supports the conclusions reached in terms of impact.
- 7.121 The proposal also includes the provision of land for a medical centre in outline form. The applicant, who now owns the site, has offered to enter into a legal agreement to secure the delivery of this element, with a Section 106 mechanism requiring the transfer of land to a suitable medical provider within three years of the grant of planning permission. This directly addresses the Inspector's concerns regarding deliverability and securing healthcare infrastructure in Ledbury.
- 7.122 The siting, scale and design of the development are considered appropriate to the site's context, and the landscaping proposals would provide for both mitigation and enhancement at this 'gateway' location. The use of contextual materials, including red brick and green living walls, alongside a comprehensive Environmental Colour Assessment, ensures that the development responds positively to its setting and the wider landscape character.
- 7.123 Matters relating to ecology, flood risk and drainage, and residential amenity are capable of being appropriately managed through the imposition of planning conditions. These include measures to secure biodiversity net gain, sustainable drainage systems, and mitigation of noise impacts on sensitive receptors, including the proposed nursery.
- 7.124 Access arrangements have been revised to address technical concerns, and the proposal includes a comprehensive package of pedestrian, cycle and public transport improvements. A financial contribution towards community transport infrastructure would also support sustainable travel objectives and improve accessibility for vulnerable users.
- 7.125 The proposal is therefore considered to accord with the relevant policies of the Herefordshire Local Plan – Core Strategy, the Ledbury NDP, and the principles that are set out in the NPPF. It represents a sustainable and well-integrated mixed-use development and as such, the application is accordingly recommended for approval.

RECOMMENDATION

That planning permission be granted, subject to the conditions set out at Annex 1, the completion of a Section 106 agreement to secure the transfer of land for the proposed medical centre, the community transport contribution, and any further conditions considered necessary by officers named in the Scheme of Delegation to Officers.

STANDARD CONDITIONS

1. Time Limit – Full Permission (Foodstore and Nursery)

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

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2. Submission of reserved matters (Medical Centre)

Application(s) 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 (Medical Centre)

The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the 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. Approval of the reserved matters (Medical Centre)

Approval of the details of the appearance, landscaping, layout, and scale (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: To comply with the provisions of Article 5 of the Town and Country Planning (Development Management Procedure) Order 2015.

5. Approved Plans (full)

The development shall be carried out in accordance with the approved plans listed in this below;

P402 rev Q Proposed Masterplan (only as far as it relates to the foodstore and nursery)

P403 rev N Proposed Lidl Site Plan GA

P404 rev K Proposed Lidl Surface Treatment Plan

P101 rev C Proposed Lidl Roof Plan

P120 Proposed Nursery Ground Floor Plan

P121 Proposed Nursery First Floor Plan

P202 rev B Proposed Lidl Elevations – Brick Alt

P220 Proposed Nursery Elevations – South

P221 Proposed Nursery Elevations - North

P401 rev C Existing Site Plan

P420 rev B Proposed Nursery Site Plan GA

P409 rev E Proposed Site Plan GA Medical Centre (only as far as it relates the 'access' and defining the extent of the nurse element)

CA2024 LDBY 02 rev C Tree Survey & Existing Features & Overlay
 CA2024 LDBY 03 rev H Landscape Proposals Overall
 CA2024 LDBY 04 rev F Landscape Proposals Detail 1-200 A0
 CA2024 LDBY 04 rev F Landscape Proposals Detail
 CA2024 LDBY 07 rev B Ledbury Hedgerow Management Plans
 CA2024 LDBY Ledbury Planting Schedule rev 18 June 2025

CA2024 LDBY 01 rev B Tree Survey & Existing Features
 CA2024 LDBY 05 rev A Landscape Living Green Wall
 CA2024 LDBY 06 Landscape Sections

PL02 rev F Access Junctions Visibility Splays
 PL03 rev H Potential Active Travel Links to Development
 SP01 rev G Swept Path Analysis
 SP02 rev D Swept Path Analysis
 PL01 rev G Potential Toucan Crossing

P400 rev C Site Location Plan

Reason: To ensure adherence to the approved plans in the interests of proper planning.

6. Approved Plans (Medical Centre)

The development shall be carried out in accordance with the approved plans listed in this below;

P400 rev C Site Location Plan
 P409 rev E Proposed Site Plan GA Medical Centre (only as far as it relates the 'access' and defining the extent of the nurse element)

Reason: To ensure adherence to the approved plans in the interests of proper planning.

PRIOR TO COMMENCEMENT OF DEVELOPMENT (site-wide or specified element of development)

7. Materials

With the exception of site clearance and groundwork, no development shall commence on: a) the foodstore, or b) the nursery, until details and/or samples of the external materials to be used for the walls and roofs of the respective buildings have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in full accordance with the approved materials.

Reason: To ensure a high standard of design that respects and enhances the character and appearance of the area, in accordance with Policies SD1 and LD1 of the Herefordshire Local Plan – Core Strategy, Policy BE1.1, SD1.3 and NE2.2 of the Ledbury Neighbourhood Development Plan and the National Planning Policy Framework.

8. Biodiversity Net Gain

No development shall commence, including any site clearance or preparatory works on that respective element, until a Biodiversity Gain Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include:

- Confirmation that the development is subject to the statutory Biodiversity Gain Condition under the Environment Act 2021 and Biodiversity Gain Regulations 2024.
- Details of the on-site habitat creation and enhancement measures, including habitat types, condition targets, and management prescriptions.

- Evidence of the purchase of off-site biodiversity units from a Registered Biodiversity Gain Site Provider, or alternatively, confirmation of statutory biodiversity credits purchased, sufficient to achieve a minimum 10% net gain in biodiversity value.
- A Habitat Management and Monitoring Plan (HMMP) covering a minimum 30-year period, in accordance with DEFRA guidance, setting out how the biodiversity measures will be maintained and monitored.

The development shall thereafter be carried out in accordance with the approved Biodiversity Gain Plan and HMMP.

Reason: To ensure the development delivers measurable biodiversity net gain in accordance with the Environment Act 2021 and the Biodiversity Gain Regulations 2024, and to give effect to the deemed biodiversity gain condition imposed by paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990. The condition also supports compliance with Policies LD2 and LD3 of the Herefordshire Local Plan - Core Strategy and Ledbury Neighbourhood Development Plan Policies NE1.1.

9. Contamination

No development shall commence, including any site clearance or preparatory works, until the following has been submitted to and approved in writing by the local planning authority:

- a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice
- 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
- 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 in accordance with Herefordshire Local Plan - Core Strategy Policy SD1.

10. Construction Management Plan

No development shall commence on any element of the approved scheme, namely (a) the foodstore, (b) the nursery, or (c) the medical centre, including any site clearance or preparatory works on the respective parcel of land, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority.

The Construction Management Plan shall include the following details:

- Measures to prevent mud and debris being deposited onto the public highway;
- Construction traffic access arrangements;
- Parking provision for site operatives and visitors;
- A Construction Traffic Management Plan;

- Details of any site compound, including its location (which may be on land identified for the nursery or medical centre), and a scheme for the reinstatement of that land following completion of construction works.
- The approved Construction Management Plan shall be implemented in full and maintained throughout the construction period.

Reason: To safeguard highway safety, protect residential amenity, and ensure the coordinated and phased delivery of the development, in accordance with Policy MT1 of the Herefordshire Local Plan – Core Strategy, Policy TR1.2 of the the Ledbury Neighbourhood Development Plan, and the National Planning Policy Framework.

11. Drainage

No development shall commence, including any site clearance or preparatory works, until the following drainage details have been submitted to and approved in writing by the Local Planning Authority:

- Detailed design drawings and construction plans for both the proposed surface water and foul water drainage systems, including calculations and specifications. The foul drainage design shall be developed in consultation with Severn Trent Water.
- Written confirmation from Severn Trent Water that the proposed surface water discharge to the public surface water sewer is acceptable.
- Details of the proposed adoption and maintenance arrangements for all drainage infrastructure, including confirmation of the responsible party and any agreements with statutory undertakers or management companies.

The development shall thereafter be carried out in accordance with the approved details prior to first occupation or use of any part of the development.

Reason: To ensure that the development is provided with a satisfactory means of drainage, to reduce the risk of flooding and pollution, and to comply with Policies SD3 and SD4 of the Herefordshire Local Plan – Core Strategy, Policy SD1.3 of the Ledbury Neighbourhood Development Plan and the National Planning Policy Framework.

12. Construction Environmental Management Plan

No development shall commence on any element of the approved scheme, namely (a) the foodstore, (b) the nursery, or (c) the medical centre, including any site clearance or preparatory works on the respective parcel of land, until a Construction Environmental Management Plan (CEMP) for that element has been submitted to and approved in writing by the Local Planning Authority.

The CEMP shall include, but may not be limited to:

- An ecological working method statement detailing measures to protect retained habitats and species during construction;
- Details of the person(s) responsible for implementing and monitoring the CEMP throughout the construction period.

The approved CEMP shall be implemented in full prior to the commencement of development on the relevant parcel and all construction works shall thereafter be carried out in accordance with the approved details.

Reason: To ensure the protection of ecological interests and the enhancement of biodiversity, in accordance with the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019, the Wildlife and Countryside Act 1981, the Natural Environment and Rural Communities Act 2006, Policies SS1, SS6, LD1, LD2 and LD3 of the Herefordshire Local Plan – Core Strategy, Policy NE1.1 of the Ledbury Neighbourhood Development Plan, the National Planning Policy Framework, and Herefordshire Council’s declared Climate Change and Ecological Emergency.

13. EV charging (submission of details required prior to commencement of each element)

With the exception of any site clearance and groundworks, no development shall commence with respect to each element to which it relates - a) the foodstore b) nursery and; b) the medical centre, until written and illustrative details of the number, type/specification and location of electric vehicle charging points have been submitted to and approved in writing by the local planning authority.

The electric vehicle charging points shall be installed prior to first occupation and be maintained and kept in good working order thereafter as specified by the manufacturer.

Reason: In accordance with Policy SD1 of the Herefordshire Local Plan Core Strategy, Policy TR1.2 of the Ledbury Neighbourhood Development Plan and to assist in redressing the Climate Emergency declared by Herefordshire Council and to accord with the National Planning Policy Framework

14. Ventilation strategy (Nursery)

Prior to the commencement of development on the nursery building, a detailed ventilation strategy shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall demonstrate how adequate ventilation will be achieved while ensuring compliance with the internal ambient noise criteria set out in the current version of Building Bulletin 93: Acoustic Design of Schools – Performance Standards.

The development shall be carried out in accordance with the approved strategy and the ventilation system shall be retained and maintained thereafter in accordance with the manufacturer’s specifications.

Reason: To ensure a suitable internal acoustic environment for future occupants of the nursery, in accordance with Policy SD1 of the Herefordshire Local Plan – Core Strategy, Policy BE1.1, TR1.2, SD1.3 and EE1.2 of the Ledbury Neighbourhood Development Plan and the National Planning Policy Framework.

PRIOR TO COMMENCEMENT OF CERTAIN OPERATIONS / INSTALLATIONS

15. External lighting (before installation of any external lighting)

Prior to the installation of any external lighting, a detailed Lighting Strategy shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include:

- The location, type, and intensity of all proposed external lighting;
- Measures to ensure compliance with current best practice guidance issued by the Institute of Lighting Professionals and the Bat Conservation Trust;
- Consideration of the site’s proximity to the Malvern Hills National Landscape and its contribution to maintaining local dark skies.

The development shall thereafter be carried out in accordance with the approved Lighting Strategy, and the lighting shall be retained and operated in accordance with the approved details.

Reason: To protect nocturnal species including bats, safeguard residential amenity, preserve landscape character, and maintain dark skies, in accordance with the Wildlife and Countryside Act 1981, the Conservation of Habitats and Species Regulations 2017, the Natural Environment and Rural Communities Act 2006, Policies SS6, LD1, LD2 and LD3 of the Herefordshire Local Plan – Core Strategy, Policy BE1.1, NE1.1 and NE2.1 of the Ledbury Neighbourhood Development Plan, and the National Planning Policy Framework.

16. Visibility splays

Before any other works hereby approved are commenced, visibility splays, and any associated set back splays at 45 degree angles shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 4.5 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 43m northbound and 120m southbound metres along the nearside edge of the adjoining carriageway – as indicated on approved plan PL02 Rev F. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.

Reason: In the interests of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan - Core Strategy, Policy TR1.2, SD1.3 and EE1.2 of the Ledbury Neighbourhood Development Plan and the National Planning Policy Framework.

PRIOR TO FIRST USE / OCCUPATION (of respective elements or site-wide)

17. Parking Management Plan (Nursery)

Prior to the first use of the nursery building hereby approved, a detailed Parking Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include, but not be limited to:

- Staggered drop-off and pick-up arrangements to minimise peak-time congestion.
- Operational details including anticipated child capacity, staff numbers, and standardised drop-off/pick-up times.
- Overflow parking strategy, including use of the foodstore car park and pedestrian connectivity.
- Monitoring and review mechanisms to assess parking demand and congestion during the first 12 months of operation.
- Measures to ensure safe and efficient access, including any physical or operational interventions to prevent vehicle stacking or obstruction of site access.

The approved Parking Management Plan shall be implemented in full prior to the first use of the nursery and shall be adhered to thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure safe and efficient access to the site, minimise congestion, and safeguard highway safety in accordance with Policies MT1 and SD1 of the Herefordshire Local Plan – Core Strategy and Policies BE1.1, TR1.2 and SD1.3 and EE1.2 of the Ledbury Neighbourhood Development Plan.

18. Temporary Management of Undeveloped Parcels

Prior to the first use of the foodstore, a scheme for the management and maintenance of the land identified for the nursery and medical centre shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- Measures to ensure the land is kept free from debris, fly-tipping, and unauthorised use
- Maintenance of boundary treatments and landscaping
- Any temporary surfacing or fencing proposed

- A timetable for ongoing inspection and upkeep
- Provisions for reinstatement following any temporary use (e.g. construction compound)

The approved scheme shall be implemented in full and maintained for the duration of the period prior to the commencement of development on the nursery or medical centre parcels.

Reason: To ensure that land identified for future phases of development is appropriately safeguarded, maintained, and does not detract from the visual amenity, landscape character, or residential environment, in accordance with Policies SS6, SD1, LD1 and LD3 of the Herefordshire Local Plan – Core Strategy, Policy BE1.1, EE1.2, NE1.1 and NE3.1 of the Ledbury Neighbourhood Development Plan, and the National Planning Policy Framework.

19. Off-site highway works (before occupation or beneficial use of any part)

No part of the development shall be occupied or brought into use until the off-site highway works, comprising the provision of a pair of bus stops on Leadon Way and a Toucan crossing, as shown on approved drawing PL01 Rev G - have been fully delivered and made operational.

Details of the works shall first be submitted to and approved in writing by the Local Planning Authority, following completion of the technical approval process by the Local Highway Authority. The works shall be implemented in full accordance with the approved details.

Reason: To ensure safe and inclusive access to the site by sustainable modes of transport, in accordance with Policy MT1 of the Herefordshire Local Plan – Core Strategy, Policy TR1.1, TR1.2, SD1.3 and EE1.2 of the Ledbury Neighbourhood Development Plan, and the National Planning Policy Framework.

20. Biodiversity (site-wide bird/bat/hedgehog/insect provision)

Prior to the first use of any element of the development hereby approved, a site-wide strategy for biodiversity enhancement shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include details of the location, specification, and installation of:

- A minimum of four bird nesting boxes suitable for a range of site-appropriate species;
- One hedgehog home; and
- Four insect hotels.

The approved measures shall be implemented prior to first use and shall be retained and maintained thereafter, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To secure biodiversity enhancement and support protected species and habitats, in accordance with the Wildlife and Countryside Act 1981, the Conservation of Habitats and Species Regulations 2017, the Natural Environment and Rural Communities Act 2006, Policies LD1, LD2 and LD3 of the Herefordshire Local Plan – Core Strategy, Policy NE1.1 of the Ledbury Neighbourhood Development Plan, and the National Planning Policy Framework.

21. Travel Plan (foodstore, nursery, medical centre)

Prior to the first use of any element of the development, namely (a) the foodstore, (b) the nursery, or (c) the medical centre - a Travel Plan relating to that element shall be submitted to and approved in writing by the Local Planning Authority.

The Travel Plan shall include measures to promote sustainable modes of transport for staff and visitors, and shall be implemented in full upon first occupation of the relevant element. A written record of the measures undertaken to promote sustainable travel shall be maintained, 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 the use of sustainable transport modes, reduce reliance on private vehicles, and support inclusive access, in accordance with Policies SD1 and MT1 of the Herefordshire Local Plan – Core Strategy, Policy EE1.2 of the Ledbury Neighbourhood Development Plan, and the National Planning Policy Framework.

22. Cycle storage (foodstore, nursery, medical centre)

Prior to the first use of any element of the development, namely (a) the foodstore, (b) the nursery, or (c) the medical centre, full details of a scheme for the provision of covered and secure cycle parking facilities for that element shall be submitted to and approved in writing by the Local Planning Authority.

The approved cycle parking facilities shall be installed and made available for use prior to the first occupation of the relevant element and shall thereafter be retained and maintained in working order.

Reason: To ensure adequate provision for secure cycle parking and to encourage the use of sustainable modes of transport, in accordance with Policies SD1 and MT1 of the Herefordshire Local Plan – Core Strategy, Policy TR1.1 and EE1.2 of the Ledbury Neighbourhood Development Plan, and the National Planning Policy Framework.

23. Landscaping implementation (foodstore and nursery)

All planting and landscaping works relating to the foodstore and nursery shall be carried out in full accordance with the approved landscape drawings 2024-LDBY-03 Rev H (Landscape Proposals Overall) and 2024-LDBY-04 Rev F (Landscape Proposals Detail), and the accompanying Landscape Planting Methodology and Aftercare document.

The approved scheme shall be implemented in full during the first planting season following substantial completion of the development or prior to the first occupation or beneficial use of any part of the development, whichever is sooner, unless otherwise agreed in writing by the Local Planning Authority

Reason: To ensure the timely delivery of the landscaping scheme in the interests of visual amenity, biodiversity enhancement, and compliance with Policies LD1, LD2, LD3 and SD1 of the Herefordshire Local Plan – Core Strategy, Policy BE1.1, NE2.1 and EE1.2 of the Ledbury Neighbourhood Development Plan and the National Planning Policy Framework

24. Remediation (validation report before first occupation)

The Remediation Scheme, as approved pursuant to Condition 7 above, shall be fully implemented before any part of 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 in accordance with Herefordshire Local Plan - Core Strategy Policy SD1.

25. Waste storage/collection (foodstore and nursery)

Prior to the first use of any element of the development, namely (a) the foodstore or (b) the nursery, details of suitable provision for the storage and collection of waste shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include arrangements that allow for the convenient and accessible storage of waste and ensure unrestricted access for collection at all times.

The approved waste storage and collection facilities shall be provided prior to first use of the relevant element and shall be retained and maintained thereafter for the duration of the use.

Reason: To ensure adequate provision for waste management in the interest of visual and residential amenity, in accordance with Policy SD1 of the Herefordshire Local Plan – Core Strategy, Policy BE1.1 of the Ledbury Neighbourhood Development Plan, and the National Planning Policy Framework.

26. Parking provision (foodstore and nursery)

Prior to the first use of the foodstore or nursery, the parking and manoeuvring areas serving each respective element shall be completed in full accordance with approved drawings P402 Rev Q Proposed Masterplan, P403 rev N Proposed Lidl Site Plan GA and P420 rev B Proposed Nursery Site Plan GA.

These areas shall be made available for use prior to occupation and shall thereafter be retained and maintained for the duration of the use. The parking and manoeuvring areas shall not be used for any other purpose.

Reason: To ensure safe and efficient access and circulation within the site, and to prevent obstruction of the public highway, in accordance with Policy MT1 of the Herefordshire Local Plan – Core Strategy, Policies TR1.1 and TR2.2 of the Ledbury Neighbourhood Development Plan, and the National Planning Policy Framework.

27. Vehicular access construction (prior to first use of any part of development)

Prior to the first use of any part of the development, details of the vehicular access construction, including gradient, surfacing, and alignment, shall be submitted to and approved in writing by the Local Planning Authority.

The access shall be constructed in full accordance with the approved specification and shall not exceed a gradient steeper than 1 in 12. It shall be implemented in full prior to first use of the development.

Reason: To ensure safe and suitable access to the site in the interests of highway safety and to comply with Policy MT1 of the Herefordshire Local Plan – Core Strategy, Policy TR1.1 and TR2.2 of the Ledbury Neighbourhood Development Plan and the National Planning Policy Framework.

COMPLIANCE**28. Landscape Management Compliance**

The landscaping and ecological features shall be maintained in full accordance with the approved Landscape Planting Methodology and Aftercare document for a minimum period of ten years from the date of implementation. This shall include all tree, hedge, planting bed, wildflower grassland, and living wall maintenance, as well as ecological monitoring and replacement of failed planting. Any variations to the approved management regime shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the long-term establishment and stewardship of the landscaping scheme and associated biodiversity enhancements, in accordance with Policies LD1, LD2, LD3 and SD1 of the Herefordshire Local Plan – Core Strategy, Policy EE1.2, BE1.1 and NE2.1 Ledbury Neighbourhood Development Plan and the National Planning Policy Framework.

29. Unexpected contamination

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

Reason: In the interests of human health in accordance with Herefordshire Local Plan - Core Strategy Policy SD1.

Hours of operation (foodstore)

The foodstore hereby permitted shall not be open to customers outside the hours of 0800 to 2200 hours Mondays to Saturdays and 08:00 to 17:00 on Sundays.

Reason: In the interests of the amenities of existing residential property in the locality and to comply with SD1 of the Herefordshire Local Plan - Core Strategy, Policy BE1.1 and SD1.3 of the Ledbury Neighbourhood Development Plan and the National Planning Policy Framework.

30. Retail floorspace restriction (foodstore)

The net sales area of the foodstore hereby permitted shall not exceed 1,100 square metres.

Reason: To ensure that the scale and nature of retail provision remains consistent with the assessed impact and justification for the proposal, and to ensure the development does not result in significant adverse impact on the vitality and viability of Ledbury town-centre, in accordance with the National Planning Policy Framework, Policy EE3.2 and EE3.1 of the Ledbury Neighbourhood Development Plan and Policy E5 of the Herefordshire Local Plan Core Strategy.

Decision:

Notes:

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APPENDIX

Appendix 1

- a) Retail Planning Consultant – July 2025
- b) Retail Planning Consultant – April 2025
- c) Retail Planning Consultant – March 2025

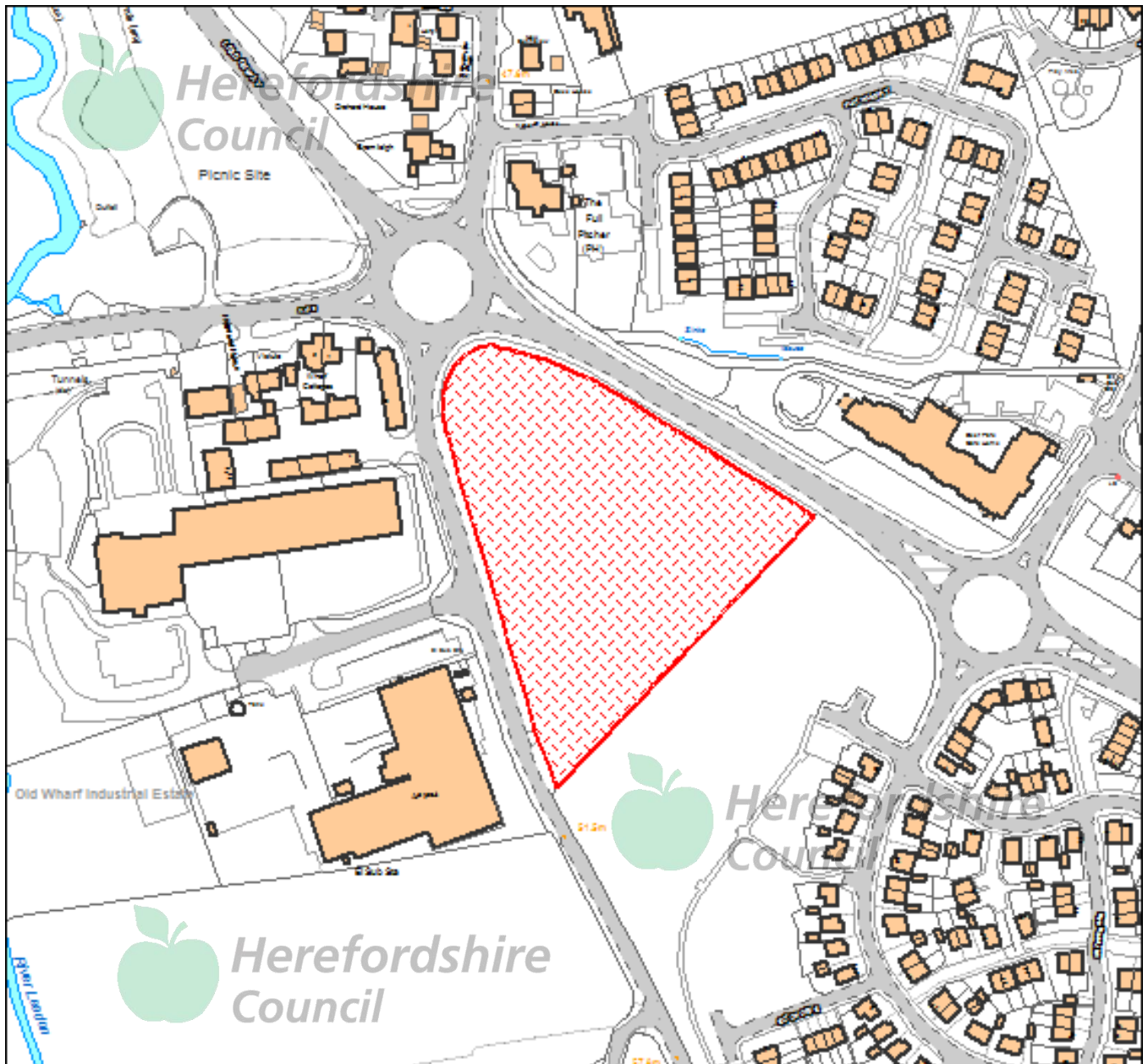
Decision:

Notes:

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Background Papers

None identified.



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APPLICATION NO: 242783

SITE ADDRESS : LAND SOUTH OF LEADON WAY (A417) AND EAST OF DYMOCK ROAD (B4216), LEDBURY, HEREFORDSHIRE

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Planning Application for a Discount Foodstore, Land South of Leadon Way, Ledbury (Application Reference P242783/O)

Update to Retail and Town Centre Appraisal (July 2025)

1. Herefordshire Council (hereafter referred to as 'the Council') originally instructed Nexus Planning in March 2025 to provide advice in respect of a hybrid planning application seeking full planning permission for a day nursery (Class E(f)) and a Class E foodstore, and outline planning permission for the erection of a medical centre, at land south of Leadon Way and east of Dymock Road in Ledbury. The original planning application submission was accompanied by a Planning and Retail Statement ('PRS') prepared by CarneySweeney, dated October 2024.
2. The purpose of the original appraisal report published in March 2025 was to consider the merits of the application proposal in terms of its compliance with retail and town centre planning policy, as set out by the statutory development plan and by the National Planning Policy Framework ('NPPF').
3. Subsequent to our March 2025 Appraisal, additional information in respect of the cumulative impact position to include the committed Home Bargains store in Ledbury was provided by CarneySweeney, and the Council received 3rd Party representations issued by Stantec on behalf of the Co-operative Group.
4. On the back of receiving the additional information, Nexus then produced an updated note in April 2025 to provide a response which took account of the above additional submissions.
5. CarneySweeney have now provided a further updated cumulative impact assessment to the Council via email in June 2025, which takes into account the updated benchmark sales density for the proposed retailer, published by GlobalData in March 2025.
6. Within their supporting email to the case officer, CarneySweeney provide a comparison of the previously adopted sales density as of December 2024, compared to those which have now been adopted in the latest submission.
7. Importantly, the comparison of the figures indicates that the convenience sales density for the proposed Lidl store will increase from £5,764 per sq.m to £6,902 per sq.m. As noted in our original appraisal, although the foodstore will sell an element of comparison goods, this will be limited and is unlikely to have a material impact on any defined centre. As such, our assessment considers the impact of the convenience turnover of the proposal only. The resultant convenience turnover in the latest submission (excluding inflow) is £6.1m at 2029.
8. Using the above updated turnover, the cumulative impact position at 2029 presented by CarneySweeney at Table 8b on Ledbury town centre is expected to be -4.3% (up from the -4.0% presented previously).
9. In calculating the total impact on Ledbury town centre (see Table 8B of the June 2025 submissions), all of the named convenience destinations are taken account of. This list, as set out by CarneySweeney, is taken from the 2022 Retail and Leisure Study. It is noted that this list includes (amongst others) Abbey Bakery which ceased trading some years ago. As respondents to the household survey provided this as an answer when asked where they last shopped for convenience goods in 2022, then it is likely that there will have been an alternative operator which was locally known as 'Abbey Bakery' at the time of the survey. Should there no longer be a corresponding operator trading in the town centre, it is highly likely that any expenditure directed to that specified retailer at the time of the 2022 Study, will have been redistributed to other businesses in the town centre. As such, we are of the view that the total convenience turnover of the town centre remains appropriate.
10. In any event, the consideration of the acceptability of the proposal on the town centre has been undertaken on the basis of the potential impact on the individual stores in the centre and on the overarching vitality and viability of the centre as a whole. This has taken into account the nature and offer of existing convenience operators in the town centre and the potential implications the proposal could have on these.

11. In terms of the cumulative impact on Ledbury town centre and the associated implications, the latest submissions have not altered our previous conclusions reached within our March 2025 Appraisal or our April 2025 Update Note. For ease of reference, our previous conclusions reached were as follows:
 - a. We are of the view that the town centre is generally vital and viable and although the two edge of centre stores provide important convenience shopping provision for shoppers, the stores and the wider centre are sufficiently diverse and healthy to withstand the level of diversion set out by CarneySweeney and assessed by Nexus.
 - b. We consider that given the proposal's scale, the centre's health, the wider commercial provision within Ledbury town centre and the provision of out of centre convenience facilities from which the proposal will divert trade from, the potential impact of the proposal is unlikely to be significantly adverse. This is principally due to the convenience trade diversion being moderate and the centre being generally vital and viable.
 - c. Furthermore, we are of the view that residents and visitors alike will still need to visit the town centre to meet their wider commercial needs. Overall, we do not anticipate that there will be any material reduction in the vitality of the centre arising from the loss of linked trips related to the proposal (as these may be undertaken by car or may occur at other times).
12. Overall, we do not consider that the marginal uplift in the convenience turnover of the proposal alters our previous conclusions reached. Although there are some relatively high cumulative impact figures presented in respect of individual stores within the centre, we are not of the view that this level of trade diversion will result in a significant adverse impact on the overarching vitality and viability of the centre. This conclusion is reached having regard to the nature of the proposal and the overall offer of the town centre, as we set out above.
13. Taking the above into account, we are satisfied that the proposal complies with Local Plan Policy E5, insofar as we are of the view that it will not have a significant adverse impact on town centre investment or on the vitality and viability of the centre.

Planning Application for a Discount Foodstore, Land South of Leadon Way, Ledbury (Application Reference P242783/O)

Update to Retail and Town Centre Appraisal

1. Herefordshire Council (hereafter referred to as 'the Council') instructed Nexus Planning in March 2025 to provide advice in respect of a hybrid planning application seeking full planning permission for a day nursery (Class E(f)) and a Class E foodstore, and outline planning permission for the erection of a medical centre, at land south of Leadon Way and east of Dymock Road in Ledbury. The original planning application is accompanied by a Planning and Retail Statement ('PRS') prepared by CarneySweeney, dated October 2024.
2. The purpose of the original appraisal report is to consider the merits of the application proposal in terms of its compliance with retail and town centre planning policy, as set out by the statutory development plan and by the National Planning Policy Framework ('NPPF').
3. Subsequent to our March 2025 Appraisal, the following have been submitted to the Council in respect of the application proposal:
 - A cumulative impact assessment prepared by CarneySweeney to include the committed Home Bargains store in Ledbury; and
 - An additional 3rd party consultation response issued by Stantec on behalf of the Co-operative Group.
4. The purpose of this update note is to provide Nexus' consideration of the additional information submitted and to provide our overarching recommendations in respect of the proposal's compliance with the impact policy tests. Our previous conclusions reached in respect of the sequential test remain unaltered.
5. We provide our analysis in respect of CarneySweeney's cumulative assessment in the first instance and then move on to providing our consideration of Stantec's representations.

The Cumulative Impact Position

6. CarneySweeney's cumulative impact assessment includes the following:
 - a. The inclusion of the updated average sales density for the proposed Lidl store, to take account of the GlobalData 2024 data; and
 - b. The inclusion of Home Bargains as a commitment at New Mills Industrial Estate.
7. Turning firstly to (1) above, it is worth noting that our March 2025 Appraisal commented on the appropriateness of the sales densities adopted by CarneySweeney at paragraphs 4.25 to 4.27. Our overarching conclusion was that although CarneySweeney had not updated their impact assessment to reflect the latest figures, the turnover of the proposal would in fact decrease, resulting in decreased levels of trade diversion and impact. It is therefore noted that the impact assessment has now been updated to take account of the latest sales density figures and we have no further comments to make in respect of this part of the assessment. Overall, we are satisfied with the approach adopted.
8. Turning secondly to (2) above, CarneySweeney have adopted the convenience and comparison turnovers of the proposed Home Bargains floorspace and the assumed trade diversions taken directly from the approved Planning and Retail Assessment for application reference P241353/F.
9. Given the nature of the Home Bargains proposal and its location, we are satisfied with the levels of trade diversion applied.

10. Taking the above into account, the cumulative impact position at 2029 presented by CarneySweeney on Ledbury town centre is expected to be -4%, and the cumulative impact on larger out of centre stores expected to be around the -10% mark. It is important to note that the latter are not protected by planning policy given their out of centre locations. In terms of the cumulative impact on Ledbury town centre, this has not altered our previous conclusions reached within our March 2025 Appraisal. For ease of reference, our previous conclusions reached were as follows:
 - a. We are of the view that the town centre is generally vital and viable and although the two edge of centre stores provide important convenience shopping provision for shoppers, the stores and the wider centre are sufficiently diverse and healthy to withstand the level of diversion set out by CarneySweeney and assessed by Nexus.
 - b. We consider that given the proposal's scale, the centre's health, the wider commercial provision within Ledbury town centre and the provision of out of centre convenience facilities from which the proposal will divert trade from, the potential impact of the proposal is unlikely to be significantly adverse. This is principally due to the convenience trade diversion being moderate and the centre being generally vital and viable.
 - c. Furthermore, we are of the view that residents and visitors alike will still need to visit the town centre to meet their wider commercial needs. Overall, we do not anticipate that there will be any material reduction in the vitality of the centre arising from the loss of linked trips related to the proposal (as these may be undertaken by car or may occur at other times).
11. Taking the above into account, we are satisfied that the proposal complies with Local Plan Policy E5, insofar as we are of the view that it will not have a significant adverse impact on town centre investment or on the vitality and viability of the centre.

The Updated Stantec Consultation Response

12. The April 2025 Stantec representations provide comments on two key matters. The first provides observations in respect of CarneySweeney's updated retail assessment, and the second is on the overarching planning balance. Again, we turn to each of the matters in turn below.
13. Stantec state that CarneySweeney: '**...attempt to divert attention from the high levels of convenience trade diversion impact on individual town centre foodstores by focusing on the predicted trade diversion impact on the town centre as a whole**'.
14. Whilst we note Stantec's concerns in respect of the impact on individual stores within the town centre, Nexus has provided our own consideration of this matter within our original March 2025 Appraisal, the findings of which remain unaltered following the submission of the cumulative impact assessment.
15. In this regard, we provide commentary from paragraphs 4.47 onwards in respect of the potential trade diversion and impact from individual stores within Ledbury town centre, concluding that the town centre and individual stores would likely withstand the level of diversion assumed, and that the overarching impact would not be significantly adverse. Again, our conclusions reached have not altered.
16. Stantec's second substantive point within their representations provides commentary in respect of the planning balance, referencing paragraph 95 of the NPPF. Again, whilst we note the point made by Stantec, it is not our view that the impact would be significantly adverse.
17. In any event, it has been established in case law¹ that the wording of paragraph 95 does not create a presumption for a particular course of action, and that the normal planning balance should be applied.

¹ Asda Stores v Leeds City Council [2021] EWCA Civ 32

Planning Application for a Discount Foodstore, Land South of Leadon Way, Ledbury (Ref. P242783/O)

Appraisal of Retail and Town Centre Issues

ON BEHALF OF HEREFORDSHIRE COUNCIL

March 2025

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1. Introduction

Instruction

- 1.1 Herefordshire Council (hereafter referred to as 'the Council') has instructed Nexus Planning to provide advice in respect of a hybrid planning application seeking full planning permission for a day nursery (Class E(f)) and a Class E foodstore, and outline planning permission for the erection of a medical centre, at land south of Leadon Way and east of Dymock Road in Ledbury.
- 1.2 The application proposal is for full permission for a 1,100 sq.m (net) foodstore, alongside a daycare nursery and outline consent for a medical centre. The planning application is accompanied by a Planning and Retail Statement ('PRS') prepared by CarneySweeney, dated October 2024.
- 1.3 The purpose of this appraisal report is to consider the merits of the application proposal in terms of its compliance with retail and town centre planning policy, as set out by the statutory development plan and by the National Planning Policy Framework ('NPPF').

Proposal, Application Site and Context

- 1.4 The site subject to the application submission comprises a broadly triangular parcel of land located at the junction of Leadon Way and Dymock Road, on the south of the settlement of Ledbury. The site is an undeveloped green field.
- 1.5 The hybrid application relates to the development for the construction of a convenience foodstore, a daycare nursery and a medical centre (due to be submitted in outline form only).
- 1.6 The proposed foodstore, which is the focus of this appraisal, will measure 1,100 sq.m (net) which is proposed to be split into 880 sq.m net convenience and 220 sq.m net comparison sales areas.
- 1.7 An application for a foodstore measuring a total of 1,410 sq.m (net) was refused by the local authority in January 2021 (reference 201718) and subsequently dismissed at appeal in September 2022 (reference APP/W1850/W/21/3279731). The main issue identified by the Inspector related to the potential impact of the proposal on the vitality and viability of Ledbury town centre. The Inspector's overarching conclusion is provided at paragraph 62 of the decision, which states:

'I am cognisant that the long term success of Ledbury Town Centre relies on multiple factors. But the retail elements of the scheme appealed would be a substantial long term reason for local residents not to visit it. It would run counter to adopted strategic aims which reinforce the status of the town centre as the main shopping destination for local people. The overall effect would be significantly adverse.'
- 1.8 The appeal decision and the background associated with the appeal has been taken account of in drafting this appraisal.
- 1.9 We also note that representations have been made by Stantec on behalf of the Co-operative Group, dated 5 February 2025. Stantec raise a number of concerns in respect of the proposal which we have ensured are dealt with as part of this response (where relevant).

Structure of Our Report

- 1.10 In the above context, our appraisal focuses on the proposal's compliance with retail and town centre planning policy as set out by the statutory development plan and by the NPPF.
- 1.11 General planning policy matters and wider material considerations fall outside the scope of our instruction, and it will be necessary for the Council to take appropriate account of such matters in its determination of the application at the relevant time.
- 1.12 Furthermore, and notwithstanding our overall advice as to whether the application 'passes' or 'fails' the sequential and impact tests, the local planning authority as part of its overall decision taking will need to give due consideration to the 'planning balance' and the general presumption in favour of sustainable development.
- 1.13 We also advise at the outset that, if the Council does resolve to grant permission, the consent should be the subject of reasonable conditions to restrict the permitted floorspace to that specified in the application submission. Should planning permission be approved, specific conditions should be applied to restrict the use of retail units such that the proposal trades in practice in a manner consistent with that set out by CarneySweeney in the PRS.
- 1.14 Our report is structured as follows:
- Section 2 sets out the retail and town centre planning policy of relevance to the application proposal;
 - Section 3 provides a review of the sequential assessment adopted by the applicant;
 - Section 4 considers the acceptability of the likely impacts arising from the proposal; and
 - Section 5 sets out our conclusions in respect of the proposal's compliance with retail and town centre planning policy.

2. Planning Policy Context

2.1 We identify below the principal planning policies of relevance to retail and town centre matters.

National Planning Policy Framework

2.2 The most recent iteration of the NPPF was published in February 2025. It emphasises the Government's commitment to securing economic growth and building a strong, responsive and competitive economy. With regard to the assessment of proposals for main town centre development, the revised NPPF provides two principal national policy tests relating to the sequential approach to development and to impact.

2.3 In respect of the first of the two tests, paragraph 91 of the NPPF states that local planning authorities should apply a sequential test to planning applications for main town centre uses that are neither within an existing centre nor in accordance with an up-to-date plan.

2.4 Paragraph 91 goes on to state that:

'Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.'

2.5 Paragraph 92 then identifies that:

'When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.'

2.6 Paragraph 94 of the NPPF sets out a twin impact test, stating that:

'When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq.m of gross floorspace). This should include assessment of:

- **the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and**
- **the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider retail catchment (as applicable to the scale and nature of the scheme).'**

2.7 Paragraph 95 indicates that, where an application fails to satisfy the sequential test or is likely to have a significant adverse impact on one or more of the above factors, it should be refused. However, this direction cannot extinguish the requirement set out in statute to first consider development plan policy and then all material considerations in assessing the 'planning balance' when making a decision.

2.8 It should be noted that the Annex 2 Glossary of the NPPF identifies that the 'centre' for the purpose of retail is identified with reference to the primary shopping area.

Adopted Development Plan

2.9 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that:

'...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.'

- 2.10 The statutory development plan for Herefordshire is the Local Plan Core Strategy 2011-2031, which was adopted in October 2015 and the Ledbury Neighbourhood Development Plan, which was adopted in March 2023.

Local Plan Core Strategy

- 2.11 Local Plan Policy E5 focuses on town centres. It states that town centres will be the focus for retail, commercial, leisure, cultural, and tourism uses. Proposals for such uses which contribute to the vitality and viability of the town centres of Hereford and the market towns will be supported, provided that they do not:
- adversely affect the primary function of the town centres as shopping destinations; and
 - are of a scale and design appropriate to the size, role, character and heritage of the centre.
- 2.12 Proposals located outside of town centres will be required to demonstrate compliance with the sequential test, and that the proposals would not have a significant adverse impact on the vitality and viability of relevant centres.
- 2.13 An impact assessment for retail, leisure and commercial proposals outside of the town centres may be required with reference to the thresholds set out at paragraph 5.2.27 of the Local Plan. These are as follows:
- Hereford - 700 sq.m;
 - Ledbury, Leominster and Ross-on-Wye - 400 sq.m; and
 - Bromyard and Kington - 200 sq.m.
- 2.14 Within town centres, retail uses will be concentrated within the primary shopping areas as defined by Local Plan Policy E6. It is clear from the above, that as the proposal falls above the local impact threshold, then a full impact assessment is required.
- 2.15 Specific 'Place Shaping' policies for Ledbury are contained within paragraphs 4.5.1 of the Core Strategy. Policy LB1 notes that the principal focus for new housing development will be to the north of the town, and in respect of new retail development states:

'Within Ledbury, new development proposals will be encouraged where they:

- **maintain and enhance the vitality and viability of the existing town centre. Proposals for new retail, leisure or office development of over 400m² in gross floor space and located outside the town centre will need to be supported by an impact assessment to determine whether there could be any adverse impacts on the town centre;**
 - **improve accessibility improve accessibility within Ledbury by walking, cycling and public transport, particularly where they enhance connectivity with, for example, local facilities, new employment areas and the town centre.'**
- 2.16 It is indicated that any specific proposals to meet identified needs will be considered through a Neighbourhood Development Plan.

Ledbury Neighbourhood Development Plan

- 2.17 The previous appeal was determined in the context of the Ledbury Neighbourhood Plan (NDP) adopted in 2018. Since then, a review of the NDP has been undertaken, which was adopted in March 2023.
- 2.18 Objective EE3 of the NDP remains and is set out below:

‘Promote the Town Centre as the destination of choice for retail, leisure and community activities, in order to enhance the appearance and historic character of the town.’

2.19 Policy EE3.1 ‘Retail Areas & Provision’ also remains and focusses on policy requirements in the town centre and designation of primary and secondary shopping frontages (shown in Map 12).

2.20 Policy EE3.2 is a new policy which states:

‘The Defined Town Centre The Ledbury Town Centre Policies Map (Map 12) defines Ledbury town centre for the purposes of Herefordshire Local Plan Core Strategy policies E5 and LB1 (bullet two). Proposals for new retail, leisure or office development of over 400m² in gross floor space and located outside this defined town centre will need to be supported by an impact assessment to determine whether there could be any adverse impacts on the town centre. New town centre development within this area will be expected to retain or enhance existing pedestrian access, provision for cyclists, servicing and parking spaces.’

2.21 The Town Centre Policies Map (Map 12) is an updated version of that shown in the NDP 2018. Both the primary shopping frontages (Policy EE3.1) and town centre boundary (Policy EE3.2) have been amended. Of particular relevance to this proposal is the fact that the primary shopping frontages and defined town centre are more extensive than previously shown, and both now include the Co-op store.

Overview in Respect of Relevant Retail and Town Centre Planning Policy

2.22 Local Plan Policy E5 is broadly consistent with national retail planning policy as set out in the NPPF, in respect of outlining a requirement to comply with the sequential approach to development and the retail impact test. Both national and local policy tests identify that retail proposals should be considered with reference to the primary shopping area.

2.23 As such, we first consider the application proposal’s compliance with the key retail tests as articulated by national planning policy, before then returning to the matter of the proposal’s compliance with the relevant retail policies of the development plan. In respect of the sequential test, we note that the Council Officers have determined that the application is consistent with the requirements of the test.

2.24 We set out Nexus Planning’s view in respect of the proposal’s compliance with the sequential and impact tests in the following section.

3. The Sequential Test

Requirements of the NPPF and Planning Practice Guidance

- 3.1 Paragraph 91 of the NPPF sets out the order of preference in applying the sequential approach. The first preference is for main town centre uses development to locate in town centres, followed then by edge of centre locations, and only if no other suitable sites are available should out of centre sites be considered.
- 3.2 Paragraph 92 indicates that, when considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.
- 3.3 Additional guidance on the application of the sequential approach is provided by the Town Centres PPG, which was last updated on 18 September 2020.
- 3.4 Paragraph 010 of the Town Centres PPG provides a 'checklist' for the application of the sequential test in decision taking. It indicates the following considerations:
 - With due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered? Where the proposal would be located in an edge of centre or out of centre location, preference should be given to accessible sites that are well connected to the town centre. Any associated reasoning should be set out clearly.
 - Is there scope for flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.
 - If there are no suitable sequentially preferable locations, the sequential test is passed.
- 3.5 In this instance, the application site is located in an out of centre location. Accordingly, there is a need to consider in-centre, edge of centre and well located out of centre sites in applying the sequential test.
- 3.6 In order to establish the context for the consideration of alternative sites, we first summarise how the Courts and the Secretary of State have considered the matter of flexibility in applying the sequential test, before then reviewing the appropriateness of the site search parameters identified by the applicant.

Suitability and Flexibility

- 3.7 Case law has emphasised that the 'suitability' of sequential alternatives must be considered with reference to the subject application proposal and whether the proposal (or a variant thereof, allowing for some flexibility in respect of its format) could be accommodated at a sequentially preferable location.
- 3.8 In particular, it is appropriate to take into account the *Tesco Stores Limited v Dundee City Council [2012] UKSC 13* Supreme Court judgment which gave specific consideration to the meaning of 'suitable' in respect of the application of the test.
- 3.9 Paragraph 38 of the Dundee judgment states that:

‘The issue of suitability is directed to the developer’s proposals, not some alternative scheme which might be suggested by the planning authority. I do not think that this is in the least surprising, as developments of this kind are generated by the developer’s assessment of the market that he seeks to serve. If they do not meet the sequential approach criteria, bearing in mind the need for flexibility and realism...they will be rejected. But these criteria are designed for use in the real world in which developers wish to operate, not some artificial world in which they have no interest in doing so.’ (Our emphasis.)

3.10 The Supreme Court has jurisdiction over England and, whilst there is a clearly need to consider its findings in the appropriate local policy context, both the Courts and the SoS have found the direction to apply the test ‘in the real world’ to be of some relevance to the English planning system. This is demonstrated by the ‘call in’ decision in respect of an application by LXB RP (Rushden) Limited to provide for large-scale retail-led development at land adjacent to Skew Bridge Ski Slope at Rushden Lakes¹.

3.11 Paragraph 8.46 of the Rushden Lakes Inspector’s Report states that:

‘It is important to bear in mind that the sequential test as set out in NPPF require applications for main town centre uses to be located in town centres and it then runs through the sequence, edge and then out-of-centre. This makes good the very simple point that what the sequential test seeks is to see whether *the application* i.e. what is proposed, can be accommodated on a town centre site. There is no suggestion here that the sequential test means to refer to anything other than the application proposal. So Dundee clearly applies to the NPPF.’ (Inspector’s emphasis.)

3.12 Paragraph 15 of the SoS’s decision letter endorses the Inspector’s conclusions in this regard.

3.13 It is helpful to further qualify the direction provided by the above cases by also acknowledging that the Courts have found that an individual operator’s particular requirements are not generally of relevance in applying the sequential test. In considering proposals for a discount foodstore in Mansfield (Aldergate v Mansfield District Council & Anor [2016] EWHC 1670 (Admin)), Ouseley J concludes (at paragraph 35 of the Judgment) that:

‘In my judgment, “suitable” and “available” generally mean “suitable” and “available” for the broad type of development which is proposed in the application by approximate size, type, and range of goods. This incorporates the requirement for flexibility in [24] NPPF, and excludes, generally, the identity and personal or corporate attitudes of an individual retailer. The area and sites covered by the sequential test search should not vary from applicant to applicant according to their identity, but from application to application based on their content.’

3.14 The above three cases are widely referred to in applying the sequential test. Whilst the exact requirements with regard to flexibility will depend on the prevailing circumstances for each proposal, we believe it to be clear that:

- sequential alternative sites should be able to accommodate a broadly similar form of development as the application proposal (allowing for flexibility in respect of format and scale) in the ‘real world’ in which developers operate; and that
- operators’ distinct models are not generally of direct relevance to the test, and as such sequential alternatives should not be discounted due to individual operator preference.

Area of Search and Parameters

3.15 The proposal seeks consent for the construction of a Class E discount foodstore with associated access, car parking, servicing and wider works, alongside the daycare nursery and medical centre.

¹ Planning Inspectorate reference APP/G2815/V/12/2190175.

3.16 As noted by CarneySweeney, the site is allocated under NDP Policy EE1.2 for sensitive proposals falling within, inter alia, Use Class E(e) (Medical services), and E(f) (Day Nursery). Accordingly, the site is considered sequentially preferable for the delivery of these proposed uses. However, the site is not allocated for Class E(a) Uses and is therefore the focus for the sequential test. In this regard, the assessment is rightly considering the foodstore on its own for the purposes of the sequential test, taking account of the need to disaggregate elements of the proposal in certain instances.

3.17 The site search requirements are provided by CarneySweeney at paragraph 6.5.5. These are as follows:

- a minimum net floorspace of c.1,200sqm on a single level (we assume this is meant to read 1,100 sq.m);
- approximately 100 adjacent surface level parking spaces. A site that is able to offer adjacent surface level car parking, so that customers can easily transfer goods to their vehicles;
- A site that can allow for the safe manoeuvring of customer vehicles and delivery vehicles on site;
- A prominent site with the ability to attract passing trade;
- A site that is easily accessible by a choice of means of transport; and
- Provision of a dedicated service area to the rear of the store, including the ability to accommodate HGVs.

3.18 Reviewing the general operator requirements for foodstores including Aldi and Lidl, Nexus is generally satisfied with CarneySweeney's approach as set out above, and consider the level of flexibility applied to be broadly appropriate.

3.19 A number of sites are identified by CarneySweeney, and we provide a summary below in respect of their consideration of the availability and suitability of sites and Nexus' overarching conclusions. We also take account of the findings previously set out as part of the appeal, and the considerations provided in respect of the sites assessed.

Consideration of Sequential Alternative Sites

3.20 Table 3.1 below provides a summary of the sites assessed for the purposes of the sequential assessment.

Table 3.1: Assessment of Sequential Alternatives

Site	CarneySweeney Considerations	Nexus Considerations
Site 1 - Bye Street Car Park	<p>CarneySweeney notes that the site measures 0.15ha and is in current use as a town centre car park, providing approximately 70 parking spaces.</p> <p>The site is bound by existing residential and commercial uses, with access off Bye Street.</p> <p>CarneySweeney state that the site is too small to accommodate the proposal, even when allowing a reasonable degree of flexibility. Furthermore, CarneySweeney state that the site is not being actively marketed and there is no clear indication that the landowner would be willing to sell the site. On this basis, CarneySweeney state that the site is not available.</p> <p>Overall, CarneySweeney conclude that the site is not available or suitable to accommodate the proposal.</p>	<p>Nexus is satisfied that due to the site's size and wider context, it is not a suitable alternative to accommodate the proposal, even when applying a sufficient degree of flexibility. Relocating the proposed foodstore to the site at Bye Street would not result in the delivery of a broadly similar proposal.</p> <p>In terms of the site's availability, we note that there is no obvious indication that the site could be purchased and that there is no available marketing material. Overall, we agree that it is unlikely that the site would become available within a reasonable timeframe.</p> <p>As such, we are satisfied that the site does not represent an available and suitable alternative for the proposed development.</p>

Site	CarneySweeney Considerations	Nexus Considerations
Site 2 - Ledbury Park	<p>In terms of Site 2, CarneySweeney note that Ledbury Park forms part of the historic gardens and that the entirety of the park lies within an AONB. The site is also affected by a number of TPOs.</p> <p>CarneySweeney state that the site is not considered to be suitable for a mixed-use commercial development due to the level of environmental and heritage planning policy protection. Furthermore, the site is not considered to be available.</p>	<p>Nexus is satisfied that due to the site's current active use and associated heritage and environmental protection, that it does not represent a suitable alternative to accommodate the proposal.</p> <p>Furthermore, we agree that the site is not available to accommodate the proposal.</p>
Site 3 - Public Park, Orchard Lane	<p>CarneySweeney note at paragraph 6.6.18 that the site measures approximately 0.9ha. Its consists of public open space including football pitches. The site is bound by Orchard Lane to the north, residences to the east, a footpath to the west and playground to the south.</p> <p>CarneySweeney then state that they understand the site is Council owned and is not being actively marketed and therefore is not considered to be available for the purposes of the test.</p> <p>Overall, it is concluded that the site is not available or suitable to accommodate the proposal.</p>	<p>Nexus is satisfied that due to the site's current active use and associated policy protection in terms of the loss of public open space, it does not represent a suitable alternative to accommodate the proposed development.</p> <p>As such, although the availability of the site has not been fully confirmed by the applicant, the site does not represent a suitable alternative for the proposed development.</p>

- 3.21 In addition to the above, CarneySweeney refer to their healthcheck undertaken within Ledbury town centre, which identified 20 vacant units in the centre. They state that none of the vacant units identified are of a sufficient scale to accommodate the proposal. We are satisfied with CarneySweeney's conclusions reached in respect of the remaining vacant units within the centre, and that there are none which are of a suitable size to accommodate the proposal.

Conclusion in Respect of the Sequential Test

- 3.22 Nexus has undertaken a detailed review of the sites, units and other opportunities identified by CarneySweeney within their submission. Our analysis has considered the availability and suitability of these potential opportunities to accommodate the proposed development, even when applying a sufficient degree of flexibility in accordance with policy.
- 3.23 Overall, we are satisfied that it is unlikely that there are no alternative sites which can be considered to be both available and suitable to accommodate the proposal. It is also noted that the Inspector also previously concluded that the sequential test had been passed as part of the previous appeal. We are not aware of any material changes since that conclusion was reached, and therefore are of the view that the same conclusions must apply now.
- 3.24 We also note CarneySweeney's commentary at paragraphs 6.6.24 and 6.6.25 in respect of the pre-application discussions with the Council, and in particular the confirmation from officers that no further sites had been identified to be included within the sequential assessment.
- 3.25 Given the above, we are satisfied that the proposal complies with Policy E5 insofar as it relates to the sequential test, and paragraphs 91 and 92 of the NPPF.

4 The Impact Test

Requirements of the NPPF and the Town Centres and Retail PPG

4.1 Paragraphs 94 and 95 of the NPPF indicate that application proposals for retail and leisure development should be refused planning permission where a significant adverse impact is likely to arise from development.

4.2 In assessing the significance of impacts arising from development, it is necessary to reflect upon the advice set out in the Town Centres PPG. In this regard, paragraph 017 states that:

‘A judgement as to whether the likely adverse impacts are significant can only be reached in light of local circumstances. For example in areas where there are high levels of vacancy and limited retailer demand, even very modest trade diversion from a new development may lead to a significant adverse impact.’ (Our emphasis.)

4.3 It should also be recognised that impacts will arise with all retail developments, but that these will not always be unacceptable, not least because development often enhances choice, competition, and innovation. It is therefore necessary to differentiate between those developments that will have an impact and those that will undermine the future vitality and viability of established centres, i.e. have a ‘significant adverse’ impact.

4.4 Paragraph 016 of the Town Centres PPG is also of some relevance in considering how the impact test should be applied. It states that:

‘As a guiding principle impact should be assessed on a like-for-like basis in respect of that particular sector (e.g. it may not be appropriate to compare the impact of an out of centre DIY store with small scale town-centre stores as they would normally not compete directly). Retail uses tend to compete with their most comparable competitive facilities.’

4.5 In the local area, we anticipate that the foodstore will trade most directly against the other large format convenience stores located within, on the edge of and outside of Ledbury town centre.

4.6 We set out below our appraisal of the application proposal’s compliance with the two key impact tests identified by paragraph 94 of the NPPF.

4.7 The tests relate to:

- the impact of the proposal on existing, committed and planned public and private sector investment in a centre or centres in the catchment area of the proposal; and
- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider retail catchment (as applicable to the scale and nature of the scheme).

Impact of the Proposal on Existing, Committed and Planned Public and Private Sector Investment in a Centre or Centres in the Catchment Area of the Proposal

4.8 Paragraph 7.5.2 of the PRS quotes paragraph 44 of the appeal decision, which notes that the main parties agreed that there were no impacts to existing, committed and planned and private investments in the catchment area of the scheme which are considered to apply.

4.9 CarneySweeney then go on to state that they are not aware of any material changes in respect of any investment proposals coming forward subsequent to the appeal decision and that therefore, the proposal is unlikely to give rise to a significant adverse impact.

- 4.10 Nexus agrees with CarneySweeney's analysis, and consider that the proposal is unlikely to have a significant adverse impact on existing, committed or planned in centre investment and therefore complies with the first part of the impact test.

Impact of the Proposal on Town Centre Vitality and Viability

- 4.11 We provide below our appraisal of the principal inputs and assumptions relied upon by the applicant in assessing the impact of the convenience goods floorspace within their PRS.
- 4.12 At the outset, based on the net comparison floorspace presented in the PRS, we recognise that the comparison goods floorspace associated with the proposal is limited and that, in practice, this element of the proposal will likely trade against a wide range of destinations (including online retailers and other foodstores situated in out of centre locations). The comparison goods offer of a discount foodstore is qualitatively different to that evident in Ledbury town centre (which is the centre of greatest relevance in respect of retail impact).
- 4.13 In this context, it is also relevant to note that household shopper surveys can often understate the comparison goods turnover of foodstores. Given that the comparison goods turnover of the application proposal will be diverted in part from foodstore locations, it is our view that a monetary trade diversion impact assessment relating to this part of the proposal may be somewhat imprecise. A convenience goods trade diversion assessment is generally more accurate and a more appropriate basis upon which to determine the acceptability of the subject proposal.
- 4.14 Given the nature of the comparison goods floorspace and its limited turnover as presented in the PRS, we believe it to be clear that there would be no significant adverse impact arising from the comparison goods floorspace, subject to the convenience goods floorspace being acceptable.

Assessment Period

- 4.15 The applicant undertakes its impact assessment based on a test year of 2027, and then also 2029.
- 4.16 Paragraph 017 of the Town Centres PPG specifically directs that the design year for impact testing should be the year that the proposal has achieved a 'mature' trading pattern. It states that this is conventionally taken to be the second full calendar year of trading after the opening of a new retail development.
- 4.17 We consider that a development of this nature would likely be trading by 2026 or 2027. On this basis, 2029 is considered an appropriate design year.

Baseline Position

- 4.18 CarneySweeney derives the 'pre-impact' turnover of existing grocery retailers and defined centres from the Herefordshire Town Centre and Retail Assessment 2022 ('HTCRA') which was authored by Nexus.
- 4.19 CarneySweeney has adopted a 2020 price base in accordance with the Retail Assessment and has used the population and per capita expenditure provided within the HTCRA. CarneySweeney have then used the Experian Retail Planner Briefing Note 21, published in February 2024 to calculate the forecasted online sales and growth in floorspace efficiencies.
- 4.20 The turnover of existing destinations within and surrounding Ledbury are calculated by multiplying the market share attracted to each destination recorded in the household survey, by the available convenience expenditure within each zone.

- 4.21 We are satisfied with CarneySweeney's approach in calculating the pre-development turnovers of the existing convenience destinations presented within the PRS.

Turnover of the Application Proposal

- 4.22 CarneySweeney estimates the turnover of the application proposal at Table 6 of Appendix D of its PRS.
- 4.23 This identifies a convenience goods sales density for Lidl at 2024 of [REDACTED] per sq.m which, based on the identified convenience goods sales area of 880 sq.m, equates to a turnover of [REDACTED] at 2024. CarneySweeney then provide two turnovers at 2027 and 2029, the first which does not account for inflow, and the second which does account for 12% of inflow. On this basis, at 2027, CarneySweeney estimate that the turnover could equate to either £ [REDACTED] or [REDACTED].
- 4.24 As set out above, whilst we consider the comparison turnover to be broadly reflective of how we envisage the store would trade in practice, given the modest turnover we have not considered the potential impact of this element of the proposal in detail.
- 4.25 We note that Stantec have raised queries in respect of the appropriateness of the source used to calculate the sales density for the proposed store. In doing so, Stantec state:

'We appreciate that the P&RS was published in October 2024. However, we note that GlobalData released its latest 'Convenience and Comparison Sales Densities of Major Grocers – 2024e' in December 2024. We suspect that, if the convenience sales density specified for Lidl within GlobalData's latest release was used instead of the figure from the 2023 version, the trade impact figures would be higher than those cited within the impact assessment tables. As such, to ensure robustness in decision making, the impact assessment should be updated to reflect the latest sales density figures from GlobalData. We request that we are notified and afforded the opportunity to comment further if necessary.'

- 4.26 Subsequent to the above, Nexus requested that CarneySweeney provided an update to the quantitative impact assessment to reflect the latest figures provided by GlobalData. CarneySweeney responded to the Council on the 4th March 2025, confirming that the updated convenience sales density (at 2020 prices) is [REDACTED] per sq.m, compared to [REDACTED] per sq.m previously provided. As such, the turnover of the proposal would in fact decrease, resulting in the associated impacts also decreasing. Given this, we are satisfied that the impact assessment as presented by CarneySweeney represents a 'worst case scenario' and is therefore robust.
- 4.27 Given the above, overall we are satisfied with the calculation of the turnover of the proposal as presented within the PRS.

Patterns of Trade Diversion and Impact

- 4.28 We believe that the potential impact arising from the proposal at any defined centre other than Ledbury town centre would be very limited. This is due to the distance between the application site and other centres, recognising that competing main food shopping competition is dispersed across a number of locations.
- 4.29 We therefore agree with the overarching focus of CarneySweeney's assessment being on the existing convenience destinations within, on the edge of and outside of Ledbury town centre.
- 4.30 We also agree with CarneySweeney that the highest level of trade is likely to be diverted from the existing out of centre stores, particularly given comparative nature of these stores within the wider Ledbury urban area. Additionally, we agree that the highest proportion of trade will likely be diverted from the Aldi on Leadon way,

followed closely by the Tesco on Orchard Lane due to the comparative nature of the stores and the existing shopping patterns established in the household survey.

- 4.31 Overall, we consider the trade diversion assumptions applied by CarneySweeney within the PRS to be reasonable and appropriately take account of the nature of the stores, their location in the context of the application site and the established shopping patterns identified by the household survey.
- 4.32 CarneySweeney has also provided the relevant calculations in respect of the expected company benchmark performance of existing convenience floorspace at pre and post-development stage. The consideration of the performance of the stores against their company benchmark averages is a useful step in seeking to understand the potential trading implications of the proposal.
- 4.33 The next step in assessing the acceptability or otherwise of a proposal, is to consider the existing health of the relevant defined centre, in order to understand if the proposal could result in an impact which could be considered to be significant adverse. As such, we provide a summary of the assessment of the health of Ledbury town centre, taking account of CarneySweeney's analysis and our own understanding of the characteristics of the centre.

Ledbury's Vitality and Viability

- 4.34 It should be recognised that impacts will arise with all retail developments, but that these will not always be unacceptable, not least because development often enhances choice, competition and innovation. It is therefore necessary to differentiate between those developments that will have an impact and those that will undermine the future vitality and viability of established centres, i.e. have a 'significant adverse' impact.
- 4.35 Paragraph 016 of the Town Centres PPG is also of some relevance in considering how the impact test should be applied. It states that:
- 'As a guiding principle impact should be assessed on a like-for-like basis in respect of that particular sector (e.g. it may not be appropriate to compare the impact of an out of centre DIY store with small scale town-centre stores as they would normally not compete directly). Retail uses tend to compete with their most comparable competitive facilities.'**
- 4.36 As such, in order to assess the potential impact a proposal may have on defined centres, the applicant should firstly assess the existing performance and overall health of the identified centres within the catchment area. It can be the case that if a centre is in a poor state, (i.e. vacancy levels are above average, numbers of national multiple retailers are below average, footfall is low, and the overall environment within the town centre is poor), then impacts can be accentuated. Any impacts, even on a seemingly 'healthy' centre, need to be carefully assessed on a case by case basis.
- 4.37 A healthcheck for Ledbury town centre was undertaken by Nexus for the purposes of the Retail Study, based on a survey of the uses in May 2022. At the point of our May 2022 healthcheck, it was concluded that Ledbury has an historic retail core which provides a characterful and attractive retail environment, although similar with other towns in the authority area the town centre lacked modern, purpose built retail premises.
- 4.38 Notwithstanding this, we concluded that the town centre provided a diverse range of operators who are considered to be easily capable of providing for the day-to-day needs of the local community. The centre has also become more diverse in recent years, with comparison goods units being successfully repurposed for service uses.
- 4.39 Overall, although the vacancy rate had increased from 5.4% of units at 2012 to 9.3% at 2022, the vacancy rate remained lower than the national average as at April 2022. Furthermore, these units were located in the more

peripheral parts of Ledbury, with fewer vacant units located in the main retail core along The Homend and High Street. As such, as of May 2022, Ledbury was considered to be vital and viable, and the current vacancy rate in Ledbury was not considered to represent cause for concern.

- 4.40 CarneySweeney has provided an update to the healthcheck and the diversity of uses within the PRS, using composition figures from May 2022, May 2023, January 2024 and then in October 2024. As of October 2024, CarneySweeney identifies that the number of vacant units equates to 19, or 11.0% of the total number of units within the centre. Although this is slightly higher than that identified in 2022, it is still below the national average of 14.1%.
- 4.41 CarneySweeney conclude that the town centre is considered to be buoyant and performing strongly, with a good mix of representation of national multiple retailers and independent operators. Furthermore, it is considered that the centre is highly accessible by a variety of transport modes, with good levels of conveniently located car parking provision located at the heart of centre. The public realm throughout the town is of a good quality, kept clean and tidy and free from litter and graffiti, adding to the overall shopping experience. In summary, CarneySweeney concludes that there is no evidence of any underlying weaknesses in the centre, which is considered both vital and viable.
- 4.42 Overall, taking account of the updated evidence provided by CarneySweeney and our own review of the centre, we still consider that the conclusions reached within the HTCRA remain of relevance in respect of the overarching vitality and viability of the town centre, in that Ledbury is considered to be vital and viable, and the current vacancy rate in Ledbury was not considered to represent cause for concern.

Acceptability of the Proposal

- 4.43 We have reviewed CarneySweeney's assessment and in particular the analysis provided within the PRS and the associated quantitative tables in respect of trade diversion and the resultant impact. We have also given consideration not only to the evidence submitted in respect of the previous dismissed appeal, but also the wider analysis provided by CarneySweeney in respect of the growth in population in the surrounding area associated with proximate residential growth.
- 4.44 In particular, our assessment undertaken in respect of CarneySweeney's impact assessment notes that:
- the application proposal will compete most directly against the nearby Aldi store (which doesn't benefit from retail 'policy protection'), the edge of centre Tesco store, and will also divert trade from a range of stores further afield;
 - the convenience goods trade diversion from retailers in Ledbury town centre will be moderate overall, in light of the wider offer at edge and out of centre locations in the town;
 - one of the key considerations will be whether this moderate level of diversion would result in an impact which could be considered to be significant adverse. CarneySweeney estimate that the convenience impact on the convenience turnover of Ledbury town centre is expected to be -11.6% at 2027;
 - the convenience trade diversion on the edge of centre Tesco store will be higher, and therefore another key consideration is the potential impact of this trade diversion on the wider town centre, through the loss of linked-trips and associated expenditure;
 - CarneySweeney has provided an assessment of the comparison of the survey derived turnover of stores against the benchmark turnover of the stores. The performance of existing stores, particularly in the context of the town centre, will be key to understanding the potential implications of the proposed development. In

doing so, CarneySweeney calculates that both the Aldi and Tesco stores are overtrading when compared to their national benchmarks, and the Co-op is undertrading; and

- Ledbury town centre generally benefits from a wide range of retailers and service providers which help to provide some resilience in respect of a further out of centre foodstore.

4.45 Referring back to the dismissed appeal, it is noted that the Inspector concludes at paragraphs 34 to 36 that:

‘The existing edge of centre stores are favourably situated towards either end of the main high street. They both feature convenient customer parking which reinforces access to other shops. Local residents would be inclined to regularly use the stores and parking areas relative to other reasons for making regular linked visits. The presence of Bye Street public car park roughly half way down the high street being a further parking option.

Irrespective of any broader capacity, comparison or convenience retail arguments, I find that the function of the existing edge of centre stores to play a greater role in vitality and viability levels than that suggested by the appellant. I am also conscious that online grocery delivery and collection services are part of a modern day shopping economy which can influence travel.

I have substantial concerns that allowing a second out of town store of the scale proposed poses serious risks to maintaining low vacancy rates and the continued economic success of Ledbury’s retail centre. It would divert trade away from the retail core. The effect would be harmful.’

4.46 There are some important matters to note in respect of the dismissed appeal. These are as follows:

1. The previous considerations in respect of the potential impact of the proposal on Ledbury town centre took account of the potential ongoing implications associated with the COVID 19 pandemic and the uncertainties around the longevity of the performance of some operators. The updated healthcheck provided by CarneySweeney and summarised above, indicates that Ledbury town centre has withstood the impacts from the pandemic well, and that it remains a vital and viable centre, with a good mix of operators.
2. The proposal subject to the latest submission seeks permission for a reduced scale foodstore, and therefore a lower proposed turnover.
3. A new retail study has been published in the intervening years following the dismissed appeal, which includes a new household survey and corresponding survey derived turnovers of existing stores. The September 2022 Study identifies that:
 - i. the vitality and viability of Ledbury town centre was good and the vacancy rates did not represent a cause for concern;
 - ii. the Tesco and Aldi stores continue to trade above their respective benchmark averages. However, the Co-op store was identified to trade below benchmark, and lower than the figure presented within the previous, refused planning application;
 - iii. the proportion of identified linked trips between the existing Tesco and Co-op stores to the wider town centre offer is limited; and
 - iv. although not a policy test, the Study identified a convenience capacity within Ledbury of between 900 and 1,600 sq.m by 2041, indicating an under provision of convenience floorspace within the town.

4.47 In terms of the latest impact assumptions provided by CarneySweeney, they calculate that the total convenience impact on town centre retailers (including the Co-op) is expected to be -11.6%, and on the edge of centre Tesco store at Orchard Lane, to be -19.5%. Looking specifically at the Co-op, from which CarneySweeney estimate approximately 7% of the proposal’s convenience turnover will be diverted from, the resultant convenience impact

is expected to be -12.2%. We note that the impact of the Co-op is raised by Stantec in their February 2025 representations, and in particular Stantec state:

‘It is important that the Council consider this in its assessment of retail matters because even a small diversion of trade from an undertrading convenience store to a second out-of-centre foodstore could fundamentally compromise the stores viability and consequently have a harmful impact on the town centre due to the harm to a key convenience retailer.’

- 4.48 The objection raised by Stantec on behalf of the Co-op is noted, and the assertions made have been considered in reaching our recommendations below.
- 4.49 It is clear that the Inspector and the previous advisors to the Council in respect of the dismissed appeal, were concerned that the level of trade diversion and associated resultant impact on the town centre in terms of both the loss of expenditure and footfall could be detrimental. In doing so, they came to the conclusion that the potential impact on Ledbury town centre could be significant adverse.
- 4.50 One of the key considerations was the direct impact on the edge of centre stores (the Tesco and Co-op) and the indirect impact on the loss of linked-trips to the remainder of the town centre as a result of the diversion of expenditure to these stores. Specifically, the Inspector states at paragraphs 35 and 36 of the decision:
- ‘Irrespective of any broader capacity, comparison or convenience retail arguments, I find that the function of the existing edge of centre stores to play a greater role in vitality and viability levels than that suggested by the appellant. I am also conscious that online grocery delivery and collection services are part of a modern day shopping economy which can influence travel.**
- I have substantial concerns that allowing a second out of town store of the scale proposed poses serious risks to maintaining low vacancy rates and the continued economic success of Ledbury’s retail centre. It would divert trade away from the retail core. The effect would be harmful.’**
- 4.51 We have given consideration to the previous conclusions reached by the Inspector, the latest findings in respect of the impact assessment and the matters which represent a material change in circumstances since the previous assessment was undertaken. We have also given consideration to the detailed representations made by Stantec on behalf of the Co-op.
- 4.52 However, we are of the view that the town centre is generally vital and viable and although the two edge of centre stores provide important convenience shopping provision for shoppers, the stores and the wider centre are sufficiently diverse and healthy to withstand the level of diversion set out by CarneySweeney and assessed by Nexus.
- 4.53 Overall, we consider that given the proposal’s scale, the centre’s health, the wider commercial provision within Ledbury town centre and the provision of out of centre convenience facilities from which the proposal will divert trade from, the potential impact of the proposal is unlikely to be significantly adverse. This is principally due to the convenience trade diversion being moderate and the centre being generally vital and viable.
- 4.54 Furthermore, we are of the view that residents and visitors alike will still need to visit the town centre to meet their wider commercial needs. Overall, we do not anticipate that there will be any material reduction in the vitality of the centre arising from the loss of linked trips related to the proposal (as these may be undertaken by car or may occur at other times).

- 4.55 Taking the above into account, we are satisfied that the proposal complies with Local Plan Policy E5, insofar as we are of the view that it will not have a significant adverse impact on town centre investment or on the vitality and viability of the centre.

5. Conclusions and Recommendations

- 5.1 Herefordshire Council instructed Nexus Planning to provide advice in respect of a full planning application relating to a hybrid application which includes a proposed Class E foodstore at land south of Leadon Way and east of Dymock Road in Ledbury.
- 5.2 The hybrid application proposal is for full permission for a 1,100 sq.m (net) foodstore, alongside a daycare nursery and outline consent for a medical centre. The Application is accompanied by a PRS prepared by CarneySweeney, dated October 2024.
- 5.3 The purpose of this appraisal report is to consider the merits of the proposal in terms of its compliance with retail and town centre planning policy, as set out by the statutory development plan and by the National Planning Policy Framework ('NPPF'). We have also given consideration to the representations made by 3rd Parties in respect of the proposal.
- 5.4 Paragraph 95 of the NPPF indicates that planning applications for retail uses that are not in an existing centre and not in accordance with an up to date development plan should be refused planning permission where they fail to satisfy the requirements of the sequential approach or are likely to result in a significant adverse impact.
- 5.5 In respect of the sequential approach, Nexus has undertaken a detailed review of the sites, units and other opportunities identified by CarneySweeney within their submission. Our analysis has considered the availability and suitability of these potential opportunities to accommodate the proposed development, even when applying a sufficient degree of flexibility in accordance with policy. Overall, we are satisfied that it is unlikely that there are no alternative sites which can be considered to be both available and suitable to accommodate the proposal.
- 5.6 Given the above, we are satisfied that the proposal complies with Policy E5 insofar as it relates to the sequential test, and paragraphs 91 and 92 of the NPPF.
- 5.7 With regard to the first part of the NPPF impact test, we do not believe that the grant of planning permission for the proposed foodstore would lead to an adverse impact in respect of any existing, committed and planned public and private sector investment. Nexus agrees with CarneySweeney's analysis, and consider that the proposal is unlikely to have a significant adverse impact on existing, committed or planned in centre investment.
- 5.8 In terms of the second part of the test (relating to the vitality and viability of town centres), it is clear that the Inspector and the previous advisors to the Council in respect of the dismissed appeal, were concerned that the level of trade diversion and associated resultant impact on the town centre in terms of both the loss of expenditure and footfall. In doing so, they came to the conclusion that the potential impact on Ledbury town centre could be significant adverse.
- 5.9 We have revisited the previous conclusions reached, and the updated assessment, and are of the view that the impacts associated with the proposal are unlikely to be significantly adverse. This view has been reached taking account of the health of the town centre, the nature of the proposal and the associated trade diversion, alongside the wider convenience provision within the settlement and a consideration of likely trade diversion and impact assumptions.
- 5.10 Given the above, we conclude that the refusal of planning permission for this application proposal would not be supported on retail and town centre planning policy grounds alone (subject to conditions to ensure that the

proposal continues to trade as a supermarket in the manner set out by the planning application documents, should planning permission be approved).

- 5.11 We reiterate that our advice relates only to the merits of the proposal in respect of its compliance with retail and town centre planning policy, and that it is for the Council to weigh all relevant planning policy considerations in the balance in determining the application.
- 5.12 We trust that the above appropriately sets out our view in respect of retail and town centre policy matters but would be happy to provide further assistance should it be required.

Nexus Planning

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MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	3rd SEPTEMBER 2025
TITLE OF REPORT:	191013 - APPLICATION FOR APPROVAL OF RESERVED MATTERS FOLLOWING OUTLINE 152041(PROPOSED RESIDENTIAL DEVELOPMENT OF 10 DWELLINGS (AMENDMENT TO ORIGINAL APPLICATION)) FOR THE APPROVAL OF APPEARANCE, LANDSCAPING AND SCALE AT LAND TO THE NORTH OF ASHPERTON VILLAGE HALL, ASHPERTON, HEREFORDSHIRE, For: Mr Davies per Mrs Sharon Edgar, Upper Twyford, Twyford, Hereford, Herefordshire HR2 8AD
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=191013&search-term=191013
Reason Application submitted to Committee – Redirection request	

Date Received: 19 March 2019**Ward: Three Crosses****Grid Ref: 364379,242019****Expiry Date: 31 January 2024**

Local Member: Cllr Jonathan Lester

1. Site Description

- 1.1 The application site comprises a parcel of undeveloped agricultural land on the northern edge of Ashperton, approximately 7-miles from Ledbury and 11-miles from Hereford. The village benefits from a limited range of local services, including a primary school, village hall, and church, with a public house located approximately half a mile to the south.
- 1.2 The site forms part of Walsopthorne Farm, located immediately north of the village hall and east of the A417. It is largely enclosed by agricultural land and existing built development of varied age, scale, and character, including a number of Grade II-listed buildings. The landform is undulating, with the site sitting above the level of the A417 and adjacent dwellings, though lower than the village hall, which occupies higher ground to the south of the site.
- 1.3 A substantial hedgerow bounds the site, providing a degree of visual screening from the highway.
- 1.4 The application site lies within the catchment of the River Frome, a sub-catchment of the River Lugg, which itself forms part of the River Wye Special Area of Conservation.
- 1.5 The site benefits from outline planning permission (ref: 152041) for proposed residential development comprising 10no. dwellings.

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

2. Proposal

- 2.1 This application, following the grant of outline planning permission, seeks approval of the reserved matters of scale, appearance and layout (as defined within Part 1, Article 2 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), in accordance with Condition 3 of the outline planning permission (ref: 152041).
- 2.2 The submitted details show the provision of 10 no. two-storey dwellings (in accordance with Condition 6 which stipulates that no building on any part of the development shall exceed two storeys in height).
- 2.3 There would be 4no x 3-bedroom dwellings, 4no. 4-bedroom dwellings and 2no. 5-bedroom dwellings.
- 2.4 In terms of appearance, the proposed development would incorporate materials such as Herefordshire Red Sandstone, horizontal and vertical timber cladding in both natural and black stained finishes, roofing tiles in slate and clay, aluminium coping edge details, galvanised rainwater goods, aluminium-clad windows and doors, and a solid front door.
- 2.5 In accordance with the approved layout, the proposal would also provide for a detached double car-port for Plot 4, a two-storey attached car-port for Plot 6 & 7 with office space above, whereas Plot 5 would provide for an 'undercroft' parking arrangement with first floor of the dwelling above.

3. Planning policy

3.1 Herefordshire Local Plan - Core Strategy

- SS1 Presumption in favour of sustainable development
- SS2 Delivering new homes
- SS4 Movement and transportation
- SS3 Releasing land for residential development
- SS4 Movement and transportation
- SS6 Environmental quality and local distinctiveness
- SS7 Addressing climate change
- RA2 Housing in settlements outside Hereford and the market towns
- H1 Affordable housing - thresholds and targets
- H3 Ensuring an appropriate range and mix of housing
- MT1 Traffic management, highway safety and promoting active travel
- LD1 Landscape and townscape
- LD2 Biodiversity and geodiversity
- LD3 Green infrastructure
- LD4 Historic environment and heritage assets
- SD1 Sustainable design and energy efficiency
- SD2 Renewable and low carbon energy
- SD3 Sustainable water management and water resources
- SD4 Waste water treatment and river water quality

3.2 Ashperton Neighbourhood Development Plan

The referendum for voters within the Ashperton parish area was held on 6 May 2021. The plan received a positive referendum result and is currently awaiting adoption. This will follow the resolution of the issues outlined within the River Lugg catchment area position statement.

- H1 Number of new houses
- H2 Settlement boundary
- H3 Housing mix and tenure
- H4 Type of housing
- D1 Design
- D2 Technical design
- ST1 Accommodating traffic within the parish
- E1 Landscape
- E2 Tranquillity
- E3 Cultural heritage
- E4 Wildlife and the natural environment

3.3 Herefordshire Minerals and Waste Local Plan

SP1 Resource Management

3.4 National Planning Policy Framework 2024 (NPPF)

- Chapter 2 Achieving sustainable development
- Chapter 4 Decision-making
- Chapter 5 Delivering a sufficient supply of homes
- Chapter 8 Promoting healthy and safe communities
- Chapter 9 Promoting sustainable transport
- Chapter 10 Supporting high quality communities
- Chapter 11 Making effective use of land
- Chapter 12 Achieving well-designed places
- Chapter 14 Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 Conserving and enhancing the natural environment
- Chapter 16 Conserving and enhancing the historic environment

3.5 National Planning Practice Guidance

4. Planning History

4.1

Planning reference:	Description:	Decision:	Date:
152041	Proposed residential development of 10 dwellings	Approved	24 August 2016

5. Consultations

Internal / Herefordshire Council Consultations

5.1 Area Engineer (Local Highways Authority) – comment

- 5.1.1 28/1/20 - As access and layout formed part of the outline application the highway authority is not commenting on these aspects as part of this reserved matters application. The highway design plans will be considered when an application for discharge of the relevant condition is made.

The only comment that the highway authority has is in relation to the landscaping plan. It is noted that hedging is proposed right up to the car parking spaces, this should be removed in order to preserve the 2m x 2m vision splays as per Herefordshire Council's Highway Design Guide for New Development.

5.1.2 24/4/19 - The local highway authority has the following comments:

- Land drainage will be covered by the Drainage consultee as part of the site wide strategy which will include highway drainage.
- The applicant should set out whether or not they would like the site to be adopted.
- Further clarification is sought regarding the pedestrian connection from the site to the existing PRow to the east.
- Plots 3 and 8 require an additional car parking space.
- There could be difficulty reversing in and out of the carport provided on Plot 8 given the width of the carriageway. The carport should be set back from the carriageway.
- The service strip should be provided in accordance with the guidance found in Herefordshire Council's Highway Design Guide for New Developments.

Once the above information is received the local highway authority will be able to comment fully.

5.2 Built and Natural Environment Service (Ecology) – comment:

5.2.1 5/2/25 - Habitat Regulation Assessment (Private Foul Water – Tarrington ICW Phosphate Credits)

- Original Outline Permission: 152041
- TEN new dwellings
- Std occupancy for Herefordshire 2.3
- Std water efficient condition to 110lpd
- No mains sewer available
- Private Foul water System – Haba Bio Easy Flow PTP (0.8mg/litre Phosphate)
- Discharge via tertiary treatment via private constructed wetland system to Hereford & Gloucester Canal (watercourse and Local Wildlife Site) that is considered as a general binding rule compliant watercourse under the applicant's control.
- Tertiary treatment will further reduce phosphates in outfall by varying degrees – but is proposed to ensure final discharge from PTP and SuDS has negligible nutrients or other pollutants to protect the Local Wildlife Site ecological interest of the receptor H&G Canal.
- Annual Rainfall: 719 mm
- Soil Drainage: Slightly Impeded
- Existing land use Residential curtilage Lowland Grazing pasture :0.91Ha (application info)
- Future use Residential Urban Land: 0.51Ha; Greenspace: 0.4Ha
- Nutrient Neutrality to be secured by purchase of approved Phosphate Credits from the Council's Tarrington Integrated Constructed Wetland
- This ICW has permission and will be commissioned by June 2026 and occupation of dwellings will be limited to after this date via relevant condition/legal agreements.

All additional surface water will be managed via the Sustainable Drainage System-constructed wetland before managed flow discharge to the Hereford & Gloucester Canal at no greater than 1:1 rates (as required by the H&G Canal Trust) which is a lower rate than existing greenfield run-off rates.

- Approval of Reserved Matters/Discharge of Condition or s.106 Agreement to secure foul water connection to Haba Bio Easy Flow PTP
- water efficiency @ 110 lpd
- Occupation not before June 2026
- SuDS- Constructed Wetland management for minimum 80 years

Habitat Regulations Assessment (HRA) undertaken and submitted to Natural England – see **Appendix 1**.

- 5.2.2 15/4/25 - I note the proposed drainage amendments including the reedbed prior to the discharge of foul flows into the disused canal. I have also discussed the technical elements of the scheme with my colleagues in drainage who will respond on those elements.

I also note the proposal to use a Graf One2Clean PTP to serve the development which will put out effluent containing 1.6mg/l of phosphate. Given that the proposal is to discharge from the PTP via the reedbed which will provide some further treatment of the effluent into a former canal which is a designated Special Wildlife Site I would welcome all possible efforts being made to reduce the phosphate entering the canal as far as possible using best available technology. I wonder, to that end, whether it would be possible to select a PTP model which discharges less than 1mg/l of phosphate using biological treatment only. I am aware of several systems which achieve this lower phosphate output and I would be keen to see every opportunity being taken to reduce the potential impacts of phosphate upon the Special Wildlife Site canal. If this approach could be taken, and confirmed in writing, that would allow me to proceed with the Habitats Regulations Assessment and the Ecological Response to the proposal. If this is considered not technically possible then I would welcome an explanation of why a better performing technology is not feasible here. In the event that an alternative, better performing, PTP is selected then the budget should be amended to reflect this change.

The long term management and maintenance of the PTP will need to be secured, ideally in a legal agreement, and the replacement of the PTP at the end of its working life with a model which performs at the same level of better in terms of phosphate treatment. I assume this is acceptable to the applicant and that we can work through the wording for the agreement in due course.

- 5.2.3 11/9/19 - Thank you for consulting me on Reserved Matters application 191013 I am not satisfied that I have sufficient information to discharge the above conditions.

Key impacts:

The proposed drainage strategy is not finalised. Further information is required sufficient to undertake the HRA. The extended site lies within the impact zone of a number of SSSI's which includes the River Wye SSSI and River Lugg SSSI, a tributary of the River Wye SAC therefore the SAC River Wye catchment Impact Risk Zone.

- No comments in regard to the required Habitat Regulations Assessment (Foul and Surface water drainage) can be made at this time pending legal reviews and other work in relation to recent EUCJ rulings. A letter referencing this from Natural England is included in this consultation response

Notwithstanding the above:

The additional redline boundary has not previously be assessed. Significant construction impacts have not been assessed for general ecology and the EPS species notably the known population status and distribution of great crested newt. Impacts to the EPS population are highly likely in relation to the proximity of the breeding ponds and proposed drainage strategy. Impacts not previously known will require amendments to the proposed mitigation, potential alteration to landscaping and protected species working methods for the extended redline boundary.

Furthermore the site and extended red line is situated within Priority Habitat - Good Quality Semi Improved Grassland, Priority habitats are of particular importance for nature conservation and included in the England biodiversity list published under section 41 of the Natural Environment and Rural Communities act 2006 (NERC act) core strategy LD1-3).

The adjacent area and Priority Habitats surrounding the site: Deciduous Woodland, Ancient Trees, Traditional Orchards and Good Quality Semi Improved Grassland are recognised as

being highly important for many legally protected species, including EPS a variety of bat species notable the rare Lesser Horseshoe bat with a roost within 600m of the site; birds such as the barn owl, badger and hedgehog recorded in the local area.

Recommendations

- I would request that the that the Applicant confirms the final foul water strategy whilst addressing the concern raised regarding foul water and the potential outfall of treated foul drainage via drainage field or via Surface Water outflow.
- Addresses the concerns of the extended red line boundary/final foul and surface water proposal on EPSs, Priority Habitats Priority Species and general ecology.
- Once the Drainage Strategy has been confirmed as compliant and is in accordance with the Habitats Regulations, a HRA can be submitted to Natural England for their approval prior.

- 5.2.4 9/4/19 - The site falls within the River Wye SAC catchment and this RM application should be subject to a habitat Regulations Assessment process as regards foul and surface water management. This requirement does not appear to have been recognised by Natural England in their comments but this LPA still has a relevant legal duty of care under Habitat Regulations to undertake an appropriate assessment. The completed 'AA' will need to be formally 'approved' by Natural England PRIOR to any planning consent being granted

At present the proposal to discharge the outfall from a large site dedicated package treatment plant directly in to the old Hereford-Gloucester Canal does not comply with General Binding Rules or Council Core Strategy SD4/LD2 – as the old canal is an aquatic feature and is a designated Local Wildlife Site. The old canal is also unlikely to be suitable for discharge as it has very limited flow and is in effect an enclosed body of water. The additional phosphate loading from the discharge (as phosphates are not normally removed by PTP systems) is likely to have a detrimental impact on the local aquatic and semi-aquatic/canal dependant ecology. This detrimental impact would be contrary to NPPF, NERC Act and Core Strategy LD2.

The applicant is advised to seek further professional advice and investigate options to discharge to soakaway drainage fields on land under the applicant's control.

Once the foul water issues have been resolved the required HRA appropriate assessment can be completed and submitted to Natural England for their consideration.

The updated ecological working method statement and detailed recommendations for Biodiversity Net gain are noted and should be implemented as stated in order to discharge Conditions 14 and 15 of the original Outline planning consent.

- 5.3 Built and Natural Environment Service (Landscape) – comment;

- 5.3.1 22/5/25 - I have reviewed the amended landscape information.

Amended landscape planting plan 413_500, dated 2015, REV F.
Amended landscape materials plan 413_100, dated 2015, REV G.

No objection.

- 5.3.2 7/12/19 - I have seen the amended planting plans and note the boundary planting and profile of the pond, there are no further landscape comments at this time.

- 5.3.3 10/4/19 - I have reviewed the hard landscaping plan as well as the proposed planting plan. I wish to raise the following points:

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

- The proposed tree belt to the north of the site which was intended to filter views into the site and provide a clear demarcation between the development and the surrounding open countryside, appears to have been watered down in the final planting plan. This should be planted as a solid tree belt along this site boundary – approximately 20m width.
- The proposed attenuation pond which was not shown on the outline drawing requires more detail – this feature should be organic in form with careful consideration given to providing recreational and biodiversity opportunities. A detailed planting plan with sections illustrating the profile of the pond are required.

5.4 Built and Natural Environment Service (Open Space) – comment:

- 5.4.1 1/10/2019 - It is noted that the amended plans show the SudS pond to be located off site. I have no further comments to make
- 5.4.2 17/4/19 - Open Space requirements: In accordance with Core Strategy policies OS1 and OS2, requirements for open space is sought from all new residential development and considered on a site by site basis and in accordance with applicable set standards.

On-site POS and SuDs: On site provision is not normally asked for from developments of 10 as the standard requirement for POS and Children's play would be small and of little recreation value. However in accordance with outline permission 152041 on site provision has been provided and the proposed site plan drawing no. 8120 PL003 shows an area of orchard and a SuDS area.

It is not clear if the SuDs area located in the north west corner will be publically accessible. If it is to be, will need to be designed accordingly to take account of health and safety and standing water issues with suitable gradients or if not it should be fenced off. Cross sections of plans showing gradients standing water etc will be required if the area is to be used as POS.

The landscape aspects of SUDs should be designed in accordance with the Councils SuDS Handbook which provides advice and guidance on the inclusion of SuDs on new development. In addition the council advises that developers seek guidance from the CIRIA SuDS Manual and the Wildfowl & Wetland Trust /RSPB available from the Susdrain website.

Plans should be submitted as part of the approved landscaping scheme and conditioned accordingly

C96: G10 Landscaping Scheme

Management and Maintenance: maintenance details for the on-site open space and SuDS will need to be provided along with a Management Company Plan to include a written scheme detailing the future management and maintenance requirements for the open space facilities and on-going maintenance regime and how the Management Company will be set up or nominated and maintained in order to fulfil its ongoing obligations and functions in relation to the open space facilities.

To be included as part of the approved Landscape management and maintenance arrangements and conditioned accordingly.

CA1: G14 Landscape Management Plan
CA2 G15 Landscape Maintenance Arrangements

5.5 Built and Natural Environment Service (Building Conservation) – comment:

- 5.5.1 18/9/19 - The proposals would not harm the setting of nearby listed buildings and would therefore accord with policies relating to heritage assets within the adopted Herefordshire Core Strategy and NPPF. In terms of design, the proposals make reference to vernacular buildings in their form and other characteristics such as solid to void ratio etc. It is felt that there is opportunity for plots 7&8 to give the appearance of a narrower plan depth, for example by offsetting the ridge, having a flat roofed element or introducing a gable, however this would not be a reason for refusal.

Conditions:

- Roof details
- External Joinery Details & Colour Scheme.

Background to recommendations:

There are a number of listed buildings in the immediate vicinity including 52 the Green, the War Memorial, Chandlers and no47. It is not felt that those aspects of the setting of these buildings which contributes to their significance would be affected by the proposals.

Ashperton is not a Conservation Area, it's character is of a linear village, centred around a small green with a war memorial. The buildings vary in construction from timber framing to masonry.

The approach to introduce a landscape buffer next to the road, whilst not following the characteristics of the layout of the settlement, this would be a means to protect from noise and to a limited extent visually shield the development from the village.

The contemporary vernacular approach taken is very positive indeed.

For some plots there could be opportunity to reduce the apparent span depth of the width of the buildings. There are a number of ways this could be achieved, for example offsetting the gable, introducing a flat roofed element or introducing dormers or gables.

- 5.5.2 27/3/19 – The proposals would not harm the setting of nearby listed buildings and would therefore accord with policies relating to heritage assets within the adopted Herefordshire Core Strategy and NPPF. In terms of design, the proposals make reference to vernacular buildings in their form and other characteristics such as solid to void ratio etc. It is felt that there is opportunity for plots 7&8 to give the appearance of a narrower plan depth, for example by offsetting the ridge, having a flat roofed element or introducing a gable.

Conditions:

- Roof details
- External Joinery Details & Colour Scheme.

Background to recommendations:

There are a number of listed buildings in the immediate vicinity including 52 the Green, the War Memorial, Chandlers and no47. It is not felt that those aspects of the setting of these buildings which contributes to their significance would be affected by the proposals.

Ashperton is not a Conservation Area, it's character is of a linear village, centred around a small green with a war memorial. The buildings vary in construction from timber framing to masonry.

The approach to introduce a landscape buffer next to the road, whilst not following the

characteristics of the layout of the settlement, this would be a means to protect from noise and to a limited extent visually shield the development from the village.

The contemporary vernacular approach taken is very positive indeed.

For some plots there could be opportunity to reduce the apparent span depth of the width of the buildings. There are a number of ways this could be achieved, for example offsetting the gable, introducing a flat roofed element or introducing dormers or gables.

5.6 Public Rights of Way Team – comment:

5.6.1 9/9/19 - Public footpath AP28 is in close proximity to the proposed development, and the drainage system in particular. This must not have any impact on the right of way.

5.7 HC Waste and Recycling Team – comment:

5.7.1 29/5/19 - I would like to make the following comments on the application detailed above.

In the event that the roads within this development do not become adopted by Herefordshire Council:

The council will only agree to travel private roads for the purposes of waste collection if:
The council and its contractors determine that collections can be carried out safely; and

The council receive written confirmation from the landowner/developer that the roads over which the refuse collection vehicle (RCV) will travel are built to a suitable specification for this type of vehicle to travel over on a frequent basis; and

The council and its contractor(s) are indemnified against damage to property and general wear and tear, other than that caused through negligence.

The council and/or its contractor will assess the safety of collections at the development via the completion of a risk assessment which will take into consideration the access and suitability of the road surface, width, obstructions and turning areas for a 26 tonne RCV.

If a private road is not suitable for the RCV to travel or an indemnity is not signed by the landowner, the collection point for rubbish and recycling will be at a point adjacent to the nearest public highway, as determined by Herefordshire Council.

The council and its contractor reserve the right to cease collections from private roads if the roads or entrance are not maintained to a standard suitable for the RCV or there are any obstructions in place.

5.8 Land Drainage Team (Lead Local Flood Authority) – comment:

5.8.1 5/8/25 - The relevant condition associated with the planning application is:

Condition 5:

Prior to the occupation of the development details of the proposed foul and surface water drainage arrangements shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the first occupation of any buildings hereby permitted.

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

Flood Risk

The planning application was supported by a Flood Risk Assessment which confirmed that this site is not at risk of flooding from fluvial, surface water and other sources.

Surface Water Drainage

As infiltration testing failed, the Proposed Drainage drawing (Appendix D) demonstrates that

all surface water runoff is directed to the east and then to an attenuation pond north of the site (designed for a 1 in 100 year plus 45 climate change event), which will discharge offsite to a watercourse at a controlled rate of 1.3 l/s via a 54mm hydrobrake. Whilst we acknowledge the Canal Trust's request to limit discharge rates to a 1 in 1 year rate, the proposed installation of a 54mm hydrobrake for a 1.3l/s discharge rate poses a risk of blockage. Therefore, we request that that dia of the hydrobrake is increased to avoid the risk of blockage. We would accept a 2l/s discharge rate to accommodate a larger hydrobrake. The Proposed Drainage Key refers to a 2l/s discharge rate.

The Proposed Drainage drawing should include Inset 2 on a separate page and also include the proposed location of the attenuation discharge pipe to the canal. It is unclear if swales are still proposed as stated in the May 2016 Technical Note. This should be confirmed at this ARM stage as this is the last chance Land Drainage will have chance to comment given the discharge of drainage Condition 5 is a pre-occupation and not pre-commencement condition.

We understand that the surface water drainage network will be offered for adoption. The Applicant must confirm the proposed adoption and maintenance arrangements for the surface water drainage system. The Drainage Layout plan should reflect the ownership of the respective drainage components. If the surface water sewer network is to be presented for Section 104 adoption, then the balancing pond will need to be maintained by a statutory authority such as Herefordshire Council.

Foul Water Drainage

As percolation testing at the site failed, it is proposed that foul water will be directed to the north via a package treatment plant, discharge to a tertiary treatment wetland before an offsite discharge to a watercourse.

No information has been submitted regarding the size/design of the wetland system.

The package treatment plant should be in a more accessible location where it can be easily maintained.

There is reference to pumping on the Site Plan. The technical note does not make any reference to the pumps, where possible, we discourage the use of a pumped foul water discharge system due to the risk of foul water flooding in the event of pump failure. If a gravity solution is possible then the applicant will need to present a drawing showing the proposed pipeline with the inverts/gradients shown. If a pumped solution is needed then there will be a need for a pumping station built with a minimum of 24 hours storage below the Pump Start level. This needs to be a stand alone pump, not installed in the PTP.

Overall Comment

Condition 5: Cannot yet be discharged.

A consistent, viable surface water and foul water drainage strategy must be provided in line with our comments above.

5.8.2 23/10/19 - Overview of the Proposal

We provided comments for the planning application 152041 on 28th April 2016. The proposals have since changed to construct 10 dwellings. The location of the attenuation pond has also been amended.

The relevant condition is:

Condition 5:

Prior to the occupation of the development details of the proposed foul and surface water drainage arrangements shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the first occupation of any buildings hereby permitted.

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

Flood Risk

The planning application was supported by a Flood Risk Assessment which confirmed that this site is not at risk of flooding from fluvial, surface water and other sources.

Flood exceedance routes have not yet been demonstrated for the proposed site layout.

Surface Water Drainage

The road levels have been altered. The road slopes up towards the east, this does not mimic the direction of flow of the drainage. We request that the drainage long sections are updated to ensure that the drainage can be dealt with by gravity taking into account the proposed new road levels.

The Drainage Layout plan demonstrates that all surface water runoff is directed to the east and then to the north and to an attenuation pond which will discharge runoff at a controlled rate from the attenuation basin. It is stated 'or SW pumping station to ditch network near site frontage'. The proposals are not clear.

The Drainage Layout plan states that the maximum water level will be 84.75m, the highest bank level is 85m, thus 250mm freeboard has been provided. As we requested previously, this must be 300mm minimum. This level has largely altered from the previous submission (max water level 87.9m).

There was previously contradicting information around the orifice size and thus restricted rate. This must still be clarified.

We request that a drainage strategy is submitted with consistent plans (site sections, storage calculations, drainage layout etc.)

It has not been stated whether there is an alteration to the previous restricted rate (previously 1.9l/s using a 100mm orifice).

We note that the proposed surface for the road is tarmac. We are unsure as to whether the proposed road is to be put forward for adoption. We note that the drainage simulation makes reference to a number of the drainage features as 'adoptable'. The Applicant should be aware that the proposed drainage strategy does not allow Herefordshire Council to adopt the road. If the road is to be put forward for adoption, further discussions could be held with ourselves and a highways representative to establish the requirements.

Consideration should be given as to whether a ditch would be required along the southern boundary of the entry to the site to capture runoff from higher land. It may be necessary to provide a culvert beneath the access road.

The Applicant must confirm the proposed adoption and maintenance arrangements for the surface water drainage system. The Drainage Layout plan should reflect the ownership of the respective drainage components. If the surface water sewer network is to be presented for Section 104 adoption, then the balancing pond will need to be maintained by a statutory authority such as Herefordshire Council.

Foul Water Drainage

It is demonstrated that foul water is proposed to be directed to the north via a drainage field. A package treatment plant is not shown (it is not clear whether individual PTPs will be

provided). It is then also stated 'or via Surface Water outflow'. This proposals for foul water are not clear for this site.

There are no public sewers in this area. The proposals are to install a package treatment plant and discharge the treated effluent to the unused canal to the North of the site. We note that ecology have raised that discharge into the canal is not in line with the Binding Rules.

The Proposed Drainage Layout demonstrates the location of the 'package treatment works' with an outgoing pipe and a note to state this will be disposed of into the existing unused canal.

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

We appreciate that individual package treatment plants with individual drainage fields may prove difficult due to the steep nature of this site, however the Applicant should undertake percolation tests in accordance with BS6297 to determine whether infiltration techniques are a viable option for managing treated effluent (see Section 1.32 of Building Regulations Part H Drainage and Waste Disposal). An assessment of the construction of the drainage fields should be undertaken to determine whether drainage fields could be installed.

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

- The drainage field should be located a minimum of 10m from any watercourse, 15m from any building, 50m from an abstraction point of any groundwater supply and not in any Zone 1 groundwater protection zone;
- 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.

The Applicant should review the package treatment plant checklist for plants serving multiple properties. This will be attached with this response.

For completeness and clarity, all proposed plans should demonstrate the up-to-date proposals.

Overall Comment

Condition 5: Cannot yet be discharged.

A consistent, viable surface water and foul water drainage strategy must be provided in line with our comments above.

- 5.8.3 23/4/19 - Given that treated effluent cannot be disposed of into the unused canal, we request that a viable foul water drainage strategy is submitted prior to the Council granting Planning Permission.

Surface Water Drainage Strategy – Required Information

It should be confirmed that an emergency overflow has been designed into the pond.

It should be clarified that the orifice will be 64mm in diameter (as opposed to 100mm diameter as stated in the drainage report).

Clarity is required around the construction of the pond, in particular the gradient of the land to

the west (currently proposed to be at a gradient of 1 in 2). A crest (minimum width of 1.5m) should be provided around the pond to allow for maintenance.

The ownership of the system into which the 80m² from the junction is to be drained should be clarified, and confirmation should be provided that flows can discharge into this system.

Additional Requirements

The Applicant should confirm whether the road is to be put forward for adoption. If the road is to be adopted, further amendments will be required to the drainage strategy to allow Herefordshire Council to adopt the road.

An exceedance flood route plan should also be provided to demonstrate the flows within the site in extreme events.

Statutory Consultations

5.9 Dwr Cymru Welsh Water – comment:

5.9.1 23/9/19 - We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

We have no objection to the application for approval of the reserved matters subject to compliance with the requirements of the drainage conditions imposed on the outline planning permission, and the subsequent applications to vary the conditions thereon.

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.

5.10 Natural England – no objection:

5.10.1 11/3/25 - Thank you for your consultation on the above dated 19 February 2025.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Further information on when to consult Natural England on planning proposals is available here: Planning and transport authorities: get environmental advice on planning - GOV.UK (www.gov.uk)

Natural England is not able to provide specific advice on this application and therefore has no comment to make on its details. Although we have not been able to assess the potential impacts of this proposal on statutory nature conservation sites or protected landscapes, we offer the further advice and references to Standing Advice below.

Natural England advises Local Planning Authorities to use the following tools to assess the impacts of the proposal on the natural environment:

Impact Risk Zones:

Natural England has provided Local Planning Authorities (LPAs) with Impact Risk Zones (IRZs) which can be used to determine whether the proposal impacts statutory nature conservation sites. Natural England recommends that the LPA uses these IRZs to assess potential impacts. If proposals do not trigger an Impact Risk Zone then Natural England will provide an auto-response email.

Standing Advice:

Natural England has published Standing Advice. Links to Standing Advice are in Annex A.

If after using these tools, you consider there are significant risks to statutory nature conservation sites or protected landscapes, please set out the specific areas on which you require Natural England's advice.

Further information on LPA duties relating to protected sites and areas is available here:
Protected sites and areas: how to review planning applications - GOV.UK
(www.gov.uk)

Further guidance is also set out in the Planning Practice Guidance on the natural environment:
Natural environment - GOV.UK (www.gov.uk)
and on Habitats Regulations Assessment:
Appropriate assessment - GOV.UK (www.gov.uk)

Non-detailed advice from Natural England does not imply that there are no impacts on the natural environment. It is for the Local Planning Authority to determine whether or not the proposal is consistent with national and local environmental policies. Other bodies and individuals may provide information and advice on the environmental value of this site and the impacts of the proposal on the natural environment to assist the decision-making process.

5.11 Historic England – no comments.

6. Representations

6.1 Ashperton Parish Council – object:

6.1.1 13/6/25 – Preamble

Ashperton Parish Council (APC) understands that the applicant was informed that Hereford Council (HC) could not determine the application as submitted in 2019 and advised him to consider withdrawing the application and resubmitting. APC further understands that the applicant decided to submit revised drawings to deal with procedural matters.

APC is of the view that HC still cannot approve the application which purports to be a 'reserved matters' application and yet includes changes to matters already approved and matters which are not reserved matters, which also appear to be inconsistent.

"Planning Practice Guidance (PPG) advises that "It is possible for an applicant to suggest changes to an application before the local planning authority has determined the proposal. It is equally possible after the consultation period for the local planning authority to ask the applicant if it would be possible to revise the application to overcome a possible objection. It is at the discretion of the local planning authority whether to accept such changes, to determine if the changes need to be reconsulted upon, or if the proposed changes are so significant as to materially alter the proposal such that a new application should be submitted."

Paragraph: 061 Reference ID: 14-061-20140306

APC is not clear upon what HC is consulting but assumes that it is the whole of the 2019 application as re-submitted. There is, however, no description of what specific drawings or supporting documents, as originally submitted, have been withdrawn or which new drawings have been submitted. It is the contention of APC that the application still cannot be determined for the following reasons:-

The application lists the following drawings listed for approval:-

- AMENDED 8120 PLxxx Rev-x March2025 Proposed Site Plan with GF Layouts 2.5.25 6MB (note the drawing submitted is numbered "PLx Rev C"); and
- Proposed Site Plan (8120 PL003 June 2015 Rev C)

Whilst it may reasonably be assumed that the former should have been numbered, the application must be considered as submitted. As drafted the application seeks approval of two different plans.

Furthermore, in any event site layout is not a Reserved Matter and no plan may be approved at the reserved matters stage, even if it is substantially the same as that already approved and subject to a condition attached to the outline permission.

The reserved matters application also seeks approval for landscape plans. The landscape scheme was approved as part of the outline application as there was no indication that the submitted drawings were illustrative only.

APC understands that the Case Officer contends that HC is obliged to determine the application for approval of the landscape proposals. APC has been advised that that is simply not the case.

“An applicant can choose to submit details of any of the reserved matters as part of an outline application. Unless the applicant has indicated that those details are submitted “for illustrative purposes only” (or has otherwise indicated that they are not formally part of the application), the local planning authority must treat them as part of the development in respect of which the application is being made; the local planning authority cannot reserve that matter by condition for subsequent approval.”

Planning Practice Guidance Paragraph: 035 Reference ID: 14-035-20140306

Clearly, approving the submitted landscape drawings would result in duplicate conditions which, even if substantially the same, would not be enforceable and precise and would not meet the standard conditions in paragraph 55 of the National Planning Policy Framework.

The Drainage Design Technical Report submitted with the application is described as being to support the drainage design produced as part of a Reserved Matters planning application. The drainage design is not a reserved matter and there appears to be confusion between ‘reserved matters’ and ‘matters reserved by condition’. If one extracts all the latter from the application, ALL the drawings submitted for approval have been amended. APC would contend that the changes are so significant that the application is a new application which cannot be submitted as it is way out of time.

For the above reasons APC maintains that the application, purportedly for approval of reserved matters, still cannot be determined.

- 6.1.2 13/6/25 - Notwithstanding the contention that any determination of the application would be non-compliant with the Planning Practice Guidance (PPG), Ashperton Parish Council has the following comments on the detailed proposals for the reserved matters of appearance and scale and comments on submitted details on drainage and landscape.

Landscape

As explained, the PPG is clear that, as landscape proposals were approved at the outline stage, they cannot be included in a reserved matters application. Ashperton Parish Council has no further comments to make other than that any approval at this stage would result in duplicate conditions which should not be applied as they would not meet the tests of ‘reasonableness’, ‘necessity’ and possibly ‘enforceability’.

Drainage

The plans and proposals submitted with the application are ambiguous appear to be at variance with the approved layout and landscape scheme. Should the application be approved, the development would not be implementable.

Appearance

In the context of an application for planning permission, paragraph 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) defines 'appearance' as "the aspects of a building or place within the development which determines the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture;

The 'made' Ashperton Neighbourhood Development Plan describes Ashperton as "for the most part, the village has evolved gradually with the construction of single dwellings or very small developments such as Bramley House and The Hawthorns to the south of the Village Green. The defining character of the village is one that displays a wide variety of style of modest dwellings arranged in an irregular pattern or grain, yet which conform to a common vernacular incorporating locally distinctive features, for example local sandstone and/or timber framing and typical red brickwork. The lack of suburban style development means that the village retains substantially this distinctive character." Ashperton NDP Paragraph 36.

The submitted drawings show a materials palette including horizontal and vertical timber cladding, both natural and black; which are, to the most part, non existent in Ashperton. The material palette also includes flat roof with aluminium coping edge detail; galvanised rainwater goods; and aluminium clad windows and doors. All of these are alien features not obvious elsewhere on residential buildings in Ashperton. The style of the elevations is unashamedly urban and entirely at variance with the established character of the village.

The National Planning Policy Framework contains a presumption in favour of sustainable development

For decision-taking this means where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless 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. NPPF paragraph 11d)ii

At paragraph 8 the NPPF states "Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

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."

APC OBJECTS to the proposed details of appearance in that they would introduce a foreign

element into the landscape and fail to protect and enhance the built environment by virtue of the alien design. The development would not foster well designed places in conflict with the NPPF.

Scale

At the Planning Committee meeting where it was resolved to approve the outline application members expressed concern as to the potential height of the houses above road level given the elevation above the A417. Officers assured the Planning Committee that a condition limiting ridge height would be imposed. No such condition was placed on the outline permission and an assurance was given that this could be dealt with at the reserved matters stage.

Herefordshire Council state that a “bar scale must be included on all plans. We now operate a paperless office and need to be able to scale plans on screen. This will also allow those who are viewing the application online, or who have a printed copy, to be able to scale dimension.” <https://www.herefordshire.gov.uk/planning-services/apply-planning-permission/2>.

See also Herefordshire Council “Common reasons why a planning application is invalid”. “Herefordshire Council is currently experiencing an unprecedented volume of applications. If an application is submitted without the necessary information required to allow officers to assess your proposals, then your application will be made 'invalid'. This means it will be placed on hold until the necessary amendments or documents have been received. To help avoid this situation it would be helpful if you could check that your application meets all the requirements prior to submission.

Minimum requirements for most applicationsScale bars (for each scale used) must be included on all drawings and must scale accurately when submitted digitally – please check that the scale bar does measure correctly.”

“Scale” except in the term ‘identified scale’, means the height, width and length of each building proposed within the development in relation to its surroundings. DMPO paragraph 2(1).

Without such a bar scale and it is not possible to accurately assess the ridge height of the buildings and the application should not have been validated. Furthermore any condition imposing adherence to the submitted drawings would fail the test of precision.

For all of the reasons above, Ashperton Parish Council OBJECTS to the reserved matters application 191023/RM.

- 6.1.3 3/10/19 - This objection should be read in conjunction with the objection raised by the Parish Council on 23 April 2019.

Following representations from residents prior to and at the Parish Council meeting on Wednesday 25 September, Ashperton Parish Council further OBJECTS to the application on the following grounds:

A) Appearance

There is overwhelming concern as to the appearance of the proposed development. Both the Core Strategy and the NPPF require development to reinforce the locally distinctive vernacular (CS 4.8.17); to contribute to protecting and enhancing our natural, built and historic environment (the environmental objective of sustainability, NPPF 8(c)); and add to the overall quality of the area, not just for the short term but over the lifetime of the development, and be visually attractive as a result of good architecture, layout and appropriate and effective landscaping (NPPF 127).

The proposed development would be situated in a highly prominent position above the A417,

clearly visible in extensive views, particularly from the north, despite claims that it would be 'largely screened from view'. The appearance of the dwellings would be entirely alien to a traditional Herefordshire village and would cause irreparable harm to the character and quality of the area contrary to NPPF paragraph 130 which states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.

Whilst the Council's Conservation Officer states that the proposals make reference to vernacular buildings in their form and other characteristics such as solid to void ratio etc., the Parish Council would disagree. Nowhere in the village are there such extensive areas of black or timber cladding, let alone a mix of horizontal and vertical cladding as proposed; there are no examples of galvanised rainwater goods; no 'dressed' Herefordshire sandstone; few, if indeed any, examples of aluminium-clad doors and windows.

The proposed appearance of the dwellings appears to be 'borrowed' from designs more appropriate to a contemporary urban setting than a historic Herefordshire village, the character of which has been established over hundreds of years. It is worthy of note that at the Outline Stage, the Conservation Manager (Heritage) noted that "...the housing has been grouped in a somewhat sub-urban form...". The appearance of the buildings would undoubtedly emphasise the 'sub-urban' form.

Whilst the NPPF states that development which is sustainable should be approved without delay, particularly where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites, this does not apply where 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.

The Parish Council contend that the appearance of the proposed dwellings would be entirely out of context and that the harm to the setting, character and historic context of the village would significantly and demonstrably outweigh the benefits. Approval to the appearance reserved matter should not be granted.

B) Scale

The submitted drawings, although purported to be at a scale of 1:100 at A3, are not dimensioned in any manner. The Parish Council contend that these cannot be used to define the scale of the development. Without properly dimensioned drawings suitable for a condition, the application for approval of the reserved matter of scale should be refused.

Furthermore, at the Outline Stage Planning Committee meeting, the Committee members were promised faithfully that there would be a condition limiting the absolute ridge height (a.o.d.) due to the prominent location. Such a condition was not imposed but it was explained at the time that this could be dealt with at the Reserved Matters stage. This cannot be achieved without dimensioned drawings.

C) Lack of Clarity on Approvals Being Sought

It is not clear what approvals are being sought or indeed what approvals can be granted.

The application is stated as being for the approval of reserved matters and approval of details to address conditions 3, 5, 7, 9, 10, 14, 15, 16, 17, 18, 19, 21, 22 & 24. However, approval is also sought for a revised site plan. However, the layout was approved at the outline stage and was not a reserved matter. Surely, the Reserved Matters stage cannot be used as a mechanism for a variation in the layout as this goes to the heart of the permission granted.

Condition 4 of the outline permission requires that the development shall be carried out strictly in accordance with the approved plans (drawing nos. 413 500 Rev F, 413 100 Rev G, 8120

PL003 Rev B and 8120 PL001 Rev B), except where otherwise stipulated by conditions attached to this permission. The landscape planting plan and landscape materials plan—even if intended to be indicative—HAVE BEEN APPROVED. Surely different plans cannot now be approved at the Reserved Matters stage.

Furthermore, although a number of amended drawings have been submitted, the ‘original’ drawings are not shown as withdrawn or superseded. Therefore any approval would risk approving those plans also.

D) Drainage

The amended plans appear to be primarily to accommodate changes to the drainage proposals following the original proposals being shown to be unacceptable. However, the application seeks approval of 1218-Ashperton Technical Note 1: Drainage Design. This is totally at variance with the amended drainage plan. Notwithstanding that the plan and Technical Note cannot both be approved, the scheme of foul and surface water drainage arrangements, required under Condition 4, is incomplete and clearly cannot be approved at this stage.

The amended drainage plan shows a package treatment works discharging via a drainage field or via surface water outflow. No assessment has been made as to the size and location of any drainage field or the suitability of ground conditions. (Indeed the suitability for ‘soakaways’ for drainage was dismissed by the applicant’s own consultants at the outline stage.)

The surface water drainage is shown on the plan as being from the attenuation pond to a downstream receptor (i.e. the canal, which has been shown to be unacceptable) or to ditch network near site frontage – there is no ditch network!

As an aside, the Parish Council is deeply concerned that Herefordshire Council should impose a condition requiring approval of a foul and surface water drainage scheme prior to first occupation. Surely such a scheme should have to be approved before development commences.

E) Internal Roadway and Parking

The original concept was for the internal roadway to be a ‘Homezone Street with permeable paving’ as shown on approved plan 413-100 Rev F. The details of the roadway etc. for which approval is now sought are at variance with that approved drawing. The additional parking required by the Council’s own internal consultee has not been provided.

F) Conditions

Notwithstanding the Parish Council’s objection, the Council would respectfully request that the following conditions, in addition to any ‘standard’ conditions, would be essential were the application to be approved:

A condition is necessary restricting the ridge height of the dwellings to protect the landscape setting.

A condition removing permitted development rights in respect of alterations to the roof, including dormer windows; extensions; and outbuildings is necessary given the prominence of the site and to protect the character of the site and the setting of nearby listed buildings.

Given that the accommodation above the ‘car ports’ to plots 6 and 7 have all the facilities necessary for day-to-day living, a condition is necessary restricting occupation to that ancillary to the main dwelling to prevent the premises being let as separate units of accommodation.

In order to ensure that the appearance of the dwellings is as approved, a condition is necessary requiring the approval of samples of surface materials and the retention as approved.

6.1.4 23/4/19 - The Parish Council discussed this application for approval of reserved matters at its recent meeting and wish to OBJECT for the following reasons:

- The applicant states that there is an existing ditch from the proposed location of the attenuation pond - there is no existing ditch.
- The drainage proposals are outside the boundary of the development site
- The proposed materials are not in harmony with the existing properties in the village where the more recent builds are primarily of brick construction.
- The Parish Council are concerned that the four bedroom dwellings are only allocated two parking spaces which do not seem sufficient and could result in cars parking blocking roads and access.
- The Parish Council would ask that a clause is needed for the workspaces to be tied to the domestic setting and not be independent and for the garages not to be converted in future.

6.2 Public comments – site notices displayed adjacent to the site.

6.2.1 26 letters of representation received in objection of the application (some later supplemented by further comments). They can be summarised as follows;

- Concern raised as to why the application is not time-barred, with a request for clarification from the Planning Department.
- The ditch shown alongside the A417 does not exist.
- The proposed attenuation pond differs from that approved at outline stage, raising concerns about size, depth, potential collapse due to site topography, and the impact on the historic village pump and local flood risk.
- Although a previous drainage level error (CL at S1) has been corrected, the updated drainage report remains unclear, particularly regarding the relationship between the attenuation basin and proposed wetlands. Concerns remain about the visual and functional impact on PROW AP28, with a recommendation for the applicant to obtain a deviation order to relocate the PROW west of the basin to ensure long-term protection.
- Several unauthorised or unapproved works are identified: earthworks to the south of the site; relocation of the package treatment plant (PTP) to the north field without appearance details; and a newly proposed 100m-long drainage ditch to the north requiring excavation up to 3.5m deep and 7m wide, which lacks planning permission and required cross-sections under Condition 7.
- The submitted layout (drawing 413 500 Rev F) is inconsistent with approved site and drainage plans and includes works outside the red line boundary.
- The introduction of the attenuation basin contradicts the approved outline landscape and layout scheme by removing key tree planting that would have screened the development from the road.
- There is an apparent conflict between Conditions 4 and 10: the former requires adherence to the originally approved landscaping scheme, while the latter requests a revised landscape design.
- Drainage concerns include the absence of clear arrangements for ongoing maintenance of shared systems, potential pump failure leading to water backing up, and a required ~3m deep excavation for drainage ditches that could damage the hillside and necessitate fencing.
- Objection raised to the abandonment of the original planting scheme in favour of an attenuation pond.
- Highway details in the reserved matters submission differ from those approved at outline, and the most up-to-date highway layout, including new site entrances, is not shown.
- The location plan omits a neighbouring property, thereby misrepresenting adjacent housing density and access points off the A417.
- The reserved matters application includes layout details, which objectors argue were already approved at outline stage and should not be reconsidered.

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

- Landscape drawings were approved at outline stage and cannot be revisited under Planning Practice Guidance.
- House plans and elevations lack a bar scale, contrary to Herefordshire Council validation requirements, making accurate assessment impossible.
- Objection raised to the overall design of dwellings, which are considered out of character with the village of Ashperton, particularly due to their elevated and prominent location. The design is considered to conflict with the National Planning Policy Framework due to its alien and industrial appearance in a rural context.
- Specific concerns relate to use of timber cladding, galvanised guttering, square porches, and inappropriate stone materials that do not match local Raglan sandstone.
- Second-storey garages on Plots 6 and 7 are considered unplanned and contribute to an increased perception of housing density.
- Plots 7 and 8 are considered overbearing on neighbouring properties and visually intrusive from the public footpath and Village Hall.
- Inadequate parking provision is likely to lead to on-road parking, particularly given the scale of proposed dwellings.
- The submitted plans are considered to provide an inaccurate representation of how the development would sit within the landscape.
- Restrictions are requested on upper-floor windows to prevent overlooking. Carports should be limited to single-storey to reduce scale.
- The design overall is viewed as visually intrusive and inappropriate for the rural setting of Ashperton.
- Objection raised to the presence of two habitable rooms above garages, suggesting these could be converted into additional dwellings with little or no modification, thereby exceeding the approved number of units.
- Concern that the PTP lies outside the application boundary and may require a separate planning application. Question also raised as to whether the applicant has permission to discharge into the Hereford and Gloucester Canal.
- Failure to impose a ridge height restriction at outline stage remains unresolved, and control over ridge heights now depends solely on the submitted plans.
- Concern expressed that minimal and poorly placed planting fails to mitigate visual impact or soften the development's appearance
- A Planning Committee site visit is requested.

6.2.2 One letter has been received, neither supporting or objecting, but making the following general comments:

- Concerns re period of consultation in 2019
- Queries with respect to whether the drainage could be accommodated outside the red-line boundary (or if this could be enlarged?) given issues re soakaway test results.

The full comments are accessible via the Herefordshire Council website.

6.3 Cllr Lester (Three Crosses Ward) – A request for the application to be considered by the Planning Committee has been received. In consultation with the Chair of the Planning and Regulatory Committee and the Development Management Service Manager, the application is referred to the Planning and Regulatory Committee, on the basis of the level of public interest, in accordance with Part 4 Section 8 (Planning Rules) of Herefordshire Council's constitution.

7. Officer Appraisal

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

- 7.2 “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.”
- 7.3 In this instance the adopted development plan comprises the Herefordshire Local Plan – Core Strategy. The Ashperton Neighbourhood Development Plan has passed referendum and, while not yet formally adopted due to outstanding matters relating to the River Lugg catchment area, its policies carry significant weight in the determination of planning applications within the parish. The National Planning Policy Framework 2024 (NPPF) is also a material consideration.
- 7.4 In this case, the principle of development has already been accepted through the grant of outline planning permission. Indeed, the emerging Ashperton NDP acknowledges that “despite overwhelming local opposition this site was granted outline planning permission P152041/O for 10 dwellings on 24 August 2016” and with this in mind, the site is included within the settlement boundary for the village.
- 7.5 It is noted that the outline application reserved scale, appearance and landscaping for later consideration, i.e as part of this subsequent reserved matters application.
- 7.6 It is acknowledged that in granting outline planning permission, Condition 4 approved the following plans;
- 413 500 Rev F – Landscape Planting Plan
 - 4130 100 Rev G – Landscape Materials Plan
 - 8120 PL02 Rev B – Proposed Site Plan
 - 8120 PL00 Rev B – Site Location Plan
- 7.7 Consideration has been given to the implications of this, in the context of how the original outline planning permission was framed, as well as the legal requirements with respect to considering outline and reserved matters applications in accordance with The Town and Country Planning Act 1990 (as amended), as well as the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).
- 7.8 The outline permission, through Condition 3, expressly reserved certain matters for future approval, including landscaping, scale, and appearance. Although Condition 4 approved the above plans at the outline stage, this reserved matters application submitted for landscaping represents the formal submission and assessment of details which are required by law to be considered through a separate reserved matters process.
- 7.9 Therefore, whilst the Local Planning Authority acknowledge the representations received which contests the lawfulness and validity of this application, it is not considered unlawful for the Council to consider and determine landscaping details at the reserved matters stage, even where similar or identical plans have been referred to or approved as part of the outline permission conditions. The Development Management Procedure Order 2015 (as amended) requires that reserved matters must be submitted and approved through a specific application process before development can proceed.
- 7.10 Furthermore, the plans submitted for approval under this reserved matters application are consistent with those approved at outline stage, ensuring compliance with Condition 4 of the outline permission. Where there is any deviation from the approved plans, these are carefully considered to determine whether such changes would represent a material amendment that would require either a section 73 application to vary the outline permission.
- 7.11 In light of the above, the reserved matters application for landscaping, together with scale and appearance, is considered appropriate for consideration, and objections on the basis that

landscaping has already been approved are not considered to be upheld by the Local Planning Authority.

Scale and design

- 7.12 Policy SD1 of the Core Strategy expects development to successfully integrate into the existing built environment. There is a requirement for development proposals to maintain local distinctiveness through incorporating local architectural detailing and materials and respecting the scale, height, proportions and massing of surrounding existing development
- 7.13 Policy D1 of the emerging Ashperton NDP requires development to be of a design where it responds to local character and the distinctive rural character of Ashperton.
- 7.14 It, similarly, seeks to ensure that development uses an appropriate mix of materials and architectural styles, including locally distinctive features. It also looks to require that development respects the scale, density, bulk and grain of development.
- 7.15 Great weight is also given to the principles that are set out at Chapter 12 of the NPPF. Paragraph 135 seeks to ensure that development would add to the overall quality of the area and, inter alia, is visually attractive.
- 7.16 The outline planning permission does not include a condition which seeks to restrict the form, scale or specifically the ridge-heights of the dwellings on the site. That is a matter for consideration at this point in time, when considering 'scale' as a reserved matter.
- 7.17 The proposed dwellings are of modest two-storey scale, which is entirely in keeping with the character and form of nearby residential development. The siting and massing of the proposed dwellings are proportionate and coherent with the approved layout and the rural setting, ensuring the scheme assimilates effectively into its context.
- 7.18 While the development would inevitably result in a degree of visual change, it remains the parameters of the outline permission and the accepted principle of residential development on the site. The site is also now identified as a 'commitment site' in the emerging NDP, confirming it as part of the anticipated growth for Ashperton.
- 7.19 The design approach is contemporary yet is considered to make positive efforts in responding to local character. The dwellings would adopt a simple, rectilinear built form with pitched roofs, articulated through a consistent architectural language across their elevations.
- 7.20 The materials proposed combines traditional / local vernacular and contemporary elements in a refined manner. The use of Herefordshire Red Sandstone, alongside natural and black-stained timber cladding, offers a response to traditional building materials found locally, while introducing visual interest and material variation.
- 7.21 It is acknowledged that the proposed double car-port is substantial in size being two-storey; however, its inclusion and siting within the overall development were previously accepted at the outline stage. No specific limitations on its scale were imposed as part of the outline permission. In considering it at this stage, the design, notably the incorporation of an external staircase and the absence of features typical of a separate dwelling, clearly articulates its proposed ancillary function. Consequently, the car-port reads as a subordinate feature within the scheme and is intended to complement, rather than compete with, the primary group of 10 principal dwellings on the site.
- 7.22 Overall, therefore, the proposed scale and appearance of the dwellings themselves are well-considered, proportionate, and demonstrates an acceptable response to the site's setting. The

development would make a positive visual contribution to the area and is therefore considered, in the round, to be compliant with local and national policy in this regard.

Housing mix

- 7.23 Closely linked to the above considerations of scale, the submitted details indicate the provision of 4no x 3-bedroom dwellings, 4no. 4-bedroom dwellings and 2no. 5-bedroom dwellings.
- 7.24 While this aligns partially with the Ledbury rural HMA market housing need (as evidenced by the Herefordshire Housing Market Area Needs Assessment (which recommends 45% 3-bedroom and 25% 4+ bedroom homes), the proportion of larger dwellings (4+ bedrooms making up 66% of the scheme) does exceed the recommended 25%, with a shortfall in smaller 2-bedroom units.
- 7.25 Therefore, the mix only partially reflects the identified needs of the rural HMA and leans heavily toward larger family homes.
- 7.26 The housing mix would typically have been a matter for consideration at the outline stage. In the absence of any conditions or obligations securing a specific mix, and as this application seeks approval of scale, appearance and landscaping only, the ability to influence the open-market mix at this stage is limited.
- 7.27 Therefore, while the lack of smaller dwellings is regrettable and does not fully reflect the identified housing needs within the area, it is not considered to result in a level of conflict with the development plan that would justify refusal of the application.

Landscape

- 7.28 As set out in the outline planning permission, landscaping details were considered and approved as part of that permission. The landscaping strategy submitted with this Reserved Matters application has therefore been carefully prepared to ensure consistency with the details previously considered acceptable at outline stage.
- 7.29 The layout, form and type of landscaping proposed, including the woodland buffer, community orchard, swales, ecological enhancements and native planting remain materially unchanged. The strategy continues to follow the established approach of reinforcing local landscape character through sensitive planting and the creation of green corridors, whilst also incorporating biodiversity enhancements and amenity.
- 7.30 The principle of the location, design and type of planting including the provision of native species and the retention and enhancement of existing boundary hedgerows has already been deemed appropriate in landscape and visual terms.
- 7.31 Given there has been no substantive change to these proposals at the RM stage, the Local Planning Authority has no reason to reach a different conclusion at this point. While it is noted that Condition 10 of the outline planning permission requires the submission of a detailed landscaping scheme, this does not necessitate or enable such a strategy to be submitted as part of this submission. The outline planning permission also secure the submission of a landscape management plan.
- 7.32 The landscaping remains acceptable and in accordance with Policies LD1, SD1, SS6 and RA2 of the Core Strategy, Policy D1 of the emerging Ashperton NDP and the relevant provisions of the NPPF, particularly those at Chapter 15 (Conserving and enhancing the natural environment).

Impact on historic environment

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

- 7.33 In accordance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Council has a statutory duty to have special regard to the desirability of preserving the setting of nearby listed buildings.
- 7.34 There are a number of designated heritage assets in the vicinity, including Nos. 52 and 53 The Green, The War Memorial, and No. 47, Ashperton; all of which are Grade II-listed.
- 7.35 These assets are primarily located to the south of the application site. The Council's Conservation Officer has reviewed the reserved matters proposals and confirms that the scale and appearance of the development would not result in harm to the setting or significance of these listed buildings.
- 7.36 As above outlined, the proposed would adopt a contemporary vernacular approach, reflecting traditional local forms through elements such as solid-to-void ratios, roof pitch, and material palette.
- 7.37 While the Conservation Officer has noted a potential design refinement opportunity on Plots 7 & 8 to visually reduce their plan depth, this is not considered a matter of harmful impact nor sufficient to justify refusal.
- 7.38 The contemporary design is, overall, considered to respond positively to local character and to the linear rural settlement form of Ashperton. Although the village does not benefit from Conservation Area status, regard has been had to the historic character of the area and the surrounding built form.
- 7.39 The NPPF is also relevant, which require that heritage assets be conserved in a manner appropriate to their significance. In this case, it is concluded that the reserved matters of scale and appearance would cause no harm to the significance or setting of any designated heritage asset, and the proposal therefore accords with Policy LD4 of the Core Strategy, Policy E3 of the emerging Ashperton NDP, Chapter 16 of the NPPF, and the statutory duty under Section 66 of the 1990 Act.

Access and highway safety

- 7.40 Policy MT1 of the Core Strategy seeks to ensure that development proposals demonstrate that the strategic and local highway network can absorb traffic impacts without adversely affecting the safe and efficient flow of traffic. It also requires that developments provide safe access and appropriate measures for all modes of travel, including adequate visibility at junctions. Paragraphs 117 and 119 of the NPPF similarly emphasise the importance of ensuring that safe and suitable access to a site can be achieved for all users, and that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.
- 7.41 The means of access to the development has been established and approved as part of the outline planning permission. Relevant conditions are attached to the permission to secure the construction of the access and the provision of appropriate visibility splays at the junction with the A417. The submission made at this point, seeking approval of the remaining 'reserved matters' is in accordance with the details already approved with respect to access and layout; i.e – the submitted plans indicate the access as already approved.
- 7.42 Given that both the access arrangements and the site layout have been agreed through the outline planning permission, despite the local concerns raised, it is not within the remit of this reserved matters application to consider alterations to the speed limit on the A417 in this vicinity, nor to seek amendments to the routing of Public Right of Way AP28.

- 7.43 Furthermore, the levels of parking on-site have also already been agreed through the approved site layout. It is not considered to be deficient when having regard to the scale of the dwellings proposed for the site, and the LHA have not raised any concern in this regard.
- 7.44 In this case, as the outline planning permission approved the site layout and landscaping details, with both being secured through Condition 4. The landscaping scheme submitted as part of this reserved matters application is consistent with the plan approved at outline stage. While landscaping has been re-submitted in line with Article 5(3) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), it is not open to substantive reconsideration at this stage.
- 7.45 The Local Highway Authority has raised concern that hedging shown adjacent to private driveway access points may obstruct the visibility splays required by the Council's Highway Design Guide (2-metres x 2-metres), which are necessary to ensure pedestrian and driver inter-visibility. However, as both the site layout and the landscaping details have already been approved through the outline permission, the Council cannot now require changes to those elements through this process unless a separate application is made under section 73 of the Town and Country Planning Act 1990 to vary the approved plans.
- 7.46 The Local Highway Authority has raised concerns that hedging shown on the approved landscaping plan encroaches into the required 2-metre x 2-metre visibility splays at several driveway access points. It is accepted that these visibility splays would appear not to be achievable as a result of the approved landscaping. However, as these landscaping details were explicitly approved at outline stage alongside the layout, and no objection was raised at that time on highway safety grounds, the Local Planning Authority cannot now revisit or amend these aspects as part of this application.
- 7.47 While the absence of adequate visibility splays raises concerns, it is not a matter that can lawfully be addressed through the current application. In light of this, it is recommended that an informative be added to advise the applicant that if they wish to amend the landscaping to ensure full compliance with visibility requirements, they should consider submitting an application under section 73 of the Town and Country Planning Act 1990 to vary Condition 4 of the outline permission and this reserved matters approval.
- 7.48 With the above in mind, the current submission is not considered to give rise to a conflict with Policy MT1 or paragraphs 117 and 119 of the NPPF, given the fixed nature of the approved landscaping and layout.

Impact on residential amenity

- 7.49 With the layout already agreed, officers have visited the site and it is not considered that the scale of the dwellings would give rise to any adverse impacts on either existing residential relationships (i.e between the site and the nearest residential properties) – including Plots 7 and 8, or indeed those new relationships created within the site.
- 7.50 Each dwelling would benefit from sufficient private amenity space, with future occupiers therefore benefitting from a good standard of amenity.
- 7.51 While Herefordshire Council have not adopted the Nationally Described Space Standards, the dwellings would provide for an acceptable level of amenity internally, too.

The proposal in this regard is therefore found to be in accordance with Policy SD1 of the Core Strategy and Policy D1 of the emerging Ashperton NDP.

Ecology and impact on the River Wye / Lugg Special Area of Conservation

- 7.52 The outline planning permission (ref. 152041) was granted prior to the introduction of the current national requirements for nutrient neutrality under the Conservation of Habitats and Species Regulations 2017 (as amended). As such, the outline consent was not subject to a Habitat Regulations Assessment (HRA). It now falls to the Council, as the 'competent authority', to undertake an HRA at the Reserved Matters stage to assess whether there is any risk of likely significant effects on the River Lugg, a SSSI and sub-catchment of the River Wye Special Area of Conservation (SAC), either alone or in combination with other plans or projects.
- 7.53 The application site lies within the River Lugg catchment and the development would introduce new foul water flows, via a private package treatment plant given that connection to the mains sewer is not possible. Surface water would be managed via a Sustainable Drainage System (SuDS), with final flows discharging to the adjacent Hereford & Gloucester Canal.
- 7.54 As set out in the comments from the HC Ecology Team, surface water is not considered a nutrient pathway and has been screened out of the HRA on the basis that it does not represent a likely significant effect. Further, the technical details of the SuDS system, such as vegetated swales or wetlands, are not relied upon for nutrient neutrality in this case, and the details of the management of surface water are instead be considered under Condition 5 of the outline planning permission, which requires full drainage details to be submitted for approval prior to the first occupation of the development.
- 7.55 In respect of foul drainage, the risk of nutrient loading is from the outflow of the PTP (which could be located within red-line boundary) rather than the precise location of the discharge point. The nutrient budget and resultant mitigation requirements are calculated based on the volume and concentration of treated effluent generated by the development. In this case, discharge is proposed to the disused Hereford & Gloucester Canal, which lies outside the red-line boundary, but within the applicant's control s indicated by the blue-line boundary. Nevertheless, Condition 5 of the outline permission provides a mechanism to ensure that the technical design, discharge location, and regulatory compliance (including any required consents) are appropriately secured prior to first occupation of the development.
- 7.56 To address the foul water impacts, nutrient neutrality in this case would be achieved through the purchase of phosphate credits from Herefordshire Council's constructed wetland at Tarrington. The required quantum of mitigation has been calculated using the Natural England nutrient budget calculator for the River Lugg, and account for the total phosphate load generated by the development over its operational life. The number of credits purchased would fully offset this load, ensuring that the development is considered nutrient neutral. The purchase of credits would be secured through a Section 106 agreement, as well as in this case, a clause restricting occupation until the mitigation scheme (HC wetland at Tarrington).
- 7.57 While the submission also details the provision of a privately managed tertiary treatment wetland downstream of the PTP, this feature is not relied upon for HRA mitigation or for the nutrient neutrality calculation. It is located outside of the red-line boundary of the application site, and was not part of the development in which benefits from planning permission (outline). As such, it is not something that can be inserted into the proposed development at this stage; which simply seeks approval of the remaining 'reserved matters', as far as they are defined within the Development Management Procedure Order 2015 (as amended).
- 7.58 It is further noted that the proposed tertiary treatment would serve as an ecological enhancement measure to ensure the quality of final discharge is compatible with the sensitive local ecological receptor (the Hereford & Gloucester Canal Local Wildlife Site). However, the ecological impacts of the scheme were considered at the planning permission (outline) stage; and securing such provisions whilst limited to considering the prescribed reserved matters could potentially be *ultra vires*.

- 7.59 In conclusion, subject to the legal securing of phosphate credits through the local authority-run scheme, and planning conditions controlling the timing of occupation, the Council as competent authority can be satisfied that the proposed development, both alone and in combination with other projects, would not result in adverse effects on the integrity of the River Wye SAC, in accordance with the Conservation of Habitats and Species Regulations 2017.

Flood risk and drainage

- 7.60 The site is located entirely within Flood Zone 1 and is therefore considered to be at low risk of fluvial flooding. There is no evidence to suggest that the site or the immediate surrounding area is at significant risk of surface water flooding, and no objections have been raised by the Lead Local Flood Authority in this regard.
- 7.61 In response to public concerns regarding potential pump failure and flooding risks, it should be emphasised that the while the application is supported by a Drainage Design Strategy, drainage of itself, is not a reserved matter, when having regard to the Development Management Procedure Order 2015 (as amended), and under the terms of the outline planning permission, except where it is essential to the assessment of the reserved matters themselves (scale, appearance, landscaping).
- 7.62 Detailed drainage matters are controlled by the outline planning permission through Condition 5. This condition expressly requires the submission, approval, and implementation of foul and surface water drainage schemes prior to occupation, providing an appropriate and robust mechanism to ensure technical acceptability and mitigation of any risks. This includes the design of any pumping arrangements, and measures to manage flood risk comprehensively.
- 7.63 Regarding long-term maintenance of shared drainage infrastructure, responsibility and enforcement mechanisms are not explicitly secured by Condition 5. Nevertheless, given the scope of the current reserved matters application and the outline permission framework, it is not possible to address or impose additional requirements relating to maintenance responsibility at this stage. Any such matters would need to be resolved through separate agreements or future applications as appropriate.
- 7.64 Although an attenuation feature is indicated to the north of the site within the current red-line boundary, this was not explicitly approved as part of the outline permission. As such, the function and design of the drainage arrangements would be secured under the discharge of Condition 5. This is the appropriate mechanism through which SuDS design, capacity and long-term maintenance measures would be.
- 7.65 In respect of queries raised regarding the proposed discharge to the disused Hereford and Gloucester Canal, it is noted that the intended discharge point lies outside the red-line boundary of the reserved matters application. However, this discharge route forms part of the wider indicative drainage strategy secured by the outline planning permission. Condition 5 of the outline planning permission requires that full details of both foul and surface water drainage, are submitted for approval prior to occupation. The acceptability of discharging to the canal along with any associated third-party consents or permits would need be fully assessed at the point of condition discharge.
- 7.66 Similarly, concerns regarding the specific locations of ditches would need to be resolved prior to approving the details required by Condition 5. This applications seeks approval of the remaining reserved matters and therefore would not authorise any authorise works to do with new or otherwise unauthorised or incorrectly plotted ditches, or other such features.
- 7.67 For the purposes of determining the reserved matters of scale, landscaping and appearance, it is not considered that the proposed would introduce any conflict with the delivery of

acceptable drainage infrastructure in principle or otherwise prejudices the ability to comply with Condition 5.

- 7.68 Accordingly, there is no flood risk or drainage objection to the approval of reserved matters, with the necessary safeguards remaining in place via the outline conditions.

Other comments / procedural points

- 7.69 The following responses can be made to the matters raised through public consultation that has not already been directly addressed in the above sections.

- The outline planning permission for the site granted approval for layout and access, with landscaping *formally* reserved for later consideration. While landscaping was not a matter for formal determination at outline stage, the approved plans did include indicative landscaping details, and the merits of the matter were discussed and given consideration, as evidenced by the officer report. The Local Planning Authority considers that these formed part of the approved plans and provide a clear basis for assessing subsequent submissions. As layout was approved at outline stage, it is not open for redetermination. The LPA is entitled to assess whether the submitted layout and remains materially consistent with that previously approved and, if so, to accept it as confirmation that the development remains in accordance with the outline consent. This approach is in line with established case law and planning guidance and is procedurally sound. With regard to landscaping, the LPA acknowledges that while not formally approved, the indicatively submitted details shown at outline stage form part of the context for assessing the Reserved Matters submission. In accordance with the Town and Country Planning (Development Management Procedure) Order 2015, it remains appropriate for the applicant to seek formal approval of landscaping through the current application. The LPA is satisfied that the landscaping details now submitted are materially consistent with those indicated at outline stage, and together with the layout, therefore, reflect the parameters approved at the outline stage with regards to these matters.
- Ashperton Parish Council has raised concern regarding the absence of a bar scale on the submitted elevation drawings. While the drawings do not include a bar scale, they do include a clearly stated scale (1:100), are drawn to a recognised paper size, and are legible, and suitable for measurement. Accordingly, they meet the statutory national validation requirements set out in the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), and the application has been validly registered.
- Both Herefordshire Council's published guidance and the Planning Practice Guidance (PPG) encourage the inclusion of bar scales on all drawings to aid accurate scaling, particularly when plans are viewed digitally. This reflects established best practice, especially in a paperless environment. However, it is important to note that this is guidance, not a statutory requirement. The absence of a bar scale alone does not render an application invalid, provided sufficient scaled information is included to enable full and proper assessment of the proposals.
- The application includes clearly dated and labelled amended drawings, which are the most up-to-date and supersede earlier versions. While the older plans remain accessible on the website and have not been marked 'superseded', the presence of newer, clearly marked "AMENDED" drawings dated 2025 (or the latest revision date) confirms that the applicant has submitted revised plans as part of the current reserved matters application. This approach is consistent with standard practice, where applicants may amend submissions in response to queries or requirements, and the latest set of plans is used for determination. However, all details form part of the public

file and are available for comment.

- The application includes two amended site plans dated March 2025:
 - AMENDED 8120 PLxxx Rev-x Proposed Site Plan with Ground Floor Layouts, and
 - AMENDED 8120 PL003 Rev-C Proposed Site Plan, which matches the layout approved under the outline permission.
- Both plans are consistent with each other and reflect the approved site layout given that 'layout' is not a reserved matter. The plan showing the ground floor layouts is submitted to address reserved matters of scale and appearance and does not materially alter the approved layout. The inclusion of both plans provides comprehensive detail to assist in the proper consideration of the reserved matters. As there is no material conflict between the two plans, and both accord with the outline approval, this does not constitute ambiguity or create procedural difficulties. It is noted that while earlier versions of plans remain on the public file, the clearly labelled and dated amended plans form the operative submission for this reserved matters application and supersede previous versions. This practice is consistent with standard planning procedures. Therefore, the application is considered clear and valid with respect to the submitted plans, and this point of objection is not upheld.
- Ashperton Parish Council rightly highlights the distinction between reserved matters and matters reserved by condition. Drainage design details are generally matters reserved by condition and not reserved matters (as defined by the Development Management Procedure Order 2015 (as amended)) in themselves, and as such, are dealt with under separate conditions requiring approval prior to occupation or construction stages. In this case, Condition 5 of the outline planning permission requires details of the proposed foul and surface water drainage arrangements to be submitted and approved in writing by the local planning authority, prior to the occupation of the development. The Council acknowledges this distinction and will ensure that drainage details are appropriately controlled through conditions rather than as part of the reserved matters approval.
- A number of representations raise concern about the overall number of dwellings on the site, particularly in light of the inclusion of potential habitable rooms above garages. It is noted that these rooms are not separately self-contained units and remain ancillary to the main dwellings. While their presence may increase the number of habitable rooms across the development, this does not alter the approved number of dwellings or materially affect the overall site density in planning terms given that the layout has been approved at the outlies stage.
- The Reserved Matters application was submitted within the time limits prescribed for such applications under the Development Management Procedure Order 2015 (as amended) and the conditions attached to the outline planning permission. As such, the application is not time-barred.

8. Conclusion

- 8.1 This application seeks approval for the reserved matters of scale, appearance, and landscaping following outline planning permission 152041, where the principle of residential development, access, and layout were established. The proposed design is considered to respect local character through appropriate materials and modest scale, ensuring the dwellings would fit appropriately within their plots without harming visual or residential amenity or heritage assets.

- 8.2 The landscaping strategy remains consistent with the approved plans at the outline stage, incorporating green infrastructure and biodiversity enhancements.
- 8.3 Issues raised about drainage and flood risk are controlled by conditions attached to the outline permission, and the site located in a low-risk flood zone.
- 8.4 A Habitat Regulations Assessment confirms nutrient neutrality would be achieved through mitigation secured through a Section 106 agreement (purchase of HC phosphate credits) and a condition restricting occupancy.
- 8.5 Although the Local Highway Authority has noted conflicts between landscaping and visibility splays, these were approved at outline stage and cannot be revisited at this stage, with a recommendation for the applicant to consider a separate application if changes are desired.
- 8.6 Overall, the reserved matters are considered acceptable and are considered to comply with the relevant planning policies contained within the Core Strategy and the emerging Ashperton NDP, and the application is recommended for approval subject to conditions and the completion of a Section 106 agreement.

RECOMMENDATION; That reserved matters be approved, subject to the conditions set at Annex 1, the completion of a Section 106 agreement to secure the purchase of phosphate mitigation (Herefordshire Council phosphate credits), and any further conditions considered necessary by officers named in the Scheme of Delegation to Officers.

Annex 1 – Recommended conditions.

STANDARD CONDITIONS

- 1 The development shall be carried out strictly in accordance with the approved plans, and the schedule of materials indicated thereon, listed below; -
- 8120 PLxxx Rev-x March2025 Proposed Site Plan with GF Layouts 2.5.25
 - 8120 PL606 Rev-A March2025 Plot 6 Elevations [4 Bed south] 2.5.25
 - 8120 PL605 Rev-A March2025 Plot 5 Elevations [5 Bed south] 2.5.25
 - 8120 PL603 Rev-A March2025 Plots 3 & 4 Elevations [4 Bed south] 2.5.25
 - 8120 PL601 Rev-A March2025 Plots 1 & 2 Elevations [3 Bed south] 2.5.25
 - 8120 PL609 Rev-A March2025 Plots 9 & 10 Elevations [3 Bed north] 2.5.25
 - 8120 PL103 Rev-A March2025 Plots 3 & 4 Plans [4 Bed south] 2.5.25
 - 8120 PL101 Rev-A March2025 Plots 1 & 2 Plans [3 Bed south] 2.5.25
 - 8120 PL206 Rev-A March2025 Plot 6 & 7 Carport Plans and Elevations 2.5.25
 - 8120 PL109 Rev-A March2025 Plots 9 & 10 Plans [3 Bed north] 2.5.25
 - 8120 PL105 Rev-A March2025 Plot 5 Plans [5 Bed south] 2.5.25
 - 8120 PL204 Rev-A March2025 Plot 4 Carport Elevations 2.5.25
 - 8120 PL650 Rev-A March2025 Proposed Site Elevations 2.5.25

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

- 8120 PL608 Rev-A March2025 Plot 8 Elevations [4 Bed north] 2.5.25
- 8120 PL607 Rev-A March2025 Plot 7 Elevations [4 Bed north] 2.5.25
- 8120 PL001 Rev-A March2025 Plot 1 & 2 Plans [3 Bed south]
- 8120 PL106 Rev-A March2025 Plot 6 Plans [5 Bed south] 2.5.25
- 8120 PL107 Rev-A March2025 Plot 7 Plans [4 Bed north] 2.5.25
- 8120 PL108 Rev-A March2025 Plot 8 Plans [4 Bed north] 2.5.25
- 413 100 G Landscape Materials Plan 2.5.25
- 413 500 F Landscape Planting Plan 2.5.25
- 8120 PL003 Rev-C March2025 Proposed Site Plan 2.5.25

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

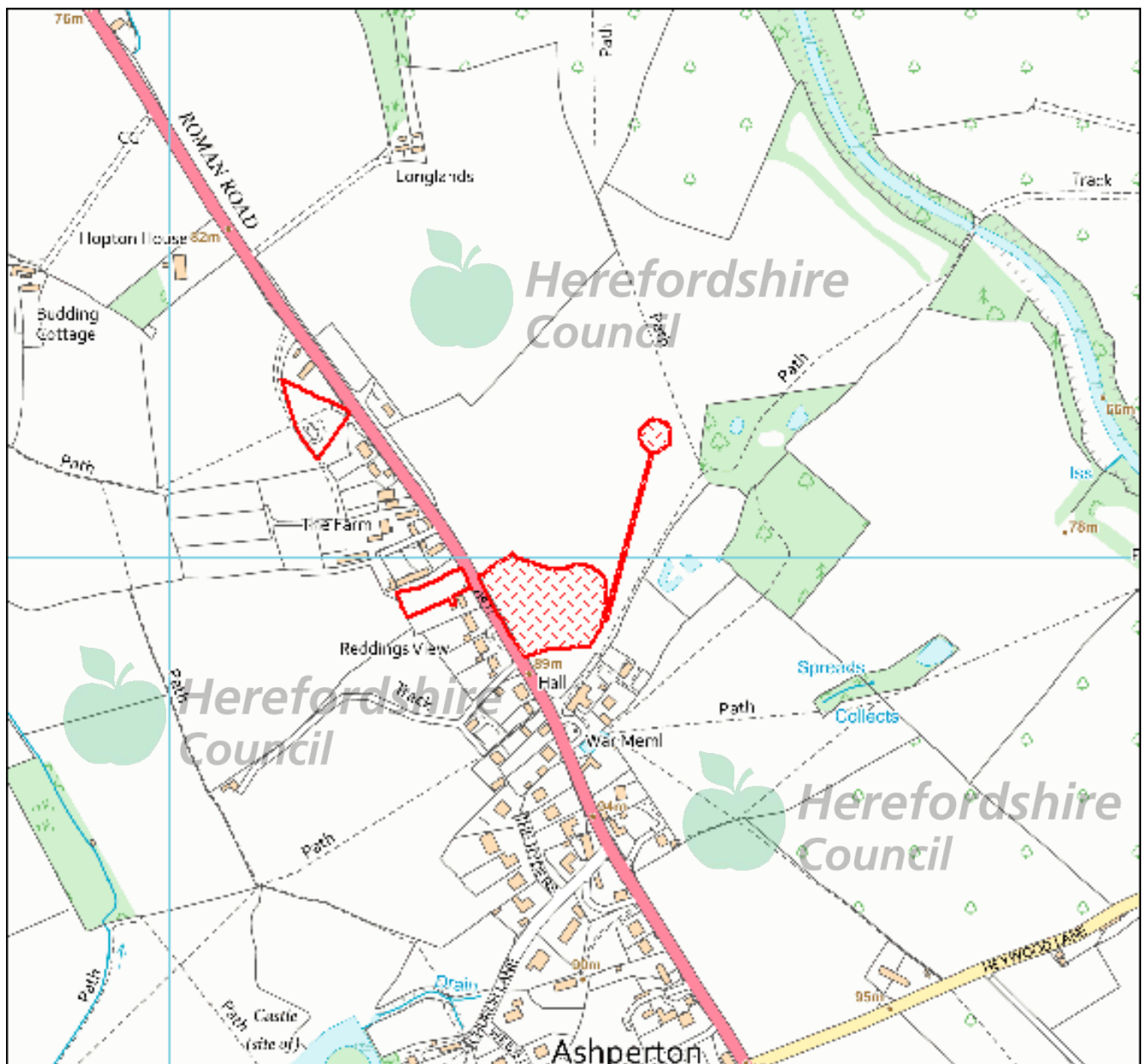
Decision:

Notes:

.....

Background Papers

None identified.



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

APPLICATION NO: 191013

SITE ADDRESS : LAND TO THE NORTH OF ASHPERTON VILLAGE HALL, ASHPERTON, HEREFORDSHIRE

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The Conservation of Habitats and Species Regulations (2017) Part 6, section 63

‘Assessment of implications for European sites and European offshore marine sites’

Habitats Regulation Assessment

This is a record of the Habitat Regulations Assessment (HRA) (including Screening for Likely Significant Effects and Appropriate Assessment where required) carried out by Herefordshire Council (the competent authority) as required by Regulation 63 of the Conservation of Habitats & Species Regulations 2017 (the ‘Habitats Regulations’) relating to the following **planning application**.

This HRA is carried out in accordance with the relevant guidance documents including those by Natural England at <https://www.gov.uk/guidance/appropriate-assessment>, and David Tyldesley Associates <https://www.dtapublications.co.uk/>

The HRA is carried out by Herefordshire Council. Detailed information will need to be provided by the applicant to enable the authority to make the assessment.

The Project / Plan

1.1 Planning Application Reference Number, Description and Address

Application reference number: : 191013

Address: Land to the North of Ashperton Village Hall, Ashperton, Herefordshire

Description: Application for approval of reserved matters following Outline 152041 (Proposed residential development of 10 dwellings (amendment to original application)) for the approval of Appearance, Landscaping and Scale.

Applicant: Mr Harvey Davies

Case officer: Mr Ollie Jones

Location OSGR: 364379, 242019

Link to Planning Application on Herefordshire Council Website:

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=191013&search-term=191013

Outline:

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=152041&search-term=152041

1.2 Description of the plan or project (details)

Application for approval of reserved matters following Outline 152041 (Proposed residential development of 10 dwellings (amendment to original application)) for the approval of Appearance, Landscaping and Scale (including drainage)

1.3 Documents and plans considered – *delete/ add as appropriate*

Herefordshire Local Plan Core Strategy 2011 – 2031

River Wye SAC Nutrient Management Plan

National Planning Policy Framework

The Conservation of Habitats and Species Regulations 2017 (as amended)

1.4 Planning Policy context:

Rural Settlement

1.5 Size (ha) and description (habitats etc.) of existing site

0.91 agricultural pasture

1.6 Surrounding land use and context in relation to designated sites

Village edge/agricultural

Relevant Habitats (Natura 2000) site(s)*Please select all that apply from:*☒ **River Wye Catchment SAC (including schemes impacting on the linked River Lugg SSSI)****Details of the Site:****1. River Wye SAC**

The River Wye SAC covers an area of 2234.89 ha in Gloucestershire, Herefordshire, Monmouthshire and Powys.

Designated features**Qualifying habitats**

The site is designated under article 4(4) of the Directive (92/43/EEC) as it hosts the following habitats listed in Annex I:

- Transition mires and quaking bogs. (Very wet mires often identified by an unstable 'quaking' surface).
- Water courses of plain to montane levels with the *Ranunculus fluitans* and *Callitriche Batrachion* vegetation. (Rivers with floating vegetation often dominated by water crowfoot)

Qualifying species

The site is designated under article 4(4) of the Directive (92/43/EEC) as it hosts the following species listed in Annex II:

- Allis shad *Alosa alosa*
- Atlantic salmon *Salmo salar*
- Brook lamprey *Lampetra planeri*
- Bullhead *Cottus gobio*
- Otter *Lutra lutra*
- River lamprey *Lampetra fluviatilis*
- Sea lamprey *Petromyzon marinus*
- Twaite shad *Alosa fallax*
- White-clawed (or Atlantic stream) crayfish *Austropotamobius pallipes*

Conservation Objectives of the Designated features:

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- The extent and distribution of qualifying natural habitats and habitats of qualifying species
- The structure and function (including typical species) of qualifying natural habitats
- The structure and function of the habitats of qualifying species
- The supporting processes on which qualifying natural habitats and habitats of qualifying species rely

- The populations of qualifying species, and,
- The distribution of qualifying species within the site.

[European Site Conservation Objectives for River Wye SAC - UK0012642](http://naturalengland.org.uk)
(naturalengland.org.uk)

Site Condition

Site condition, for the area of the site in England, is taken from the constituent SSSI units for the River Wye SSSI and the River Lugg SSSI.

River Wye SSSI

Unit	Unit name	Condition	Condition Threat Risk	Habitat	Area (ha)	GridRef
001	TIDAL RIVER - ESTUARY TO BROCKWEIR BRIDGE	Unfavourable - Declining	High	RIVERS AND STREAMS	114.9234 ha	ST 537 956
002	BROCKWEIR BRIDGE TO MONMOUTH	Unfavourable - Declining	High	RIVERS AND STREAMS	36.3835 ha	SO 534 055
003	MONMOUTH TO ROSS	Unfavourable - Declining	High	RIVERS AND STREAMS	157.0946 ha	SO 573 185
004	ROSS TO HEREFORD	Unfavourable - Declining	High	RIVERS AND STREAMS	293.5648 ha	SO 568 320
005	HEREFORD TO BREDWARDINE BRIDGE	Unfavourable - Declining	High	RIVERS AND STREAMS	150.1955 ha	SO 418 415
006	BREDWARDINE BRIDGE TO WHITNEY TOLL	Unfavourable - Declining	High	RIVERS AND STREAMS	122.4429 ha	SO 300 461
007	WHITNEY TOLL TO HAY	Unfavourable - Declining	High	RIVERS AND STREAMS	30.8778 ha	SO 242 458

River Lugg SSSI

Unit	Unit name	Condition	Condition Threat Risk	Habitat	Area (ha)	GridRef
001	RIVER LUGG (WYE SAC)	Unfavourable - Declining	High	RIVERS AND STREAMS	58.8726 ha	SO 530 455
002	BODENHAM WEIR TO LEOMINSTER	Unfavourable - Declining	High	RIVERS AND STREAMS	20.4404 ha	SO 503 573
003	LEOMINSTER TO MORTIMERS CROSS	Unfavourable - Declining	High	RIVERS AND STREAMS	36.2719 ha	SO 448 623
004	MORTIMERS CROSS TO PRESTEIGNE	Unfavourable - Declining	High	RIVERS AND STREAMS	26.8469 ha	SO 366 648

Other Relevant Documents

There is a Site Improvement Plan for the River Wye which can be found at [Site Improvement Plan: River Wye - SIP199 \(naturalengland.org.uk\)](#)

Stage1: Preliminary Screening including Likely Significant Effects (LSE)

Completed by:

Ecology (J Bisset)

12/02/2025

Table 1: Initial Screening

Does the project or plan qualify for exemption from the HRA process?

Is the project or plan directly connected with or necessary for the conservation management of the habitat site (provide details)? If so the project may be considered exempt from the HRA process.	No
--	----

If the proposal is considered exempt from the HRA process? Has this been consulted upon and agreed with Natural England?	NA/Not exempt
--	---------------

Table 2: Screening for Likely Significant Effects (LSE)

Key issues considered:

- ☒ Foul water
- ☒ Surface water

Details of key issues & identification of potential effect pathways

TEN dwellings with associated new foul water and surface water flows created (Nutrient pathways)

NB: Where avoidance and mitigation measures do not form an integral part of the project/ plan and are to be put in place to reduce the impacts, these must not be considered in order to avoid impacts at the Screening stage and will require consideration at the Appropriate Assessment stage (in line with the People Over Wind judgement).

Are there any potential effects of the project or plan when considered alone?	<p>Yes</p> <p><i>If 'yes' then proposal must be carried forward to the Appropriate Assessment Stage.</i></p> <p><i>If 'no' then proposal must still be considered in-combination below.</i></p> <p><i>The identification of a potential effect pathway is sufficient to require an Appropriate Assessment i.e. no judgement on significance/ or threshold is applied at screening stage. Existence of a pathway is considered to be an LSE.</i></p>
Are there any potential effects of the project or plan <u>in combination</u> with other projects or plans?	<p>Yes – as an effect alone</p> <p><i>If 'yes' then proposal must be carried forward to the Appropriate Assessment Stage.</i></p>

Natural England consultation reference and summary (if available):

XXXXXX

Summary of LSE test conclusions

- ☐ Likely significant effects – Appropriate Assessment required.

Stage 2: Appropriate Assessment

Completed by:

Ecology (J Bisset)

Date: 12/02/2025

Appropriate Assessment statement including alone, impacts in-combination and discussion of proposed mitigation measures

Complete the tables and boxes below, deleting as necessary. Where information is taken from supporting documents this should be quoted and fully referenced. Any documents not available on the Council's website should be provided to Natural England when they are consulted.

Table 3: Impacts of the plan/ project alone

Complete boxes as appropriate below and delete boxes for potential effect pathways which are not relevant:

Foul Water Package Treatment Plant – Not meeting 7 Criteria for Nutrient Neutrality and requiring phosphate credit purchase

- Original Outline Permission: 152041
- TEN new dwellings
- Std occupancy for Herefordshire 2.3
- Std water efficient condition to 110lpd
- No mains sewer available
- Private Foul water System – Haba Bio Easy Flow PTP (0.8mg/litre Phosphate)
- Discharge via tertiary treatment via private constructed wetland system to Hereford & Gloucester Canal (watercourse and Local Wildlife Site) that is considered as a general binding rule compliant watercourse under the applicant's control.
- Tertiary treatment will further reduce phosphates in outfall by varying degrees – but is proposed to ensure final discharge from PTP and SuDS has negligible nutrients or other pollutants to protect the Local Wildlife Site ecological interest of the receptor H&G Canal.
- Annual Rainfall: 700-750 mm
- Soil Drainage: Slightly Impeded
- Existing land use Residential curtilage Lowland Grazing pasture :0.91Ha (application info)
- Future use Residential Urban Land: 0.51Ha; Greenspace: 0.4Ha
- Nutrient Neutrality to be secured by purchase of approved Phosphate Credits from the Council's Tarrington Integrated Constructed Wetland
- This ICW has permission and will be commissioned by June 2026 and occupation of dwellings will be limited to after this date via relevant condition/legal agreements.

Stage 1

User Inputs

Date of first occupancy:	05/02/2025
Average occupancy rate:	2.30
Water usage (litres/person/day):	110
Development Proposal (dwellings/units):	10
Wastewater treatment works:	Package Treatment Plant user defined
Wastewater treatment works P permit (mg TP/litre):	Please enter value in cell to the right: 0.8

Stage 1 Calculated Loading

Additional population	23	people
Wastewater by development	2530	litres/day
Annual wastewater TP load	0.74	kg TP/yr

Stage 2

User Inputs

Catchment:	Arrow, Lugg and Frome
Soil drainage type:	Slightly impeded drainage
Annual average rainfall (mm):	700.1 - 750
Within Nitrate Vulnerable Zone (NVZ):	Yes

Existing land use type(s)	Area (ha)	Annual phosphorus nutrient export (kg TP)
Lowland	0.91	0.20
Total:		0.91 0.20

Stage 3

User Inputs

New land use type(s)	Area (ha)	Annual phosphorus nutrient export (kg TP)
Residential urban land	0.51	0.74
Greenspace	0.40	0.01
Total:		0.91 0.75

Stage 4

Calculated Outputs

The total annual phosphorus load to mitigate is:

1.54 kg TP/year

Approval of Reserved Matters/Discharge of Condition or s.106 Agreement to secure

- foul water connection to Haba Bio Easy Flow PTP
- water efficiency @ 110 lpd
- Occupation not before June 2026
- SuDS- Constructed Wetland management for minimum 80 years

Mitigation is proposed in this case as an alternative to the purchase of Phosphate credits and is set out in table 4 below.

Surface Water

- All additional surface water will be managed via the Sustainable Drainage System-constructed wetland before managed flow discharge to the Hereford & Gloucester Canal at no greater than 1:1 rates (as required by the H&G Canal Trust) which is a lower rate than existing greenfield run-off rates.
- With no significant nutrient pathways identified this effect is not considered further in the HRA process.

Table 4: Mitigation Requirements and Outcomes

For cases purchasing Phosphate Credits

The development has applied for, and received, an allocation of phosphate credits from Herefordshire Council at a cost of £14,000 per kg as follows:

Annual phosphorous load to mitigate 1.54 kg TP/year * £14,000 per kg

= 1.54* £14,000

= £21,560

This proposal is a valid Planning Application awaiting a positive determination subject to receipt of Phosphate Credits and the developer is prepared to enter into legal agreement with the Council through either a S106 agreement or a S106 agreement including a S111 agreement for phased development to secure the financial payment for phosphate credits.

This proposal will rely upon mitigation provided by Herefordshire Council's Integrated Strategic Wetland at Tarrington, Herefordshire.

Herefordshire Council's Phosphate Credit Allocation Process (taken from the Council's Phosphate Credit Pricing and Allocation Policy April 2022 and Record of Officer Decision July 2024):

The Phosphate Credit Allocation Process is a staged process setting out how Phosphate credits that are generated by Herefordshire Council Integrated Wetlands can be secured by developers to offset the phosphate load of their development. The process necessitates a number of steps which can be run in tandem. This process is monitored throughout and will span several services as well as requiring engagement with, statutory consultees, and developers themselves. Credits will only be released as they become available to ensure the scheme does not over allocate credits..

The process starts with developers working out the number of credits needed using the Council's Phosphate Calculator Budget Tool supplied by Natural England. As credits become available, case officers will contact developers and provide them with an invitation to apply for credits. The developer submits the phosphate calculation and technical information around foul and surface water drainage (if not already submitted). A S106 legal document legally secures the credits and will need to be signed prior to the grant of planning permission. The application is reviewed internally by Legal and Ecology and in consultation with Natural England.

Permission can then be granted or refused:

Where permission is granted, HRA conditions are applied and developers have a set amount of time and requirements they must fulfil otherwise the credits are returned to Herefordshire Council and payment is reimbursed to developers.

If permission is refused on delegated authority or recommended by officers for refusal and then refused at committee credits will not be held. A new application for the site would move to the bottom of the queue.

If permission is refused at committee against officer recommendation then credits will be held, developers have a set amount of time to go through the appeals procedure and the credit sale will be completed in the event of a successful appeal.

Allocation of Credits

Developments which are currently being held due to phosphates are being worked through in date order (the full list of held applications and their status can be found on the Council's website).

Applications are split, while remaining in date order, into two groups – those which require mitigation from the Luston Wetland which is high up in the catchment and can provide mitigation for all development in the Nutrient Neutral Catchment and those which can utilise mitigation from the Tarrington Wetland which is lower in the catchment and serves limited sub-catchments.

Point of Payment for Credits

The process by which the payment for credits will be made has been reviewed in 2024 and is set out in the Record of Officer Decision July 2024. Credits can be secured by a 10%. The balance of the payment for credits is then required prior to the commencement of development and will be secured both by condition and within the S106 agreement. The Council will allocate the full requirement of credits to the development at the point of decision and will hold the balance until either (a) full payment is made and the development commences, (b) the permission expires and the balance of the credits is released back into the Council for sale to other developments, (c) the developer uses the Council's credit refund scheme.

The Council's Integrated Wetlands Program

Phosphate Credits in Herefordshire are being generated through the delivery, by Herefordshire Council, of a program of integrated wetlands associated with existing Waste Water Treatment Works (Wwtw).

The phosphate credits being relied upon to mitigate this development are provided by the Council's second integrated wetland which is located on land adjacent to Tarrington Wwtw.

The Tarrington Wetland has planning permission under application 230655 for the Proposed creation of an Integrated Constructed Wetland. The contract for the physical construction of the wetland has been awarded and the projected timeline demonstrates that works will be complete and fully planted and the wetland connected to the outflow from the Wwtw in summer 2026. On this basis it is proposed that credits being sold off the Tarrington Wetland in advance of the completion of its construction include an occupancy restriction. Natural England have previously agreed this approach. This will be achieved by each planning permission using Tarrington as mitigation will include a condition ensuring that dwellings constructed cannot be occupied prior to the 1st of June 2026.

This second integrated wetland will be delivered on land adjacent to the Tarrington Wwtw. As set out in the feasibility study for the wetland¹ 'The purpose of the wetland would be to provide enhanced treatment for removal of phosphorus from the final effluent of the Tarrington Waste Water Treatment Works (WWTW).'

The aim, in creation of the Tarrington Integrated Wetland is reducing the Total Phosphorus (TP) in the effluent leaving the Tarrington WWTW from an average of 5.10mg/L TP to less than 1mg/L TP.

The Tarrington Wetland generates 78.46kg of phosphate credits for the development market once the 20% river betterment percentage has been reserved. Credits will be offered to developers in batches and detailed budgets requested, this batching process allows the Council to ensure that credits are never over allocated or oversold. An HRA is only undertaken once detailed nutrient budget information has been received, once technical issues around foul and surface water discharges have been agreed as acceptable by the Council's drainage consultee and when credits are available for the scheme.

The Council, working with partners, has assessed potential for integrated wetlands at 8 sites. Natural England have been engaged with the development of the integrated wetland program and did not object to the planning application (reference 230655) to create the Tarrington wetland for the purpose of selling Phosphate Credits.

The precautionary principal has been applied to the construction of the Tarrington wetland:

'To provide a robust wetland design and provide certainty, WUF applied a number of steps to ensure that the design can be considered to provide certainty under the Habitats Directive. These are outlined below and presented in the following sections:

- The primary objective of the wetland is to provide an effluent quality that leaves the wetland at less than 1mgTP/l. To achieve this, and provide certainty around the design, WUF have designed the wetland on the basis of a reduction to 0.8mg/l. This has effectively introduced a 20% buffer and over-sized the wetland to provide greater certainty in its overall future performance, thus adopting a precautionary approach.
- A water balance has been developed and the design has been tested against UK Climate Projections (UKCP) estimates for rainfall and evapo-transpiration in 2070. Understanding the water balance is essential to ensure that the wetland design is robust under current and future climate change conditions and that the hydrology of the system will not be compromised.
- Due to uncertainties with wetland design models, WUF has adopted an approach outlined in the Treatment Wetlands publication (Dotro et al., V7 2017) which recommends application of multiple models to provide sensitivity in terms of calculation of overall design.
- Continued monitoring of phosphorus and flow data at the site to provide increasing and greater understanding of the current operation of the treatment works.'

Text taken from the WUF feasibility study.

The full technical design and modelling work for the Tarrington wetland can be found at in the Wetland Feasibility, Design & Offsetting Report for the Tarrington Wetland by Wye & Usk Foundation (February 2023).

¹ Wetland Feasibility, Design and Offsetting. Wetland Development on the River Wye – Tarrington. Wye and Usk Foundation. (February 2023).

Additionally, the precautionary principle is applied to the allocation of Phosphate Credits with 80% of the capacity generated by the creation of each integrated wetland being allocated to development and 20% of the capacity generated being allocated to providing river betterment. [Nutrient Certainty Report](#)

The sale of phosphate credits to developers will allow the Council to recoup its expenditure in delivering the Strategic Wetlands (and credit costs will be regularly reviewed as new wetlands are brought forward) and will also provide ongoing income for the long term management and maintenance of the wetland features.

Impact point assessment

The Tarrington Wetland is low down in the River Lugg SSSI catchment, in the River Frome sub-catchment. The River Frome enters the River Wye SAC at grid reference SO 56037 238634. There is a considerable length of the River Wye SAC which is upstream of this point and to which mitigation generated by the Tarrington Wetland cannot be applied.

The Tarrington Wetland can mitigate for development which impacts the River Wye SAC at the same point as the mitigation impact acts upon the SAC (grid reference SO 56037 238634) or development which impacts the SAC downstream of the mitigation impact point.

The Tarrington Wetland can only mitigate for development in the following sub-catchments:

- Upper Frome
- New Barns Brook
- Middle Frome
- Lower Frome
- Loden
- A very small part of the Lower Lugg catchment around the villages of Mondiford and Priors Frome

Occupation Restriction

Development relying upon mitigation from the Tarrington wetland cannot be occupied prior to 1st of June 2026 and will be subject to a condition to that effect.

On the basis of the program of integrated wetland delivery and the phosphate credit system developed by Herefordshire Council in partnership with a number of organisations including Natural England this development has committed to purchasing the phosphate credits required to address the phosphate load it generates. It is not considered to have a likely impact on the integrity of the SAC and planning permission can therefore be granted.

Table 5: Remaining Impacts

NONE

Table 6: Consequences for Conservation Objectives of the Designated Site

Impacts on maintaining the favourable condition of the site	No
Disruptions or delays in progress towards achieving the conservation objectives of the site	No
Alterations to natural progression or other natural changes within the site	No
Loss of key habitat/ species features. Fragmentation or isolation of key species and habitats.	No

Impacts to diversity, distribution, density, balance, area or population(s) of key species or habitats that are indicators of the favourable condition of the site, including from disturbance	
Alterations to the ecological relationships and balance between species and habitats that are key to the structure/ function of the site	No
Alterations to nutrient balance or other processes vital to the functioning of the ecosystem	No

Table 7: Integrity Test

Will there be an impact upon the Integrity of the Designated Site?

No

Table 8: Are there Alternative Solutions to the proposal?

If adverse effects on the integrity of the site, either alone or in combination, cannot be ruled out through avoidance or mitigation then alternative solutions must be considered.

No

Please Note: Where there are no satisfactory alternatives then consideration may be given to whether the proposal could follow the Imperative Reasons of Overriding Public Interest (IROPI) route. Is this option is under consideration for a plan or project then specialist legal advice should be sought and followed.

Table 9: Recommended planning conditions to secure mitigation which is required in order to achieve no effect on integrity of the Designated Site.

Approval of Reserved Matters/Discharge of Condition or s.106 Agreement to secure

- foul water connection to Haba Bio Easy Flow PTP
- water efficiency @ 110 lpd
- Occupation not before June 2026
- SuDS- Constructed Wetland management for minimum 80 years

1. None of the dwellings approved by this permission shall be occupied prior to the 1st of June 2026.

To ensure that the Tarrington integrated wetland scheme can be relied upon with certainty to provide effective mitigation for the potential effects of the development upon the River Wye SAC as part of the Councils Phosphate Credits scheme, thereby safeguarding water quality and the integrity of the River 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)

NEW STANDARD CONDITION AROUND DEPOSIT PAYMENTS

Conclusion of the Appropriate Assessment:

☑ Herefordshire Council, as a Competent Authority under the Habitat Regulations 2017, Part 6, section 63(5) concludes that **there would be NO** adverse effects on the integrity of the Special Area of Conservation; subject to appropriate mitigation being secured via the planning conditions listed above. Planning Permission can legally be granted.

Please Note: The authority must consult Natural England on the draft HRA and must have regard to the advice of Natural England before granting planning permission.