

<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>28 NOVEMBER 2012</b>
<b>TITLE OF REPORT:</b>	<p><b>S122252/F - CHANGE OF USE FROM PUBLIC HOUSE TO A NURSERY SCHOOL, CLASS D1; RECONFIGURATION OF EXISTING FLAT FROM 1-BEDROOM TO 2-BEDROOMS TOGETHER WITH ASSOCIATED CAR PARKING SPACES AT 1 HAMPTON PARK ROAD, HEREFORD, HR1 1TQ</b></p> <p><b>For: Mrs Marshall, Nursery School, Oak House, Ross Road, Brampton Abbots, Ross-On-Wye, Herefordshire HR9 7JD</b></p>
<b>WEBSITE LINK:</b>	<a href="http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=122252&amp;NoSearch=True">http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=122252&amp;NoSearch=True</a>

**Date Received: 9 August 2012**

**Ward: Tupsley**

**Grid Ref: 352301,239277**

**Expiry Date: 31 October 2012**

Local Members: Councillors MD Lloyd-Hayes, JLV Kenyon and AJ Hempton-Smith

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

- 1.1 Planning permission is sought for the change of use of the recently closed Salmon Inn Public House into a day nursery for children of pre-school age. The building occupies a prominent position at the gateway to the Hampton Park conservation area. The building dates from the Victoria period. Accommodation is arranged over three floors with cellar and detached brick built outbuilding. Land to the rear rises quite sharply with the effect that there is direct access to the rear garden from first floor. It closed as a public house on 1st December 2011. It was purchased by the applicants following a seven week marketing exercise.
- 1.2 Vehicular access is via a gated entrance to the front of the building direct from the B4224. This leads to an existing parking area. It is proposed to formalise parking arrangements to create a total of 19 spaces shared by staff and parents/visitors. The junction with the main road would remain unaltered. Segregated pedestrian access is also intended via a separate opening to the east of the car park entrance. This would allow direct pedestrian access to the front door without crossing the parking area.
- 1.3 The existing cellar would be used for storage, with reception, office, baby room, toddler activity room and kitchen on ground floor. The first floor would be used for the kindergarten with the second floor reconfigured to provide 2 bedrooms for the live-in managers and occasional play room. Dining and kitchen accommodation on the first floor would be shared with staff during the opening hours, which are 07:30-18:00 Monday to Friday.
- 1.4 Externally the building would be modified by the introduction of 5 dormer windows in the rear attic space, to generate sufficient headroom, removal of the rear chimney and introduction of patio doors in the flank and rear elevations to enable access to the outdoor play space from individual rooms.

- 1.5 The application is accompanied by a Planning Statement and Transport Statement, the former incorporating an assessment of need for the nursery facility and an analysis of alternative local public house provision.

## 2. Policies

- 2.1 The National Planning Policy Framework (NPPF) (2012)

- 2.2 Herefordshire Unitary Development Plan (UDP) 'saved' policies:

S1	-	Sustainable development
S6	-	Transport
DR2	-	Land use and activity
DR3	-	Movement
T6	-	Walking
T7	-	Cycling
T11	-	Parking provision
HBA6	-	New development within conservation areas
CF5	-	New community facilities
CF6	-	Retention of existing facilities
NC1	-	Biodiversity & development
NC7	-	Compensation for Loss of Biodiversity
NC8	-	Habitat creation, restoration & enhancement

- 2.3 The Unitary Development Plan policies together with any relevant supplementary planning documentation can be viewed on the Councils website by using the following link:-

<http://www.herefordshire.gov.uk/housing/planning/29815.aspx>

## 3. Planning History

- 3.1 S120810K - Fell 1 sycamore tree that is undermining boundary wall: Tree works allowed to proceed: 25th April 2012
- 3.2 DCCE2000/2174/F - External fire escape: Approved 6th November 2000

## 4. Consultation Summary

### Statutory Consultations

- 4.1 Welsh Water: No objection

### Internal Consultation Responses

- 4.2 Traffic Manager: The proposal for a nursery for up to 82 children has been supported by a Transport Statement to assess the likely traffic impact of the proposals. Whilst the application form states that 401 square metres of D1 use is proposed, Appendix 7 of the Transport Statement gives a breakdown which indicates that the floor space proposed as nursery is 293 square metres, with residential and storage making up the remainder of the 401 square metres total. As all assessments, including parking, are based on the 293 square metres figure, any consent granted should also reflect this as the ceiling figure for D1 use.

The parking provision is in accordance with our maximum standards for the quoted floor space of 293 square metres of D1 use and an acceptable layout has been produced. Adopted parking standards are based on floor space, not child numbers. No separate parking provision

has been made for the residential element, which should be conditioned and restricted as such. Whilst tandem parking spaces are unusual they are to be used exclusively by staff. On this basis the layout is considered acceptable.

The Transport Statement compares the likely traffic generation for the nursery to that of the lawful use as a public house. Whilst over a 24 hour period the overall traffic generation is similar, the pattern of arrival/departures is different, particularly in the morning peak hour. The Transport Statement, using the TRICS database as reference, indicates a likely traffic generation inbound of 29 vehicles based on the floor area of D1 use proposed. I have carried out a similar exercise within TRICS based on child numbers, and a similar but slightly lower figure is obtained for arrivals based upon the proposed number of child spaces. This is considered acceptable in capacity terms on the road network, and it is also likely that a proportion of this traffic is already using the road network in the area.

With a predicted 29 arrivals in the morning peak (0800-0900) spread over that hour, and with the parking provision shown, it is considered that the parking provision would suffice and also meets our maximum standards. However, as the vehicle arrival rate is based on information from the TRICS database, which covers sites in various locations around the country, and as each site is individual in terms of catchment, location, sustainability and local influences such as the intensity of use of the floor space and arrival times/patterns, these figures are only a guide.

Any overflow of parked vehicles onto Hampton Park Road would be likely to be detrimental in terms of impact on visibility for both drivers exiting the entrance itself or the junction with Old Eign Hill, which without parked vehicles is excellent and in excess of required standards. There are currently no restrictions to prevent on-street parking. It is also noted that currently the junctions operate satisfactorily with only one recorded personal injury accident in the last three years in the section 100m either side of the access to the site.

The proximity of the site entrance to Old Eign Hill junction carries a risk of possible confusion to drivers waiting to exit Old Eign Hill if eastbound drivers indicate too early, but that is no different to the current situation with the pub entrance, just a different pattern of usage.

To establish how this individual location works in terms of travel patterns, spread of arrivals and parking usage by staff and parents, I would suggest consideration of a lower threshold on numbers at around the 60 mark to enable operation of the site to be assessed over a period of perhaps a year with a less intensive use of the parking, rather than approval of the full 82 places at the outset.

I would also recommend the provision of car parking and cycle parking as shown prior to first opening and submission of a Travel Plan.

- 4.3 Early Years Lead Consultant: No objection. A nursery at this location would support the necessary growth in childcare places resulting from increased government funding for disadvantaged 2 year olds. Most of these children are not currently in childcare, leading to likely displacement of 3 and 4 year olds and a supply issue for the local authority. The nursery would also act as compensation for the loss of the ABC nursery at 45 Eign Road, which has recently closed.
- 4.4 Conservation Manager (Historic Buildings): No objection. The former Salmon Inn is a fine building occupying a prominent gateway site and makes a positive contribution to the Hampton Park conservation area. The proposed changes are generally minor and do not materially affect the building's character, although the conversion of the attic for relatively little usable space is questionable, particularly as it relies upon the introduction of five dormer windows.

4.5 Conservation Manager (Ecology): No evidence of bats or bat roosts in the attic area that is proposed for conversion was found. The proposals include the installation of dormer windows; the roof slates appear to be well-fitting in these areas, limiting any opportunities for bat roosting. The ridge tiles do have some gaps where bats could roost and I would be concerned if any disturbance was proposed to these features. If this application is to be approved, it would be appropriate to secure implementation of a working method statement as well as a habitat enhancement scheme with inclusion of new features for bat roosting post-development.

## 5. Representations

5.1 Hereford City Council: Objection. Concern that evidence has not been produced to justify the loss of the public house and that the parking area would prove insufficient and result in disruption to the flow of traffic on the highway.

5.2 Hereford Civic Society: Objection. Public Houses can contribute to local communities beyond the provision of alcohol, whilst the proposal will impact upon the road network at peak drop-off and pick-up times.

5.3 Fourways Day Nursery, 26 Vicarage Road, Hereford: Objection. The opening of a new nursery will impact upon the ability of existing local providers to fill the spaces required to remain operational. Concern is also expressed in relation to additional congestion on busy routes into town.

5.4 ABC Nursery, 26 Eign Road, Hereford: Objection. Concern is expressed in relation to the impact upon existing childcare providers, some of which have received public funding, traffic congestion and the loss of the public house.

5.5 Seventeen letters of objection have been received. The content is summarised as follows:

- The loss of the public house should not be permitted until it can be demonstrated that genuine attempts have been undertaken to market the property as such;
- The marketing period was insufficient and the asking price higher than the true value as a licensed premises. In this way pub companies thwart potential independent operators or locally based breweries who have shown that free of pub company influence, pubs can become profitable;
- The benefits derived from the proposed nursery would not outweigh the negative consequences of losing the pub;
- The parking provision is inadequate and likely to lead to parents parking on the public highway, thus risking congestion and obstructing visibility at busy junctions during peak periods;
- The pub serves a large catchment spreading along Hampton Park Road to Hampton Dene, north to Tupsley and west into St. James and central ward. There are no other pubs with equivalent facilities within easy walking distance;
- The nearest pubs are 'town pubs' with a different, typically younger clientele;
- The application undermines the provisions of the Localism Act. If offered on the open market it is likely that the pub would be bought independently or by consortium and run as such;
- There are already sufficient nurseries in the local area. Unnecessary further provision could compromise existing providers.

5.6 Fifteen letters of support have been received. The content is summarised as follows:

- There is an existing unmet demand for an outstanding nursery in the eastern part of Hereford city;

- The applicant has a proven, long established track record, and a facility reaching the same standard as their existing nursery near Ross would be an asset to the community;
- The proposal will create much needed employment, especially for younger people;
- The proposal represents a sensitive re-use of the existing building;
- The nursery will increase the choice for parents locally and support some in their ability to return to work;
- A nursery in this location would reduce travelling by local residents who take their children further away because of a lack of good quality local provision;
- There are alternative pubs locally. The Salmon was in a long period of decline prior to closing;
- Traffic movements are staggered during the drop-off and pick-up periods and would not lead to the congestion that is being suggested.

5.7 A further eight letters of support and one of objection are contained within the appendices to the Planning Statement. The content is covered in the summaries provided above at 5.5 and 5.6.

5.8 The application also contains the results of a survey of households within a 600m radius of the application site undertaken by the applicants. The sample included 726 households. Of the 384 respondents 86.2% were prepared to sign a statement confirming no objection to the loss of the public house and support for the application. 10 respondents (2.6%) were explicit in their wish that the Salmon remain as a public house. Of the 342 households where no response was received, 327 were not in at the time of the visit, 9 were unoccupied and 6 had no adult present.

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

[www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx](http://www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx)

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

[www.herefordshire.gov.uk/community\\_and\\_living/consumer\\_advice/41840.asp](http://www.herefordshire.gov.uk/community_and_living/consumer_advice/41840.asp)

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

6.1 The application proposes the change of use of the now closed public house to a nursery for children of pre-school age. The application raises issues around the loss of a community facility in the form of a public house. What is slightly unusual is that the application seeks to replace the pub not with residential development, but with a nursery – a use defined as a community facility in the Unitary Development Plan. As such, the proposal substitutes one community facility for another, albeit the two uses serve very different purposes.

6.2 The key issues in the determination of this application are as follows:

- An assessment of the loss of the public house facility with regard to advice contained within the NPPF and UDP.
- An assessment of the impact upon the local highway network and adequacy of on-site parking provision.

6.3 The NPPF calls for the prompt determination of applications that promote sustainable forms of development. Paragraph 17 identifies the twelve core planning principles, which include a requirement to deliver sufficient community and cultural facilities and services to meet local needs. Paragraph 21 states that investment in business should not be over-burdened by the combined requirements of planning policy expectations. Paragraph 70 states that in order to deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

- Plan positively for the provision and use of shared space, community facilities and other local services to enhance the sustainability of communities and residential environments; &
- Guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.

Paragraph 72 reaffirms the importance that government attaches to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities.

- 6.4 UDP Policy CF5 supports the provision of new community facilities. The definition of community facility includes day nurseries for children. New facilities should be appropriate in scale to the needs of the community and reflect the character of the location. They should not impact upon the amenity of neighbouring residents and incorporate safe and convenient pedestrian access, appropriate car and cycle parking and operational space.
- 6.5 UDP Policy CF6 promotes the retention of existing facilities, with the loss of facilities which contribute to the needs of the community not permitted unless alternative provision of at least community benefit is provided in a convenient and accessible location; or the facilities can be best enhanced or complemented through the development of a small part of the site; or there is continuing evidence that the facility is no longer required and that it could not accommodate an alternative community facility for which there is a need. It is thus the final criterion to CF6 that provides the context for this application. Whereas the application material contends that there is alternative, conveniently accessible public house provision that can meet the community need, objectors consider this to be untrue by reference to the characteristics of alternative pubs and walking distances involved. In addition to this, Policy CF6 refers to the requirement to consider whether there is an alternative community facility that might be accommodated for which there is a need. Whilst the application proposal is indisputably a community facility under adopted policy, the issue of need is contested.

#### Marketing of the premises as a public house

- 6.6 The public house was marketed from the week following closure and sold following bid by informal tender seven weeks later. 24 parties viewed the premises, of which at least 15 were known to be intent on continuing with the pub business. Only one potential publican proceeded to bid, but could not proceed promptly. On this basis officers can understand the concerns expressed by the City Council and local residents alike as regards the length and intent of the marketing exercise. In a context where a non-community facility e.g. residential use, was now proposed, officers would agree that the marketing period was insufficient in order to establish the true extent of demand from prospective landlords. In this case, however, the application proposes the substitution of one community facility for another and whilst 15 letters of objection have been received, the response to the potential loss of the pub has not hitherto been overwhelming. As such, whilst the scope and nature of the marketing exercise is a material consideration, it is not necessarily the determining factor.

#### Alternative public house provision

- 6.7 The application identifies four public houses within a 1km radius of the application site. There are 37 pubs within a one mile radius (the increase being attributable to the fact that the 1 mile radius takes in some of the city centre pubs). These are The Brewers Arms', The Volunteer, The Victory and The Rose and Crown. Although officers recognise that for the closest neighbours these alternative venues are not as convenient, and have different qualitative characteristics, they are within a reasonable distance of the application site and represent comparable alternatives. On this basis officers do not consider that the loss of the public house would be prejudicial to the ability of the community to meet its day to day needs and would not undermine the objectives of the NPPF as expressed at paragraph 70. As such, although officers do not consider the marketing of the public house to have been conducted

over a sufficiently long period to prove there is no continuing requirement for the facility, this is tempered both by the fact that a new community facility is proposed and that four public houses continue to exist within a 1km radius. On this basis officers conclude that the application has demonstrated alternative provision and an alternative community facility. As such, whilst the proposal does not accord with a strict interpretation of Policy CF6 (1) or (3), officers conclude that alternative provision exists and also attach weight to the fact that the proposal promotes a substitute community facility.

#### The need for a further nursery

- 6.8 Whilst it is not normally a requirement for an applicant to demonstrate the need for development, the policy context in this case demands it. The loss of an existing community facility may be sanctioned where it can be proved that there is no longer a need for it and the facility can accommodate an alternative facility for which there is a need. The issue of need has been addressed by the Council's Early Years Lead Consultant at paragraph 4.3. This, in common with a comparatively recent appeal decision on the issue, identifies an unmet need for pre-school places within Hereford City. The need derives from increased funding for 2 year olds who are not already in settings. The recent closure of the ABC premises at No.45 Eign Road is also noted. There are also three large primary schools within the local area, and it is envisaged that the proposed nursery would act as a 'feeder' for these schools. In this respect support for the application has been received from the head teacher of Hampton Dene Primary School.
- 6.9 Although officers understand the concerns expressed by existing local nurseries in relation to capacity and competition, the Council's own evidence does not bear this out. As such, officers do not consider that an objection based upon a lack of demand or prejudicing of existing childcare providers can be sustained.
- 6.10 Concerns have been raised in relation to the adequacy of the parking and turning arrangements, in the context that insufficient space is likely to lead to indiscriminate parking on the public highway. At present there are no parking restrictions in the vicinity on Hampton Park Road, Old Eign Hill or Lichfield Avenue. The Traffic Manager has confirmed that the parking numbers are sufficient if related to the gross floor area of the nursery, the layout is acceptable and visibility at the junction is in excess of standard requirements. This notwithstanding concern remains that the potential maximum number of children (82) could lead to disruption on the highway network if peak drop-off and collection times are not staggered. On this basis it is suggested that for an interim period the maximum number of children catered for might be restricted to 60. This would give an opportunity to review the situation during that 12-month period and ascertain whether additional numbers would be acceptable.
- 6.11 The immediate take up of places is unlikely to reach 82 within the first year. The applicants have confirmed that for the first two to three years the need to retain capacity in the pre-school age-group, to service future demand, will mean that the kindergarten will not be full from the outset. This notwithstanding, until such time as the pattern of vehicular and pedestrian movements to and from the site can be measured, it is considered appropriate to impose a maximum limit on the number of children attending in line with the Traffic Managers comments i.e. 60 children. In the future, if the applicants were able to prove effective management of drop-off and collection times, they would be able to apply to vary the restrictive condition.

#### Other matters

- 6.12 Officers are also conscious of the employment generation associated with the proposed use. Whereas the public house supported four full-time equivalent posts at the time of closure, the nursery would employ 16 full-time equivalents.

- 6.13 The ecologist has inspected the interior and exterior of the attic space in order to ascertain the likely presence of bats. No evidence was found to suggest occupation by bats during the season. It is recommended, nonetheless, that prior to commencement of re-roofing, a working method statement is produced to demonstrate that the work will be undertaken in a manner that is not prejudicial to the presence of, or future occupation by bats.
- 6.14 Policy CF5 requires that new community facilities should not affect the residential amenity of adjoining residents. Although officers recognise that external play can generate noise, the use in and of itself is not inherently noisy in the same way as industrial processes can be. In this case the nearest neighbours to the development (No.5 Hampton Park Road) have written in support of the application and consider the nearby presence of a nursery, which is closed in the evenings and at weekends, preferable to a public house. Officers do not consider that an objection based on a subjective assessment of potential noise nuisance can be sustained. The use is considered to comply with Policy CF5 and DR2 (4).

#### Conclusion

- 6.15 The proposal would result in the loss of a public house. Although the proposal does not meet the strictest interpretation of Policy CF6, it does result in the provision of an alternative community facility for which there is a need. Officers are also of the opinion that the loss of the pub would not prejudice the ability of the community to meet its day to day needs i.e. there are alternatives within a reasonable distance of the application site.
- 6.16 Officers are also mindful of the fall-back position, which would permit a change of uses falling within Use Classes A1, A2 and A3 (shops, certain types of offices and restaurant/café) without the requirement for planning permission. Given the prominent location, available on-site parking and links to public transport, officers consider the fall-back position to represent a material consideration.

#### RECOMMENDATION

**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. The maximum number of children to be looked after at the nursery hereby approved shall not, in accordance with an OFSTED registration, exceed 60.**

**Reason: In the interests of highway safety so as to comply with Policies S6, T11 and DR3 of the Unitary Development Plan.**

- 4. G09 Details of Boundary treatments**
- 5. H13 Access, turning area and parking**
- 6. H29 Secure covered cycle parking provision**
- 7. H30 Travel plans**
- 8. Prior to the commencement of development, a full working method statement and habitat scheme for bats should be submitted to and approved in writing by the local planning authority, and the work shall be implemented as approved.**

**Reason: In order to ensure the protection of European Protected Species in**



accordance with Unitary Development Plan policies NC1, NC7, NC8 and NC9, the NERC Act 2006 and the Habitats Directive.

**Reason for Approval**

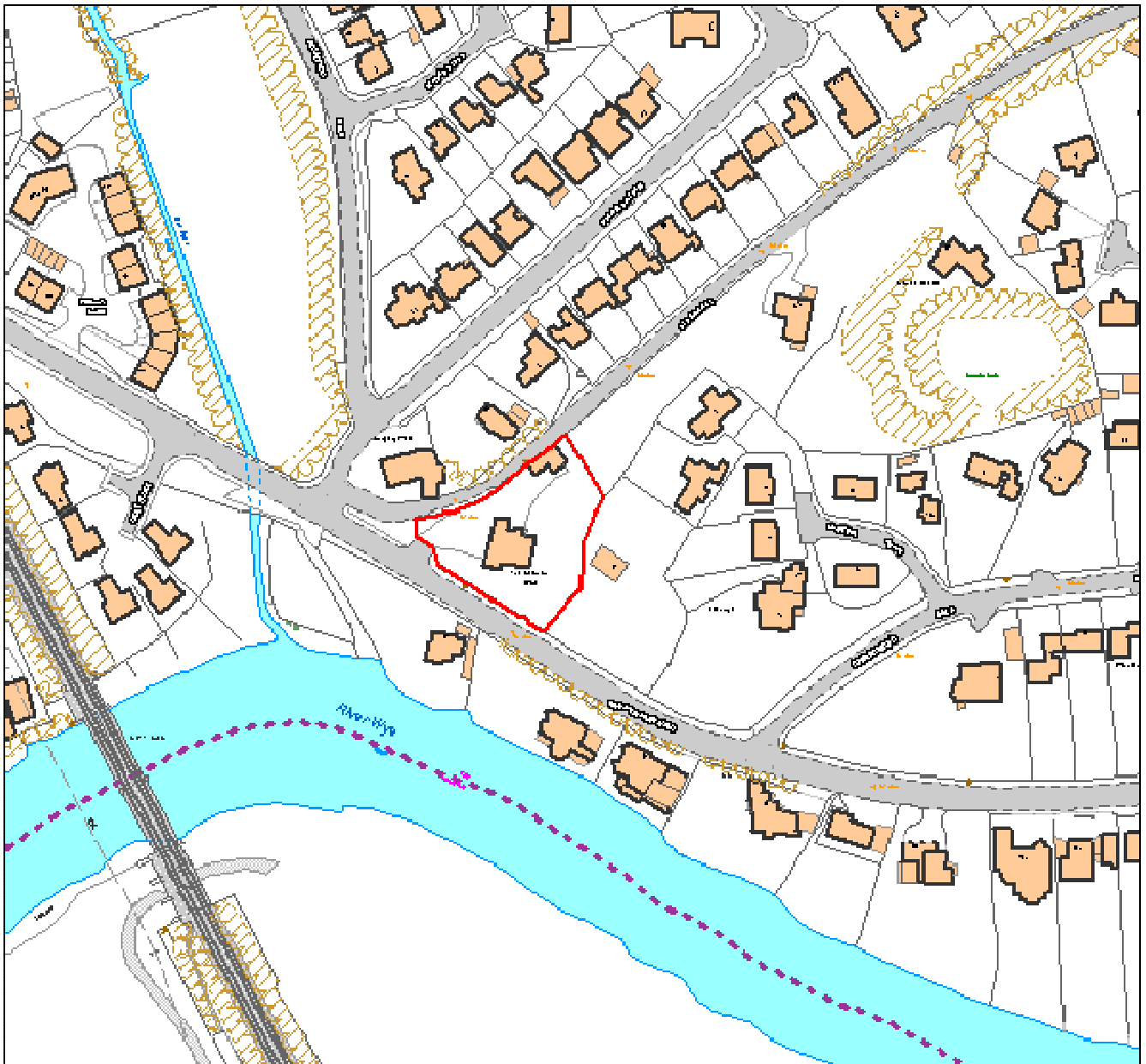
1. The application has been considered with regard to Unitary Development Plan policies S1, S6, DR2, DR3, T6, T7, T11, HBA6, NC1, NC7 and NC8 and guidance set down in the National Planning Policy Framework 2012. The loss of the public house is not considered to prejudice the ability of the local community to meet its day to day needs and weight has been attributed to the proposed introduction of a community facility for which there is an identified need. The local planning authority is also conscious of the employment opportunities that will be created. With an initial limit of 60 children, the proposed parking layout is considered acceptable in accordance with Policies DR3 and T11. The proposed use would not significantly effect existing levels of residential amenity by comparison to the historic use as a public house in accordance with Policy DR2.

Decision: .....

Notes: .....

**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** S/122252/F

**SITE ADDRESS :** 1 HAMPTON PARK ROAD, HEREFORD, HEREFORDSHIRE, HR1 1TQ

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Further information on the subject of this report is available from Mr Edward Thomas on 01432 260479