

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	26 AUGUST 2020
TITLE OF REPORT:	<p>193747 - OUTLINE APPLICATION FOR A RESIDENTIAL DEVELOPMENT OF UP TO 4 DWELLINGHOUSES (ALL MATTERS RESERVED) AT LAND TO THE NORTH OF THE B4348, MUCH DEWCHURCH VILLAGE, HEREFORDSHIRE.</p> <p>For: Hereford Diocesan Board of Finance per Mr Philip Staddon, 26 Lea Crescent, Longlevens, Gloucester, GL2 0DU</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=193747&search-term=193747
Reason Application submitted to Committee – Redirection	

Date Received: 25th October 2019
Expiry Date: 20 December 2019

Ward: Wormside

Grid Ref: 348341,231163

Local Member: Councillor Christy Bolderson

1. Site Description and Proposal

- 1.1 The application site is located within Much Dewchurch Parish and proximate to the settlement of the same name. The site is to the South East of Church View, a collection of 6 semi-detached properties, and to the North East of the B4348 which runs through Much Dewchurch. The application site fronts the road, forming its South Western boundary, and is bounded to the North West by the residential curtilage of No 6 Church View and to the South East by Worm Brook, to the North of the application site is agricultural land in the applicant's ownership.
- 1.2 The application is made in outline, with all matters reserved, for the erection of up to 4 dwellings.

2. Policies

2.1 Herefordshire Local Plan – Core Strategy (CS):

SS1	-	Presumption in favour of sustainable development
SS2	-	Delivering new homes
SS3	-	Releasing land for residential development
SS4	-	Movement and transportation
SS6	-	Environmental quality and local distinctiveness
SS7	-	Addressing climate change
RA1	-	Rural housing distribution
RA2	-	Housing in settlements outside Hereford and the market towns
MT1	-	Traffic Management, highway safety and promoting active travel
LD1	-	Landscape and townscape
LD2	-	Biodiversity and geodiversity

Further information on the subject of this report is available from Mr David Gosset on 01432 261588

- LD3 - Green Infrastructure
- LD4 - Historic environment and heritage assets
- SD1 - Sustainable Design and energy efficiency
- SD3 - Sustainable water management and water resources
- SD4 - Waste water treatment and river water quality

The 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

2.2 **National Planning Policy Framework (NPPF)**

- Chapter 2 - Achieving sustainable development
- Chapter 4 - Decision-making
- Chapter 5 - Delivering a sufficient supply of homes
- Chapter 9 - Promoting sustainable transport
- Chapter 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. **Planning History**

- 3.1 P191968/PIP - Application for permission in principle for a residential development of up to 4 dwelling houses - 04-Sep-2019 - Refused

4. **Consultation Summary**

Statutory Consultations

4.1 **Natural England – No Objection**

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.

4.2 **Health and Safety Executive – No Objection**

Do not advice against.

4.3 **Cadent Gas**

No response.

Internal Council Consultations

4.4 **Local Highways Authority – Area Engineer – No Objection**

27th November 2019:

New Access - A full 7 day speed survey undertaken during term time should be provided. Visibility splays should meet the 85th%tile recorded speed in both directions. (Quote both Herefordshire Highways Design Guide 2006 based on DMRB and Mfs & Mfs2):- Speed and volume data should be submitted in an excel spreadsheet format or in a readable form with one day's data to a page. A plan showing the location of the survey should also be submitted.

Please also provide a 2m footway at the front of the site.

1st January 2020:

The application submitted is for an outline permission with all matters reserved, including access. As this is an all matters reserved the principle of “can an access be achieved” needs to be established. When visiting the site it was agreed that the principle of an access could be achieved as the visibility to and from the access had the benefit of the alignment of the highway and therefore had the view it could be achieved, subsequently the principle of the development could be achieved. If the permission is granted, then at the reserved matters stage, details and evidence including a speed and volume survey for a 7 full day period should be submitted to show that the access can meet national and local guidance. Further to the submission of the speed surveys, construction drawings on how the access can be achieved as there are a number of issues to cover in providing an access as there is a significant level difference and the requirement to meet HC guidance on access and driveway gradients.

Please condition the provision of a full 7 day speed and volume survey and construction details.

CAD - Access gates
CAE - Vehicular access construction
CAH - Driveway gradient
CAI - Parking – single/shared private drives
CAT - Construction Management Plan
CAX - Direction of proposed lighting
CB2 - Secure covered cycle parking provision

I11 – Mud on highway
I09 – Private apparatus within the highway
I45 – Works within the highway
I05 – No drainage to discharge to highway
I47 – Drainage other than via highway system
I35 – Highways Design Guide and Specification

4.5 Ecology – No Objection

Habitat Regs. Assessment

The site falls within the River Wye SSSI/SAC catchment and within the River Wye SAC Impact Risk Zone “any discharges of water or liquid including to mains sewer.” This application is subject to a formal Habitat Regulations Assessment (HRA) process by this local planning authority (LPA) as the competent body in consultation with Natural England.

The required Appropriate Assessment completed by the LPA must be submitted to and formally ‘approved’ by Natural England PRIOR to any grant of planning consent. The approved mitigation must be secured a condition on any consent granted;

The initial Habitat Regulations Screening Assessment identifies surface water and foul water as ‘likely significant adverse effects’. The applicant has indicated in their application that foul water will connect to mains sewer, and surface water will outfall to on site SuDs (including infiltration tanks and geo-cellular storage), prior to outfall to the Worm Brook.

Condition- Drainage - Mains Sewer and Surface Water to Sustainable Urban Drainage

All foul water shall discharge through a connection to the local Mains Sewer network and surface water shall be managed through a SuDs system (with infiltration tanks) within the development boundary; unless otherwise agreed in writing by the Local Planning Authority.

In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), and Herefordshire Core Strategy (2015) policies LD2, SD3 and SD4.

Site ecology

In order to ensure site ecology, including the Worm Brook and bankside habitats are protected, the following conditions are recommended:

Condition Nature conservation protection - Ecological buffer zone

The details submitted pursuant to condition X [the reserved matters condition] shall include details of an ecological buffer zone and root protection area along the eastern site boundary adjacent to the Worm Brook. Such details shall include the retention of bankside vegetation, the erection of boundary fencing on the west (garden) side of the zone and measures to restrict illumination of the ecological buffer zone. Such measures as are agreed shall be maintained thereafter unless otherwise approved in writing by the LPA.

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 (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies LD1-3 and SS6, Dark Skies initiative (DEFRA-NPPF 2013/18).

Condition Nature Conservation protection – Construction Environmental Management Plan

Before any work, including any site clearance or demolition begin, equipment or materials 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.

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 (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies LD1-3.

Condition – Nature Conservation Biodiversity Enhancement Plan (Net Gain)

Prior to commencement of development a fully detailed and specified Biodiversity Enhancement Plan including a relevant location plan that is appropriate with the scale, nature and location of the development including provision of fixed habitat features shall be provided to the planning authority for approval. The approved scheme shall be implemented in full and hereafter maintained unless otherwise agreed in writing by the planning authority.

Informative: Fixed habitat features include but are not restricted to features such as bat roosting opportunities, bird boxes, insect hotels/houses, hedgehog homes & hedgehog friendly boundary features and amphibian/reptile refugia. Green and blue infrastructure could include wildlife friendly SuDS, tree and shrub planting (usually locally characteristic or directly associated cultivars of native species), wildflower meadows and Traditional ('standard') Orchards. The applicant is advised to seek the advice of an ecological consultant when completing the Biodiversity Enhancement plan.

To ensure that all species and habitats are protected, conserved and enhanced (Biodiversity net gain) having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies SS6, LD1-3 and, Dark Skies initiative (DEFRA-NPPF 2013/18).

Condition– Nature Conservation protection – Lighting

No external lighting should illuminate any boundary feature, adjacent habitat or area around the approved mitigation and biodiversity enhancement features.

To ensure that all species and Dark Skies are protected having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies SS6, LD1-3 and, Dark Skies initiative (DEFRA-NPPF 2013/18).

4.6 Land Drainage – No Objection

19th December 2019:

Overall Comment

We recommend that the Council do not grant planning approval for this development until the concerns raised above have been addressed. The proposed development may be at risk of flooding from fluvial and other sources, noting that these risks could influence the design (or event viability) of the proposed development and potentially increase flood risk elsewhere. The applicant has also provided insufficient information regarding the proposed surface water and foul water drainage strategies.

It is recommended that the Applicant submits the following information prior to the Council granting planning permission:

- A Flood Risk Assessment that assesses the risk of flooding to the proposed development from all sources, and that demonstrates no unacceptable risk to the development or to people, property and infrastructure elsewhere.
- An outline surface water and foul water drainage strategy, supported by a plan of the drainage systems that demonstrates the proposed location of attenuation features and discharge points.
- Calculations to support the outline surface water drainage strategy, including greenfield runoff rates, proposed discharges rates a

12th March 2020:

Overall Comment

We recommend that the Council do not grant planning approval for this development until the concerns raised above have been addressed.

The proposed development may be at risk of flooding from fluvial and other sources, noting that these risks could influence the design (or even viability) of the proposed development and potentially increase flood risk elsewhere.

It is recommended that the Applicant submits the following information prior to the Council granting planning permission:

- A Flood Risk Assessment that assesses the risk of flooding to the proposed development from all sources, and that demonstrates no unacceptable risk to the development or to people, property and infrastructure elsewhere.
- A revised drainage strategy that demonstrates all SuDS features that serve more than one property are located in public open space or on land registered as jointly owned by the residents.
- Confirmation of who will be responsible for the maintenance of the proposed crate storage system and the outfall to the watercourse.

20th April 2020:

This response is in regard to flood risk and drainage aspects. In previous responses we have raised significant concerns regarding the potential risk of flooding from fluvial and other sources, and the opportunities for the sustainable management of surface water runoff. We highlighted that these risks could influence the design (or even viability) of the proposed development and potentially increase flood risk elsewhere.

The applicant has responded to the concerns raised in a note dated 16 April 2020 titled 'Applicant's Note to Planning Case Officer'.

Flood risk

The Applicant discusses the flood risk to the site and refers to this only as surface water flood risk. We stress that we have concerns that the site could also be at risk of fluvial flooding, and that the current indication of the site in Flood Zone 1 may be associated with the extent of mapped model extents rather than a reflection of the actual fluvial risk attributable to the Worm Brook. The Applicant states that a detailed assessment of flood risk will be undertaken to inform the reserved matters application and the detailed design of the scheme. We agree with this approach, however highlight that this assessment must consider the following:

- Fluvial flood risk associated with the Worm Brook and tributaries, noting that this must comprise a robust assessment and not be based only on the indicative EA flood maps, and take anecdotal flood records into account.
- The development must mitigate for any increase in flood risk elsewhere associated with impact to fluvial flood flow conveyance or loss of fluvial flood storage in accordance with the recommendations of the Herefordshire Level 1 SFRA and taking climate change effects into account.
- The development must be safe over its lifetime taking climate change effects into account.

We highlight that the need to provide appropriate mitigation may affect the layout of the development.

Surface water drainage

The Applicant's drainage strategy proposed the roof and driveways be drained to a crate storage system that will discharge at an attenuated rate to the Worm Brook on the eastern edge of the site. We noted that the crate storage system was drawn to span what appeared to be two property gardens. This approach was not considered acceptable as any shared SuDS feature must be located in public open space or on land registered as jointly owned by the residents.

The Applicant has since responded and stated that the ownership / future maintenance of the indicative SUDS features are not strictly planning matters, however we highlight that the submitted strategy is not viable and amending this strategy may require an amendment to the layout of the development. If the Applicant understands this risk and appreciates that an amendment to the layout of the development may be required to provide an acceptable drainage strategy, we agree that this information can be provided as part of the reserved matters application to inform the detailed design.

Overall Comment

On the understanding that the Applicant accepts that mitigating fluvial flood risk and providing an amended drainage strategy may affect the layout of the development, we have no further objections to the proposed development on flood risk and drainage grounds.

Should the Council be minded to grant planning permission, we recommend that the following information is requested as part of the reserved matters application:

- Detailed drawings of the proposed surface water drainage system and proposed features such as infiltration structures, attenuation features, and outfall structures;
- Results of infiltration testing undertaken in accordance with BRE Digest 365 methodology;
- Confirmation of groundwater levels to demonstrate that the invert level of any soakaways or unlined attenuation features can be located a minimum of 1m above groundwater levels;
- Calculations to demonstrate that the proposed surface water drainage system has been designed to prevent the surcharging of any below ground drainage network elements in all events up to an including the 1 in 2 annual probability storm event. FEH 2013 rainfall data is expected;
- Calculations to demonstrate that the proposed surface water management system will prevent any flooding of the site in all events up to an including the 1 in 30 annual probability storm event. FEH 2013 rainfall data is expected;

- Calculations that demonstrates that the proposed drainage system will have sufficient capacity to cater for up to the 1 in 100 year event and allowing for the potential effects of climate change. FEH 2013 rainfall data is expected;
- Calculations to inform the assessment of the risk of water backing up the surface water drainage system from the proposed outfall and how this risk will be managed without increasing flood risk to the site or to people, property and infrastructure elsewhere, noting that this also includes failure of flap valves;
- Demonstration that appropriate access is available to maintain drainage features;
- Operation and maintenance manual for all proposed drainage features that are to be adopted and maintained by a third party management company;
- Detailed drawings of the foul water drainage strategy showing how foul water from the development will be disposed of and illustrating the location of key drainage features;
- Confirmation that discharge to the public sewerage system has been agreed with the relevant authority. If the results of infiltration testing indicate that infiltration will provide a feasible means of managing surface water runoff, an alternative drainage strategy must be submitted to the Council for review and approval. Ordinary Watercourse Consent will be required for any proposed structures within an ordinary watercourse.

4.7 **Welsh Water – No Objection**

We have reviewed the information submitted as part of this application and note that the intention is to drain foul water to the mains sewer and surface water to a soakaway to which we offer no objection principle. Therefore, if you are minded to grant planning permission we request that the following Conditions and Advisory Notes are included within any subsequent consent.

Conditions

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.

5. **Representations**

5.1 Much Dewchurch Parish Council

21st November 2019:

The proposed site is on a flood plain. This field, including the area of the proposed site, is under water several times a year. The flood map in the planning application is out of date and is not a true picture of the flooding that occurs. The Parish Council requests that a flood/drainage survey is carried out and the flood map updated before any application can be considered. Unequivocal photographic evidence as to the flooding issue has been submitted by neighbouring properties.

The proposed site is 6-8ft below the B4348 and would therefore have to be raised. This would severely impact the flood zone 3 areas already identified immediately adjacent to site. The Strategic Flood Risk Assessment 2009 (SFRA) aims to ensure that planning policies and site allocations will not increase the risk of flooding both within the site itself and the surrounding area. The nearby Welsh Water sewage pumping station already floods and this development would exacerbate the problem. 18-20th November the pumping station experienced hydraulic overload with a large amount of discharge coming up through a manhole in the field of the proposed site and ultimately covering a proportion of the field and getting into the adjacent Worm Brook.

The proposed site lies within the River Wye Special Area of Conservation and as such is protected by European legislation. The site is well established grassland adjacent to a water course. Any development would have a massive impact on the wildlife and vegetation located in the brook and the meadow. There would be unavoidable run off from any development into Worm Brook due to its immediate location.

There are three proposed accesses onto the B4348; these are in a dip onto a very busy road and with very limited visibility in both directions. The proposed access arrangements are considered to be dangerous.

Much Dewchurch has very limited facilities i.e. one pub and next to no public transport links. Planning has already been granted for six houses and an application for nine is in progress. Therefore Much Dewchurch is providing towards the housing shortage but to put a further 4 houses on a location that clearly floods is considered unacceptable. Much Dewchurch Parish Council strongly opposes this application and request that it is refused.

5th March 2020:

MDPC still strongly objects to this application and the additional drainage survey in no way alleviates the serious concerns that were raised previously by the council.

The attenuation tank, no matter how low the flow, will still be releasing water into a watercourse which bursts its banks on a regular basis. Any raising of levels to stop these houses flooding will exacerbate an already serious flooding problem further downstream.

The architect for this development keeps re-iterating in his correspondence with the planning officer that the site is on a flood zone 1 area, defined as a 1 in 100 to a 1 in 1000 year risk of flooding, this is clearly not the case as photographic evidence shows. The EA map being used is out of date and the argument that the site is on a flood zone 1 site should no longer be used, It is noted that the architect is writing the conditions for the planning department to get this application passed, is it standard practice for architects to tell the planning department what to write?

The Parish Council still objects to this application on the basis that the site floods, the access is dangerous and any building will affect the ecology of well-established pasture land and the adjoining brook. The PC request that this application is refused.

5.2 To date a total of 19 objecting responses have been received. The comments are summarised below:

Objecting comments:

- Risk of flooding on the site
- Downstream effects of the development
- Overload of the sewage system
- Located in the River Wye Special Area of Conservation
- Access onto a busy section of the B4348 with poor visibility at the base of a small hill
- Access would have to cross footpath
- Lack of a regular bus service
- Limited services
- Impact on local wildlife and protected species
- Inadequate surface water drainage strategy
- Impact on the Welsh Water Treatment Works

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

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=193747&search-term=193747

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

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

6. Officer's Appraisal

Policy Context

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

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

6.2 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS). It is also noted that the site falls within the Much Dewchurch Neighbourhood Area, which has not begun drafting a Neighbourhood Development Plan and so no weight can be attributed to any draft document at this stage. The National Planning Policy Framework 2019 is a significant material consideration, but does not hold the statutory presumption of a development plan.

Principle of Development

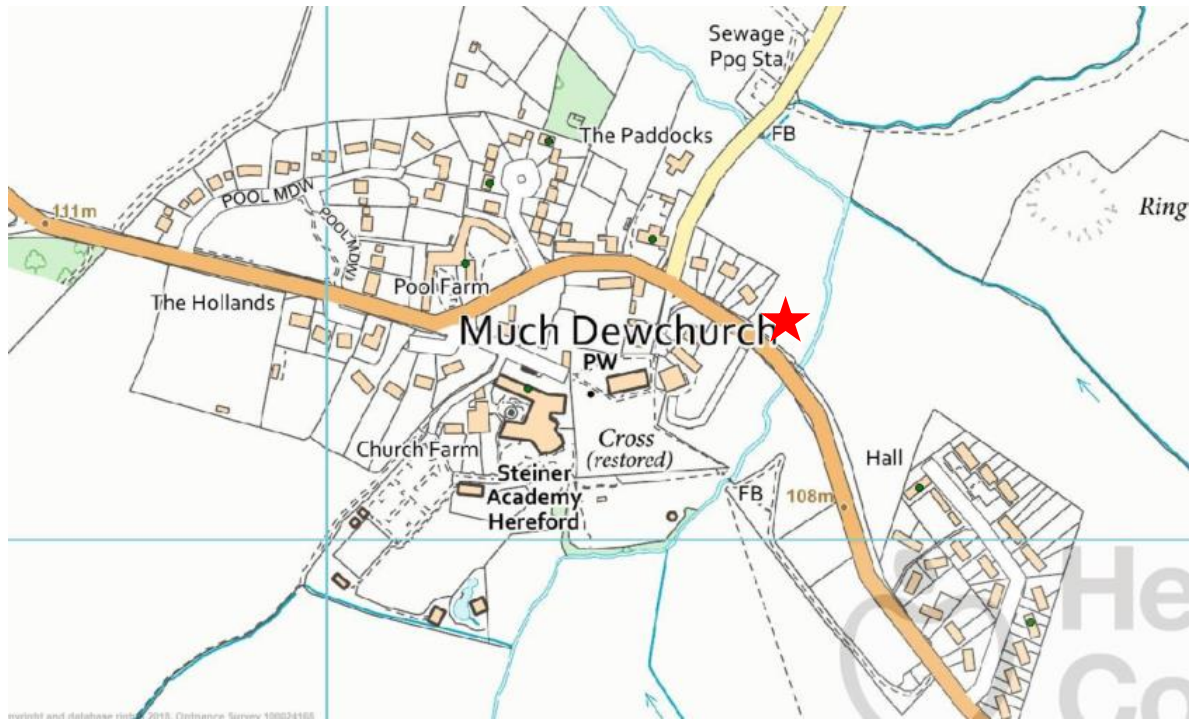
6.3 It is a matter of fact that currently the Council is unable to demonstrate a 5-year housing land supply. This leads to the policies for housing supply being considered out of date. As set out in paragraph 11 of the NPPF, in such circumstances where the policies most important for determining an application are considered to be out of date, permission should be granted unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole. As such this tilted balance in favour of development is adopted as directed by paragraph 11(d)(ii) of the NPPF.

6.4 The spatial strategy relating to housing distribution within the county is set out in the CS at Policy SS2. Hereford, as the largest settlement and service centre is the recipient of up to 6,500 of the required 16,500 homes, with the market towns identified in the second tier as recipients of approximately 4,700 dwellings. Housing in the rural parts of the County is delivered across the settlements identified at figures 4.14 and 4.15 of the Core Strategy. Here the identified settlements are arranged according to the seven identified housing market areas. Figure 4.14 identifies the settlements which will be the main focus of proportionate housing development. Figure 4.15 classifies the 'other' typically smaller settlements where proportionate housing will be appropriate. There are 119 'main' villages (figure 4.14) and 98 'other settlements' (figure 4.15), giving 217 rural settlements where proportionate growth will be acceptable in principle. Much Dewchurch is a settlement so defined by figure 4.14.

6.5 It is of note that the spatial strategy for the location of housing contained within the CS is considered to be sound and consistent with the framework; which itself seeks to avoid the development of isolated homes in the countryside through paragraph 79. It is therefore considered that Policies RA1 and RA2 of the CS continue to attract significant weight in the decision making process despite being considered out of date.

6.6 As set out in the preamble to Policy RA2, at paragraph 4.8.23, until such time as either the NDP or the Rural Areas Sites Allocation DPD defines settlement boundaries (or a reasonable alternative) any proposal has to be assessed against its relationship to the main built up form of the settlement.

6.7 With the foregoing paragraph in mind and considering the lack of an NDP, it is the relationship between the proposal site and the main built up part of the settlement which is to be assessed. The site is indicated on the plan below by the red star:



- 6.8 The pattern of development across Much Dewchurch comprises wayside development running along the roadside as well as examples of residential estates accessed off the B4348 there are also a number of converted farm buildings. The dwellings nearest the site (to the North West) comprise semi-detached properties which are set back from the roadside but accessed directly from the B4348. These dwellings are set out in a linear form following the road. The application site is immediately adjacent to these dwellings and the indicative site layout illustrates that it would be achievable to provide 4 dwellings on the site with a similar layout. Given the site lies at the edge of the settlement it is not considered to be a part of the main built form. However, it is considered to lie adjacent to the main built form of the settlement and would form a natural extension to it, up to Worm Brook.
- 6.9 The degree to which the site is considered to be sustainable is derived, in part, from the access to alternative modes of transport, beyond that of a private motor vehicle and the ability of future residents to access services without an undue reliance upon the private motor vehicle. However, the NPPF makes it clear at paragraph 103 that the opportunities to maximise sustainable transport solutions will naturally vary between urban and rural areas and this should be taken into account in decision-making.
- 6.10 There is a pedestrian footpath along the northern side of the B4348, which the application site will benefit from and provides access into the village. The village provides some basic services, including a public house, private school and church. There is a single bus stop in the village that provides limited services South to Monmouth and North to Hereford which provides a wider range of public transport connections including rail.
- 6.11 When having regard to the aforementioned policy provisions relating to the delivery of housing, the application site is adjacent to the main-built up part of the settlement in accordance with CS policy RA2. The principle of residential development is therefore considered acceptable, a point that is bolstered by the relative sustainability of the location with access to a range of services on foot or by public transport.

- 6.12 The following sections will go on to consider whether there are any other material considerations of such weight and magnitude that might lead to a conclusion that the proposal represents an unsustainable form of development.

Landscape Impact

- 6.13 While landscaping remains a reserved matter the impact of the principle of developing the site can be assessed in terms of its potential landscape impacts. The Core Strategy seeks, via policy LD1, to ensure development proposals demonstrate how the character of the landscape and townscape have positively influenced the nature and site selection of the proposal.
- 6.14 The application site lies adjacent to an established row of residential dwellings on the edge of the settlement. As such the site is well contained by this adjoining residential use and Worm Brook which runs along the Eastern site boundary. Furthermore the site fronts on the B4348 and so maintains a connection with it. The depth of the application site matches the adjacent residential dwellings plot depth which limits the incursion north into the open countryside. The application site gently slopes down towards Worm Brook but the surrounding topography is generally flat, as such the site is not widely visible.
- 6.15 The site does not lie within a designated landscape and is a well contained site adjacent to existing residential development. The proposal is clearly informed by the surround built form and landscape in terms of the proposed residential use and the depth and positioning of the application site, contained by existing features and development. As such it is considered that the proposal adheres to the requirements of CS LD1.

Amenity

- 6.16 Policy SD1 of the core strategy states that development should safeguard amenity of existing and proposed residents and ensure new development does not contribute to, or suffer from, adverse impacts arising from noise, light or air contamination and therefore scale, height and proportion needs consideration.
- 6.17 While the appearance and scale remain reserved matters the principle of developing the site has some implications for the adjacent residential neighbours. There will be an increase in the activity on the site, in the short term as a result of construction and in the long term as a result of the ongoing residential use of the site. However, this change is not inherently contrary to SD1 which seeks a reasonable control over the preservation of residential amenity of existing residents. The temporary construction effects are not considered to be material and the long term change is unlikely to cause adverse effects beyond that which is considered acceptable. The site is large enough to accommodate up to 4 dwellings without being overdeveloped and provides ample room to position the dwellings in a manner that would preserve the residential amenity of the neighbouring dwellings.
- 6.18 Considering the above the principle of developing the site is not considered to be contrary to CS SD1 and a scheme could come forward at the reserved matters stage that adequately protects the amenity of the neighbouring dwellings.

Flooding and Drainage

- 6.19 Policy SD3 of the Core Strategy states that measures for sustainable water management will be required to be an integral element of new development in order to reduce flood risk, avoid an adverse impact on water quality, protect and enhance groundwater resources and to provide opportunities to enhance biodiversity, health and recreation and will be achieved by many factors including developments incorporating appropriate sustainable drainage systems to manage surface water. For waste water, policy SD4 states that in the first instance developments should

seek to connect to the existing mains wastewater infrastructure. Where evidence is provided that this option is not practical alternative arrangements should be considered in the following order; package treatment works (discharging to watercourse or soakaway) or septic tank (discharging to soakaway).

- 6.20 The application site lies within Flood Zone 1 as defined by the Environment Agency and as such has a low probability of flooding. In accordance with Environment Agency standing advice, the planning application does not need to be supported by a Flood Risk Assessment (FRA), as shown by the table below.

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

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

- 6.21 The site lies proximate to both Flood Zone 2 and 3, located to the North of the application site. Furthermore there are surface water flood hazards noted on the Environment Agency mapping, associated with Worm Brook, these include the 1% and 3.3% annual chance hazards which are limited to the South Western edge of the site, following the boundary as it adjoins Worm Brook. Furthermore there is a 0.1% hazard across a wider extent of the site. The Council's Land Drainage consultant suggested that these surface water hazards were likely associated with Worm Brook rather than being a result of surface water flooding. A range of public comments have supplied photographic evidence of flooding approximately on the application site.
- 6.22 While these flood hazards are acknowledged and will inform the layout of the application site they are not sufficient to trigger the need for a FRA. The application site remains in Flood Zone 1 and as such is considered, by the Environment Agency, as being at low risk of fluvial flooding. Nevertheless, adopting a cautious approach, given the range of public comments and, the concerns highlighted by the Council's Land Drainage consultant recommended condition 12 will require the submission of a FRA in support of the reserved matters application which would then inform layout and design.
- 6.23 The Council's Land Drainage consultant expressed concern that the result of the FRA might lead to changes in the proposed layout and drainage strategies. However, the application is all matters reserved and the submitted layout is indicative only, as such is liable to change. If the FRA does constrain the viable site area this will naturally impact upon the layout and ultimately upon the number of units that can come forward under the reserved matters application. This fact has been acknowledged by the planning agent acting on the applicant's behalf who confirmed the following, via email dated 07 May 2020:

I do think that it is really important to recognise that this is an outline application for 'up to 4 dwellings' and that all matters are reserved. As a result, we are fully aware that unit numbers are not guaranteed and that the design and layout will be influenced by constraints, whether that be drainage, ecology or other matters. Anything we have shown to date (the 4 plot layout and the drainage drawing) is purely indicative and subject to change.

- 6.24 The wording of recommended condition 12 was informed by the Council's Land Drainage consultant's latest comments, which clearly set out the details required in support of the reserved matters application:

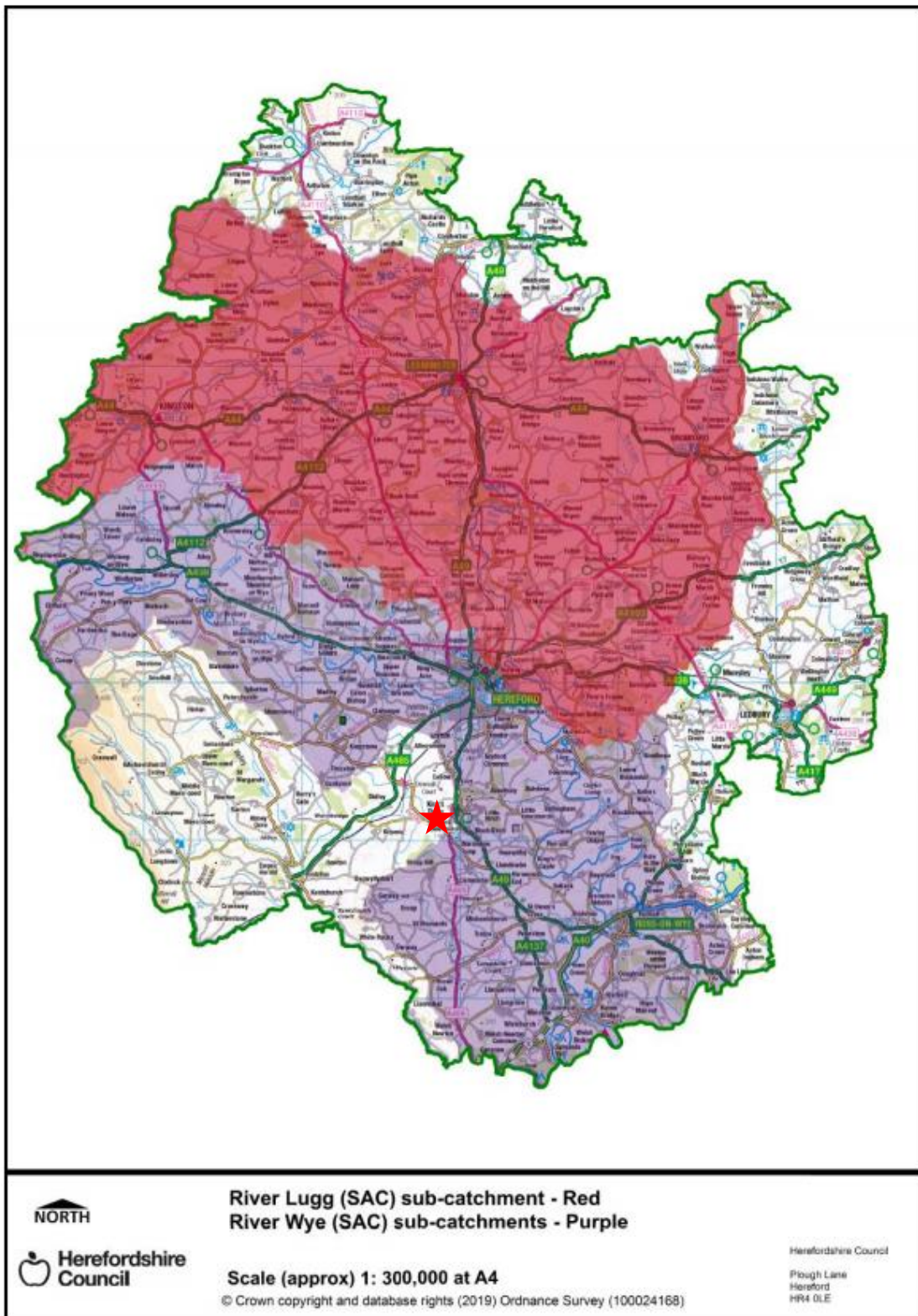
- *Fluvial flood risk associated with the Worm Brook and tributaries, noting that this must comprise a robust assessment and not be based only on the indicative EA flood maps, and take anecdotal flood records into account.*
- *The development must mitigate for any increase in flood risk elsewhere associated with impact to fluvial flood flow conveyance or loss of fluvial flood storage in accordance with the recommendations of the Herefordshire Level 1 SFRA and taking climate change effects into account.*
- *The development must be safe over its lifetime taking climate change effects into account.*

6.25 In regards to foul water the applicant proposes to connect to the mains sewer network. This has been reviewed by Welsh Water who have confirmed the viability of the scheme. This is secured via recommended condition 15.

6.26 The surface water drainage strategy is to utilise on site soakaways to manage any excess surface water. The design and layout of the soakaways will be confirmed at the reserved matters stage, after being informed by the FRA, and is secured via recommended condition 13.

Habitat Regulations Assessment

6.27 The application site lies in an area of the county that drains to the River Monnow and the Council's Ecologist has confirmed that the Welsh Water treatment works serving Much Dewchurch discharges to Worm Brook which connects into the River Monnow. As such the Habitat Regulations Assessment (HRA) process is not automatically triggered. However, the application site is close to the boundary marking the different catchment areas, as shown on the below map, and so the Council's Ecologist has nevertheless taken a precautionary approach and completed Appropriate Assessment (AA). The HRA AA concluded that subject to conditions there would be no likely significant effect upon the River Wye SAC. This assessment has been reviewed by Natural England who responded with no objection.



Ecology and Biodiversity

- 6.28 Policy LD2 of the CS seeks the conservation, restoration and enhancement of biodiversity and geodiversity assets. As such, development will not be permitted where it has the potential to harm these assets or reduce the effectiveness of the ecological network of sites. The introduction, restoration and enhancement of biodiversity and geodiversity features will be actively encouraged. This is directly supported by policy LD3 which ensures development proposals protect, manage and plan for the preservation of existing and delivery of new green infrastructure.

Further information on the subject of this report is available from Mr David Gosset on 01432 261588

This is achieved by identifying green corridors and linkages, provision of on-site infrastructure and integration into the wider network.

- 6.29 The application has been reviewed by the Council's Ecologist who confirmed that subject to appropriate conditions there was no objection to the proposal at the outline stage and that it would meet both policies LD2 and LD3 of the CS.
- 6.30 The first condition recommended seeks to ensure there is an ecological buffer zone along the Eastern site boundary to Worm Brook, see recommended condition 14. This allocation of an ecological buffer zone will ensure wildlife connectivity and chimes with the approach needed to ensure a reduced risk of flooding to future dwellings from Worm Brook as well as aligning the development with the specific requirements of LD2 and LD3.
- 6.31 A further three conditions are recommended, see conditions 10, 11 and 16, which in turn seek to secure a Construction Environmental Management Plan (CEMP), biodiversity net-gain enhancements and control over external lighting that may illuminate local habitats. These again ensure compliance of any future scheme under the reserved matters application with policies LD2 and LD3. Of the CS.

Heritage

- 6.32 There are a number of Grade II Listed heritage assets on the Eastern side of the village of Much Dewchurch. These are as follows: The Old Toll Cottage, Black Swan Public House, Stone House, Church of St David, Churchyard Cross, The Old Vicarage, Lychgate, Thomas Monument, a Water Pump and a Telephone Kiosk.
- 6.33 Policy LD4 states that development proposals should protect, conserve and enhance the heritage assets and wider historic environment that they affect. This includes emphasising the original form and function through the use of sympathetic design, contributing to the character and distinctiveness of the local townscape. The scope of the works required to protect, conserve and enhance heritage assets and their settings should be proportionate to their significance.
- 6.34 Special regard has to be given to the desirability of preserving and enhancing historic assets and their setting. Under Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, Herefordshire Council, as the local planning authority, is required, when considering development which affects a listed building or its setting:

"to have special regard for the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

- 6.35 The application site is well separated from all of the above heritage assets and the impact on these groups of assets will be assessed below:
- 6.36 The group of Grade II Listed heritage assets surrounding the Church of St David (including Church of St David itself, the Churchyard Cross, The Old Vicarage, Lychgate and Thomas Monument) are all over 70m from the application site with the B4348 further separating the site from these assets. There is mature vegetation along the southern side of the carriageway that removes any direct visual connection to these assets from the application site. The closest of the Grade II Listed buildings is The Old Vicarage which is further screened by the outbuilding located to the immediate north of it, while this outbuilding is considered to be curtilage listed it is not listed in its own right. Given the separation distance between the application site and these heritage assets the proposal for up to 4 dwellings on a site adjacent to existing dwellings is not considered to impact the character or setting.

- 6.37 The three Grade II Listed assets that lie on the Southern side of the B4348 in the centre of Much Dewchurch (Stone House, a Water Pump and a Telephone Kiosk) are all some distance, West from the application site at 90m, 96m and 56m respectively. There is no visual connection between the application site and these heritage assets. Given the separation distance and the lack of any visual connection it is not considered that the proposal could affect the character or setting of them.
- 6.38 Finally The Old Toll Cottage and Black Swan Public House, located to the North of the B4348 are approximately 68m and 80m, respectively, North, North West of the application site. The Old Toll Cottage is visible from the South Western site boundary of the application site but the Black Swan is entirely screened by intervening buildings (N^o 1 and 2 Church View and the Old Toll Cottage). Given the significant distance and the surrounding built form the proposal is not considered to affect the character or setting of these listed heritage assets.
- 6.39 Furthermore, the application site is adjacent to a row of 6 existing dwellings and would form a natural extension to this emerging pattern of development and so reduce any adverse impact upon the character of the area. The application is made in outline with all matters reserved and as such the effect upon the Listed Heritage assets and local development pattern will be further considered when scale, layout, appearance and landscaping are sought to be resolved.
- 6.40 The proposal is therefore not considered to have any effect upon the character or setting of the historic environment and as such no conflict with CS LD4 is identified and the statutory duty imposed by Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is discharged.

Highways and Transport

- 6.41 Policy SS7 requires proposals to focus development to the most sustainable locations and reduce the need to travel by private car. This aim is reflected by policies SS4 and MT1, which stipulate that proposals should facilitate a genuine choice of travel modes such as a walking, cycling and public transport. These policies are reflective of the National Planning Policy Framework objectives to guide development to sustainable locations.
- 6.42 Furthermore policy MT1 of the CS seeks to ensure that developments, among other things, are sited, designed and laid out in a manner which ensures the safe and efficient flow of traffic, safe entrance and exit and have the appropriate operation manoeuvring space to accommodate all modes of transport.
- 6.43 The Local Highways Authority Area Engineer has reviewed the proposal to develop up to 4 dwellings on the site. Given access is a reserved matter the Area Engineer has assessed the principle of gaining access to the site from the B4348. Following a site visit the Area Engineer confirmed that the principle of an access to the site could be achieved as the visibility from the site had the benefit of the alignment of the highway.
- 6.44 The reserved matters application will need to be supported by a full 7 day speed and volume survey to ensure the access visibility meets both national and local standards.
- 6.45 While a number of public comments raised this matter the only item under consideration is the principle of gaining access for up to 4 dwellings and not the technical details, including how it would cross the footpath. Full details will come forward under the reserved matters application and will be reviewed by the Local Highways Authority for compliance with current local and national guidance.

6.46 As covered above the application site has ready access to the local public transport network in Much Dewchurch and through the imposition of conditions bicycle storage will be secured in line with CS SS4, SS7 and MT1.

Conclusion and Balance

6.47 In accordance with the statutory requirement, determination must be made in accordance with the Development Plan, unless material considerations indicate otherwise. The NPPF affirms at paragraph 12 that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making.

6.48 At this time the Development Plan comprises the CS. As set out in the foregoing paragraphs the development proposed is considered to accord with the CS. This is because the site lies adjacent to a main built up part of the settlement, in accordance with policy RA2 and no other conflict has been identified.

6.49 Next it is necessary to turn to the material considerations, to ascertain if these indicate if a decision should be made other than in accordance with the Development Plan. As detailed above there is not a Neighbourhood Development Plan that has reached a stage that can be attributed any weight.

6.50 A key material consideration is the NPPF. As the application is for the supply of housing, specifically up to three dwellings, the current implications of the Local Planning Authority not being able to demonstrate a 5 year housing land supply, plus requisite buffer, as set out in the NPPF (footnote 7), must be considered. The current published position is a 4.05 year supply. At paragraph 11d the NPPF states that where policies which are most important for decision making are out-of-date, permission should be granted unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear 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.

6.51 Given the proposal is for housing the policies most important for determination of the appeal relate to housing. As per paragraph 11d, footnote 7, of the NPPF they must be considered as out of date by reason of the current housing land supply deficit. This does not mean that they attract no weight, but rather reduced weight that is determined by the decision maker. There is a requirement, over the plan period (2011-2031) to provide a minimum of 40 new dwellings in the Parish of Much Dewchurch. As of April 1st 2020 those built and existing commitments amount to 25 dwellings. Leaving a residual requirement for 15 dwellings in the Parish. The current application would go some way to meeting the Parish's minimum growth target in a sustainable location.

6.52 Given 11(d)(i) does not apply to this application site and proposal it's necessary to apply the commonly referred to 'tilted' planning balance set out in paragraph 11(d)(ii). The tilted planning balance, is generally assessed under the three overarching objectives of the planning system, namely the economic, social and environmental objectives. The proposal would positively contribute to the supply of housing at a time when, at the county and local level, the supply is not meeting targets and this would bring forward economic and social benefits. There would be economic benefits during the construction phase to suppliers and trades and after occupation through increased expenditure of disposable incomes. The payment of the New Homes Bonus is also another benefit to take into account. There may be some social benefits as a result of increased residents in the village and support for local facilities. It is considered that these benefits of the scheme of up to 4 dwellings would be moderate.

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- 6.53 There is an opportunity to provide biodiversity net gain enhancements and an ecological corridor as part of the reserved matters application and so these aspects do not weigh against the scheme in environmental terms.
- 6.54 There was an elevated number of public comments regarding the potential for flooding on the application site as well as the downstream effect of bringing forward development on this site. However the Council's Land Drainage Consultant was satisfied that the provision of a FRA at the reserved matters stage would inform the layout of the scheme and be able to adequately avoid or mitigate any on site and downstream effects. The application site is wholly within Flood Zone 1 according to the Environment Agency and so it was determined that a FRA was not required at this stage. As such this does not weigh against the scheme in environmental terms and is considered neutral at this time.
- 6.55 In terms of the identified harm, there would be a degree of localised visual harm resulting from the need to create access to the site from the B4348 and the construction of the dwellings. However these are very limited aspects of the development and further details would come forward under the reserved matters application.
- 6.56 Bringing all of the above together and in light of the 'tilted balance' there is limited identifiable harm as a result of the scheme and a range of benefits from providing up to 4 dwellings, adjacent to a settlement, in a Parish that has yet to achieve the minimum growth target set out by the development plan. The adverse effects identified are not sufficient to significantly or demonstrably outweigh the benefits when assessed against the NPPF as a whole. It is therefore recommended that planning permission be granted subject to the below conditions.

RECOMMENDATION

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

- 1. C02 – Time limit for submission of reserved matters (outline permission)**
- 2. C03 - Time limit for commencement (outline permission)**
- 3. C04 - Approval of reserved matters**
- 4. C06 - Development in accordance with the approved plans**
Drawing No: 761/ PL01 dated April 2019
- 5. CAT - Construction Management Plan**
- 6. CAE - Vehicular access construction**
- 7. CAH - Driveway gradient**
- 8. CAI - Parking – single/shared private drives**
- 9. CB2 - Secure covered cycle parking provision**
- 10. Before any work, including any site clearance or demolition begin, equipment or materials 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**

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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 (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies LD1-3.

11. Prior to commencement of development a fully detailed and specified Biodiversity Enhancement Plan including a relevant location plan that is appropriate with the scale, nature and location of the development including provision of fixed habitat features shall be provided to the planning authority for approval. The approved scheme shall be implemented in full and hereafter maintained unless otherwise agreed in writing by the planning authority.

Reason: To ensure Biodiversity Net Gain as well as 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.

12. The details submitted pursuant to condition 3 shall be supported by a Flood Risk Assessment (FRA) that identifies local flood hazards, specifically those associated with Worm Brook. The FRA must also identify mitigation for any increase in flood risk elsewhere associated with the impact to fluvial flood flow conveyance or loss of fluvial flood storage in accordance with the recommendations of the Herefordshire Level 1 SFRA and taking climate change effects into account.

Reason: To protect the development from flooding and to prevent further downstream effects associated with the removal of fluvial flood storage and to comply with Policy SD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

13. No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the first occupation of the dwellings hereby approved.

Reason: Required prior to commencement given the specific concerns highlighted by the Land Drainage Engineer. To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal and to comply with Policy SD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

14. The details submitted pursuant to condition 3 shall include details of an ecological buffer zone and root protection area along the eastern site boundary adjacent to the Worm Brook. Such details shall include the retention of bankside vegetation, the erection of boundary fencing on the west (garden) side of the zone and measures to restrict illumination of the ecological buffer zone. Such measures as are agreed shall be maintained thereafter unless otherwise approved in writing by the LPA.

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 (2018), NERC Act

(2006), Herefordshire Core Strategy (2015) policies LD1-3 and SS6, Dark Skies initiative (DEFRA-NPPF 2013/18).

15. All foul water shall discharge through a connection to the local Mains Sewer network and surface water shall be managed through a SuDs system (with infiltration tanks) within the development boundary; unless otherwise agreed in writing by the Local Planning Authority pursuant to condition 13.

Reason: In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), and Herefordshire Core Strategy (2015) policies LD2, SD3 and SD4.

16. No external lighting should illuminate any boundary feature, adjacent habitat or area around the approved mitigation and biodiversity enhancement features.

Reason: To ensure that all species and Dark Skies are protected having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies SS6, LD1-3 and, Dark Skies initiative (DEFRA-NPPF 2013/18)

17. CAD - Access gates

18. CAX - Direction of proposed lighting

19. CBK - Restriction of hours during construction

20. CE6 - Efficient use of water

21. All planting, seeding or turf laying in the approved landscaping scheme (required by condition 3) 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 and the National Planning Policy Framework

22. The details submitted pursuant to condition 3 shall include a full 7 day speed and volume survey undertaken in a suitable position proximate to the application site during term-time, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To fully inform the provision of an access(es) from the highway to the application site and to conform with Policy MT1 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework

INFORMATIVES:

1. IP1 Application Approved Without Amendment

2. I11 – Mud on highway
3. I09 – Private apparatus within the highway
4. I45 – Works within the highway
5. I05 – No drainage to discharge to highway
6. I47 – Drainage other than via highway system
7. I35 – Highways Design Guide and Specification
8. Fixed habitat features include but are not restricted to features such as bat roosting opportunities, bird boxes, insect hotels/houses, hedgehog homes & hedgehog friendly boundary features and amphibian/reptile refugia. Green and blue infrastructure could include wildlife friendly SuDS, tree and shrub planting (usually locally characteristic or directly associated cultivars of native species), wildflower meadows and Traditional ('standard') Orchards. The applicant is advised to seek the advice of an ecological consultant when completing the Biodiversity Enhancement plan.

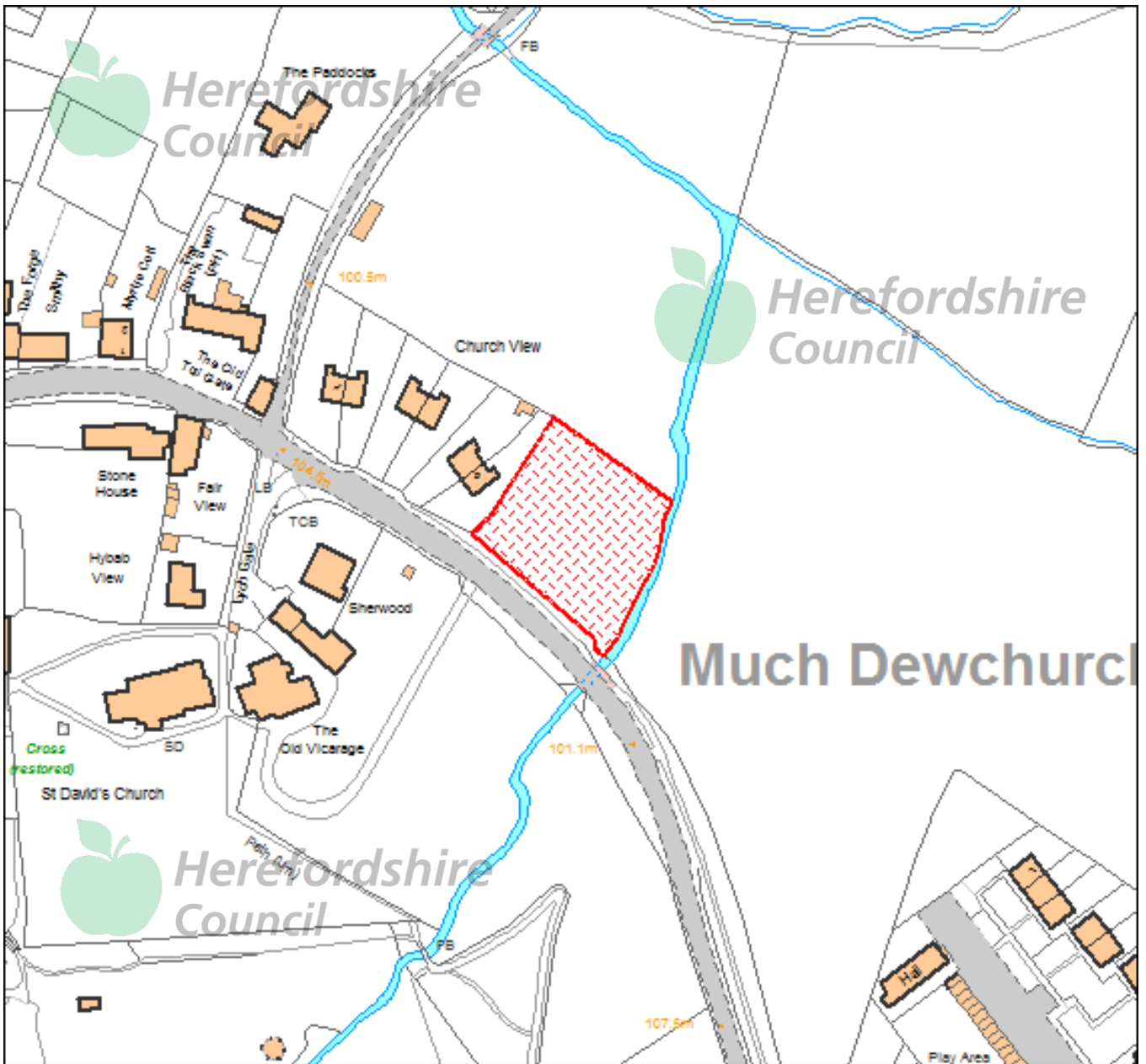
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 193747

SITE ADDRESS: LAND TO THE NORTH OF THE B4348, MUCH DEWCHURCH VILLAGE, HEREFORDSHIRE

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