

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	9 APRIL 2025
TITLE OF REPORT:	<p>243062 - PROPOSED CHANGE OF USE FROM A SINGLE DWELLINGHOUSE (C3) TO 4 NO. APARTMENTS FOR THE USE AS ACCOMMODATION FOR TRANSITIONAL TEMPORARY ACCOMMODATION, TO DEMOLISH THE EXISTING DETACHED GARAGE TO SITE A BESPOKE 'CONTAINER' CONVERTED FOR AND USE AS ACCOMMODATION FOR TRANSITIONAL TEMPORARY ACCOMMODATION, AND ASSOCIATED OPERATIONAL DEVELOPMENT AT 7 BLACKFRIARS STREET, HEREFORD, HEREFORDSHIRE, HR4 9HS</p> <p>For: Mrs Powell per Mr Robert Scott, Herefordshire Council, Plough Lane Offices, Plough Lane, Hereford, Herefordshire, HR4 0LE</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=243062
Reason Application submitted to Committee – Council application/owned property	

Date Received: 28 November 2024 Ward: Widemarsh Grid Ref: 350978,240376

Expiry Date: 10 April 2025

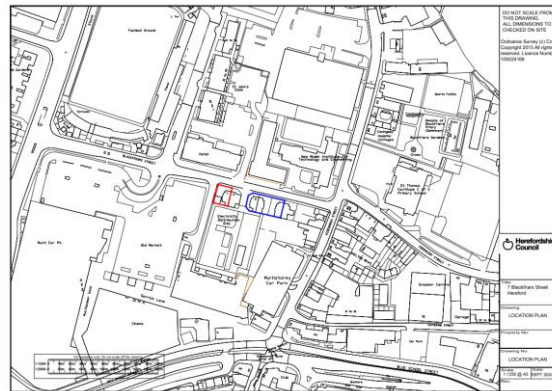
Local Member: Cllr Polly Andrews

Recommendation: To grant planning permission subject to conditions

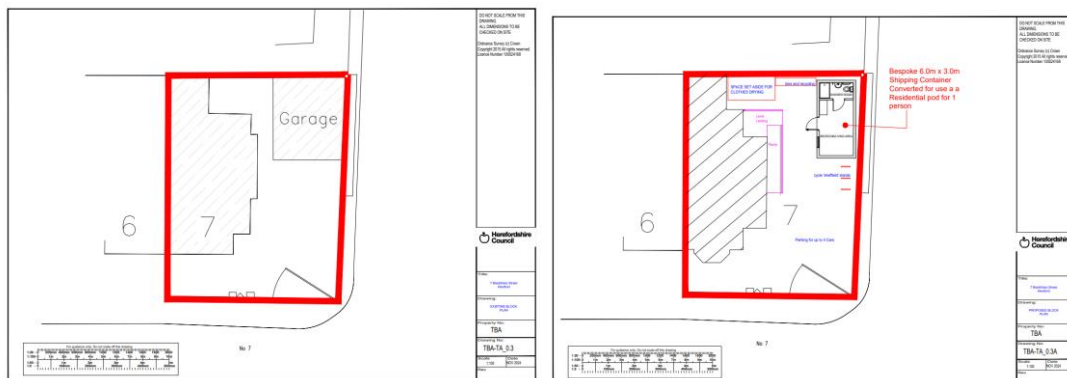
1. Site Description and Proposal

- 1.1 7 Blackfriars Street is a semi-detached Victorian property with detached garage located to the south of Blackfriars Street, Hereford. To the north of the application is a Hotel and its associated access road from Blackfriars Street. To the south is an extended compound housing an electricity substation. To the immediate east is a Hearing Clinic (6 Blackfriars Street) and to the west is a deliveries and emergency access road leading to the ground floor car park associated with the Old Market Shopping Centre.
- 1.2 This application seeks full planning permission for the change of use from 1 no. dwellinghouse (Use Class C3) into 4 no. apartments which are intended to support individuals who require transitional temporary accommodation. The proposals also include the proposed demolition of the garage to site a bespoke 'container' which would be converted for a single occupant as transitional temporary accommodation with a bedroom/living area and shower room. Each of the apartments would be serviced by a bedroom/living area, shower room and kitchenette. There are no other external alterations proposed within the application aside from associated operational development to include the siting of 'Sheffield' cycle stands to the immediate south of the 'container', a ramp attached to 7 Blackfriars Street and provision for bins and recycling.

1.3 Existing and proposed plans are provided for convenience below:



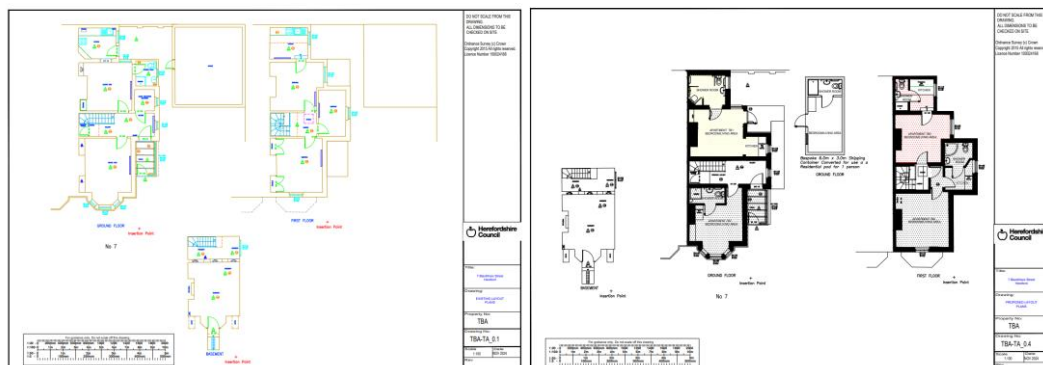
Location Plan



Existing Block Plan and Proposed Block Plan



Existing Elevations and Proposed Elevations including bespoke 'container'



Existing Floor Plans and Proposed Floor Plans

- 1.4 Further to clarification with the Council's Licensing Team, 7 Blackfriars Street was previously identified as an unlicensed House of Multiple Occupation (HMO). However, under Class L of Part 3, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), development consisting of a change of use of a building from a use falling within Class C4 (houses in multiple occupation) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule or vice versa, does not require planning permission in its own right, subject to the development not being used as two or more separate dwellinghouses. It is therefore considered that the description of development is correct in terms of the lawful use of the property.

2. Policies

2.1 Herefordshire Local Plan – Core Strategy 2011-2031 adopted October 2015 (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
HD1	-	Hereford
HD2	-	Hereford City Centre
H3	-	Ensuring an appropriate range and mix of housing
MT1	-	Traffic Management, highway safety and promoting active travel
E5	-	Town Centres
E6	-	Primary shopping areas and primary and secondary shopping frontages
LD1	-	Landscape and townscape
LD2	-	Biodiversity and geodiversity
LD3	-	Green Infrastructure
LD4	-	Historic environment and heritage assets
SD1	-	Sustainable Design and energy efficiency
SD3	-	Sustainable water management and water resources
SD4	-	Waste water treatment and river water quality

The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) and paragraph 34 of the revised National Planning Policy Framework (NPPF) require 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 15th October 2015 and a review was required to be completed before 15th October 2020. The decision to review the Core Strategy was made on 9th November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application. In this case, the relevant policies have been reviewed, are considered consistent with the NPPF and therefore attributed significant weight. 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/downloads/download/123/adopted_core_strategy

2.2 National Planning Policy Framework (NPPF)

Revised on 12 December 2024 (please note that the NPPF was amended on 7 February 2025 to correct cross-references from footnotes 7 and 8, and amend the end of the first sentence of paragraph 155 to make its intent clear. For the avoidance of doubt the amendment to paragraph 155 is not intended to constitute a change to the policy set out in the Framework as published on 12 December 2024:

2. Achieving sustainable development
4. Decision-making
5. Delivering a sufficient supply of homes
6. Building a strong, competitive economy
7. Ensuring the viability of town centres
8. Promoting healthy and safe communities
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
16. Conserving and enhancing the historic environment

2.3 National Planning Practice Guidance (NPPG)

The associated Planning Practice Guidance (NPPG) adds further context to the NPPF and it is intended that the two documents should be read together. The PPG can be accessed through the following link: <https://www.gov.uk/government/collections/planning-practice-guidance>

3. Planning History – None

4. Consultation Summary

Statutory Consultations

4.1 Dwr Cymru Welsh Water – No objections; conditions recommended

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

FOUL WATER

We can confirm capacity exists within the public sewerage network in order to receive the domestic foul only flows from the proposed development site. We recommend that the existing private drainage on site should be utilised to avoid any new direct connection to the public sewerage system.

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

Condition

No surface water from any increase in the roof area of the building /or impermeable surfaces within its curtilage shall be allowed to drain directly or indirectly to the public sewerage system.

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

Advisory Notes

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary)

or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

In accordance with National Planning Policy Framework (Edition 11) and Technical Advice Note 12 (Design), the applicant is advised to take a sustainable approach in considering water supply in new development proposals, including utilising approaches that improve water efficiency and reduce water consumption. We would recommend that the applicant liaises with the relevant Local Authority Building Control department to discuss their water efficiency requirements.

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."

Internal Council Consultations

4.2 Ecology – No objections; conditions recommended

"The site is within River Wye SAC catchment and this proposed development triggers the legal requirement for a Habitat Regulations Assessment process to be carried out by the LPA, the final HRA 'appropriate assessment' completed by the LPA must be formally approved by Natural England PRIOR to any future planning consent being granted.

This HRA process needs to be completed based on all current requirements and considerations and on information supplied in support of this specific application and that is sufficiently detailed to allow any relevant conditions to be secured.

The HRA process must be completed with legal and scientific certainty and using a precautionary approach.

From the start of August 2023, there have been changes in the conservation status of the River Wye SSSI - downgraded to "unfavourable declining" by Natural England; and these comments have been completed based on this recent change and updated SSSI Impact Risk Zone information available from Natural England (River Wye SAC – bespoke buffer – Any discharge of water or liquid waste including to mains sewer). The applicant must demonstrate with scientific and legal certainty that the proposed development will create no significant nutrient pathways into the River Wye that may make the current situation worse or hinder any recovery.

The demonstration of the use all best available 'natural' technology to minimise the discharge of phosphates in to the River Wye SAC catchment must be demonstrated

Notes in respect of HRA

The proposal is for a nett increase of FOUR new residential units with associated new/additional foul and potential surface water flows (nutrient pathways) created.

- The site is within the mains sewer catchment for Welsh Water's Hereford (Eign) Waste water Treatment Works that discharges into the River Wye at Hereford.
- Mains sewer is considered as the best available option to ensure foul water management with minimal effect from nutrient pathways.
- Welsh Water have confirmed that the Hereford (Eign) WWTW has capacity to manage the additional flows created by the creation of a new residential dwelling.
- The additional foul water flows can be considered as accommodated within the nutrient allowance secured through the current Core Strategy 'Hereford' housing allowances that were subject to a positive HRA process at the time the CS was adopted.
- The supplied information confirms no significant additional surface water flows will be created over the flows from the existing developed area footprint the proposed development also covers. This effect is not considered further

The approved foul water management systems can be secured by condition on any planning permission finally granted.

Habitat Regulations - Nature Conservation (River Wye SAC) – Foul Water

Unless otherwise agreed in writing by the Local Planning Authority as detailed in the application form, all foul water flows created by the approved development shall be managed through a connection to the local mains sewer network. The approved foul water scheme shall be managed and maintained as approved for the lifetime of the development it supports.

Reason: In order to ensure Nutrient Neutrality and comply with The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD2, SD3 and SD4.

With all mitigation fully embedded with the project – planning permission the required HRA process can be considered as being 'screened out' at Stage 1 and no full appropriate assessment is required and no consultation with Natural England is triggered.

Other Ecology Comments

There is recorded Bat Roosting within roof voids of adjacent/other buildings in this location.

The supplied plans do not indicate that any works will be required to or within the roof or roof voids, soffits or bargeboards of the existing building. As no works have been indicated that appear to affect or involve these potential roosting features the LPA has no reason to require an ecological (bat) survey prior to determination of this planning application. No additional external lighting has been proposed or considered.

The council and their contractors should be aware that if any works do require access to the roof voids or associated roof features that a relevant ecological assessment and any relevant bat surveys is strongly advised prior to any such works commencing. A relevant advisory note is suggested on any planning permission 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 Great Crested Newts, all Bat species, Otters, Dormice, Crayfish and reptile species that are present and widespread across the County. All nesting birds are legally

protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it is advised that advice from a local professional ecology consultant is obtained.

Statutory Biodiversity Net Gain

No works are proposed to any unsealed natural habitat, trees, shrubs or similar features and an exemption from statutory Biodiversity Net Gain would apply. Should this change at any time during the development process and 25m² or greater of any unsealed or natural surface is affected by works statutory BNG is likely to automatically become applicable.

As identified in the NPPF, NERC Act, Core Strategy LD2 and action within the council's declared Climate Change & Ecological Emergency all developments should demonstrate how they are going to practically enhance ("Net Gain") the Species (Biodiversity) potential of the area. Based on scale, location and nature of proposed development a relevant Condition is suggested to secure these enhancements:

To obtain Species (Biodiversity) Net Gain

Prior to first use of the residential accommodation approved under planning permission, evidence such as photographs or ecologists report of the suitably placed installation on the approved building, or on other land under the applicant's control, of a minimum of TWO bird nesting features and TWO bat roosting features, of mixed types, should be supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority. No habitat boxes should be located in Ash trees due to future effects of Ash Dieback Disease and likely loss of these trees.

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

A copy of the Habitat Regulations Assessment can be accessed through the following web link: https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=243062

4.3 Area Engineer (Highways) – No objections; conditions recommended

"The application proposes converting a single dwelling into four apartments designated for transitional temporary accommodation. Additionally, it includes demolishing the existing detached garage and installing a container to be converted into a single-occupant residential unit.

Situated in a sustainable location with excellent connectivity and adjacent to a paid car park, the site offers convenient access to amenities. The Local Highway Authority (LHA) has no objections to the proposal, provided that secure, covered cycle storage is incorporated into the development and a construction management plan is submitted. The construction management plan should detail parking arrangements for site operatives during the construction phase to ensure minimal disruption to the surrounding area.

CB2 – Secure, covered cycle storage

CAT – Construction management plan – Parking for site operatives

All applicants are reminded that attaining planning consent does not constitute permission to work in the highway. Any applicant wishing to carry out works in the highway should see the various guidance on Herefordshire Council's website:

www.herefordshire.gov.uk/directory_record/1992/street_works_licence
<https://www.herefordshire.gov.uk/info/200196/roads/707/highways>"

5. Representations

5.1 Hereford City Council – Objection

"A container has been proven to be poorly suited to human habitation, despite the assumptions in the application made. Unless measures were taken place to ensure the container is not too hot or too cold during seasonal changes, it would likely not meet the standards for comfortable living."

5.2 The remaining third party representations received comprise 3 letters of occupation from 2 interested parties. A summary of their representations is provided below:

- Noise pollution/impact on amenity;
- Unsuitability of using a 'container' as accommodation;
- Sets a poor precedent;
- Impacts on townscape;
- Impact on commercial district of Hereford;
- Impact on business, including security, viability and devaluation of property; and
- Lack of community consultation.

All consultation responses can be viewed on the Council's website using the following weblink:-

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=243062

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 and Principle of Development

- 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 comprises the Herefordshire Local Plan – Core Strategy (CS). The National Planning Policy Framework (NPPF) is a significant material consideration.
- 6.3 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 34 of the NPPF 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 was updated in 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 applications. In reaching a decision, the level of consistency of policies in the local plan with the NPPF will therefore need be taken into account by the Council. From reviewing those policies within the CS which are applicable to the determination of this application (see 2.1 of this report), these are considered to be consistent with the guidance contained within the NPPF. As such, significant weighting should continue to be afforded to these policies. This position has also been crystalised at the Appeal Court prior to the recent revisions to the NPPF coming into effect following the *Suffolk Coastal DC v Hopkins Homes & SSCLG and Richborough Estates v*

Further information on the subject of this report is available from Mr Josh Bailey on 01432 261903

Cheshire East BC & SSCLG [2016] EWCA Civ 168 were described by the Court thus “*We must emphasize here that the policies of the NPPF do not make "out-of-date" policies for the supply of housing irrelevant in the determination of a planning application or appeal. Weight is, as ever, a matter for the decision maker (as described the speech of Lord Hoffmann in Tesco Stores Ltd. v Secretary of State for the Environment [1995] 1 W.L.R. 759, at p.780F-H)*”.

- 6.4 This application must be considered in the context of the NPPF being revised on 12 December 2024 (with minor cross-referencing amendments made on 7 February 2025). Paragraph 11 of the NPPF, which is consistent with Policy SS1 of the CS, applies a presumption in favour of sustainable development. The NPPF stresses the importance of having a planning system that is genuinely plan-led. Where a proposal accords with an up-to-date development plan it should be approved without delay, as required by the presumption in favour of sustainable development at paragraph 11 of the NPPF. Where the development plan is absent, silent or the relevant policies are considered to be “out-of-date”, Paragraph 11 of the NPPF requires the application to be determined in accordance with the presumption in favour of sustainable development unless otherwise specified.
- 6.5 Paragraph 11(d) of the NPPF is considered to be engaged for decision-making purposes on this planning application. Planning permission should therefore be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the current NPPF as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination (11dii); or if specific assets or areas of importance within the current NPPF indicate development presents a ‘strong reason’ for refusal (11di).
- 6.6 Supreme Court judgements and subsequent appeal decisions have confirmed that policies relevant to the determination of this application can still be afforded weight in the decision-making process, and it is a matter of planning judgement for the decision-maker to attribute the degree of weight to be afforded depending on the context of the decision. Paragraph 232 of the NPPF is applicable. The key policies of the CS are considered to be consistent with the NPPF and should be attributed significant weight, particularly as it helps define what may amount to a ‘*sustainable location*’, ‘*effective use of land*’ and ‘*securing well-designed places*’, as outlined within the NPPF.
- 6.7 In considering the principle of development, strategic policy SS2 of the CS confirms that Hereford is identified to be the main focus for new housing development in the county. Policies HD1 and HD2 of the CS recognise that Hereford will accommodate a minimum of 6,500 new homes within the plan period, with 800 of these are expected to be delivered within the City Centre with further residential development in the wider Hereford area to take place through the implementation of existing commitments, re-development of existing brownfield sites, windfall development, re-use of upper floors above commercial premises or infill development.
- 6.8 The application site is located very close to Hereford City Centre where the need for such accommodation is likely to be at its most acute. The site is close to a range of commercial, service, residential and community areas, and reference should be made to recognising that similar transitional temporary accommodation uses have been approved by the Local Planning Authority along Blackfriars Street in recent years (see P243061/CD3 and P211955/F and P210535/CD3). It is considered that the proposed change of use would be in keeping with neighbouring land uses, having regard to cumulative effects also. The proposed change of use is broadly supported through Policies HD1 and HD2 of the CS, which is consistent with Section 5 of the NPPF, with the aim to offer supported and tailored accommodation for those who are in need of it. It is considered to be a use that offers significant and tangible social benefits.

- 6.9 Whilst the objections received by both Hereford City Council and third parties with regards to the principle of the siting of the bespoke 'container' which would be adapted for use as an overnight pod are noted, there is not considered to be any overriding adverse impacts associated with the choice of a 'container' at this location. Even if others felt otherwise, the harm should be viewed to be very limited and far outweighed by the social benefits of meeting the short term needs of Herefordshire residents who require such accommodation and is clearly a safer option than sleeping on the streets. The proposal is not considered to jeopardise or undermine the commercial character of this part of Hereford, recognising that there are alternative land uses in addition to simply commercial and there are no policies within the adopted development plan which strictly prohibits the change of use that is sought.
- 6.10 Nevertheless, in taking a consistent position with other applications this authority has determined for siting similar 'containers' for transitional temporary accommodation, most recently by this Committee at St David's Hall, Symonds Street in August 2024 (see P240480/CD3), a temporary period of five years provides more than ample time to enable a more long-term and permanent response alongside the proposed re-use of the property itself.
- 6.11 The principle of development is one which is accepted. The main technical considerations subsequently relates to the resultant quality of the accommodation in relation to the living conditions of future occupiers and adjoining amenity; highway safety and parking, townscape; heritage and drainage and biodiversity impacts.

Amenity

- 6.12 Having regard to Policy SD1 of the CS, together with Paragraph 135f and 198 of the NPPF, accounting for cumulative impacts, the accommodation proposed will provide for the basic needs of future occupants and is considered to be appropriate for its intended use.
- 6.13 In addressing the objections raised, the request for noise insulation as a formal planning condition is legislated separately under Building Regulations. The refurbishment and remodelling of the proposal would need to comply fully with Approved Document Part E - Resistance to the passage of sound and be signed off by Building Control as complying fully with the relevant building regulations Approved Documents.
- 6.14 There is also no requirement to upgrade the 'Party Wall' internally for sound to meet current Building Regulations. However, in order to ensure that noise disruption to the business is mitigated, the applicant intends to appoint a specialist provider to carry out a UKAS Accredited Sound Test prior to the works commencing would measure the existing sound transmission (airborne and impact) between 6 and 7 Blackfriars Street, providing recommendations to upgrade the party wall to meet current building regulations. A Pre completion UKAS accredited sound insulation test service would also be carried out to ensure all the sound insulation improvements employed are fully compliant with the Building Regulations Document E Resistance to the passage of sound. Again, as this is legislated separately under Building Regulations, a planning condition is not considered reasonable or necessary.
- 6.15 A restriction on working hours can normally be added during the construction phase although given the third party does not wish to have a condition restricting during their own opening hours, it is considered that such a condition should not be added as it would otherwise lead to undue restriction on the part of the applicant and gives flexibility for the applicant to work outside the adjoining business hours. The applicant has also confirmed that a construction noise management plan would be discussed with the appointed Principal Contractor with a view to setting up clear lines of communication between the site team and neighbouring properties to ensure any disruption can be managed. Any critical dates/times where construction noise would be a nuisance would be discussed and mitigation agreed, although again this is beyond the planning regime.

- 6.16 The proposal is not considered to lead to any adverse impacts to the occupiers of adjoining and nearby properties. In reaching this position, whilst regard has been had to the objections raised by the adjoining property to the east (6 Blackfriars Street). Accounting for cumulative effects also, the proposal complies with policy SD1 of the CS, which is consistent with Paragraphs 135f and 198 of the NPPF.

Highway safety

- 6.17 Having regard to the active travel opportunities of this location and Policies MT1 and SS4 of the CS, which is consistent with Section 9 of the NPPF, it is considered that the proposal will not result in any adverse impacts to car parking provision or highway/pedestrian safety. Regard is particularly had to the lack of objection by the area engineer. Paragraph 116 of the NPPF is not engaged as a result of the proposed change of use.
- 6.18 Pre occupation implementation and installation of the cycle stand can be secured by condition.
- 6.19 The construction traffic management plan suggested by the Area Engineer is not considered necessary to condition. As can be seen on the proposed plans, there is more than sufficient parking provision for 3 vehicles on site which can provide parking for site operatives during construction works.

The proposal accords with Policies SS4 and MT1 of the CS, which is consistent with Section 9 of the NPPF.

Design and Townscape impacts

- 6.20 There are no external alterations save for the demolition of the garage for the siting of the container and associated operational development, as explained above and shown on the proposed plans. In considering design, townscape effects and impacts on the character and appearance of the area, regard has been had to Policies SD1 and LD1 of the CS, which is consistent with achieving well-designed places (Section 12) as identified within the NPPF.
- 6.21 The applicant has sought to propose the 'container' due to the area available where the current garage is situated and the urgent need to increase the availability of fully compliant wheelchair accessible accommodation. A purpose designed pod allows the applicant to do this, along with the ramp.
- 6.22 The works are considered to have negligible effects upon the townscape and is of accepted design, noting similarly approved uses at Symonds Street.
- 6.23 Any perceived harm should be considered to be mitigated by the temporary time period for the siting of the 'container' once first occupied as transitional temporary accommodation. The proposal accords with the relevant aforementioned policies.

Heritage impacts

- 6.24 The site is located outside but on the edge of the Hereford Central Conservation Area (referring to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990), but is not considered to be particularly sensitive given the location at the very northern extent of the Conservation Area boundary. The proposal also needs to be considered against Policies SS6 and LD4 of the CS which is consistent with Section 16 of the NPPF, which considers the conserving and enhancing of the historic environment.

- 6.25 The proposal is not one which would adversely affect the setting, significance or experience of the Hereford Central Conservation Area. There would be no overriding adverse impacts associated with the proposed use sought and any perceived harm should be considered to be mitigated by the temporary time period for the siting of the 'container' once first occupied as transitional temporary accommodation.000
- 6.26 Accordingly, the proposal accords with CS policies SS6 and LD4. In the absence of harm being identified, the 'public benefit' tests prescribed within the NPPF should not be undertaken and the aforementioned statutory duty should be considered discharged.

Drainage/HRA/Ecology/Biodiversity

- 6.27 Having regard to Policies SS6, LD2, SD3 and SD4 of the CS, which is consistent with sections 14 and 15 of the NPPF, in respect of foul drainage, the proposal will continue to be connected to the mains sewer. The proposal will not result in any net increase of residents to the City and the proposal will not result in the any increased likelihood of surface water run off which is acknowledged by Dwr Cymru Welsh Water as part of their representation. A condition relating to surface water should be imposed if planning permission is granted.
- 6.28 The proposed introduction of additional overnight accommodation also triggers the requirement to undertake a formal Habitat Regulations Assessment. The Council's Ecologist has reviewed the application and concludes that there will be no likely significant effects upon the River Wye Special Area of Conservation (Wye catchment) and it has been screened out at stage 1. With mitigation fully embedded with the project and secured by suitably worded conditions, no full appropriate assessment is required and no consultation with Natural England triggered. Paragraph 195 of the NPPF is also not engaged.
- 6.29 A relevant advisory note is suggested on any planning permission granted to remind the applicant of their duty of care.
- 6.30 As identified in the NPPF, NERC Act, CS Policy LD2 and action within the Council's declared Climate Change & Ecological Emergency, all developments should demonstrate how they are going to practically enhance ("Net Gain") the Species (Biodiversity) potential of the area. A relevant Condition is recommended to secure these enhancements.
- 6.31 Mandatory 'Biodiversity Net Gain' is not engaged here as the proposal benefits under the '*de minimis*' exemption (<https://www.gov.uk/guidance/biodiversity-net-gain-exempt-developments>)
- 6.32 The proposal is considered to accord with policies SS6, LD2, SD3 and SD4 of the CS, which is consistent with the relevant sections of the NPPF, namely with regards to conserving and enhancing the natural environment.

Other considerations

- 6.33 In accordance with The Town and Country Planning (Development Management Procedure) (England) Order 2015 and publicity for application for planning permission, the Local Planning Authority has undertaken the required publicity for this application. This includes the erection of a site notice outside the application site and publication of the application on the Council's website. Given there are no statutory constraints associated with the application site, there is no requirement to publish this application within the Local Press.
- 6.34 A third party has raised concern that the Council has not met its Statement of Community Involvement (SCI). The SCI is focussed largely on Development Plans such as Herefordshire Council's Local Plan – Core Strategy; the emerging review of the Herefordshire Local Plan 2021-2041; and Development Plan Documents (DPD) production. Effectively, the SCI sets out a framework which identifies how and when the Council will involve residents and businesses in

the preparation of planning documents. It also sets out how interested parties are consulted on planning applications which the Local Planning Authority has done so appropriately, as set out in the paragraph above.

- 6.35 The impacts on business security, viability and devaluation of property are not material planning considerations.

Planning Balance/Conclusion

- 6.36 The NPPF has at its heart a presumption in-favour of sustainable development. Sustainable development is considered to consist of three key elements, those being Economic, Social and Environmental objectives. Development proposals that are considered to meet these objectives (when taken as a whole) meet the first test and are considered to be sustainable development, benefiting from the presumption in favour of the development.
- 6.37 At the time of considering this application, the policies most relevant to the development are considered to be 'out-of-date', applying the tilted balance in favour of sustainable development, engaging Paragraph 11d of the NPPF. Paragraph 14 of the NPPF is not engaged.
- 6.38 Nevertheless, the application is considered to accord with the provisions of the development plan and although the plan is not considered to be 'up-to-date', Paragraph 232 of the NPPF sets out that policies should be given due weight depending on their consistency with the framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). In this regard the policies relevant to the determination of this application should continue to be afforded significant weight.
- 6.39 The proposal appropriately demonstrates that, subject to conditions, it would not result in a detrimental impact upon the character and appearance of the area, the living conditions of existing and future residents, highway safety, drainage, flood risk or ecology/biodiversity. The use of the site as transitional temporary accommodation is not prevented by the development plan.
- 6.40 Engaging Paragraph 11d of the NPPF, turning to Paragraph 11di, there are no assets of importance which presents a 'strong' reason for refusing the application. The only two assets of relevance are habitat sites (River Wye SAC) and the significance of heritage assets (setting of the Hereford Central Conservation Area setting), neither of which are considered to attract adverse harm as set out above. Paragraph 11di is not engaged.
- 6.41 Turning to Paragraph 11dii, in this instance, and having particular regard to key policies for directing development to sustainable locations and securing well-designed places, individually or in combination, the application is not considered to engage 11dii). This proposal responds to meeting the needs of some of Herefordshire's residents who are in need for transitional temporary accommodation. The proposal is considered to have no adverse economic, social or environmental effects and where any perceived harm may be identified, they are considered to be mitigated by conditions and outweighed also by acknowledging that the proposed change of use fulfils a valuable social role in meeting a increasingly pressing need for such accommodation and provision of much needed support. Paragraph 11dii is therefore not considered to be engaged.
- 6.42 Planning permission should therefore be granted as set out in the officer recommendation below.

RECOMMENDATION

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

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

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

2. The development shall be carried out strictly in accordance with the following list of approved plans, except where otherwise stipulated by conditions attached to this permission:

Location Plan;
TBA-TA_0.3A (Proposed Block Plan);
TBA-TA_0.4 (Proposed Layout Plans); and
TBA-TA_0.5 (Proposed Layout Elevations)

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

3. Prior to first use as transitional temporary accommodation, the secure cycle parking facilities, as shown on drawing number TBA-TA_0.3A dated Nov 2024, shall be installed and available for use. Thereafter these facilities shall be maintained for the lifetime of the development.

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 with the requirements of Policies SS4 and MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

4. Prior to first use as transitional temporary accommodation, evidence such as photographs or ecologists report of the suitably placed installation on the application site, or on other land under the applicant's control, of a minimum of TWO bird nesting features and TWO bat roosting features, of mixed types, shall be submitted to and acknowledged by the local planning authority. Thereafter, these shall be maintained as approved unless otherwise agreed in writing with the local planning authority.

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

5. The apartments and 'container' hereby approved shall not be occupied other than by individuals requiring transitional temporary accommodation.

Reason: To clarify the terms of the permission and enable further consideration to be given should alternative forms of supported living be required in future and to comply with Policy SD1 of the Herefordshire Local Plan Core Strategy and the National Planning Policy Framework.

6. Once first occupied, the 'container' shall thereafter be sited for a maximum time period of 5 calendar years, after which the use as transitional temporary accommodation hereby approved shall cease and the 'container' shall be removed from the site altogether. The applicant shall provide written confirmation of the first occupation of the container as soon as practically possible.

Details, to include the timescale for removal of the 'container', shall be submitted to and approved in writing by the Local Planning Authority no less than two calendar months before the use of the 'container' as transitional temporary accommodation expires. The removal of the 'container' shall thereafter be carried out in strict accordance with the approved timetable.

Reason: To enable the local planning authority to give further consideration to the acceptability of the container after the temporary period has expired in the interest of adequate amenity and wider townscape effects and to comply with Policies SD1 and LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

7. Unless otherwise agreed in writing with the Local Planning Authority, all foul water flows created by the approved development shall be managed through a connection to the local mains sewer network. The approved foul water scheme shall be managed and maintained as approved for the lifetime of the development.

Reason: In order to ensure Nutrient Neutrality and comply with The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan – Core Strategy policies SS1, SS6, LD2, SD3 and SD4.

8. No surface water from any increase in the roof area of the building, installation of the container or impermeable surfaces within the application site shall be allowed to drain directly or indirectly to the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment, and to accord with Policies SS6, LD2, SD1, SD3 and SD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

INFORMATIVES:

1. IP2 – Application Approved Following Amendment

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

2. INS – Non-standard 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 Great Crested Newts, all Bat species, Otters, Dormice, Crayfish and reptile species that are present and widespread across the County. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it is advised that advice from a local professional ecology consultant is obtained.

3. INS – Non-standard informative

All applicants are reminded that attaining planning consent does not constitute permission to work in the highway. Any applicant wishing to carry out works in the highway should see the various guidance on Herefordshire Council’s website: www.herefordshire.gov.uk/directory_record/1992/street_works_licence and <https://www.herefordshire.gov.uk/info/200196/roads/707/highways>

4. INS – Non-standard informative

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform with the publication "Sewers for Adoption" - 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com

The applicant is also advised that some public sewers and lateral drains may not be recorded on maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. The applicant may contact Dwr Cymru Welsh Water to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

In accordance with the National Planning Policy Framework, the applicant is advised to take a sustainable approach in considering water supply in new development proposals, including utilising approaches that improve water efficiency and reduce water consumption. The applicant should liaise with the relevant Local Authority Building Control department to discuss their water efficiency requirements.

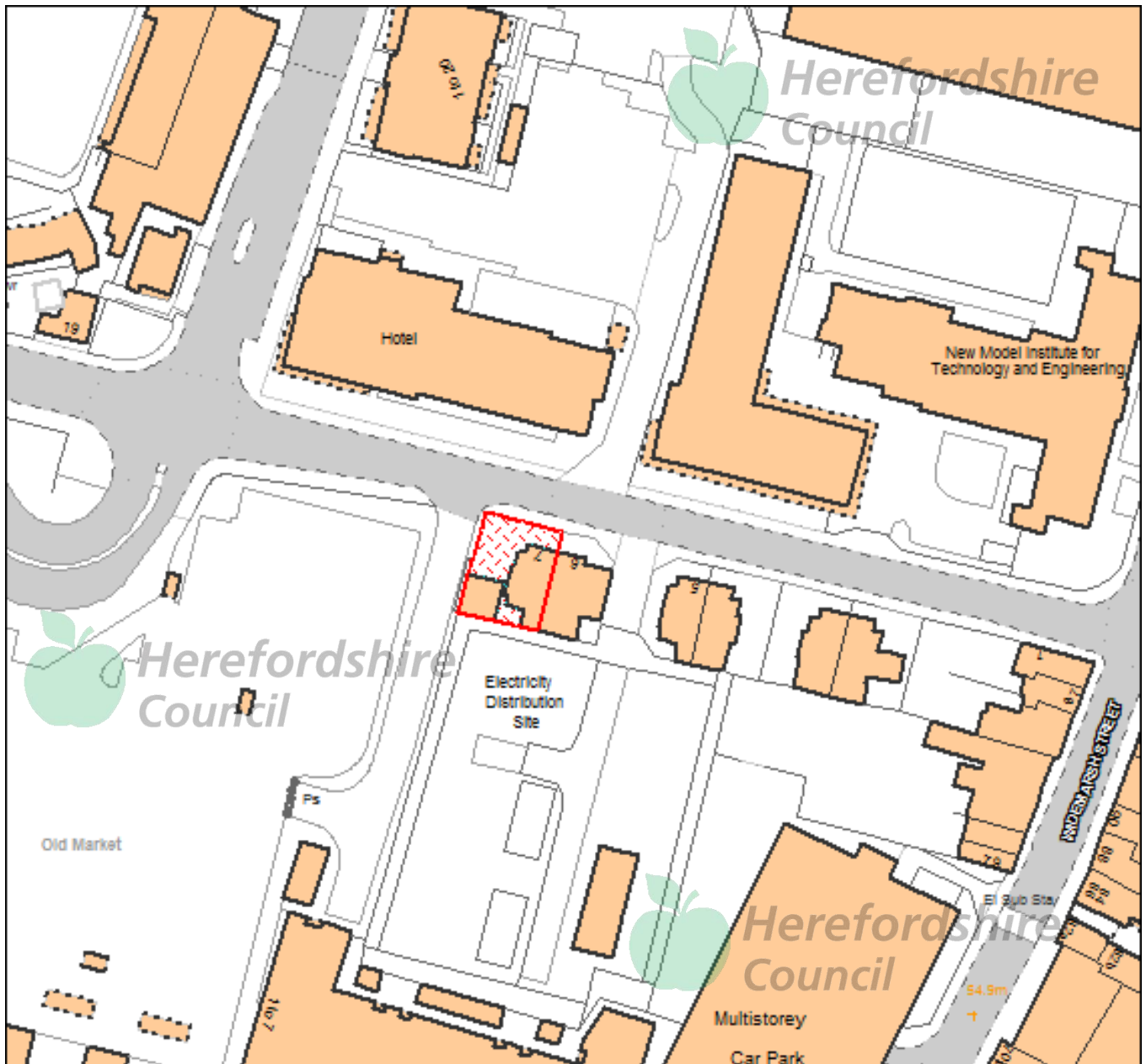
Decision:

Notes:

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Background Papers

None identified.



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APPLICATION NO: 243062

SITE ADDRESS : 7 BLACKFRIARS STREET, HEREFORD, HEREFORDSHIRE, HR4 9HS

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