

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	22 November 2023
TITLE OF REPORT:	232089 - PROPOSED ERECTION OF LIVE-WORK UNIT FOR OCCUPATION BY APPLICANT AND HIS FAMILY IN CONJUNCTION WITH ADJOINING WORKSHOP. AT SHEEPCOTE, ST OWENS CROSS, HEREFORD, HR2 8JU For: Mr & Mrs Campbell per Mr Ed Thomas, 13 Langland Drive, Hereford, Herefordshire, HR4 0QG
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=232089&search-term=232089
Reason Application submitted to Committee – Councillor relative application	

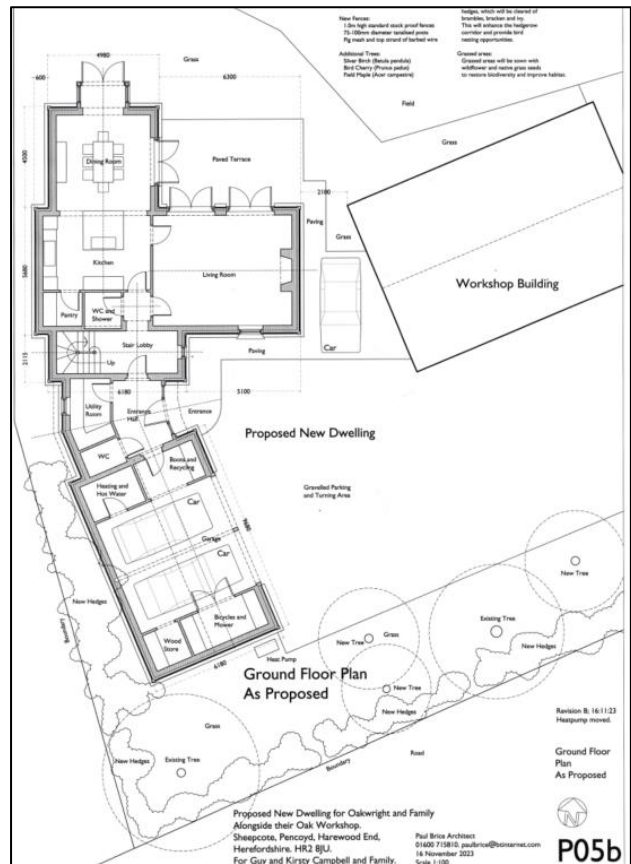
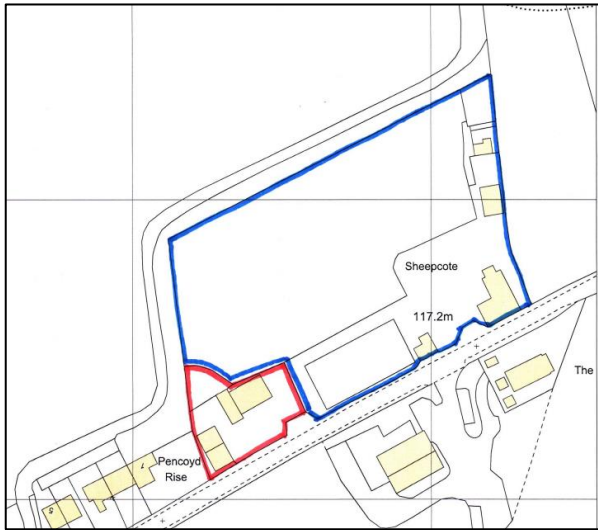
Date Received: 6 July 2023
Expiry Date: 31 August 2023
 Local Members: Cllr Toni Fagan

Ward: Birch

Grid Ref: 352037,226126

1. Site Description and Proposal

- 1.1 The application relates to a Site is situated to the north of the C1234, which leaves the A49 1.2km to the north-east. Access is taken from the C1234 on to an area of hardstanding and the joinery workshop which measures 12m by 8m with a height to the ridge of 5.4m. There are outbuildings against the western boundary beyond which there are three dwellings known as Pencoyd Rise, a pair of dwellings approved in connection with the adjoining soft fruit business via 190001/F and a further agricultural worker's dwelling approved under DCSW2006/1689/O.
- 1.2 The application seeks permission for the construction of a detached dwellinghouse located on the site of existing temporary buildings and container, to the west of the existing workshop building. The proposed development would be a 4 bedroom dwelling over two storeys with an adjoining single storey garage/store to the south. The dwelling would be constructed of rubble sandstone wall plinths with horizontal boarding above under dark grey slate roof. Extracts of the location and site plans are inserted below.
- 1.3 The application is also supported by the following reports:
- Planning, Design and Access Statement – Tompkins Thomas (July 2023)
 - CONFIDENTIAL Account information
 - Existing and proposed plans
 - Additional Drainage clarification (10/8/23)



2. Policies

2.1 Herefordshire Local Plan Core Strategy 2011 – 2031(CS)

- SS1 - Presumption in favour of sustainable development
- SS2 - Delivering new homes
- 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
- RA3 - Herefordshire's countryside
- RA4 - Agricultural, forestry and rural enterprise dwellings
- RA6 - Rural economy
- E3 - Home working
- MT1 - Traffic Management, highway safety and promoting active travel
- LD1 - Landscape and townscape
- LD2 - Biodiversity and geodiversity
- LD3 - Green Infrastructure
- SD1 - Sustainable Design and energy efficiency
- SD3 - Sustainable water management and water resources
- SD4 - Waste water treatment and river water quality

The Herefordshire Local Plan Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-
https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy

2.2 Llanwarne and District Group Neighbourhood Development Plan (NDP)

The Neighbourhood Development Plan is at drafting stage and is therefore not afforded any weight in decision making.

<https://www.herefordshire.gov.uk/directory-record/3080/llanwarne-and-district-group-neighbourhood-development-plan>

2.3 National Planning Policy Framework (NPPF)

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

2.4 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy was made on 9th November 2020 and the review process is currently underway. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application. In this case, the most relevant policies of the CS – which are considered to be those relating to meeting housing needs, guiding rural housing provision, highways safety and safeguarding features of environmental value (amongst others) – have been reviewed and are considered to be consistent with the NPPF. As such, it is considered that they can still be attributed significant weight.

3. **Planning History**

3.1 DS031253/F - Removal of derelict buildings and replacement by one single building. – Refused

DS041094/F - Remove derelict buildings and replace with a new workshop – Refused

DS080112/F - Proposed new entrance to property. – Approved with conditions

S110954/U - Proposed Certificate of lawfulness for an existing use. Use of site for storage in association with existing business. – Approved

S112580/F - Retrospective planning for 2 workshops and 2 storage containers for the existing building business. – Refused

S122419/F - Construction of a new workshop. – Approved with conditions

4. **Consultation Summary**

Statutory Consultations

4.1 **Welsh Water – No objection**

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

Since the proposal intends on utilising an alternative to mains drainage we would advise that the applicant seek advice from the Environment Agency and the Building Regulations Authority as both are responsible to regulate alternative methods of drainage.

However, should circumstances change and a connection to the public sewerage system/public sewerage treatment works is preferred we must be re-consulted on this application.

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

If you have any queries please contact the undersigned on 0800 917 2652 or via email at developer.services@dwrcymru.com

Internal Council Consultations

4.2 **Ecology – No objection with conditions**

The proposals seek to construct a residential dwelling adjacent to the applicants existing workplace. Daily movements are currently experienced to the site and therefore it is not considered that the proposals will materially impact on the operation and / or safety of the existing access.

The site plan includes for sufficient car and cycle parking on site as well as a turning area for vehicles.

The local highway authority therefore have no objections to the development proposals subject to the following conditions.

1) Prior to the first occupation of the dwelling hereby approved an area shall be laid out within the curtilage of the property for the parking and turning of cars in accordance with Drawing P05a as submitted as part of the planning application. This shall be properly consolidated, surfaced and drained in accordance with details to be submitted to and approved in writing by the local planning authority and that area shall not thereafter be used for any other purpose than the parking of vehicles.

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

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

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

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

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

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

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

4.3 **Trees Officer – No objection with conditions**

I have visited the site and have the following comments offering support for the application.

The roadside boundary is made up of a Leylandii hedge and also includes two early mature Oak trees.

The hedge appears in good condition providing an effective screen. The Oak trees however look a little stressed due to constricted ground conditions surrounding them.

I notice there is a proposal to include new planting in this area that will aid in supplementing the existing canopy cover.

However the detail at this stage regarding new planting and protection of retained trees is minimal. Whilst I support the application I ask the following details are provided by condition:

CKB – Protection During Construction.

CK3 – Landscape Scheme (part C only)

4.4 **Ecology – Objection**

The application site lies within the catchment of the River Wye SAC and lies within the hydrological catchment of the River Wye SAC, which comprises part of the River Wye Special Area of Conservation (SAC); a habitat recognised under the Habitats Regulations, (The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations')) as being of international importance for its aquatic flora and fauna.

The competent authority (in this case the Local Planning Authority) is required to consider all potential effects (either alone or in combination with other development) of the proposal upon the European site through the Habitat Regulations Assessment process.

The HRA process must be based on a demonstration of legal and scientific and be undertaken with a 'precautionary' approach.

The site lies within the River Wye SAC and Natural England must be formally consulted in relation to the triggered Habitat Regulations Assessment.

Notes in respect of HRA:

The proposal is for a live-work dwelling.

- The proposal taken from the application form is to connect to a non-mains package treatment plant.
- There will be additional foul connection proposed on the site.
- The proposed development creates additional overnight or new residential accommodation.
- There is additional surface water likely to be created as the proposed development will change the existing non-permeable surface area for the site.

No information has been provided in regards to the non-mains foul connection and if this will be connecting to an existing system and if it has the capacity to deal with added flows, or if it will be making use of a new system and appropriate drainage testing for a drainage field. We require further information in regards to how foul water will be managed and if a drainage field is suitable provided through appropriate drainage testing:

- If an existing system is to be used we need a drainage report to provide full details of this existing system including management of outfall and relevant calculations to provide certainty capacity exists to manage additional flows.
- If a new foul water system is proposed a drainage report including BS6297 testing, plans and specifications of proposed system should be supplied.

We also require:

- Confirmation that on-site infiltration can be achieved to manage additional surface water flows created.

This is to have certainty that there will be no effects on the integrity of the site and proceed with a Natural England consultation.

At this time due to legal and scientific uncertainty and phosphate neutrality not secured there is an identified Adverse Effect on the Integrity of the River Wye Special Area of Conservation (a European Site, 'National Network Site' or 'Higher Status' nature conservation site). There is also no certainty that the proposed development will not have an effect on the integrity of national nature conservation sites (SSSI) or local irreplaceable habitats. There is an Ecology OBJECTION raised as the application does not demonstrate compliance with Core Strategy SD3 (SS1, SS6 and LD2 also apply); The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'); NPPF; and NERC Act obligations.

Notes in respect of ecology:

Data records show sightings of bats and a barn owl neighbouring the site (less than 200 m). However, as the site is a working site and no priority habitat is being lost as part of the proposed plans and in addition new hedges and new trees are to be planted we do not require any further ecology reports. We offer no further ecology objection but would require the following conditions to be carried forward.

Lighting

- a) At no time shall any external lighting be installed on the site without the written approval of this local planning authority.
- b) No external lighting should illuminate any boundary feature, adjacent habitat or area around the approved mitigation and biodiversity enhancement features.
- c) No external lighting should illuminate any enhancement or boundary feature.

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, NERC Act (2006), Herefordshire Local Plan - Core Strategy policies SS6, LD1, LD2 and LD3 and the Dark Skies initiative (DEFRA-NPPF 2013/18)

To obtain Biodiversity Net Gain

Within 3 months of completion of the approved works, evidence of the suitably placed installation within the site boundary of two bird nesting boxes for a site appropriate range of bird species, two

Bat roosting features, one Hedgehog home and Reptile refugia should be supplied to the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority.

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

4.5 Ecology Further Comments – No objection with conditions

The additional information supplied by the applicant in their additional drainage information in an email dated 10th August 2023 is noted and refers.

Just for clarity the EA General Binding Rules and Building Regulations are not considered any form of certainty in respect of the HRA process.

From the start of August 2023, there have been changes in the conservation status of the River Wye SSSI - downgraded to “unfavourable declining” by Natural England; and these comments have been completed based on this recent change and updated SSSI Impact Risk Zone information available from Natural England (River Wye SAC – bespoke buffer – Any discharge of water or liquid waste including to mains sewer)

Habitat Regulations Assessment

River Wye SAC-SSSI

- The proposal is for ONE new residential dwelling with associated additional-new foul water pathways created.
- There is an existing temporary mobile home located at this location to be replaced by the proposed new dwelling.
- There is no mains sewer system available at this location.
- The proposal is to manage all foul water flows through the existing private foul water treatment system serving the workshop and temporary mobile home located on the site.
- From information supplied the installed Package Treatment Plant discharges to a suitably precautionary sized (to allow for varying workshop flows) drainage field located on land under the applicant’s control in the field adjacent to the development site.
- The existing ‘temporary’ mobile home will be decommissioned and removed from site once the proposed new dwelling has been constructed and occupied.
- Any additional surface water created can be managed through onsite Sustainable Drainage Systems – local infiltration.

The agreed foul and surface water management and decommissioning and removal of existing temporary mobile home can be secured by condition on any planning permission granted

Habitat Regulations (River Wye SAC) – Foul Water

Unless otherwise approved in writing by the planning authority, all foul water, created by the development approved under this permission shall discharge through connection a the existing private foul water system comprising of a package treatment plant discharging to a drainage field on land under the applicant’s direct control..

Reason: In order to comply with The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019’

(the 'Habitats Regulations'), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD2 and SD4.

Habitat Regulations (River Wye SAC) – Surface Water

Unless otherwise approved in writing by the planning authority, all surface water, created by the development approved under this permission shall discharge through an appropriately designed Sustainable Drainage System with local infiltration.

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

Habitat Regulations (River Wye SAC) – Foul Water

Unless otherwise approved in writing by the planning authority, within THREE months of first occupation of the dwelling approved under this permission the temporary mobile home located on the site and connected to the existing foul water system shall be vacated, foul water system disconnected and the unit permanently removed from site.

Reason: To ensure foul water systems are not overloaded and In order to comply with The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD2 and SD4.

Wye Valley Woodlands SAC

- The site is within the 10km of the Upper Wye Gorge SSSI that forms part of the Wye Valley Woodlands SAC that has Horseshoe bat species as an additional identified feature,
- The development is not identified as affecting any potential bat roosting features – Horseshoe (or other bat species).
- As a brownfield site no additional loss of foraging habitat is identified as a result of the proposed development.
- Any significant additional external lighting associated with the proposed development could impact foraging and commuting activity of Horseshoe (and other bat species) known to be present in the locality.
- A condition to ensure any additional external lighting is minimised and wildlife friendly is requested to mitigate any potential effects from the proposed development.

Protected Species and Dark Skies (external illumination)

No external lighting shall be provided other than the maximum of one external LED down-lighter above or beside each external door (and below eaves height) with a Corrected Colour Temperature not exceeding 2700K and brightness under 500 lumens. Every such light shall be directed downwards with a 0 degree tilt angle and 0% upward light ratio and shall be controlled by means of a PIR sensor with a maximum over-run time of 1 minute. The Lighting shall be maintained thereafter in accordance with these details.

Reason: To ensure that all species and local intrinsically dark landscape are protected having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife & Countryside Act (1981 amended); National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1-3; ; and the council's declared Climate Change and Ecological Emergency

Subject to relevant conditions to secure the mitigation embedded within the project the LPA has certainty that there are no unmitigated nutrient pathways into the River Wye SAC-SSSI hydrological catchment and species associated with the Wye Valley Woodlands SAC, as a result

of the proposed development. The HRA appropriate assessment can be considered as being 'screened out' at Stage 1 and no formal consultation requirement with Natural England is triggered.

Other ecology comments (updated)

With lighting subject to controls through the required HRA process there are no identified effects on any local populations of protected species through the proposed development. No specific ecological working methods are necessary over and above statutory considerations by the applicant and their contractors as secured by the Wildlife & Countryside Act that is higher regulatory authority than the planning process. A relevant advisory note is requested on any permission finally granted.

Wildlife Protection Informative

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

As identified in the NPPF, NERC Act and Core Strategy LD2 and in support of the council's declared Climate Change & Ecological Emergency, all developments should demonstrate how they are going to practically enhance ("Net Gain") the Biodiversity – species potential of the area. To secure these enhancements a relevant Condition is suggested:

To obtain Species Net Gain Enhancements

Prior to first use of the first dwelling approved by this planning permission, evidence of the suitably placed installation within the site boundary or on other land under the applicant's control (excepting Ash Trees) of a minimum total of TWO Bat roosting features and TWO bird nesting boxes (mixed types) and ONE hedgehog home (with hedgehog highways through all impermeable boundary fences), should be supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority.

Reason: To ensure Biodiversity (species) Net Gain as well as species and habitats enhancement having regard to the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife and Countryside Act 1981, National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies LD1, LD2 and LD3.

5. Representations

5.1 Third Party Representations

18 Letters of support and 1 letter of objection have been received, these have been summarised below:

Support

- Affordable housing solution for a young local family to remain in community, Pencoyd has an aging population so families with children are needed in the area

- Sympathetically designed in keeping with surroundings
- UK does not deliver enough self builds and big companies have the resources to get through planning process
- Enable local family to continue their trade and supporting local rural business
- Aware of break ins experienced in the past and house next to workshop would discourage this
- Dedication to ensuring this project aligns with community desires and needs
- Ability to live and work in community are important for future of area
- Removal of old buildings improve the visuals of the site

Objection

- Original barn and storage (classed as temporary buildings) was refused retrospective planning in March 2012 – groundwork for this was built up by laying rubble and this elevation of ground height as well as height of proposed building must be considered with regard to the total height above 1 Pencoyd Rise
- Named a brownfield site but originally an orchard
- New housing is substantial with no discussion with 1 Pencoyd Rise as immediate neighbour
- Flora and fauna already damaged and proposal will exacerbate this and building have impacted light at neighbouring property given the boundary treatments
- Coniferous hedges no longer have bushy growth to the lower trunk so will not offer screening from the roadside
- Noise and fumes concern from air source heat pump
- Would support a sustainable proposal that maintained nature, light and sound for all and the border with 1 Penycyod Rise requires attention

- 5.2 The consultation responses can be viewed in full on the Council's website by using the following link:-
https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=232089&search-term=232089

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). The National Planning Policy Framework (NPPF) is also a significant material consideration.
- 6.3 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy has been made on 9th November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application. In this case, the policies relevant to the determination of this application have been reviewed and are considered to remain entirely consistent with the NPPF and as such can be afforded significant weight.

Further information on the subject of this report is available from Ms Elsie Morgan on 01432 260760

- 6.4 The NPPF requires that local planning authorities should identify and update annually a supply of housing sites sufficient to provide five years' worth of housing against their housing requirements. Where the existence of a five year land supply cannot be demonstrated, there is a presumption in favour of granting planning permission for new housing unless the development can be shown to cause demonstrable harm to other factors that outweigh the need for new housing. Other factors in this respect can include sites or areas protected as a result of their wider environmental importance or land at risk of flooding.
- 6.5 Following survey work, the LPA can confirm that the Housing Land Supply as of April 2023 is 5.84 years. Effectively this means that the housing policies in the adopted Core Strategy and made Neighbourhood Development Plans can be considered to be up-to-date and given full weight in decision making. Para 11d of the National Planning Policy Framework (NPPF) is not engaged, as the development plan policies are not deemed 'out of date'. As a result paragraph 14 of the NPPF is not engaged.

Principle of Development

- 6.6 The approach 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 (p. 109 -110). 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.
- 6.7 The application site lies to the south of Pencoyd, a small hamlet which is not named as being sustainable for new residential development. The closest settlements identified under Policy RA2 are Harewood End approximately 1.1 km to the north east and St Owens Cross approximately 2.3 km to the south east. Noting the location of the site in relation to these settlements, the application site is considered to be located within an isolated, open-countryside location.
- 6.8 Of particular relevance is Paragraph 80 of the NPPF which states that planning decisions should avoid the development of isolated homes in the countryside unless one or more of the listed circumstances apply. This approach is followed through by Core Strategy policy RA3, supported by RA4 and RA5. Policy RA3 outlines the following rural exception criteria:
- 1. meets an agricultural or forestry need or other farm diversification enterprise for a worker to live permanently at or near their place of work and complies with Policy RA4; or*
 - 2. accompanies and is necessary to the establishment or growth of a rural enterprise, and complies with Policy RA4; or*
 - 3. involves the replacement of an existing dwelling (with a lawful residential use) that is comparable in size and scale with, and is located in the lawful domestic curtilage, of the existing dwelling; or*
 - 4. would result in the sustainable re-use of a redundant or disused building(s) where it complies with Policy RA5 and leads to an enhancement of its immediate setting; or*
 - 5. is rural exception housing in accordance with Policy H2; or*
 - 6. is of exceptional quality and innovative design satisfying the design criteria set out in Paragraph 55 of the National Planning Policy Framework and achieves sustainable standards of design and construction; or*
 - 7. is a site providing for the needs of gypsies or other travellers in accordance with Policy H4.*
- 6.9 Addressing the above points' relevance to the current proposal in turn:

- Point 1 is not relevant owing to the fact the applicants business is neither substantially agricultural nor forestry;
- Point 2 is relevant in the first instance as the dwelling accompanies the establishment of a rural enterprise and therefore policy RA4 is engaged;
- Point 3 is not relevant as no lawful dwelling exists on the site to be replaced;
- Point 4 is not relevant as the proposal does not involve the re-use of a redundant or disused building
- Point 5 no indication has been given that the applicants intend to accord with H2;
- Point 6 no indication has been given that the applicants intend to accord with paragraph 80 (formerly 55) of the National Planning Policy Framework;
- Point 7 no indication has been given that the applicants intend to accord with H4;

6.10 Given the proposal is for a dwelling directly associated with a rural enterprise and the applicant has attempted to demonstrate the financial viability of the enterprise I consider policy RA4 to be most relevant to its determination, as outlined above. The criteria set out in RA4 is for agricultural, forestry and rural enterprise dwellings. Policy RA4 states:

“Proposals for dwellings associated with agriculture, forestry and rural enterprises will be permitted where it can be demonstrated that there is a sustained essential functional need for the dwelling and it forms an essential part of a financially sustainable business, and that such need cannot be met in existing accommodation.”

- 6.11 In this case the exception being is if there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside. In order for the Local Planning Authority (LPA) to assess whether or not there is an 'essential need', evidence must be provided to demonstrate a need in order to qualify for a rural worker's dwelling. This echoes the tenets of Policy RA3 which lists exceptions to new residential development in an open-countryside, including dwellings for rural workers, where they would support an established rural enterprise and would accord with Policy RA4.
- 6.12 The NPPF guidance on rural workers' dwellings is less detailed than that in Annexe A of the former Planning Policy Statement (PPS) 7, which required clear and convincing evidence of a firm intention and ability to develop the enterprise; a functional need and strong evidence that the proposed enterprise has been planned on a sound financial basis. The principle of applying 'functional' and 'financial' tests is well established and is still required in order to satisfy the requirements of Policy RA4 of the CS. The policy also requires there to be a demonstration that accommodation could not be provided in existing buildings.
- 6.13 Policy RA4 goes onto state that where evidence of the economic sustainability of the rural enterprise is not proven or where an enterprise is not yet established, planning permission for temporary accommodation may be granted for a maximum period of three years to enable the sustainability of the enterprise to be assessed. Notwithstanding this, the gateway test of there being an essential functional need must be demonstrated first.
- 6.14 As stated in Core Strategy paragraph 4.8.29, non agricultural rural enterprises should demonstrate that the business could not exist without close and continual supervision, for example, where a worker is required day and night for supervision, inspection or emergency responses. Security itself is not sufficient to justify a new dwelling but maybe a contributing factor.
- 6.15 The supporting documentation asserts three main reasons for the justification of a dwelling on the site, proper management of the business, reduction in commuting time and deterrent against thefts.
- 6.16 With the information provided officers are unable to conclude that there are any other overriding factor that requires a new dwelling on this site, firstly the argument of security itself can be a

contributing consideration, it cannot alone justify a dwelling in this location. The applicant has provided crime numbers to identify previous burglaries, most recently in 2019. However, the application has failed to provide evidence that every reasonable, practicable and affordable security measure has yet been seriously investigated, or installed, for example high security locks or alarms, lighting or gating. It is acknowledged that isolated rural businesses can be vulnerable to crime, however, the site is not isolated and has residential dwellings to either side of the workshop, therefore this, in itself, can provide a level of security. The additional dwelling is not considered to provide any significant additional level of deterrent that can be achieved by existing close proximity dwellings, notwithstanding the presence of the static caravan on the site. As such, whilst a general threat of theft is acknowledged, the site is not isolated in the sense that existing dwellings lie to the east and west of the site and it has not been evidenced that sufficient measures have been employed to improve security measures. Notwithstanding this, and importantly, even if this had been evidenced, security is not in itself sufficient to justify a dwelling in open countryside.

- 6.17 It is evident that the business has run sufficiently effectively for 10 years in order to financially support the applicants and that on site presence is not required for proper management of the enterprise. Whilst the desire for less commuting time is acknowledged, this is considered a personal preference that is not something to be given weight in policy terms. Additionally, given there is no functional need for continued supervision on the site closer accommodation could be found a reasonable distance from the site. Secondary to this is the reduced number of vehicle movements required by the applicants, presumably compared to living off-site. Again this is not considered to be a functional need of the business, while it may be environmentally beneficial when viewed through that lens, both local and national policy seeks to prevent isolated homes in open countryside locations, save for those exceptions outlined above. Whilst there would be a trip reduction in terms of commuting to work, the reliance on motorvehicle associated with residential development in unsustainable location would far outweigh this.
- 6.18 There is no other justification demonstrating that there is a functional need for the occupier to be present at the business for the majority of the time. The nature of a carpentry business does not involve requirement for night time supervision, inspection or emergency responses (as one would expect with agricultural workers looking after livestock for example) that would require a permanent on site presence and the proposal therefore fails at the first policy requirement for functional need on the site.

Live-Work Case

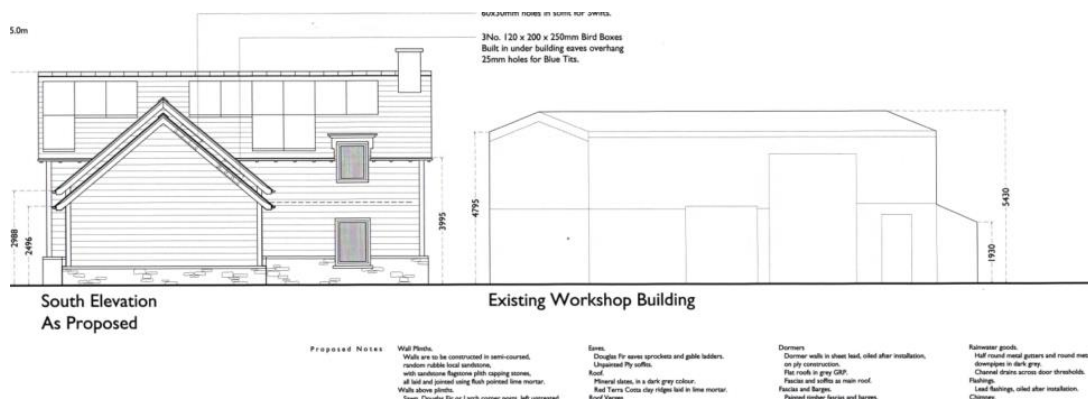
- 6.19 Policies are not considered out of date in the context of this application, live work units are not a new planning phenomenon and applications for development of this ilk have been dealt with under this Core Strategy elsewhere in the county. As such, it is considered that the relevant policies of RA3 and RA4 are applicable and afforded full weight in the consideration of this application. The application is for a rural worker's dwelling on the site of the enterprise, as such it is considered entirely reasonable and relevant to assess the scheme against rural exception criteria.
- 6.20 It is your Officer's view that the applicant's preferred argument that Core Strategy should be afforded very limited weight would not result in sound decision making. Whilst there is no suggestion that live-work accommodation must always be located within an identified settlement, in locations outside of RA2 settlements the Core Strategy is clear that residential development must then be assessed against the exception criteria in RA3. As above, the methodical assessment against the Core Strategy policies has been undertaken and are considered relevant and applicable to the case before Planning Committee.

Design, Appearance and Amenity

- 6.21 The Core Strategy seeks, via policy LD1, to ensure development proposals demonstrate how the character of the landscape and townscape has positively influenced the design, scale, nature and

site selection of the proposal. Development should be integrated appropriately through the use of landscape schemes and their management. Furthermore LD1 seeks to maintain and extend tree cover where important to amenity.

- 6.22 The application site is located within a minor linear pattern of development, with dwellings to the east and west, as such the proposal would read as an additional residential unit within this. The existing boundary treatments and new hedging and tree planting will help to screen the dwelling to some extent, whilst the new built form will be integrated into the wider landscape with the backdrop of existing and aid in visually softening the long views of the site. The existing access would be utilised minimising visual impact from the roadside. Overall it is considered to have been demonstrated that the landscape impact will be neutral, taking into account the existing built form on the site and in the wider vicinity.
- 6.23 Policy SD1 of the core strategy states that development should be designed to maintain local distinctiveness, achieved through the incorporation of architectural detailing and the use of appropriate materials. The policy also 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. This refers to the overshadowing or overlooking of neighbouring properties and how overbearing a structure is.
- 6.24 The proposed dwelling would be a two storey detached 4 bedroom property with home office and adjoining garage. The design approach utilises a relatively traditional cottage style dwelling constructed of timber boarding elevations with stone plinths under grey slate roof. The dwelling would not be adversely out of character with the adjacent built form comprising a variety of materials and architectural details such as gable projections and dormer windows, following a generally traditional character. The Proposed Plans (extracts) are inserted below.





East (Entrance) Elevation
As Proposed

Proposed Notes

Wall Finishes:
Walls are to be constructed in semi-coursed, random rubble local sandstone, with sandstone Regstone plinth capping courses, all laid and pointed using flush pointed lime mortar.
Walls above pilinths:
Sawn, Douglas Fir or Larch corner posts, left untreated.
Horizontal, sawn Douglas Fir or Larch boarding, left untreated.
Whisker Brackets.
Sawn Douglas Fir or Larch window surrounds.
To same face as corner posts.

Eaves:
Douglas Fir eaves sprockets and gable bidders.
Unpainted Ply soffits.
Roof:
Herring bones, in a dark grey colour.
Red Terra Costa clay ridges laid in lime mortar.
Roof Verges:
Lime mortar pointed wet verges.
Patts and Slaps.
Sawn flagged paths and steps. Grey gravel.
Flat Link Roof.
Grey, laid coloured GRP sheet roofing, dressed into metal box gutters.

Dormers:
Dormer walls in sheet lead, sited after installation, on ply construction.
Flat roofs in grey GRP.
Fascias and soffits as main roof.
Fascias and Barges.
Painted timber fascias and barge.
Windows and Doors.
Accoya timber or powder coated aluminium, as shown. Colour to be determined later.

Rainwater goods:
Half round metal downpipes in dark grey.
Channel drains.
Painting.
Lead Baking, 1.
Cladding.
Terracotta tiles with sandstone and painted side.



Existing Workshop Building

North Elevation As Proposed



West Elevation
As Proposed

Proposed Notes

Wall Finishes:
Walls are to be constructed in semi-coursed, random rubble local sandstone, with sandstone Regstone plinth capping courses.

Eaves:
Douglas Fir eaves sprockets and gable bidders.
Unpainted Ply soffits.
Roof.

Dormers:
Dormer walls in sheet lead, sited after installation, on ply construction.
Flat roofs in grey GRP.

Rainwater goods:
Half round metal gut downpipes in dark grey.
Channel drains across

6.25 With regards to residential amenity, the west elevation which fronts the neighbouring dwelling proposes no windows with the exception of obscure glazing to the en-suite shower room and bathroom. Condition could be included to secure obscure glazing in perpetuity. Amended ground floor plans have been received in response to the representation received raising concerns regarding the proximity of the air source heat pump. This has shown the pump to be relocated from the west of the dwelling to the south, being further away from neighbouring dwelling to the west. The proposal includes limited private amenity space to the north with a paved terrace.

Highways

6.26 The NPPF sets out at paragraph 110 that applications for development should ensure opportunities to promote sustainable transport have been taken, safe and suitable access to the site can be achieved for all users and any significant impacts from the development on the transport network or highway safety can be mitigated. Policy MT1 of the Core Strategy is reflective of this approach, as it seeks to promote active travel and development that without adversely affecting the safe and effective flow of traffic on the highway network. Further at paragraph 111

the NPPF sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe.

- 6.27 Given the existing movements associated with the site, the proposed development is not considered to materially impact on the safety of the existing access. The site plans show sufficient space for parking and turning on the site with secure cycle parking within the garage. The Highways Engineer has reviewed the application and raised no objection to the scheme.

Ecology and Drainage

- 6.28 Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity.
- 6.29 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.
- 6.30 The site is within the 10km of the Upper Wye Gorge SSSI that forms part of the Wye Valley Woodlands SAC that has Horseshoe bat species as an additional identified feature. The Council's Ecologist has reviewed the application and identified no loss of foraging habitat or impact upon potential bat roosting features as a result of the brownfield site with condition recommended to restrict external lighting and protect dark skies.
- 6.31 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).
- 6.32 The application proposes to manage foul water through existing private foul water treatment system serving the workshop and mobile home on site discharging to drainage field located on land under the applicant's control in the adjacent field. Given the dwelling would replace the existing mobile home it is considered that the current system can accommodate the new development. Additional surface water is proposed to be managed through onsite Sustainable Drainage Systems. This adheres to the drainage hierarchy set out above and there is nothing to suggest this is not achievable within the site which has sufficient space to accommodate the systems. Therefore, no conflict with SD3 or SD4 is identified.

Conclusion

- 6.33 It is acknowledged that there is an economic benefit, supported by both RA6 and E3, in supporting the applicant's rural enterprise. Furthermore the applicant has stated that the most salient way to do this is to live on site, while I give some weight to this argument it is clear that these policies do not seek to support housing development and that it would be possible to live off site and still operate the business. Should this application be refused, it would not make the business unviable or hinder the carrying out of operations.

- 6.34 There are no wider social benefits to the scheme, beyond the personal preferences of the applicant to reduce commuting time. In absence of functional need on the site, it is considered that accomodation in reasonable distance would enable the family to continue to live in the parish and community.

- 6.35 CS policy RA4 states that proposals for a new agricultural worker’s dwelling will be supported where it can be demonstrated that there would be a sustained functional need for it, and the supporting text at 4.8.27 outlines that such needs typically relate to providing essential supervision and management.

- 6.36 Applications for planning permission for new dwelling advanced through this policy are based on an accurate assessment of the needs of the enterprise. It is clear that the business can exist without onsite accommodation as the nature of the operations on site do not need out of hour or emergency presence. The justifications put forward are considered insufficient in policy terms to sufficiently evidence the threshold for essential functional need is met. In absence of functional need, the proposal would introduce residential development in an unsustainable location without meeting any exception criteria. Whilst the accommodation adjacent to the workshop would remove one journey to and from the applicant’s place of work, the nature of the unsustainable location outside of any identified settlement would require multiple journeys reliant on private motor vehicle for access to day to day services, including healthcare facilities, shops and schools.

- 6.37 The proposal for a rural worker’s dwelling in this open countryside location is found to be without justification and would lead to significant harm in terms of its conflict with the Development Plan and promoting unsustainable patterns of development. The scheme would hence not be representative of sustainable development, and as a consequence its does not benefit from the positive presumption set out in in the NPPF and CS, to which the NPPF is clear in that decisions should be taken in accordance with the development plan. As such, the application is therefore recommended for refusal.

RECOMMENDATION

That planning permission be refused for the following reasons:

- 1. **The application has failed to demonstrate that there is a sustained essential functional need for the dwelling as a part of a financially sustainable business. The nature of the enterprise is such that continuous onsite presence is not required to facilitate operations and the application has failed to demonstrate that the business could not exist without close and continual supervision, a worker is not required day and night for supervision, inspection or emergency responses. The reasons of proper management of the business, reduction in commuting time and deterrent against thefts are not considered sufficient justification in the policy context of a non-agricultural rural worker dwelling. The applicant has not provided any sound evidence to suggest that the proposal is to be considered under any other exceptional circumstances nor is it considered to be suitable development. It is therefore residential development in the open countryside without any exceptional justification and is considered to represent unsustainable form of development with reliance upon private motor vehicle. Accordingly the scheme is contrary to Herefordshire Local Plan – Core Strategy Policies RA2, RA3 and RA4 and the National Planing Policy Framework.**

Decision:

Notes:

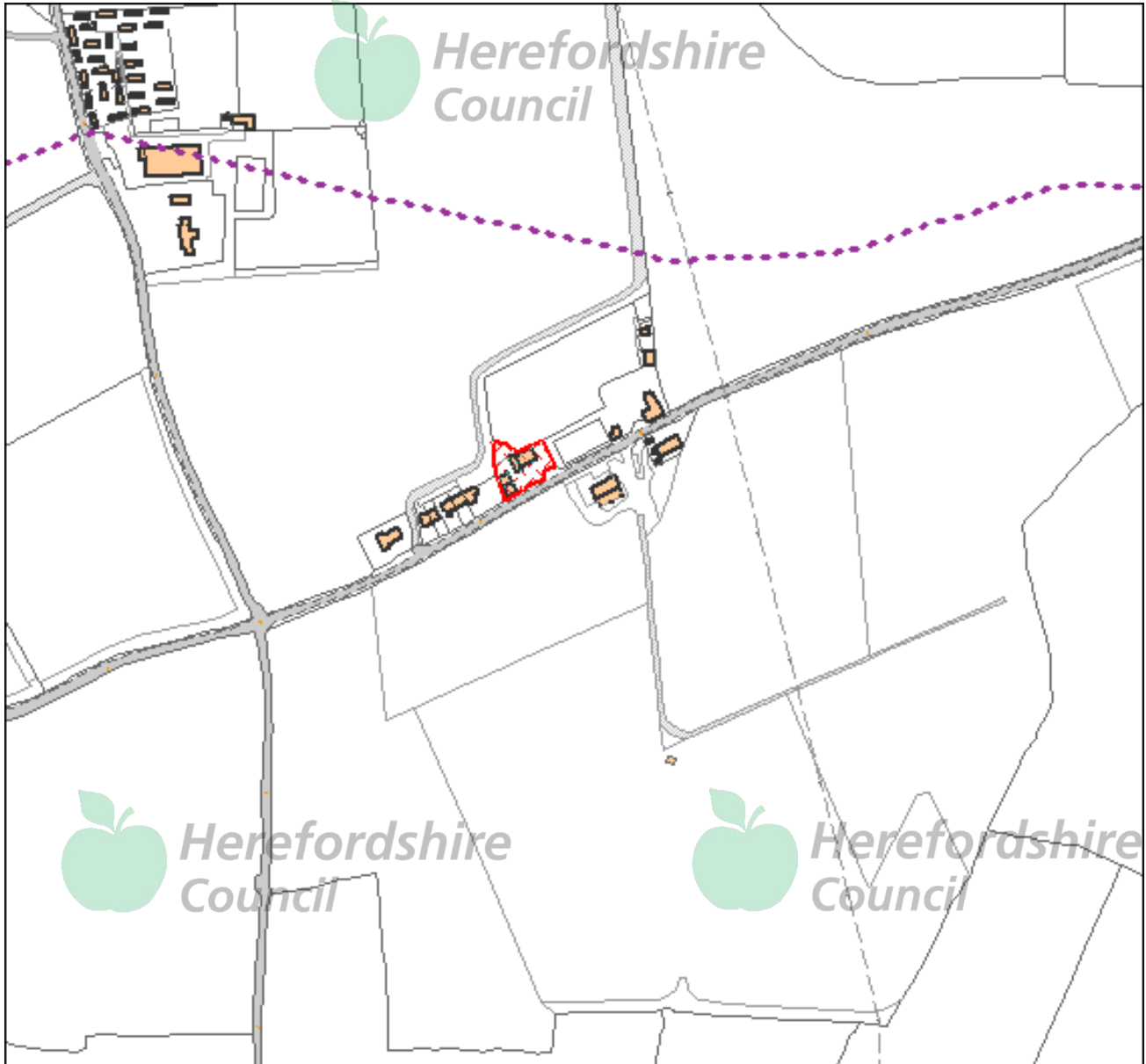
Appendices:

Appendix 1 – Accounts (Exempt –Local Government Act 1972, Schedule 12 A, paragraph 3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information))

Appendix 2 – Design and access statement (Exempt –Local Government Act 1972, Schedule 12 A, paragraph 3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information))

Background Papers

None identified.



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APPLICATION NO: 232089

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Further information on the subject of this report is available from Ms Elsie Morgan on 01432 260760