

MEETING:	PLANNING COMMITTEE
DATE:	14 DECEMBER 2011
TITLE OF REPORT:	<p>DMS/110919/F & DMS/110920/C - DEMOLITION OF CAMPIONS RESTAURANT AND ERECTION OF 14 APARTMENTS AND ASSOCIATED PARKING, ERECTION OF BAT SHELTER AT CAMPIONS RESTAURANT, GREYFRIARS AVENUE, HEREFORD, HR4 0BE.</p> <p>For: Riverside Construction (Hereford) Ltd per Mr Angus Jamieson, 30 Eign Gate, Hereford HR4 0AB.</p>

Date Received: 7 April 2011

Ward: St Nicholas

Grid Ref: 350691,239580

Expiry Date: 7 July 2011

Local Members: Councillors SM Michael and JD Woodward

1. Site Description and Proposal

- 1.1 The application site is located on the north bank of the River Wye and immediately to the west of Greyfriars Bridge. The site is visually prominent, albeit at a lower level than the bridge structure, and is important in terms of its position close to a well used route to and through Hereford. The site currently comprises a derelict detached building; which was formerly used as a restaurant known as 'Campions'. The building is a 19th Century red brick villa which stands within its own substantial and landscaped grounds. The northern part of the site is currently used as a car park. Access to the site is via Greyfriars Avenue.
- 1.2 The application site is located within an established residential area within the City of Hereford. It also lies within the Conservation Area and adjacent to the River Wye Special Area of Conservation (SAC).
- 1.3 The southern boundary of the application site is formed by the River Wye, whilst the A49(T) road bridge forms the boundary to the east. To the north and west lie modest predominantly two-storey semi-detached dwellings along Greyfriars Avenue.
- 1.4 This application was originally submitted as a 7 storey development of 21 units. However in response to concerns in relation to the scale, height and massing of the proposed building the proposal has been revised. The revised scheme is for the demolition of the existing building and erection of a single 5 storey block (including stilted ground floor level) that would accommodate 14 residential units, comprising 12 no. two bed units, 1 no. three bed unit and 1 no. one bed unit.
- 1.5 The building would be sited in a position that is adjacent to the Greyfriars Bridge and not on the footprint of the existing building. It would involve the removal of several trees from within the site as detailed within the arboricultural report. The form of the building is a 'T' shape which

is orientated so that it runs parallel with the bridge rather than the river. The building would be raised on stilts, with four levels of accommodation, three of which would be above bridge height. Levels one and two extend to the full footprint of the T-shaped block with balconies fronting the river whilst levels three and four would also incorporate roof terraces within the forward projecting element, allowing the built form of the building to be stepped back. A pedestrian bridge (emergency only) would connect the building to Greyfriars Bridge.

- 1.6 The external finishes of the building would be a through colour render (off white) and an area of Corten steel rain cladding. Externally the windows would be powder coated aluminium (dark grey). The roof would be a dark grey cladding system. Solar panels would be fixed horizontally to the roof. Balconies would be powder coated metal trim with toughened glass. A 'green wall' is proposed on the elevation facing the bridge.
- 1.7 The proposal also includes a parking area for 19 vehicles on the northern part of the site. The remainder of the site would be landscaped and includes safeguarded ecological protection zones. In response to the ecological survey, a bat shelter is also proposed to the west of the site in the form of a small wooden clad building incorporating the bat loft in the roofspace.
- 1.8 The site has many constraints, and as such the application has been accompanied by a number of reports that have provided detailed information that has been important to developing this proposal. These are:
 - Archaeological Assessment
 - Travel Plan
 - Ecological Survey Report
 - Flood Risk Assessment
 - Transport Assessment
 - Arboricultural Implications Assessment

Along with these technical reports, the application has included a detailed Heritage Statement, Townscape Study and landscape plans.

2. Policies

2.1 Government Advice:

PPS1	-	Delivering Sustainable Economic Growth
PPS3	-	Housing
PPS5	-	Planning for the Historic Environment
PPS9	-	Biodiversity and Geological Conservation
PPG25	-	Development and Flood Risk

2.2 Herefordshire Unitary Development Plan:

S1	-	Sustainable Development
S3	-	Housing
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR5	-	Planning Obligations
DR7	-	Flood Risk
DR9	-	Air Quality
H1	-	Hereford and the Market Towns: Settlement Boundaries and Established Residential Area

Further information on the subject of this report is available from Ms Kelly Gibbons on 01432 261781

H13	-	Sustainable Residential Design
H14	-	Re-using Previously Developed Land and Buildings
T8	-	Road Hierarchy
T11	-	Parking Provision
NC1	-	Biodiversity and Development
NC3	-	Sites of National Importance
NC4	-	Sites of Local Importance
NC5	-	European and Nationally Protected Species
LA5	-	Protection of Trees, Woodlands and Hedgerows
LA6	-	Landscaping Schemes
HBA4	-	Setting of Listed Buildings
HBA6	-	New Development Within Conservation Areas
HBA7	-	Demolition of Unlisted Buildings Within Conservation Areas
ARCH1	-	Archaeological Assessments and Field Evaluations

3. Planning History

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| 3.1 | HC960002PF | Change of use and conversion to form 5 residential flats including new staircase enclosure, removal of 2 chimney stacks. Approved with conditions 29 February 1996. |
| 3.2 | CW1999/1277/C | Demolition of main building, outbuildings and making good of boundaries and surface. Refused 7 July 1999. |
| 3.3 | CW2000/3359/F | Change of use and conversion to form 5 residential flats, including new staircase enclosure. Removal of two chimney stacks. (Renewal of planning permission HC960002/PF. Approved with conditions. 4th February 2001. |
| 3.4 | DCCW2006/1894/C | Demolition of existing buildings. Withdrawn 11 August 2006. |
| 3.5 | DCCW2006/1897/F | Residential development of 52 residential units, comprising of 12 affordable and 40 open market apartments. Withdrawn 11 August 2006. |
| 3.6 | DCCW2007/0990/F | Residential development for erection of 46 flats. Refused 29 June 2007. |
| 3.7 | DCCW2007/0991/C | Demolition of Campions Restaurant and dwelling known as 'Gwalia'. Refused 29 June 2007. |
| 3.8 | DCCW2008/2328/F | Construction of 14 new apartments, restaurant and public plaza with advertising hoarding. Refused 29 June 2010. |
| 3.9 | DCCW2008/2329/A | Advertising hoarding. Approved with conditions 21 November 2008. |

4. Consultation Summary

Statutory Consultations

- 4.1 English Heritage recommends that planning permission be granted subject to consideration of matters in relation to the loss of the heritage asset in the Conservation Area.

Comments on the amended plans are awaited and will be reported in the updates.

Further information on the subject of this report is available from Ms Kelly Gibbons on 01432 261781

4.2 Highways Agency: As highlighted with the Transport Assessment prepared in support of the proposed, the Highways Agency has been consulted in relation to several similar applications at this site. The Highways Agency directs a condition and informative note in respect of the pedestrian bridge and its use for emergency situations only.

4.3 Natural England:

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.

We have considered the proposal against the full range of Natural England's interests in the natural environment. Based on the information provided with the application, our comments are as follows:

Natural England must object to this proposal due to the absence of a HRA screening. However, we consider this to be a process-driven „holding□ objection, rather than an objection in principle.

1. The River Wye SAC

The application site is immediately adjacent to the River Wye Special Area of Conservation (SAC), which is a European site protected under the Habitats Directive. In addition, effluent from the site would be discharged into the River Wye SAC via a sewage treatment works.

Regulation 61 requires Herefordshire Council as the S28G Authority (a Competent Authority), before deciding to give any consent to a project which is (a) likely to have a significant effect on a European site (either alone or in combination with other plans or projects), and (b) not directly connected with or necessary to the management of the site, to make an appropriate assessment of the implications for the site in view of its conservation objectives. This proposal is not directly connected with or necessary to the management of the site.

The council has undertaken a Habitat Regulations Assessment screening, which reaches a conclusion of no likely significant effects. Herefordshire Council states that this permission will result in the safe demolition of the existing structure, the separation of surface and foul water drainage, management of surface water drainage through SuDs and the removal of non-native species. The council expresses an understanding that effluent can be dealt with through sewage treatment works without causing the phosphate targets for the River Wye SAC to be exceeded.

Provided that this proposal is undertaken in strict accordance with the details submitted and relevant best practice working methods are adopted, Natural England agrees with this conclusion and we therefore withdraw our objection to this proposal.

2. Protected species – bats

The proposal will result in the demolition of a roost used by small numbers of lesser horseshoe and brown long-eared bats. A European Protected Species licence is therefore essential. Mitigation for the loss of the roosts is to be provided in the form of a bat roost building. As a principle, this seems appropriate. However, we are concerned about the appropriateness of the seating under the bat house 2, as the Lesser Horseshoe bats in particular may be sensitive to noise disturbance. It would be preferable if access (by residents) to the bat house were discouraged.

Conditions should be used to ensure there is no high power or direct illumination of the River Wye, its vegetated banks or western boundary. A sensitively designed lighting regime should be used throughout the site.

We note the need to survey trees with bat roost potential prior to their removal.

3. Other matters

Planting along the river should consist of appropriate native species. Species such as *Buddleia davidii*, as suggested on plan 3873.LA02, are not appropriate. We recommend that an amended planting plan is agreed with the council and Natural England prior to starting works. The long-term management of the riverbank should also be confirmed.

We note the presence of Japanese knotweed, Himalayan balsam and Giant hogweed along the riverbank. Best practice measures should be employed to clear these invasive species in a way which ensures their seeds do not enter the River Wye and spread. An invasive species management plan should be agreed with the council, the Environment Agency and Natural England prior to starting works. We recommend securing this through a planning condition.

We welcome the enhancement for otters and birds proposed in the Ecological Survey, and recommend securing these matters using conditions.

- 4.5 Environment Agency: We have no objection to the proposed development and would wish to see conditions applied to any permission granted (see recommendation for conditions).

We understand that, following a number of discussions on the re-development of the site, that the applicant has agreed to reduce the number of units to 14. It is hoped that this will satisfy the visual implications of the development whilst ensuring the development is safe and will not increase flood risk elsewhere.

- 4.6 Welsh Water – No objections subject to Conditions

Internal Council Advice

- 4.7 Conservation Manager (Landscapes):

The scale, height and mass of the building is now more suitable to the townscape character of Hereford. The proposal now offers a visual presence and stature that has presence, without dominating views into the town. The key public view points of the bridge crossings and footpath on the southern river bank have been updated and no longer dominate the surroundings. The building does not directly address the River Wye, however it will not have an adverse effect upon the landscape setting of the settlement.

The Arboricultural Implications Assessment is suitable to the site and meets the requirements set out in BS5837:2005. In particular section 3.3 on above and below ground constraints provides a useful assessment and discussion about the trees that are to be retained and / or removed.

Two of the three Lime trees are to be retained, which provide a good visual amenity to this part of the site and the separation of the new building from existing residential properties. I accept that the group of five Pine trees will be removed. The car park does not show any parking under the Walnut tree, which is welcome, but additional detail should be provided about the construction of the car park and levels, to ensure that the root system is protected.

The tree species proposed are suitable to the site and offer adequate mitigation for those that are removed.

The landscape scheme proposed does help the development to integrate appropriately into the site. The circular footpath, benches, tree planting and shrub border against the existing wall all provide suitable amenity space for the residents and have a low visual impact.

4.8 Conservation Manager (Historic Buildings):

The existing site comprises a car park, a Victorian villa in a derelict state and an area of unused land. This is located on the banks of the Wye and adjacent to the modern bridge. The existing building dates from the 19th century are brick built of 2 storeys and a roof space. The majority of the slates have been removed.

We had previously objected to the proposal due to concerns about the scale of the proposed building and the impact it would have when approaching Hereford from the south and west. The English Heritage and CABI design guidance on tall buildings states that they should be assessed as not only pieces of architecture in their own right but also as “urban design” within a wider context.

When viewed at a wider scale along the riverfront there are no particularly tall buildings. The single building that does stand out is the Cathedral. All of the other buildings are roughly 3 storeys in height and have a horizontal emphasis.

The proposal has been considered having regard to its impact upon views into and out of the conservation area in particular from the footpath on the old railway bridge and the footpath to the south of the river walking from the bridge towards the city where it may have an impact upon views of the city and in particular of the cathedral and St Nicholas Church. The view on the approach from Greyfriars Bridge is the most significant and dominant.

The height of the building has now been reduced by two full storeys, reducing the impact significantly on the above views, and ensuring that the developments scale is more comparable to the adjacent townscape.

With regards to the specific design of the building we would not disagree with a modernist approach and are happy that the amended scheme addresses the concern that the emphasis was vertical rather than the horizontal. We note concerns about the green wall element but would hope that with the appropriate mix of plants this feature would survive and add interest to the scheme. The landscaping and car parking appear more appropriate than previous submissions.

We are satisfied that the revised scheme would preserve or enhance the conservation area. It is therefore satisfies Herefordshire UDP Policy HBA 6 which states that “Developments in Conservation Areas will not be permitted unless it preserves or enhances its character or appearance

There are no objections to the demolition of the existing building that is in a poor state of repair and does little in its current state to enhance the Conservation Area. Accordingly Policy HBA7 is addressed.

4.9 Conservation Manager (Ecology):

The site lies immediately adjacent to the River Wye SAC and a Habitats Regulations Assessment Screening report will need to be completed to be certain that there is no likely significant effect on the SAC as a result of these development proposals. A full Appropriate Assessment may be required if this cannot be confirmed. It will be essential for strict adherence to a Construction and Environmental Management Plan whilst development works are in progress. This matter is ongoing due to concerns about water quality in the River Wye.

I note the continued presence of lesser horseshoe bats as well as evidence of Brown long-eared bats roosting in the building that is to be demolished and that a new bat shelter is proposed as mitigation which would appear to be appropriate. I am concerned about the potential for disturbance around and in the building with provision of seating. Lesser horseshoe bats are sensitive to noise and light and it would be more appropriate to discourage

human activity in this area; it is therefore essential that there is no seating and that the footpath to the building is removed from the proposals. It would also be beneficial to extend the fence to include the bat shelter within the wildlife corridor, further discouraging disturbance. This has been undertaken in the revised plans. It also needs to be clarified how this structure is to be maintained and monitored in the long-term, although I appreciate that this will form part of the EPS license application. It should also be noted that the update surveys were undertaken late in the season and an additional summer survey is likely to be required for licensing purposes.

The other recommendations for ecological mitigation and habitat enhancement within the report are welcome. I strongly recommend provision of swift boxes within the structure of the new apartment block, as well as other measures for nesting birds throughout the site where appropriate.

The removal of the invasive, non-native species (Japanese knotweed, giant hogweed and Himalayan balsam) from the site is essential and needs to be strictly enforced to ensure that no seeds or plant parts are dispersed to the river.

I welcome the provision of a 10 metre buffer zone along the river corridor, although it is not clear from the landscaping scheme what the proposed treatment is for the river bank. I am of the opinion that *Buddleja davidii* and *Lonicera nitida* are inappropriate along the boundary of this zone and recommend the use of native species such as willow and dog rose as well as native honeysuckle (*Lonicera periclymenum*). Implementation of an appropriate landscaping scheme can be secured through a planning condition, but I would like to see some indication of the likely proposals for this area in order to complete the HRA screening process. The landscaping proposals are unlikely to deliver 'green space' below the bridge. I note the likely evidence of otter using the site and welcome the provision of an artificial otter holt on the river banks.

If European Protected Species are present on a development site, the Local Planning Authority must establish whether the three tests have been met prior to determining this application. If the Wildlife Licensing Unit at Natural England is also happy that these Tests have been satisfied, then an EPS development licence can be granted.

If the issues and concerns regarding tree protection and the protection of the bat house can be resolved, and this application is to be approved, I recommend the inclusion appropriate non-standard conditions.

4.10 Conservation Manager (Archaeology):

The proposed development would in essence involve the demolition of derelict buildings on the site, and the construction of a block of flats based on stilts, with associated parking etc.

The below - ground impact of this development is likely to be great. The site is very close to the likely location of the former Greyfriars Friary, and has been demonstrated through assessment and evaluation to retain appreciable survival of archaeological features and deposits of medieval and post medieval date.

There is the potential also to be some above - ground archaeological impact, principally relating to the comparative nearness of two scheduled monuments – (the city defences, and the Old Wye Bridge). On balance I consider this impact and any associated harm to the setting of these monuments to be limited.

Having regard to relevant policy and best practice (in particular but not limited to Policy HE12 of Planning Policy Statement 5; Planning for the Historic Environment [PPS5], and saved

policy ARCH6 of the Herefordshire Unitary Development Plan, I would therefore *advise* the following:

There is likely to be *some* harmful developmental impact on heritage assets of significance within and close to the proposal site, although this impact would not be excessive and is capable of appropriate mitigation in this case.

Accordingly, the developer should be required to record and advance understanding of the significance of these assets before they are harmed. This should be by means of a suitable and proportionate archaeological recording project, secured by planning conditions / obligations attached to any permission granted.

In this particular case I would advise Herefordshire Council's standard archaeological conditions EO1 and EO4 and informative regarding AAI.

- 4.11 Transportation Manager: The proposed level of car parking his acceptable in this location, if sufficient emphasis is placed on travel by sustainable modes. No objection subject to conditions.

5. Representations

- 5.1 Hereford City Council: No Objections

- 5.2 In respect of the original proposal for 21 units letters were received from:

- Mr Fuller and Ms Ernest, 28 Barton Road, Hereford.
- Eric Slater, 8 Wye Terrace, Bridge Street, Hereford.
- Mrs J Dickinson, 12 Greyfriars Avenue, Hereford.
- Hereford Civic Society.

- 5.3 In response to the revised plans representations were received from:

- Mr Tony Rice.
- Mr Fuller and Ms Ernest, 33 Greyfriars Avenue, Hereford.

- 5.4 These letters raise the following issues (comments on both superseded and amended plans):

- Request to ensure fencing is included under bridge to prevent anti-social behaviour
- Lack of parking provision. Public car park does not have surplus capacity during the day and especially at weekends.
- Additional movements on Greyfriars Avenue.
- Original plans for conversion are ideal / fantastic.
- Concern that the proposal would add to flooding problems and not be neutral.
- Concern about construction methods (piling) and affect on nearby properties.
- Fails to respect the scale and height of the locality and is out of character with the area.
- Negative impact on the character and appearance of the Conservation Area and listed buildings.

- Sewerage capacity.
- Overlooking and loss of privacy to 33 Greyfriars Avenue.
- It will obstruct views of the Cathedral.

5.5 The full text of these letters can be inspected at Hereford Customer Services, Franklin House, 4 Commercial Road, Hereford, HR1 2BB and prior to the Committee meeting.

6. Officer's Appraisal

6.1 The application site is a highly visible and prominent one on a very well used vehicular and pedestrian approach into Hereford City. The site, and in particular the building, is in a derelict state and therefore there are potentially significant benefits in securing a scheme that will allow for the demolition of the existing building and appropriate redevelopment.

6.2 The site has been the subject of a series of planning applications and numerous other pre-application schemes and discussions since 2006. These include a scheme of 52 residential units, 46 flats, 14 apartments, restaurant and public plaza and the 21 units originally proposed as part of this application. The building itself has not been used since the 1990's, with an extant planning permission still in place for its conversion to 5 flats. The redevelopment of the site has been hampered in the past by some serious and significant constraints that have attracted objections from statutory consultees, internal Council advisors, local residents and other interested parties.

6.3 This proposed scheme is, at 14 units, a significantly smaller proposal and one that has now satisfied all of the key consultees on this application and is also considered to have addressed the concerns identified by local residents. The key considerations in the assessment of this application are as follows:

- Principle of development
- Flood Risk
- Impact on the character and appearance of the Conservation Area and setting of Listed Buildings and the routes into the historic city.
- Demolition of the existing building
- Landscape impact
- Highway safety and parking
- Residential Amenity
- Biodiversity and Ecology
- Section 106 contributions

Principle of Development

6.4 The application site lies within the settlement boundary and is within an identified established residential area. Policy H1 of the Herefordshire Unitary Development Plan allows for residential development subject to meeting the other relevant policies of the Herefordshire Unitary Development Plan.

Flood Risk

- 6.5 The entire site is located within the 'functional floodplain' (Zone 3b) of the River Wye and also lies within Flood Zone 3. At this location the River Wye floods frequently to significant depths and can remain in flood for a prolonged period of time. Residential development within flood zone 3 is not normally considered to be acceptable. This matter has been a key contributing factor in the design of the building as the 'floor area' has had to be restricted to a footprint similar to that of the existing building in order to satisfy concerns about flood storage capacity .
- 6.6 The Environment Agency has taken into account the reduction in the scale of the proposed development and other circumstances, including the planning consent which has already been implemented (CW2000/3359/F) for the change of use and conversion of the existing building to 5 residential flats and on this basis raises no objection to the principle of developing the site.
- 6.7 The requirements of Planning Policy Statement (PPS) 25, in respect of taking a sequential risk-based approach to determining the suitability of land for development in flood risk have been given careful consideration. This has been in the context of a strong desire to see this site developed due to its prominent position within the Conservation Area and on the approach to the city. Whilst it must be acknowledged that the proposal is not strictly in line with PPS25, it has been developed in accordance with a pragmatic approach to the interpretation of the guidance that was agreed by all parties in an attempt to achieve some flood risk betterment on this particular site.
- 6.8 In line with the aims of PPS25, and in acknowledgement of the circumstances of this specific site, the applicant has achieved flood risk betterment through a design which has a significantly reduced overall footprint. Therefore, whilst not an ideal site for residential development, it does offer improvement on the existing situation and will reduce flood risk to third parties by allowing flood waters to flow through the stilted element of the building. Having regard to this, the proposal is considered to be acceptable in relation to the requirements of policy DR7 of the UDP and the guidance contained within PPS25 – Development and Flood Risk.
- 6.9 The proposed car park would also be subject to flooding. The Environment Agency have accepted that there are other justification/exceptional circumstances, including the potential lawful use of the site for some existing parking which would enable the parking to be retained in this position at ground level, albeit at a reduced rate of provision.
- 6.10 On the basis that cars are unlikely to be able to leave the site during a flood event, given that the depths of flooding are likely to be significant and flood water could remain at a peak level for some considerable time (perhaps days), an advanced flood warning system is to be utilised. The removal of cars prior to a flood event, when the vehicular access may be cut off, linked to flood warning notification, would ensure viability of the scheme in terms of enabling future occupants to maintain use of their vehicles. A concierge system will also be operated to ensure that those residents that are unavailable can have their vehicles removed in times of flood. A flood management plan would need to be implemented and a condition is recommended to manage this effectively.
- 6.11 The issue of flood risk has been thoroughly explored and debated over the preceding applications and it is concluded that this revised proposal that would comprise of 14 apartments represents an acceptable and modest proposal that can be treated as an exceptional case.

Impact on the character and appearance of the Conservation Area including setting of Listed Buildings and the routes into the historic city

- 6.12 The sites prominent and key position on the approach to the city and within the Conservation Area has been another significant constraint. The form of the proposed development has been largely dictated by constraints placed on the site as a result of its location within the flood plain. As the site faces south and towards the River Wye, it was important that principal rooms in should benefit from this outlook. Upper floors also benefit from distant views to both the east

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and west. By creating a T shape form, taking reference from numbers 33 and 35 Greyfriars Avenue, a relatively compact floor plan has been achieved that has enabled a degree of architectural modelling to the building, creating more interest than a single flat façade. By setting back the two top floors, the overall impact of the building is reduced and this is further softened by the provision of roof terraces on these two levels. This has provided an appropriate level of relief from the bridge structure, which was a particular concern of previous designs.

- 6.13 The proposed development, which adopts a modern approach, has been significantly reduced in height, scale and massing and now stands five storeys high (three above bridge level). In the form proposed the development is now considered to be acceptable, having a visual presence and stature without dominating the surrounding area. The proposal is therefore considered to be of a layout, density, scale, mass, height, design and material that would preserve the character and appearance of the conservation area, locality and setting of key Listed Buildings such as Hereford Cathedral and St Nicholas church. As such the proposal is now considered to be acceptable and therefore in accordance with the requirements of policy DR1, H13, HBA4 and HBA6 of the Herefordshire Unitary Development Plan.

Demolition of the existing building

- 6.14 The existing building on the site has fallen into a state of significant disrepair. The building does contribute positively to the character and appearance of the Conservation Area and guidance contained within PPS5 notes that deterioration is not a case for loss. The case for loss of a building within the Conservation Area must be considered having regard to Policy HE9.2 of PPS5. In this case, it is considered that the harm or loss of the building is outweighed by the benefits of bringing the site back into beneficial use, especially given its prominent location and concerns raised in respect of regular anti-social behaviour on the site.
- 6.15 In order to control demolition and the condition of the site post demolition, a condition is recommended. This would require detailed method statement for the demolition, including measures to prevent pollution of the River Wye and any impact on neighbouring properties along with a detailed waste management plan. There would also be a requirement to ensure that the mitigation in respect of protected species was undertaken and timescales for this. Details of how the land would be reinstated in the intervening period between demolition and construction of the proposed development would be required. The reason for this condition would be to ensure that the character and appearance of the Conservation Area is protected in accordance with policies HBA6 and HBA7 of the Herefordshire Unitary Development Plan.
- 6.16 On the basis of the above, officers are satisfied that the proposal would comply with the requirements of policy HBA7 of the Herefordshire Unitary Development Plan.

Landscape Impact

- 6.17 The existing trees on the site are a key characteristic of the site and wider area and have an acknowledged amenity value. A tree report has been undertaken and accompanied the revised plans. Whilst the loss of some trees is inevitable due to the position of the building and impact on roots, some key trees can be retained and these will compliment the development. The reduction in the height of the building has also reduced the impact on the wider landscape character of the area in accordance with policy LA2 of the Herefordshire Unitary Development Plan.

The proposal also includes a detailed landscape plan, and although this needs refining this provides a sound base for a successful landscape plan. The building would sit in a substantial garden / amenity area and as such its ongoing maintenance will also be important. Whilst the loss of mature trees is regrettable and has not been taken lightly, it is considered that in the context of the wider benefits that would be brought about by the redevelopment of the site, together with the retention of other valuable trees and a detailed landscape scheme, the that

the proposal now complies with policies LA5 and LA6 of the UDP subject to the imposition of the conditions contained in the recommendation below.

Residential Amenity

- 6.18 The proposed building will, by virtue of its height and design, be seen by and change the outlook of the dwellings near to it. A letter has been received from number 33 Greyfriars (that is sited to the west of the existing Champions building, fronting the river) raising concern about loss of privacy. The proposed building, that has roof terraces and balconies may create an element of overlooking to these properties, but the distance between them would be over 50m, and there is a substantial landscape boundary and ecological protection zone also proposed that would provide a visual screen. The reduced height of the proposed building would also reduce the harm and risk of this.
- 6.19 One of the key concerns has been the height of the proposed building in relation to its surroundings. The 21 unit scheme originally proposed was 7 storeys in height (including the stilted ground floor level). This has been reduced to 5 storeys (including stilted ground floor) with the top two floors being set back to provide for roof terraces on the forward projection, significantly reducing the bulk of the building. The overall height is now 15.5m (from ground level) with three floors above bridge level. The 21 unit scheme was 21.5m in height. The building itself is sited in a relatively large site which allows for significant distances between dwellings and proposed building of over 50m, retention and addition of trees and planting and the orientation of the properties, the proposed development, although having a presence, will not be overbearing or cause such significant impact on the amenities of the occupiers as to warrant a refusal.
- 6.20 Probably the most affected property would be number 27 Greyfriars Avenue that fronts Greyfriars Avenue at the entrance to the application site. Any overlooking of this dwelling is likely to be of the driveway and parking area, with the private amenity space being located to the west of the dwelling. No objection has been raised from the occupiers of this property. The benefit of the development to these occupiers would be likely to be the loss of the existing building, which would then afford them a view across the gardens of the proposed building to the river. It is considered that the proposals are unlikely to have an adverse impact on the amenities of the adjoining residents to such an extent that would warrant a reason for refusal. As such the proposal complies with policies DR1, DR2 and H13 of the Herefordshire Unitary Development Plan.

Highway Safety and Parking

- 6.21 One of the ongoing issues surrounding applications on this site related to the necessity of a 'safe dry pedestrian access' from the building out of the site in order to achieve the requirements of the Highways Agency. The only way of achieving this was to include a pedestrian link onto Greyfriars Bridge. This had, historically caused objection and concern from the Highway Agency, with fears of vehicles stopping on the A49 to 'drop off' passengers and goods. The Highways Agency, over the course of these applications has accepted that this bridge can be included, but that it must be available for and controlled as an emergency access only. The Agency have raised no objection subject to a condition and informative note. As such this issue has now been satisfactorily addressed.
- 6.22 Local residents have raised concern about additional traffic movements on Greyfriars Avenue, but given the relatively low density of the revised development, and the historic lawful use of the site as a restaurant and hotel, the additional movements would not give rise to sufficient concern about highway safety to a level that would warrant a reason for refusal. The proposal would therefore comply with the requirements of policy DR3 of the Herefordshire Unity Development Plan.
- 6.23 Parking provision within the site has largely been negotiated having regard to flood risk, tree protection and the close proximity of the city centre. There are 14 units proposed and 19

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spaces to serve these units. This is considered to be an acceptable level of provision for such a development. Parking is restricted in Greyfriars Avenue, and there is a car park in close proximity to the site if required. The parking and access area would also serve as a turning area for larger vehicles. The bin store has been located adjacent to the access so that refuse lorries would not have to navigate into and out of the site. Secure and covered cycle parking would be provided within the site. As such the proposal is considered to comply with the requirements of T11 of the Herefordshire Unitary Development Plan.

Biodiversity and Ecology

- 6.24 The application site lies adjacent to the River Wye SAC and SSSI and a number of protected species and constraints have been identified within the ecological reports submitted with the application. A detailed mitigation strategy has been provided that includes the provision of the bat shelter/loft, ecological protection zones and other enhancements. Conditions are recommended to ensure that these mitigation and enhancement measures are undertaken prior to demolition of the existing building (or works on the new building). As such the proposals are considered to comply with the policies of the Unitary Development Plan that seek to protect species and habitats along with guidance contained within PPS9 – Biodiversity and Geological Conservation.
- 6.25 In addition to this the site lies immediately adjacent to the River Wye SAC and a Habitats Regulations Assessment Screening report has been undertaken to establish where there are any likely significant effect on the SAC as a result of these development proposals. It has been concluded that there are no likely significant effects from this development, including impact on the phosphate levels in the River Wye. Natural England have confirmed acceptance of the HRA screening report and have accordingly removed their objection.

Section 106 Contributions

- 6.26 In considering the application due regard has been given to the Planning Obligations Supplementary Planning Document and the latest advice from the Government on planning obligations.
- 6.27 Paragraph 12 of the Planning Obligations Supplementary Planning Document states, 'If a developer considers that the level of obligation would render their proposal unviable, the Council will expect the detailed finances of the proposal to be shared with the Council in a financial appraisal. For the Council to consider such an argument it will be essential that the developer shares information substantiating this on an 'open book' basis. Any deviation from the standard obligations will need to be an unusual exception and the developer will be required to demonstrate the exceptional circumstances that give rise to the case made.'
- 6.28 This position is endorsed in a letter received from the Government Chief Planner, Steve Quatermain, on 31 March 2011 which states 'To ensure that development can go ahead, all local authorities should reconsider, at developers' request, existing section 106 agreements that currently render schemes unviable, and where possible modify those obligations to allow development to proceed, provided this continues to ensure that the development remains acceptable in planning terms. There is a need to ensure that existing planning permissions are built out to help deliver growth and support local economies.'
- 6.29 The planning history of the site and the financial appraisal prepared by Adams Fletcher & Partners (Chartered Quantity Surveyors) dated October 2011 that accompanies the application have been considered very carefully. The developer has submitted full details of the build costs and the projected sales forecast from 4 local estate agents. An average of the sales forecast has been taken. This results in a profit of between 2.06% and 3.85% (excluding the payment of contributions required by the Environment Agency in respect of flood risk and as such the % profit would be lower than this). This is significantly lower than the generally accepted developer return of between 15 - 20% upon his investment. This profit does not take

into account the section 106 contributions. If the Section 106 figures are applied the resultant loss of 1.1% making the development unviable.

- 6.30 Having regard to the above, it is recommended that the Section 106 contributions that would normally be sought in respect of education, highways, open space, libraries and waste are waived in this instance. It has been proven that with these contributions imposed the site would not be viable. It is widely accepted that there is desire to demolish the building and improve the visual amenity of the site and this exceptional approach would facilitate this.
- 6.31 Notwithstanding this there will be a requirement to make a contribution in respect of flood risk. Which will be directed towards the cost of flood warning systems for the lifetime of the development This accords with Planning Policy Statement 25 - Development and Flood Risk and paragraph 3.6.3 of the Planning Obligations Supplementary Planning Document (SPD) which states:

'Where a flood risk assessment has been undertaken which identifies the mitigation measures necessary for a development to proceed, developers will be expected to enter into an obligation to deliver these measures and secure a proper maintenance regime. It is considered appropriate in certain circumstances in the management of residual risk to seek a developer contribution for major applications proportionate to the increased burden on the flood warning system and emergency services for the lifetime of the development. Financial contributions will be calculated on a site-by-site basis.'

- 6.32 In terms of flood warning the current standard flood risk contribution guidance refers to £1000 per dwelling as a reasonable contribution towards the provision of flood warning for the lifetime of the development. This equates to £10 per year, if you consider the 100 year lifetime of a dwelling. The total contribution is therefore £14,000 and should be provided by the developer by way of a planning obligation. A condition is recommended to secure the section 106 agreement.

Conclusion

- 6.33 Having regard to the above, a proposal has been negotiated to which there are no objections from statutory or internal consultees (subject to conditions). Local resident concerns have been fully considered and appropriately mitigated, and it is noted that responses to the revised plans have been limited to one letter. The revised and significantly scaled down proposal is now considered to comply with the policies of the Herefordshire Unitary Development Plan and Government guidance. On this basis the application is recommended for approval with conditions subject to agreeing outstanding matters with Natural England.

RECOMMENDATION

In respect of DMS/110919/F:

That planning permission be granted subject to the following conditions:

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans**
- 3. B07 Section 106 Agreement**
- 4. C01 Samples of external materials**
- 5. G10 Landscaping scheme**

6. **G11 Landscaping scheme - implementation**
7. **G04 Protection of trees/hedgerows that are to be retained**
8. **Prior to the commencement of any other works (excluding demolition of the building) development a detailed method statement in relation to the construction of the proposed car park shall be submitted to and approved in writing by the local planning authority. Works shall be undertaken in accordance with the approved details and shall not thereafter be altered without the prior written consent of the local planning authority.**

Reason: The trees form an integral part of the visual environment and this consideration is imposed to ensure that the roots of trees within or adjacent to the car park are protected in the interests of protecting the character of the area in accordance with Policies DR1 and LA5 of the Herefordshire Unitary Development Plan.

9. **Prior to the commencement of development (excluding demolition of the building) plans detailing the entrance to the site, including the gates, lighting, barriers, fence and bin store shall be submitted to and approved in writing by the local planning authority. Plans should include colour, finish and materials of these elements. Works shall be carried out in accordance with the approved details prior to the occupation of the development hereby approved.**

Reason: In the interests of visual amenity of the area and to ensure that the development conforms with Policies DR1 and H13 of the Herefordshire Unitary Development Plan.

10. **Prior to the commencement of development (excluding demolition of the building) a detailed design, construction and maintenance plan in relation to the proposed 'Green wall' to the east elevation shall be submitted to and approved in writing by the local planning authority. Construction and maintenance shall be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.**

Reason: In the interests of visual amenity of the area and to ensure the long term success of this element of the proposal and that the development conforms with Policies DR1 and H13 of the Herefordshire Unitary Development Plan.

11. **G14 Landscape management plan**
12. **H13 Access, turning area and parking**
13. **H29 Secure covered cycle parking provision**
14. **H30 Travel plans**
15. **H27 Parking for site operatives**
16. **I16 Restriction of hours during construction**
17. **L01 Foul/surface water drainage**
18. **L02 No surface water to connect to public system**
19. **L03 No drainage run-off to public system**

20. The recommendations set out in the ecologist's report dated 26 November 2010 should be followed in relation to the identified protected species [bats, great crested newts etc], unless otherwise agreed in writing by the local planning authority.

Reasons: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6 and NC7 of Herefordshire Unitary Development Plan.

To comply with Herefordshire Council's Policies NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of PPS9 Biodiversity and Geological Conservation and the NERC Act 2006.

21. Prior to commencement of the development, a full working statement and mitigation strategy for bats and otters should be submitted to and be approved in writing by the local planning authority and the work shall be implemented as approved.

An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.

Reasons: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6 and NC7 of Herefordshire Unitary Development Plan.

To comply with Herefordshire Council's Policies NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of PPS9 Biodiversity and Geological Conservation and the NERC Act 2006.

22. Prior to commencement of the development, a full Construction and Environmental Management Plan should be submitted to and be approved in writing by the local planning authority, and the works shall be implemented as approved.

Reasons: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6 and NC7 of Herefordshire Unitary Development Plan.

To comply with Herefordshire Council's Policies NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of PPS9 Biodiversity and Geological Conservation and the NERC Act 2006.

23. Floor levels shall be set no lower than 53.56mAOD, in accordance with the submitted Flood Risk Assessment (Report Ref: 3647.FRA, November 2010). This figure includes an allowance for climate change, in accordance with PPS25.

Reason: To protect the development from flooding in accordance with Policy DR7 of the Herefordshire Unitary Development Plan and guidance contained within PPS25 - Flood Risk.

24. Prior to the first occupation of any dwelling a safe pedestrian access and egress route as shown on drawing reference 3873.P33, dated September 2010, shall be provided and maintained, in perpetuity, for the lifetime of the development.

Reason: To provide safe access and egress during flood events in accordance with Policy DR7 of the Herefordshire Unitary Development Plan and guidance contained within PPS25 - Flood Risk.

- 25. No development shall commence until a scheme for the provision and maintenance of the voided undercroft, as shown on drawing no. 3873.P10, and referenced in the submitted Flood Risk Assessment (para. 5.7) has been submitted to, and approved in writing by the local planning authority, in consultation with the Environment Agency. Thereafter the scheme shall be carried out and implemented in accordance with the approved plans.**

Reason: To ensure no loss of flood storage and to minimise the impact on flood flows in accordance with Policy DR7 of the Herefordshire Unitary Development Plan and guidance contained within PPS25 – Flood Risk.

- 26. Prior to the first occupation of the development, a Flood Evacuation Management Plan shall be submitted to and approved in writing by the local planning authority in consultation with the local authority Emergency Planning Officer and Emergency Services. The Plan shall include full details of proposed awareness training and procedure for evacuation of persons and property (including vehicles), training of staff and method and procedures for timed evacuation. It shall also include a commitment to retain and update the Plan and include a timescale for revisions of the Plan.**

Reason: To minimise the flood related danger to people in the flood risk area in accordance with Policy DR7 of the Herefordshire Unitary Development Plan and guidance contained within PPS25 - Flood Risk.

- 27. No development shall take place until a plan for the long term maintenance of the 10 metre buffer zone (from the top of bank) within the boundary of the site, as shown on 3873.P20 dated September 2010 has been submitted to and approved in writing by the local planning authority, in consultation with the Environment Agency.**

Reason: To secure the long term maintenance of the watercourse and access to the watercourse for maintenance or improvements in accordance with Policy DR7 of the Herefordshire Unitary Development Plan and guidance contained within PPS25 - Flood Risk.

- 28. No development shall commence (excluding demolition of the building) unless and until details of a pedestrian bridge access arrangement have been submitted to and approved by the local planning authority in consultation with the Highways Agency. The arrangements to ensure that the bridge remains for pedestrian use only and opened only in case of emergency situations. The arrangements approved by the local planning authority shall be implemented and completed prior to the first occupation of the development.**

Reason: To enable the A49 Trunk road to continue to be an effective part of the national systems of routes for through route in accordance with Section 10 (2) of the Highways Act 1980 and to protect the interests of road safety in accordance with Policy DR3 of the Herefordshire Unitary Development Plan.

- 29. E01 Site Investigation – archaeology**
- 30. E04 Submission of foundation design**
- 31. Prior to the commencement of development the following information shall be**

submitted to and approved in writing by the Local Planning Authority. Works shall be carried out strictly in accordance with the approved details unless otherwise agreed in writing the local planning authority:

- a) A detailed demolition method statement
- b) A detailed waste management plan
- c) Full details of reinstatement of land following demolition (plan including site levels, landscaping details and ecological protection area)
- d) Timetable for works (including demolition, repair / reinstatement of land, landscaping and ecological mitigation)

Reason: In the interests of visual amenity of the Conservation Area and SAC and to ensure that the development conforms with Policies DR1, HBA6, HBA7, NC1 and NC6 of the Herefordshire Unitary Development Plan.

32. Prior to any other works being undertaken the, the existing building (Champions) shall be removed from the site in accordance with the details agreed in condition 31 above unless a revised timescale is submitted to and approved in writing by the local planning authority.

Reason: To define the terms of this permission and having regard to the issue of Flood Risk and impact on the character and appearance of the Conservation Area in accordance with policies DR7 and HBA6 of the Herefordshire Unitary Development Plan.

Informatives:

1. HN10 No drainage to discharge to highway
2. HN05 Works within the highway
3. N11A Wildlife and Countryside Act 1981 (as amended) - Birds
4. The Environment Agency recommends that in areas at risk of flooding, consideration be given to the incorporation into the design and construction of the development of flood proofing measures. These include removable barriers on building apertures such as doors and air bricks and providing electrical services into the building at a high level so that plugs are located above possible flood levels. Additional guidance, including information on kite marked flood protection products, can be found on the Environment Agency web site www.environment-agency.gov.uk under the 'Managing Flood Risk' heading in the 'Flood' section.
5. Developers should incorporate pollution prevention measures to protect ground and surface water. The Environment Agency have produced a range of guidance notes giving advice on statutory responsibilities and good environmental practice which include Pollution Prevention Guidance Notes (PPG's) targeted at specific activities. Pollution prevention guidance can be viewed at: www.environment-agency.gov.uk
6. Any waste produced as part of this development must be disposed of in accordance with all relevant waste management legislation. Where possible the production of waste from the development should be minimised and options for the reuse or recycling of any waste produced should be utilised.
7. The proposed link to Greyfriars Bridge associated within the consent involves works within the public highway, which is land over which you have no control and

is subject to the provisions of the Highways Act 1980. IN order for these works to proceed, the highways Agency requires the developer to enter into an agreement under the Section 278 of the Highways Act 1980. The Highways Agency therefore requires you to enter into a suitable legal agreement to cover the design and construction of the works. Please contact Mr. Jon McCarthy of the Highways Agency, Area 9 Network Delivery Team, at an early stage to discuss the details of the highways agreement. His contact information is as follows: Highways Agency, The Cube, 199 Wharfside Street, Birmingham, B1 1RN – 0121 6788742.

- 8. The proposed development site is crossed by a public sewer. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times. No part of a building will be permitted within 3 metres either side of the public sewer.
- 9. ND02 Area of Archaeological Importance
- 8. N15 Reason(s) for the Grant of PP/LBC/CAC

In respect of DMS/11920/C:

That Conservation Area Consent be granted subject to the following conditions:

- 1. D01 Time limit for commencement (Listed Building Consent)
- 2. D17 Notification of Commencement
- 3. The building shall not be demolished until such time that:
 - a) a contract carrying out of the work of redevelopment of the site has been made and planning permission has been granted for the redevelopment for which the contract provides OR
 - b) a detailed method statement in respect of the demolition of the building, disposal of waste material and restoration has been submitted to and approved in writing by the local planning authority.

Reason: Pursuant to the provisions of Section 17(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and to comply with the requirements of Policy HBA2 of Herefordshire Unitary Development Plan.

Informative:

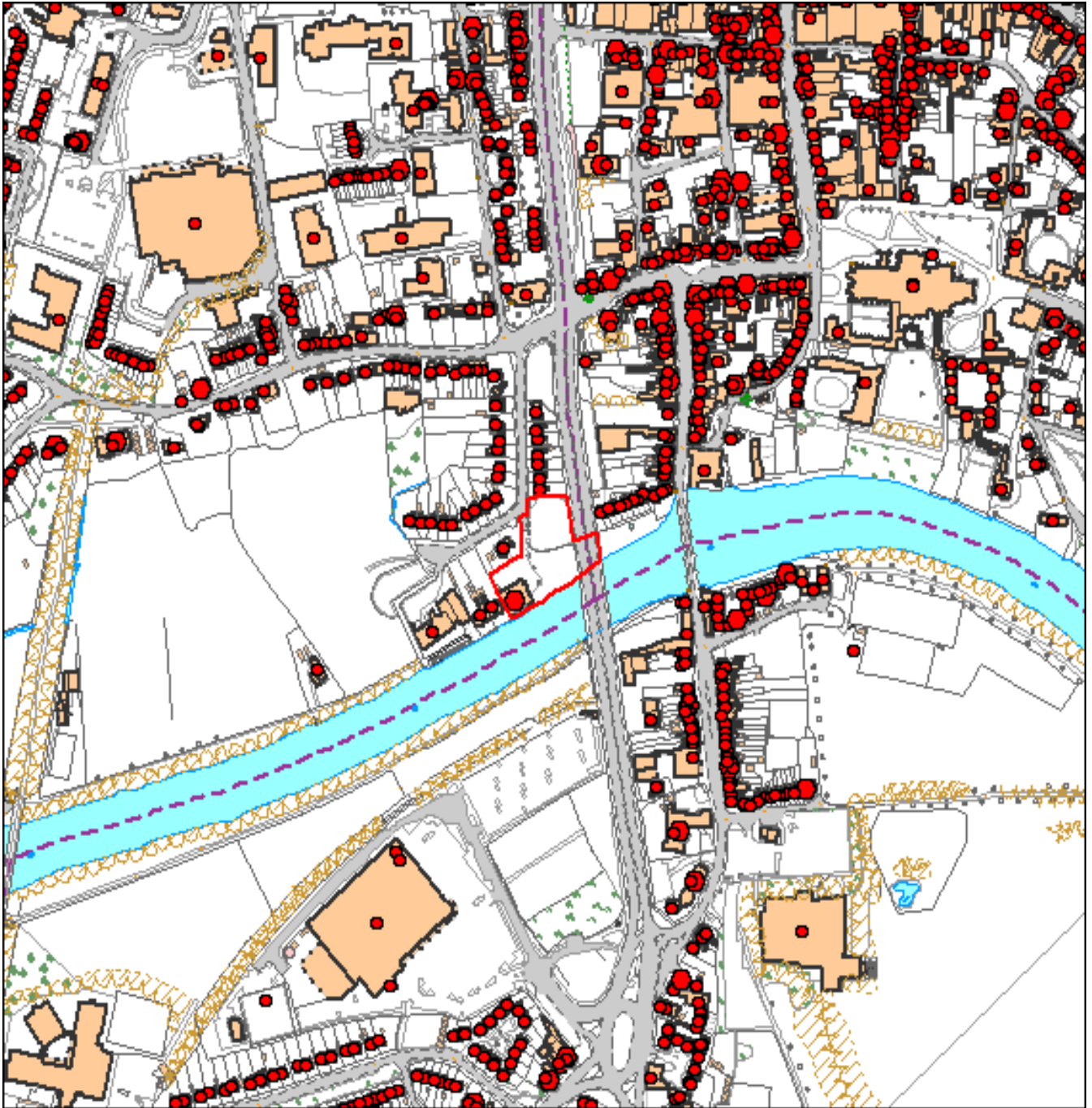
- 1. N15 Reason(s) for the Grant of PP/LBC/CAC

Decision:

Notes:

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ackground Papers

Internal departmental consultation replies.



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APPLICATION NOS: DMS/110919/F & DMS/110920/C

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