

Open

Planning Committee

Agenda

6pm
Tuesday, 15th March 2016
Council Chamber
Wyre Forest House
Finepoint Way
Kidderminster



Planning Committee

Members of Committee:

Chairman: Councillor S J Williams
Vice-Chairman: Councillor G C Yarranton

Councillor J Aston	Councillor S J M Clee
Councillor J Greener	Councillor J A Hart
Councillor M J Hart	Councillor D Little
Councillor F M Oborski MBE	Councillor M Rayner
Councillor C Rogers	Councillor J A Shaw

Information for Members of the Public:-

Part I of the Agenda includes items for discussion in public. You have the right to request to inspect copies of Minutes and reports on this Agenda as well as the background documents used in the preparation of these reports.

An update report is circulated at the meeting. Where members of the public have registered to speak on applications, the running order will be changed so that those applications can be considered first on their respective parts of the agenda. The revised order will be included in the update.

Part II of the Agenda (if applicable) deals with items of "Exempt Information" for which it is anticipated that the public may be excluded from the meeting and neither reports nor background papers are open to public inspection.

Delegation - All items are presumed to be matters which the Committee has delegated powers to determine. In those instances where delegation will not or is unlikely to apply an appropriate indication will be given at the meeting.

Public Speaking

Agenda items involving public speaking will have presentations made in the following order (subject to the discretion of the Chairman):

- Introduction of item by officers;
- Councillors' questions to officers to clarify detail;
- Representations by objector;
- Representations by supporter or applicant (or representative);
- Clarification of any points by officers, as necessary, after each speaker;
- Consideration of application by councillors, including questions to officers

All speakers will be called to the designated area by the Chairman and will have a maximum of 3 minutes to address the Committee.

If you have any queries about this Agenda or require any details of background papers, further documents or information you should contact Lynette Cadwallader Committee Services Officer, Wyre Forest House, Finepoint Way, Kidderminster, DY11 7WF. Telephone: 01562 732729 or email lynette.cadwallader@wyreforestdc.gov.uk

Declaration of Interests by Members – interests of members in contracts and other matters

Declarations of Interest are a standard item on every Council and Committee agenda and each Member must provide a full record of their interests in the Public Register.

In addition, alongside the Register of Interest, the Members Code of Conduct (“the Code”) requires the Declaration of Interests at meetings. Members have to decide first whether or not they have a disclosable interest in the matter under discussion.

Please see the Members’ Code of Conduct as set out in Section 14 of the Council’s constitution for full details.

Disclosable Pecuniary Interest (DPI) / Other Disclosable Interest (ODI)

DPI’s and ODI’s are interests defined in the Code of Conduct that has been adopted by the District.

If you have a DPI (as defined in the Code) in a matter being considered at a meeting of the Council (as defined in the Code), the Council’s Standing Orders require you to leave the room where the meeting is held, for the duration of any discussion or voting on that matter.

If you have an ODI (as defined in the Code) you will need to consider whether you need to leave the room during the consideration of the matter.

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If members of the public do not wish to have their image captured they should sit in the Stourport and Bewdley Room where they can still view the meeting.

If any attendee is under the age of 18 the written consent of his or her parent or guardian is required before access to the meeting room is permitted. Persons under 18 are welcome to view the meeting from the Stourport and Bewdley Room.

If you have any queries regarding this, please speak with the Council’s Legal Officer at the meeting.

*Unless there are no reports in the open session

NOTES

- Councillors, who are not Members of the Planning Committee, but who wish to attend and to make comments on any application on this list or accompanying Agenda, are required to give notice by informing the Chairman, Solicitor to the Council, or Director of Economic Prosperity & Place before the meeting.
- Councillors who are interested in the detail of any matter to be considered are invited to consult the files with the relevant Officers to avoid unnecessary debate on such detail at the Meeting.
- Members should familiarise themselves with the location of particular sites of interest to minimise the need for Committee Site Visits.
- Please note if Members wish to have further details of any application appearing on the Schedule or would specifically like a fiche or plans to be displayed to aid the debate, could they please inform the Development Control Section not less than 24 hours before the Meeting.
- Members are respectfully reminded that applications deferred for more information should be kept to a minimum and only brought back to the Committee for determination where the matter cannot be resolved by the Director of Economic Prosperity & Place.
- Councillors and members of the public must be aware that in certain circumstances items may be taken out of order and, therefore, no certain advice can be provided about the time at which any item may be considered.
- Any members of the public wishing to make late additional representations should do so in writing or by contacting their Ward Councillor prior to the Meeting.
- For the purposes of the Local Government (Access to Information) Act 1985, unless otherwise stated against a particular report, "background papers" in accordance with Section 110D will always include the case Officer's written report and any letters or memoranda of representation received (including correspondence from the Highway Authority, Statutory Undertakers and all internal District Council Departments).
- Letters of representation referred to in these reports, together with any other background papers, may be inspected at any time prior to the Meeting, and these papers will be available at the Meeting.
- **Members of the public** should note that any application can be determined in any manner notwithstanding any or no recommendation being made.

Wyre Forest District Council

Planning Committee

Tuesday, 15th March 2016

Council Chamber, Wyre Forest House, Finepoint Way, Kidderminster

Part 1

Open to the press and public

Agenda item	Subject	Page Number
1.	Apologies for Absence	
2.	Appointment of Substitute Members To receive the name of any Councillor who is to act as a substitute, together with the name of the Councillor for whom he/she is acting.	
3.	Declarations of Interests by Members In accordance with the Code of Conduct, to invite Members to declare the existence and nature of any Disclosable Pecuniary Interests (DPI's) and / or Other Disclosable Interests (ODI's) in the following agenda items and indicate the action that they will be taking when the item is considered. Please see the Members' Code of Conduct as set out in Section 14 of the Council's Constitution for full details.	
4.	Minutes To confirm as a correct record the Minutes of the meeting held on the 16th February 2016.	7
5.	Applications to be Determined To consider the report of the Development Manager on planning and related applications to be determined.	10
6.	Planning and Related Appeals To receive a schedule showing the position in relation to those planning and related appeals currently being processed and details of the results of appeals recently received.	148
7.	To consider any other business, details of which have been communicated to the Solicitor to the Council before the commencement of the meeting, which the Chairman by reason of special circumstances considers to be of so urgent a nature that it cannot wait until the next meeting.	

8.	<p>Exclusion of the Press and Public</p> <p>To consider passing the following resolution:</p> <p>“That under Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting during the consideration of the following item of business on the grounds that it involves the likely disclosure of “exempt information” as defined in paragraph 3 of Part 1 of Schedule 12A to the Act”.</p>	
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Part 2

Not open to the Press and Public

9.	<p>To consider any other business, details of which have been communicated to the Solicitor to the Council before the commencement of the meeting, which the Chairman by reason of special circumstances considers to be of so urgent a nature that it cannot wait until the next meeting.</p>	
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WYRE FOREST DISTRICT COUNCIL

PLANNING COMMITTEE

**COUNCIL CHAMBER, WYRE FOREST HOUSE, FINEPOINT WAY,
KIDDERMINSTER**

16TH FEBRUARY 2016 (6:00 PM)

Present:

Councillors: S J Williams (Chairman), G C Yarranton (Vice-Chairman), J Aston, S J M Clee, J Greener, I Hardiman, J A Hart, D Little, F M Oborski MBE, M Rayner, C Rogers and J A Shaw.

Observers:

There were no members present as observers.

PL.62 Apologies for Absence

Apologies for absence were received from Councillor M J Hart.

PL.63 Appointment of Substitutes

Councillor I Hardiman was appointed as a substitute for Councillor M J Hart.

PL.64 Declarations of Interests by Members

There were no declarations of interests.

PL.65 Minutes

Decision: The minutes of the meeting held on 19th January 2016 be confirmed as a correct record and signed by the Chairman.

PL.66 Applications To Be Determined

The Committee considered those applications for determination (now incorporated in Development Control Schedule No. 540 attached).

Decision: The applications now submitted be determined, in accordance with the decisions set out in Development Control Schedule No. 540 attached, subject to incorporation of any further conditions or reasons (or variations) thought to be necessary to give full effect to the Authority's wishes about any particular application.

PL.67 Planning and Related Appeals

The Committee received details of the position with regard to planning and related appeals, still being processed, together with particulars of appeals that had been determined since the date of the last meeting.

Decision: The details be noted.

PL.68 Exclusion of the Press and Public

Decision: That under Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting during the consideration of the following item of business on the grounds that it involves the likely disclosure of “exempt information” as defined in paragraph 3 of Part 1 of Schedule 12A to the Act.

PL.69 New Enforcement Case

The Committee received a report from the Director of Economic Prosperity and Place on a new enforcement case.

Decision: Delegated authority be granted to the Solicitor to the Council to serve or withhold an Enforcement Notice for the reason detailed in the confidential report to the Planning Committee.

PL.70 Enforcement Matters

The Committee received a report from the Director of Economic Prosperity and Place which provided Members with a summary report on enforcement matters, and specifically the volume of new complaints.

Decision: The information be noted.

There being no further business, the meeting ended at 6.09pm.

WYRE FOREST DISTRICT COUNCIL

PLANNING COMMITTEE

16th February 2016 Schedule 540 Development Control

The schedule frequently refers to various standard conditions and notes for permission and standard reasons and refusals. Details of the full wording of these can be obtained from the Development Manager, Wyre Forest House, Finepoint Way, Kidderminster. However, a brief description can be seen in brackets alongside each standard condition, note or reason mentioned.

Application Reference: 15/0578/FULL

Site Address: MADINATUL ULOOM ISLAMIC COLLEGE, HEATH LANE, STONE, KIDDERMINSTER DY10 4BS

Application DEFERRED at request of Development Manager

Application Reference: 15/0661/FULL

Site Address: THROCKMORTON HOUSE,1, MUSTOW GREEN, KIDDERMINSTER DY10 4LE

APPROVAL be given subject to the following conditions:

1. A6 (Full with no reserved matters)
2. A11 (Approved plans)
3. B3 (Finishing materials to match)
4. Access, turning and parking
5. Submission of drainage plans
6. J1 (Removal of Permitted Development Rights) – Side extensions for New Property

Application Reference: 15/0719/REGS3

Site Address: LLOYDS GARAGE, 8 BRIDGE STREET, STOURPORT-ON-SEVERN DY13 8XA

Delegated APPROVAL subject to:

- a. the completion of the consultation process and no new issues being raised; and
- b. the following conditions:
 1. A9 (Temporary permission – uses of land)
 2. A11 (Approved plans)
 3. Permission to enure for the benefit of Wyre Forest District Council only

**EXECUTIVE SUMMARY TO REPORT OF
DEVELOPMENT MANAGER**

Planning Committee

15/03/2016

PART A Reports

Ref.	Address of Site	Recommendation	Page No.
13/0553/EIA	LAND AT NELSON ROAD SANDY LANE STOURPORT-ON-SEVERN	DELEGATED APPROVAL	11
15/0170/FULL	KIDDERMINSTER 132KV/11KV GRID SUBSTATION NEW ROAD/TRAM STREET KIDDERMINSTER	APPROVAL	60
15/0240/FULL	106 AUDLEY DRIVE KIDDERMINSTER	APPROVAL	82
15/0329/FULL	FORMER WOMENS ROYAL VOLUNTARY SERVICE HALL LAND OFF LAX LANE BEWDLEY	APPROVAL	88
15/0578/FULL	MADINATUL ULOOM ISLAMIC COLLEGE HEATH LANE STONE KIDDERMINSTER	APPROVAL	115

PART B Report

Ref.	Address of Site	Recommendation	Page No.
15/0664/FULL	AMBLESIDE CHURCH LANE BEWDLEY	APPROVAL	144

WYRE FOREST DISTRICT COUNCIL

PLANNING COMMITTEE
15TH MARCH 2016

PART A

Application Reference:	13/0553/EIA	Date Received:	23/10/2013
Ord Sheet:	381990 269752	Expiry Date:	12/02/2014
Case Officer:	John Baggott	Ward:	Mitton

Proposal: Creation of a new basin including a 400 berth marina (sui generis); provision of a new footbridge across the marina entrance; 84 holiday apartments (1 & 2 bed) (use class C3 restricted), club house including restaurant (use class A3), bar (use class A4), gym (use class D2), boat sales (use class A1), boat hire facility (sui generis) and site managers accommodation (use class C3 restricted); chandlery (use class A1), workshops (use class B1); provision of access together with parking, servicing and landscaping areas

Site Address: LAND AT NELSON ROAD, SANDY LANE, STOURPORT-ON-SEVERN, DY13 9QB

Applicant: Clive Fletcher Developments

Summary of Policy	DS01, DS03, CP01, CP02, CP03, CP08, CP09, CP10, CP11, CP12, CP13, CP14, CP15 (CS) SAL.PFSD1, SAL.GPB4, SAL.GPB5, SAL.CC1, SAL.CC2, SAL.CC7, SAL.UP3, SAL.UP5, SAL.UP7, SAL.UP9 (SAAPLP) Design Guidance SPD Planning Obligations SPG Sections 2, 3, 7, 10, 11 (NPPF)
Reason for Referral to Committee	'Major' planning application. Statutory or non-statutory Consultee has objected and the application is recommended for approval. Application involving proposed Section 106 Agreement
Recommendation	DELEGATED APPROVAL subject to Section 106 Agreement

1.0 Site Location and Description

1.1 The application site is located at the southern extreme of Stourport-on-Severn, approximately 2km from the town centre. Accessed via Nelson Road, the site is located on unallocated "white land" as indicated on the Local Plan Policies Map, between the Sandy Lane Industrial Estate and the River Severn.

13/0553/EIA

- 1.2 The site consists of approximately 7.2 hectares, and is currently undeveloped consisting of primarily low grade agricultural/grazing land. To the east is runs Hartlebury Brook and beyond a dense band of established vegetation, which forms part of the boundary of the site with Lincomb Locks Caravan Site. To the west, is the route of Nelson Road, which provides access to Nelson's Wharf warehouse and associated development, which is occupied by Aston Manor Brewery, who operate a cider production business from the unit. On the opposite side of Nelson Road lies an existing marina development (namely Stourport Marina) which consists of 130 berths, and also features a club house and boatyard facilities.
- 1.3 To the north of the site are the rear boundaries of established industrial premises located on Llewellyn Close and Barracks Road, which includes the Hydrodec (UK) limited premises, who operate as an Oil Recovery Depot. To the southern boundary lies the River Severn, which features a public footpath which runs along the south western edge of the site, and which forms part of the Severn Way Public Footpath.
- 1.4 The site features a number of notable physical constraints which include, a Government Oil Pipeline; a high voltage overhead power cable; and, major underground sewers. The site also sits in the flood plain, and as such falls within Flood Zone 3 as defined by the Environment Agency flood map data.

2.0 Planning History

- 2.1 There is no relevant planning history in respect of the planning application site.

3.0 Consultations and Representations

- 3.1 Members are advised that the application has been the subject of a number of amendments and supplementary/amended supporting submissions, in direct response to consultation responses, during the consideration of the application. This being the case, rather than reproduce the full sequence of responses from each of the respective consultees, the following paragraphs merely report their most recent respective comments in respect of the application, based upon the amended and supplemented details submitted.
- 3.2 Stourport-on-Severn Town Council – No objection, and recommend approval.

13/0553/EIA

3.3 Highway Authority – Object to the proposed development.

The application is split into 2 key elements of the marina and holiday apartments each having different transport profiles. The Highway Authority has particular concern relating to the lack of ability of persons using the apartments to gain access to amenities and tourist destinations by walking, cycling and bus and this will result in a car dominated development. However the site in totality will place additional demands on the highway network which should be suitably mitigated.

WALKING

Stourport provides the closest shops and other amenities and there is a walking route alongside the River Severn however this is a 1.8km walk rather than the 800m distance that would normally be expected. This route is a public right of way and consequently the surface is unmade in places and is not illuminated. The excessive distance and poor quality of the route detracts from its use and is therefore not considered to be suitable. This application is reliant on this route to access Stourport on Severn. Alternative provision is longer and through the industrial estate which again does not encourage people to walk to access amenities. The applicant has referenced the option to install new footway on Nelson Road, however no details are provided of this and considering the road width it is not clear if this is achievable. Improvements to the Public Right of Way are referenced, but not agreed and therefore it is not known what these are or if they are achievable.

CYCLING

There are no suitable facilities to access local amenities. All routes are on road routes and must exit via the industrial estate and then on the A4025. These routes are heavily trafficked and expose cyclists to conflict with HGV's and the A4025 is subject to a variety of speed restrictions up to 50mph. It is recognised that some people may choose to cycle this route but it will discourage the majority. The applicant has suggested that the Severn Way is unofficially used for cycling, however this route is a public footpath and cycling is prohibited, therefore this route cannot be used.

BUS SERVICE

The current bus service is infrequent operating every 2 hours and requires a walk of 1.5km to reach the nearest bus stops. The desirable walking distance to a bus stop is 250m or 400m, and therefore it is considered that the distance to reach the passenger transport network in its own right is significant enough to discourage access and then the frequency of the service acts as a barrier to its use.

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RAIL

Rail is not considered to be a primary means of access to the site, however the ability to reach the site from either Hartlebury or Kidderminster is restricted and the above limitations prevent this from being realistic. The applicant has decided not to undertake an accessibility assessment to indicate the extent of access restriction or any mitigation to improve accessibility.

The applicant has submitted a travel plan to promote sustainable access and this is welcomed, however due to the nature of the application this is considered to have limited impact particularly considering the limitations to access the sustainable transport network and therefore does not mitigate for the transport harm generated.

VEHICLE TRIP IMPACT

The site will generate additional vehicle trips onto the highway network which will have a severe impact. The junction of the A4025 Worcester Road and Hartlebury Road in Stourport on Severn already experiences queuing and this application places additional load onto this junction. The applicant considers that the amount of additional trips does not have a detrimental impact, however the Highway Authority considers that the cumulative impact does result in severe harm. The junction presently operates overcapacity and this is confirmed by the applicants own assessment and the development proposals worsen this situation, it has been considered whether a planning obligation could be used in mitigation towards wider infrastructure, however it is considered that it is not likely that a relief road scheme would be likely within the time periods of the section 106 agreement and therefore this cannot be considered to mitigate.

TRAVEL PLAN

The County Council's travel plan coordinator has reviewed the submitted travel plan and considers it to not be an acceptable document in its present form. Whilst amendments can be made to this document it lacks purpose and should form part of the transport assessment and the mitigation package.

SITE DESIGN

The applicant has suggested a reduction in car parking provision from that stated in the local transport plan and based on the submission this is considered to be acceptable, however this is not the case with the site provision for cycle parking provision. The local transport plans highways design guide indicates that cycle parking is calculated against the LTP3 maximum standard and is a minimum provision. The minimum cycle provision across the site is 980 spaces (2 spaces per mooring, 2 spaces per holiday let, 6 spaces for the club house, 6 spaces for the chandlery), the applicant has indicated 294 spaces which represents a significant shortfall compared to the minimum provision required.

13/0553/EIA

CONCLUSION

The Local Transport Plan 3, Development Control (Transport) (LTP3) policy identifies specific policies which should be complied with, and policies DC1, DC4, DC5, DC6 and DC7 are key policies which have not been complied with and there are implications on other policies as result of this as well. The application does not promote sustainable means of access due to the limitations of the sites location and the applicant has not addressed these shortfalls, additionally vehicle trips will further strain junctions already operating over capacity. The site is reliant on car access and is therefore not sustainable. The policy requirements within the local transport plan are not met and therefore the site is recommended for refusal.

- 3.4 Environment Agency – We have previously provided a number of responses on information submitted for the proposed development. I can provide the following comments to clarify our position:

GROUNDWATER VULNERABILITY

We note from the letter submitted that Pam Brown Associates (PBA) generally agree with our stance in relation to groundwater vulnerability matters, as detailed in our previous response (dated 16 October 2014). Our comments remain that there is currently a lack of information on the groundwater levels in the sandstone aquifer to characterise the conceptual model. As a result of this there remains uncertainty in relation to the potential impacts arising from the proposed marina development that have not been addressed as part of the Environmental Impact Assessment (EIA).

In response to the above, PBA has provided a scope of works for a pump test but state that it would be prohibitive to undertake at this stage in the planning process due to cost. Whilst we would expect a pump test to be undertaken, we accept that it would be expensive at this stage. Instead we have recommended that additional groundwater monitoring boreholes are installed; PBA previously installed an additional monitoring borehole but questioned the representativeness of the data.

Using existing information plus any data obtained from additional groundwater boreholes, theoretical calculations to look at potential de-watering rates and drawdowns could be refined. Whilst these would be assumptions, it would better identify potential significant impacts, measures to avoid, remedy and reduce such impacts and suitable mitigation, where appropriate, as part of the EIA. The proposed pump test could then be used at a later date to refine the results of the initial calculations.

It is currently unclear what effect the pumping could have on contaminant migration pathways. More accurately estimating de-watering rates would help to establish the potential for changing contaminant migration rates and the level of treatment required for the de-watering arisings. If large volumes of water are abstracted it may be difficult to treat the volumes.

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The site is adjacent to the River Severn (currently classified as moderate Ecological Potential under the Water Framework Directive, ID GB109054049144) and presumably this is where the water would ultimately be discharged (subject to appropriate consents being obtained etc). This is a drinking water supply river and any discharge of oil/sheens could result in a water quality impact, which could result in the nearby water company intakes being shut off.

FLOOD RISK

As previously advised, we have no objection to the marina element of the proposed scheme. However, we would reiterate our previous comments in relation to the Sequential Test and the fact that the holiday apartments are 'not appropriate' within Flood Zone 3b. We previously suggested that you should satisfy yourself that there is a need and justification for the proposed apartments.

Notwithstanding the above, the Flood Risk Assessment (FRA) has considered flood risk impacts. We are aware that the site and proposed development would not allow for level for level flood compensation. However the modelling outputs confirm that once the river levels reach a height where flood water breaks out onto the surrounding land there is a significant loss in flood storage (approximately 13,500m³). We were aware of the potential for this shortfall through the initial proposals, which led the consultant to undertake detailed two flow modelling. The outputs of the modelling confirm that post-development there would be no significant increase in flood risk to third parties as a result of the proposals. However, there would still be an overall loss of flood storage volume within the floodplain (up to the 1 in 100 year plus climate change event) of the River Severn as a result of the proposals. We would reiterate that when properties and land is at risk of flooding the proposed development has reduced the land available that is able to flood, which the planning process looks to avoid by sequentially guiding built development away from areas at flood risk. The National Planning Practice Guidance (NPPG), paragraph 067, states that in addition to not increasing flood risk elsewhere, development should be designed and constructed to result in no net loss of floodplain storage.

We have previously suggested that if you are minded to approve the application, contrary to policy, the applicant could provide some improvements to the flood regime. We note the comments in relation to the Nelson Road improvements, which relate to surface water flooding. No such improvements have been provided to mitigate the loss of fluvial floodplain storage up to the 1 in 100 year plus climate change event; however we note that some mitigation measures have been provided to help offset the lower order flood events. We would recommend that you consult with the North Worcestershire Water Management team for advice on how this would contribute to the access improvements etc.

13/0553/EIA

In relation to the flood warning comments, our reference to a developer contribution to our flood warning system (detail and costs provided in our letter dated 16 October 2014) would need to be agreed and secured upfront through a unilateral undertaking or a Section 106 agreement as part of the planning permission. It would appear necessary and directly related in this case.

BIODIVERSITY

We note the additional ecology comments provided in the PBA letter and discussions with your Countryside and Conservation Officer on the proposed scheme. Whilst we would have liked to see more naturalisation of the banks of the proposed marina, we accept that the majority of our concerns have been addressed. We therefore have no further comments to make provided the mitigation measures detailed in the application are adopted, including an appropriate allowance for future maintenance. You may wish to attach a condition to any planning permission granted to secure this aspect of the scheme, in consultation with your Countryside and Conservation Officer.

CONCLUSION

Matters relating to groundwater vulnerability and flood risk remain as detailed in our previous response dated 16 October 2014, our ref. In considering our comments and the response provided by PBA, your Council should be satisfied that the EIA is robust enough in identifying potentially significant impacts and that there are suitable mitigation measures available to address these identified impacts. Should your Council decide to approve the application, we would request to be re-consulted to recommend conditions.

3.5 North Worcestershire Water Management (NWWM) –

I believe there are no outstanding issues with the drainage of the site itself. The drainage has been agreed in principle and a detailed design can be conditioned.

There is some ambiguity regarding the current and future ownership of the drain serving Nelson Road (including public section) that will be diverted as part of the development, with a new outfall into the Severn instead of into the Hartlebury Brook. I am not sure whether the proposal will affect the functionality of the road drainage. The structure is just upstream classed as a storm sewer; normally a storm sewer remains a storm sewer until it falls out into a watercourse. I'm glad to see that the latest drainage plan does include a flap valve. The actual outfall structure will require flood defence consent of the EA (Environment Agency) as it is within 8 metres of the Severn.

13/0553/EIA

As the application involves development in a flood plain it was agreed that the applicant would provide some off site betterment and this was further investigated. The site of the existing (Stourport) marina was deemed to be the only logical location for this. If the early overtopping of the River Severn via the Marina could be delayed then this would bring betterment for the local businesses. I understand that the existing marina is reluctant to give landowner approval. I understand that we cannot force third parties to accept flood mitigation measures on their land, so if they don't want it to go ahead, then we cannot do anything else but to accept that. This leaves the situation that the development is causing some detriment to flood risk, and no opportunity to provide local compensation. As the flood risk is main river related it would I believe be up to the Environment Agency to provide comments.

It is clear that conditions regarding the following should be attached to any future approval:

- flood evacuation plan;
- full drainage plan (designed up to 1 in 100 year + climate change) including exceedance routes;
- future maintenance of SuDS;
- no living spaces on ground floor;
- construction environmental management plan (CEMP);
- An undeveloped buffer strip to be maintained alongside the Hartlebury Brook.

- 3.6 Planning Policy Manager – The site lies within an area of land which is unallocated on the Policies Map 2013. Therefore, the land is not identified for a particular use and there are no site specific policies to guide its development. However, there are a number of policies within both the Adopted Core Strategy and the Site Allocations and Policies Local Plan which are relevant to this application and these are considered below.

The Adopted Core Strategy (2010) sets out the development strategy for the District and this includes a settlements hierarchy. The site lies within the boundary of Stourport-on-Severn, which is identified as a large market town suitable of accommodating a wide range of development types. Policy DS03: Market Towns, provides some more detailed guidance on development within Stourport-on-Severn. The Town's brownfield sites are expected to accommodate up to 30% of the District's development requirements during the plan period. Additionally, the policy states that "development which will increase the variety and mix of the tourism offer in the town will be encouraged and facilities which focus on heritage tourism, particularly capitalising on the historic canal basins, will be especially promoted".

13/0553/EIA

The proposed development is considered to be in accordance with the principles of the Adopted Core Strategy's settlement hierarchy and Policy CP03.

Policy CP10: Sustainable Tourism sets out the strategy for supporting the local tourist industry. This policy supports "sustainable proposals that improve the quality and diversity of existing tourist facilities, attractions, accommodation and infrastructure". The policy sets out specific criteria for sustainable tourism opportunities within Bewdley and Stourport-on-Severn and particular consideration should be given to how the proposal meets these.

Policy CP01: Delivering Sustainable Development Standards sets out particular requirements for new development in addressing energy efficiency, climate change and contaminated land. Consideration should be given as to how the proposals meet the requirements of this policy, including the requirement for 10% of the development's forecast energy requirements to come from on-site renewable generation.

Policy CP02: Water Management sets out policy relating to flood risk as well as requiring SUDS in new developments. This is particularly relevant given the site's location within flood zone 3 and careful consideration should be given as to how the proposals meet the requirements set out within the policy as well as paragraphs 100-103 of the NPPF.

Consideration also needs to be given to the proposal's impact of the transport network in accordance with policy CP03: Promoting Transport Choice and Accessibility. Policy CP11: Design Quality and Local Distinctiveness is also relevant, as is the more detailed design policy, SAL.UP7 within the Site Allocations and Policies Local Plan.

The proposed development site lies adjacent to the River Severn which has been identified as Local Wildlife Site as well as being an important green infrastructure corridor. Therefore, policies CP13: Delivering Green Infrastructure, CP14: Providing Opportunities for Local Biodiversity and Geodiversity, and CP15: Regenerating the Waterways, set out within the Adopted Core Strategy, are all of relevance. In addition, policies SAL.UP3: Providing a Green Infrastructure Network and SAL.UP5: Providing Opportunities for Biodiversity and Geodiversity, set out within the Site Allocations and Policies Local Plan are also relevant. Consideration should be given to how the proposals meet the requirements of these policies. The District also has a Green Infrastructure Study and Strategy which were prepared as part of the evidence base underpinning the District's green infrastructure policies and these documents should be given consideration in determining the application.

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The site is a greenfield site which is currently in agricultural use and therefore, policy SAL.UP14: Agricultural Land Value is of relevance. However, the land is not identified as being 'best and most versatile agricultural land' and therefore, there is not considered to be any conflict with this policy.

In conclusion, it is considered that the principle of the proposed development is in accordance with the policies of the development plan for the District.

- 3.7 North Worcestershire Economic Development and Regeneration (NWEDR) – It is worth noting the significant potential economic impact that this particular scheme could bring to the area. The scheme, once completed, has the potential to be a significant employer in the District. The employment would be based on the development of the Marina and the jobs associated directly with this scheme but there are also the also the potential indirect jobs that would be created by attracting more 'boaters' into the area and the additional tourism and spend that this could create within the local area.

Clearly the location of a development such as this is constrained by the need to be next to the River and it is considered that this site offers a good balance in terms of location as it is not too remote as to cause unacceptable impacts on the countryside or wider environment and is located on the edge of the urban environment of Stourport-on-Severn, meaning access to facilities are nearby. It is also worth noting that another Marina is located next to this site suggesting that it is a suitable area to consider this type of development.

The proposal also has the potential to provide a significant uplift for the adjoining Industrial Estate. This benefit could be two-fold. Firstly, the additional movements within the area as a result of the development would provide greater exposure for the businesses currently located on the Industrial Estate. Secondly, the development of the Marina could provide the opportunity for new business development on the estate, linked to the uses proposed by this development. This could also help to provide employment opportunities for skilled boat workers in the local area, following the closure of Sealine in Kidderminster.

The District has a healthy tourism sector and this proposal could add value to one of the largest employment sectors that exist within the District. Tourism is viewed as a key economic growth sector for the District and therefore the principle of this development is fully supported by NWEDR.

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3.8 Worcestershire Regulatory Services (WRS) –

AIR QUALITY CONSULTATION

We have reviewed the recently submitted Air Quality Consultants Air Quality Assessment Update Note. The Update Note reviews the air quality dispersion modelling undertaken as part of the submitted Environmental Impact Assessment. We agree with the conclusions made. Whilst a small increase is predicted at Receptor 14 this prediction is made where the model is based on worst-case assumptions (i.e. the majority of vehicles movements associated with the development travelling along the modelled roads in Stourport, and without any emission reduction). In reality the predicted increase at Receptor 14 is likely to be negligible. Therefore no further work is required in terms of air quality impact assessment. No specific remedial measures are considered necessary in relation to local air quality.

CONTAMINATED LAND

Following review of information submitted in respect of the above application it is recommended that the site is conditioned in respect of contaminated land. The usual 7 part condition has been reduced to 6 parts as it is felt that a sufficient desk study has been submitted, but as a further Site investigation is recommended on page 58 of the Phase 2 site investigation report included as part of the submission, prior to remedial design I cannot remove the requirement for site investigation so this remains as point 1 of the condition. Additionally page 23 of the main Environmental Statement states “ gas monitoring is required to determine the potential for ground gas generation and requirement for protection measures”, this has not been submitted to date. We await further information regarding the extra Site Investigation and gas monitoring and the recommended conditions below should cover these points.

On the whole the environmental statement is generally acceptable and the proposals outlined at 11.161 appear to outline most of the other works that are needed on site to deal with current identified contamination and potential risks. Page 61 details a preliminary remediation strategy and we look forward to submission of a detailed remediation strategy that will include all aspects of validation including imported soils (if required) and water supply pipes following submission of the extra Site Investigation information and Gas monitoring. It is felt that a detailed Remediation Strategy can not be submitted until the site is fully characterised and that will include the information required above. Recommended suitable conditions to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors .

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CONSTRUCTION

WRS have requested a phased construction management plan. I have looked at the supplementary information and have the phased approached plans. I do not however have any phased construction management plans which details potentially disturbing activities that are to be undertaken and how this will be mitigated. I suggest that if the applicant does not want to put this level of detail to the application at this stage that a phased construction management plan is submitted and approved using our document as guidance prior to any construction taking place on site.

NOISE GENERAL

Residential

There are various receptors and mixed uses in and around this site. Section A8 of the amended environmental statement advises of the same baseline data but does not advise on levels at the holiday lets. I suggest conditioning that all residential dwellings, be it holiday lets, apartments, permanent moored boats, chalets that are built on site are afforded the same level of amenity and that all internal and external amenity areas are provided the standard as stipulated in BS 8233. The building envelope (glazing specifications, fencing and the like) will then be built around this requirement to ensure the residents are afforded an acceptable level of amenity. Validation of this condition will be in terms of post completion testing at locations agreed by the local planning authority.

Commercial

Where any commercial entity such as restaurants, club houses with fixed plant i.e. generators, air con units, refrigeration should be assessed in accordance with BS41432 and appropriate mitigation should be applied to ensure that residential dwellings are not adversely effected by the introduction of fixed plant where the rating level should not exceed the background noise level of more than +5dB.

Lighting

There does not appear to be any reference to lighting plans in relation to the avoidance of nuisance in the amended information submitted. I therefore suggest that a condition is implemented to submit a lighting plan for the site which will be approved by the Local planning authority prior to its implementation. Any temporary lighting which will be required at the construction phase should be submitted with the construction management plan and approved prior to its implementation.

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CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN (CEMP)

Due to the size and scale of this development it would be preferable that the CEMP is divided into phases of construction works. The typical type of noisy works that need to be included within the CEMP are:

- Demolition works
- Breaking up structures
- Trenching
- Crushing of materials
- Foundation works
- Construction of access roads
- Piling works
- Steel frame erection
- Concrete power floating of floors

There are a variety of ways to control noise from demolition and construction works and for each phase of the construction a CEMP should be developed to ensure that the mitigation measures proposed are specific to the particular phase of construction. The types of controls that would be appropriate are:

- Agreed hours of operation for noisy works
- Agreed location for car parking, material storage,
- Agreed wheel cleaning facilities to ensure that surrounding roadways are kept clear of mud/debris
- Dust control measures e.g. dampening down dusty arisings with water from bowser, regular road sweeping to prevent dust accumulations on site
- Using low impact techniques, such as demolition munchers and bored or hydraulically-jacked piling rigs;
- careful planning of the sequence of work in order to minimise the transfer of noise/vibration to neighbours;
- using fully silenced modern piling rigs with engines to Euro Standard IV and
- careful operation of the rig so there is no reversing of the Kelly/auger bars;
- using electrically powered equipment run from the mains supply, or when this is not available, generators compliant with Euro Standard IV;
- use of screws and drills rather than nails for fixing hoardings etc;
- careful handling of materials & waste such as lowering rather than dropping items;
- taking steps to isolate the deconstruction works from sensitive neighbours, in order to minimise the transfer of vibration and structure borne noise;
- erection of acoustic screens where necessary;
- avoidance of unnecessary noise, such as engines idling between operations, shouting, loud radios or excessive revving of engines, by effective site management.

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CONSTRUCTION

I have noted that the construction is likely to take 2/3 years. The site has a number of nearby sensitive receptors which need to be taken account of when construction works are occurring. Due to the type of development proposed there will be a period of sheet piling, which if not controlled and mitigated effectively can be intrusive. Therefore the CEMP should include a condition with particular controls on the piling works associated with the development.

OPERATIONAL NOISE

Chapter 8 of the Environmental Statement provides a good basis for an operational noise mitigation plan. However I would recommend that a more detailed noise assessment is included as a condition in order that noise sources can be assessed when more specific details regarding location, design of development, phases of works are known and this will ensure that mitigation measures are more specific to each phase of the works. This should also include design criteria for the residential dwellings within the development. In addition to the noise receptors identified – ESR 1-4, I would question whether existing marina residents of Stourport marina needs to be identified as a sensitive receptor.

LIGHTING

I would recommend that a lighting plan with details of the lighting spillage lux levels at residential properties (existing and proposed) shall be submitted for the approval of the Local Planning Authority.

ODOUR

Odour was not covered within the EIA application however information about the kitchen extraction systems proposed will be required in order to ensure that they are appropriate in terms of odour control.

3.9 Natural England –

SITE OF SPECIAL SCIENTIFIC INTEREST (SSSI)

This application is in close proximity to Hartlebury Common and Hilditch Coppice SSSI, given the nature and scale of this proposal, Natural England is satisfied that there is not likely to be an adverse effect on this site as a result of the proposal being carried out in strict accordance with the details of the application as submitted, subject to the condition material outlined below. We therefore advise your authority that this SSSI does not represent a constraint in determining this application. Due to increasing pressure on the SSSI from recreation, we advise that a condition should be attached to the planning decision if the application is granted for the following:

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Occupiers of each berth marina and holiday apartment should be given a “Welcome pack” providing Information on the locality. It shall include educational and awareness raising information addressing relevant ecological issues; e.g. (i) the location and sensitivities of nearby national and local designated sites; (ii) steps that occupiers can take to enjoy and conserve these local resources; and (iii) minimising impacts to the habitat- key 'do's and don'ts' - such as keeping to the paths and removing dog faeces and disposing of it in a responsible way. The specific content of the welcome back shall be submitted to and approved in writing by the Local Planning Authority prior to development in each phase commencing.

This condition is required to ensure that the development, as submitted, will not impact upon the features of special interest for which Hartlebury Common and Hilditch Coppice SSSI is notified.

If your Authority is minded to grant consent for this application without the conditions recommended above, we refer you to Section 28I (6) of the *Wildlife and Countryside Act 1981* (as amended), specifically the duty placed upon your authority, requiring that your Authority;

- Provide notice to Natural England of the permission, and of its terms, the notice to include a statement of how (if at all) your authority has taken account of Natural England’s advice; and
- Shall not grant a permission which would allow the operations to start before the end of a period of 21 days beginning with the date of that notice.

PRIORITY HABITAT AS IDENTIFIED ON SECTION 41 LIST OF THE NATURAL ENVIRONMENTAL AND RURAL COMMUNITIES (NERC) ACT 2006

Our mapping system indicates that this development includes an area of priority habitat (deciduous woodland), as listed on Section 41 of the Natural Environmental and Rural Communities (NERC) Act 2006. It is not clear from the information provided by the Applicant if there are priority habitats on the proposed site. The National Planning Policy Framework (paragraph 118) states that ‘when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity. If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.’ We advise that the applicant should clarify whether there is priority habitat on the site. If there is, then they should provide details on how this loss will be avoided, mitigated or compensated prior to the granting of any permission.

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GREEN INFRASTRUCTURE

Natural England welcomes the inclusion of green infrastructure within the site including the retention of mature vegetation running a long Hartlebury Brook. Good quality green infrastructure within the development site will help to reduce the potential impact of increased recreational use on nearby national and local designated sites.

We would strongly advise that if any priority habitat is identified on the site, it is retained as a valuable part of the site's ecological networks and GI, and refer you to CP14: Providing Opportunities for Local Biodiversity and Geodiversity of the Wyre Forest District Council Core Strategy (2006-2026)

PROTECTED SPECIES

We have not assessed this application and associated documents for impacts on protected species. Natural England has published Standing Advice on protected species. The Standing Advice includes a habitat decision tree which provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides detailed advice on the protected species most often affected by development, including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy. You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence may be granted.

Otters

As the lead partner for otter conservation in England, we recommend that the Environment Agency are also consulted in relation to the results of any otter survey and mitigation proposed as this standing advice only relates to Natural England's engagement with protected species.

OTHER ADVICE

We would expect the Local Planning Authority (LPA) to assess and consider the other possible impacts resulting from this proposal on the following when determining this application:

- local sites (biodiversity and geodiversity);
- local landscape character; and
- local or national biodiversity priority habitats and species.

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Natural England does not hold locally specific information relating to the above. These remain material considerations in the determination of this planning application and we recommend that you seek further information from the appropriate bodies (which may include the local records centre, your local wildlife trust, local geoconservation group or other recording society and a local landscape characterisation document) in order to ensure the LPA has sufficient information to fully understand the impact of the proposal before it determines the application.

If the LPA is aware of, or representations from other parties highlight the possible presence of a protected or priority species on the site, the authority should request survey information from the applicant before determining the application.

Natural England Standing Advice for Protected Species is available on our website to help local planning authorities better understand the impact of development on protected or priority species should they be identified as an issue at particular developments. This also sets out when, following receipt of survey information, the authority should undertake further consultation with Natural England.

BIODIVERSITY ENHANCEMENTS

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the NPPF. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that *'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'*. Section 40(3) of the same Act also states that *'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'*.

- 3.10 Countryside Conservation Officer – In general I am now happy that the application will offer a reasonable level of ecological mitigation to compensate for the loss of degraded wetland habitat this development will involve.

There are still some points needing clarification.

- 1 The minimum distance between brook and car park is 5m. EA's minimum would be 8m. Hence this margin is still a little small.
- 2 Is there some lighting proposed along the Severn Way right of way? if so this needs some more detail as it has some potential of causing harm.

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- 3 The proposed construction phase 1 lists and identifies the removal of Japanese Knotweed from the site. This action is relatively low down on the list whilst in reality this action needs to be implemented before any invasive site works begin.
- 4 The report identifies the need for the following pre commencement ecological surveys Bats, reptile and otter.
- 5 The responsibility for not polluting the river Severn during the construction phase lies within the CEMP. Are we happy that we condition this? The ability to not pollute this river would be critical to the consenting of this application. At the moment we have very scant information of how the application proposes to achieve this.

The S.106 proposal I am happy with. The ecological strategy I am mostly happy with but with two areas that need clarity. Firstly there is some potential for harm to the Severn corridor from lighting silts and other contaminants during construction and subsequent use. We could do with some assurances that this will be addressed.

Otter safety in construction needs picking up in the CEMP as recommended in the report and there is no methodology accompanying the otter survey. We need to see sight of this to insure sufficient survey effort has made to insure otter will not be disturbed in the construction phase or whether more effort will be needed. Also Otter have a large range and potentially use both the brook and the River Severn, with the risk being that otter start to re-use part of the site or areas immediately adjacent to it prior to the start of the proposed works which could then cause disturbance that could result in harm. Hence we need a methodology to mitigate this.

3.11 Worcestershire County Council (Planning) –

MINERALS AND WASTE POLICY PLANNING

The Development Plan

The applicant has assessed the national planning policy and development plan context satisfactorily in the Environmental Statement accompanying this application, with one exception; the saved policies in the Hereford and Worcester Minerals Local Plan are still extant and should be read alongside the NPPF. The application should be considered against relevant policies in all the Development Plan Documents, and if approved the applicant should consider them when developing further applications for reserved matters.

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Waste

Chapter 12 in the Environmental Statement discusses waste issues in some detail and the proposals for how the waste generated during the construction and occupation stages will be managed are sensible. We consider adequate provision for waste to be an essential part of the infrastructure necessary for new development to be acceptable and sustainable and we understand that detailed proposals for waste management will be included in subsequent reserved matters applications notably in a Construction Environmental Management and Site Waste Management Plans. If permission were to be granted, we recommend that conditions should be imposed requiring the submission of these plans and specifying that all of the elements proposed to be included in them in chapter 12 of the Environmental Statement will be included in them.

Whilst the majority of the policies in the Waste Core Strategy (WCS) relate to applications for waste management development, policies WCS 16 and WCS 17 apply to all types of development in the county and should be considered as part of this application and future Reserved Matters applications. These policies reflect the relevant aspects of PPS 10. Policy WCS 5 relates to landfill and disposal of waste and may also be relevant to this application.

Policy WCS 16 – New development proposed on or near to existing waste management facilities - aims to safeguard existing waste management facilities by considering the potential impact and design of new development on or near to existing waste management facilities. In this instance, the applicant has identified that the proposed development site is less than 250m from a waste management facility (OSS Oil Recovery Depot, to the north of the site) and as such Policy WCS 16 is considered relevant to this application. The policy (part b) requires:

b) Development within 250 metres of a site with planning permission or existing use rights for waste management that would introduce a new sensitive receptor to the area will be permitted where it is demonstrated that the proposed development would not be unacceptably adversely affected by bio-aerosols or other emissions from the waste management operation.

Where this is not the case the County Council will oppose proposals and will expect District Councils to refuse permission on the grounds that it would compromise the achievement of the Waste Core Strategy. Any mitigation required will be the responsibility of the developer of the new proposal.

The supporting text to the policy states, inter alia, that:

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Applicants may need to assess issues such as any noise, vibrations, dust, odours or fumes that may result from the normal operation of the site. Bio-aerosols should be considered where the waste management facility handles biodegradable waste. Where impacts are likely to affect the proposed development, considered design, site layout and landscaping or screening of the proposal will normally be adequate to mitigate any impacts. Liaison with the waste site operator is encouraged; however, where the waste management facility is operating within the conditions of their planning permission and the requirements of the pollution control regime, any required mitigation will be the responsibility of the developer of the proposed new development.

The County Council recommends that the applicant should provide an assessment of the implications of the proximity of the application to the existing OSS site to demonstrate that the new development will not be subject to " issues such as any noise, vibrations, dust, odours or fumes that may result from the normal operation of the site" which could lead to complaints that would jeopardise the legitimate continued operation of the OSS site.

Policy WCS 17 – Making provision for waste in all new development - aims to ensure that the waste implications of all new development are considered. This policy should be taken into account when developing the layout of the site and the Council would expect this to be one of the design principles which inform the reserved matters proposals. As such, further applications for Reserved Matters should include details of the facilities for storage and collection of waste in line with the ADEPT report "Making Space for Waste" (June 2010). This should not be onerous, the application refers to this report and to the applicant's willingness to comply with it. The County Council welcomes the wider proposals for how waste arising during the course of the development will be managed.

Policy WCS 5 – Landfill and disposal - seeks to ensure that waste is managed as a resource in accordance with the waste hierarchy. Landfill and disposal of waste should be a last resort. Part a) of this policy sets out that planning permission for landfill or disposal will not be granted unless:

- i. re-use, recycling or energy or resource recovery are not practicable for the waste type to be managed and no landfill or disposal capacity exists in the county for that type of waste; or
- ii. there will be a shortfall in landfill or disposal capacity necessary to achieve the aims and purpose of the strategy; or
- iii. the proposal is essential for operational or safety reasons or is the most appropriate option.

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The explanatory text supporting policy WCS 5 states that:

"excavation activities, a normal part of the construction process, can result in considerable arisings of subsoils. In some cases, this type of waste can usefully be re-used for purposes such as... landscaping, levelling of sites, the construction of bunds, embankments or features for noise attenuation. However, *to prevent inappropriate development, these kinds of proposals will be considered against Policy WCS 5: Landfill and disposal. The decision on whether proposals are a form of disposal will be guided by the Environment Agency's advice* (currently set out in "Defining Waste Recovery: Permanent Deposit of Waste on Land" Regulatory Guidance Series No EPR 13)". (Emphasis added)

Wyre Forest District Council should carefully consider this policy and whether the proposed land raising to the north of the site is a necessary feature or an inappropriate disposal of waste. The county council accepts that much of the material excavated as part of the proposal would nonetheless need to be landfilled off site.

Minerals

The proposed development is not in an area of identified mineral deposits as shown on the Hereford and Worcester Minerals Local Plan Proposals Map. However, the County Council has now commenced work on a new Minerals Local Plan and the minerals resource maps show that the western part of the development site overlies solid sand and gravel resources. The application includes details of boreholes across the site and shows that the proposed excavations would not penetrate these. The proposal would however require the excavation of significant volumes of superficial sand and clay deposits and includes proposals to re-use these where possible (para 12.78). We support this aspect of the proposal, as being both sustainable in principle and in accord with the NPPF strictures on safeguarding minerals.

FLOOD RISK AND DRAINAGE

The applicants are reminded of the role of Worcestershire County Council as Lead Local Flood Authority (LLFA) for Worcestershire. This function is currently delegated under permitted powers to the District Drainage authorities. For Wyre Forest District Council this is the North Worcestershire Water Management Team (NWWM).

- 3.12 Worcestershire County Council (Footpaths) – The development appears to affect public rights of way as recorded on the legal record of public rights of way, the Definitive Map and Statement for Worcestershire. The affected right of way is SV-545. The development as proposed would obstruct this footpath with a pond and car park. We therefore must object to this application, although we may be able to withdraw the objection if you can supply an indication of how the applicant intends to address this issue.

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If the solution is to incorporate the footpath within the development on its current alignment, then the applicant should be aware the following obligations will need to be met:

- There should be no disturbance of, or change to, the surface of the path or part thereof carried out without our written consent.
- No additional barriers should be placed across the right of way. No stile, gate, fence, hedge or other structure should be created on, or across a public right of way without written consent of the Highway Authority.
- No diminution in the width of the right of way available for use by the public.
- Buildings materials must not be stored on the right of way.
- Vehicle movements and parking to be arranged so as not to unreasonably interfere with the public's use of the right of way.
- The safety of the public using the right of way is to be ensured at all times.

Should the solution to the obstruction be to propose diverting the footpath to an alignment more in keeping with the design aspirations of the proposal and in order for the permitted development to take place, this should be completed to confirmation stage before any development affecting the public rights of way is started.

The application also affects the riverside footpath SV-543 which comprises a section of a nationally publicised walking route called the Severn Way. It is understood that there is no intention to alter the route of this footpath but to incorporate it within the development with a swing bridge to provide continuity for the footpath severed by the new access from the River Severn to the marina basin. Bearing in mind the significance of the Severn Way and the level of public use it receives, a temporary and convenient alternative means of access must be put in place and maintained during the construction of the river access and proposed new bridge. The County Council would therefore wish to receive information as to how the applicant is intending to manage public access during the construction of the development.

- 3.13 Government Pipeline and Storage System (GPSS) – The GPSS apparatus may be affected by the proposals. The interest of the GPSS are conserved by means of the Land Powers (Defence) Act 1958, and other legislation such as the Pipeline Safety Regulations 1996. It is, however, the Land Powers (Defence) Act 1958 that specifically prohibits and development and most intrusive activities within a GPSS Wayleave without specific consent from the Secretary of State for Defence. GPSS Wayleaves are generally 6 metres wide and bstride the pipeline 3 metres on either side and can incorporate other associated GPSS facilities. The implementation of any unapproved work that affects a GPSS Wayleave may result in serious consequences in terms of health and safety, expense and other attendant liabilities. In such cases it is the perpetrator of the act that shall be held fully accountable for any resulting damage.

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- 3.14 Worcestershire Archive & Archaeology Service – I do not consider that the information provided to date sufficiently demonstrates the archaeological potential and conversely the impact the development will have on the historic environment. In the absence of further information it is difficult to produce an informed mitigation strategy.
- 3.15 Arboricultural Officer – Most of the trees on the site are poor quality from an amenity/arboricultural standpoint and I therefore have no overall objection to the proposed development as long as there is suitable tree planting as part of the landscaping proposals. However there is another element to this site as I feel the woodland running along the stream could be classified as wet woodland which is a UK BAP habitat and therefore important from a biodiversity standpoint. As a result I have undertaken the TPO assessment in WFDC Planning Practice Note 5 and feel that the woodland is just about worthy of a TPO. In addition there are a few mature trees along the river edge that are good quality trees and are worthy of protection, however most of these shouldn't be directly affected by the development.

My main concern is with the proximity of the balance pond and car park to the trees along the stream and the service road that the EA have requested. I don't think these issues are major and I'm sure a suitable solution can be found. The only other concern is what treatment is proposed to the existing footpath on the site, next to the river, as if it is to be 'upgraded' and extensive excavation would affect the root systems of the nearby trees.

- 3.16 Canal and River Trust (CRT) – We note in the Addendum to the Environmental Statement at paragraphs A3.6 and A4.41 that reference is made to the access route required for our operational activities. We can advise that the road access requirements have been agreed in detail with the applicant. As per our previous comments, the proposals will result in alterations to the existing vehicle access along the River Severn. Retaining the access to our lock is an important consideration. Operationally the access is in constant use and must also be retained to allow access to the lock cottage which is under private ownership. The access road through the site must be designed to a standard that is capable of accommodating heavy plant loads, as the access road is the only means we have of accessing the area for major works to our lock. We require access to Lincomb Lock for pedestrian, disabled and plant access. The plant requirement is for up to a 300Tall terrain crane (an approx. 4m wide and 20m long vehicle). The site layout must be able to facilitate the required mobility for the crane. Therefore we would not support changes to the layout of the scheme which would remove an access track required for our operational use nor the provision of a roadway which cannot support heavy plant loads.

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3.17 Council for Protection of Rural England (CPRE) – My initial reaction to this development was that it was one that we would want to oppose. Second thoughts of it were somewhat more favourable.

- The site is not part of the Green Belt.
- It is hidden in landscape terms by being at the foot of the bluff of Titton Hill.
- The land immediately to the north is a mixture of industrial development and Travellers' sites.
- Since it is within the Stourport Urban Area (or rather on white land on its edge), it does not fall foul of the section of CP12 that discourages caravan and chalet developments in rural parts of the District.

On the other hand:

- The site is floodable. That is presumably not a problem for a marina, provided that the moorings are sufficiently strong that vessels will not be swept away. We regard the applicant's claim that the development will result in betterment in that it will promote as a weak argument. The storage provided will have minimum effect on volume of water that flows down the river Severn when in spate. Indeed, the excavated area may create eddies that will have adverse consequences.
- The holiday accommodation will be built so that its ground floor is above the level of likely floods. One height within the site is given as 16.77 m, near Titton Brook. This is presumably slightly above the normal river level. The towing path on top of the river bank is given as 18.23 m, but the ground in front of the holiday blocks as 19.92 m. This difference seems inadequate to put the ground floor of the holiday blocks above normal flood levels.
- This is an edge of town site. The elevations proposed for the holiday accommodation buildings do not reflect any recognisable local style. Since this is an edge of town location, the impact of a starkly modern building (displaying the worst of 1960s and 1970s brutalism) is out of keeping with the area, and is likely to have an adverse impact on the beauty of the neighbouring countryside. This is a defect that could probably be remedied by the applicant submitting replacement plans for essentially the same buildings, but with a pitched roof and brick cladding.
- Even if CP12 does not apply, we would suggest that the same principle might be applied. Much of the caravan and chalet accommodation in the rural parts of the district is theoretically holiday accommodation, but is in practice occupied by the same people year-in and year-out, with the exception of one month each winter when they go on holiday to warmer climes often in southern Europe. This suggests that to keep the accommodation as truly holiday accommodation, a condition should be imposed limiting the period of occupation: either the occupation of apartments should only be six months per year or that the occupation by any one individual should be limited to six months, with no possibility of renewals amounting to more than six months in two years.

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- 3.18 West Mercia Crime Prevention Design Advisor – The location where this development is proposed is on the edge of a large industrial estate, known as Sandy Lane Industrial Estate. Whilst the level of crime on this estate has dropped recently it has gained a reputation as a high crime area, unfortunately police crime figures would support this.

Taking the above into account it is vital that security on the marina is of the highest order, in particular it is likely that vehicles will be left on the car park(s) for a considerable time and boats berthed at the marina will be unattended for a long time.

Dealing with the issue of vehicle parking first, the plans indicate that the site including the parking areas will be fenced. I suggest that a high security weldmesh fence be used; the plans indicate that the fence will be of different heights I recommend that all the fencing has a minimum height of 2.4 metres. The emergency service access point shows the fence to be only 1.2 metres high, accepting that it borders onto other properties I still don't think it high enough. The drawings also make mention of existing wire mesh fence. Wire mesh does not provide a suitable level of security.

Access into and out of the parking areas must be controlled. The plans indicate that this will probably be via a gate; this gate should be the same height and design as the surrounding fence. Any pedestrian gates onto the site also need to be access controlled.

Both for the car parking and the marina a comprehensive CCTV system is required, preferably it should be permanently monitored. As part of the CCTV system an ANPR camera on the gate would be useful to record vehicles entering and leaving.

I do have some concerns about the approach road to the Marina. Sandy Lane is not in the best condition it is quite narrow in places and frequently used by large vehicles. It should be a condition of this application being granted that improvements are made to Sandy Lane. The improvements should include improving the lighting and road surface.

- 3.19 Malvern Hills District Council (as neighbouring Local Planning Authority) – No objection to the proposed development.
- 3.20 Ramblers – The only footpath that would be affected by the proposed development is Stourport 543 which runs along the east bank of the River Severn. The proposed development would, by creating a new entrance into the river break, if only temporarily, the line of the footpath. If as a condition of planning there is a clause that would ensure the continuity of the public right of way alongside the river during construction of the project then we would have no objection to the proposals. If not, then we must object.

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3.21 Marine Management Organisation (MMO) –

There are aspects of the proposed works that lie below Mean High Water Springs. The project would fall into the MMO's remit. Before carrying out the works, (the applicant) will need to submit an application to the MMO.

3.22 Neighbour/Site Notice – Third Party representations have been submitted by, and on behalf of, two established neighbouring industrial businesses, the most noteworthy of which being those from OSS Group (the parent company of Hydrodec (UK) Limited, the Oil Recovery Depot located directly to the north of the site). The objections raised are summarised as follows:

- Incompatibility of proposed recreational/tourism/holiday destination development with established employment/industrial land;
- Lack of consideration of alternative sites;
- The need to safeguard Sandy Lane Industrial estate;
- Increased levels of traffic on Sandy Lane and Nelson Road, and the associated conflict with existing industrial related vehicular movements;
- Impact upon functional floodplain;
- Impact of raised groundwater levels upon known levels of ground contamination;
- Potential deflection of contaminated groundwater into existing watercourses;
- Potential increased flood risk to existing premises;
- Use of inappropriate methods and materials (sheet piling) within the development and potential impact upon neighbouring site infrastructure and operations;
- Access and vehicle movements, during construction, via Llewellyn Close which would have a detrimental impact upon the state of repair of the roadway;
- Suitability of proposed access/egress point to and from the Marina;
- There is no quantification of the number and nature of jobs that are claimed to be created;
- Insufficient replacement and compensation for loss of trees, vegetation and habitats;
- The proposed restriction upon vehicular access to the River Severn (for EA and CRT only) would result in increased on-street parking within Nelson Road and Llewellyn Close by persons fishing at the River;
- Proximity and nature of proposed tree species to be planted along the northern boundary of the site and the potential impact upon adjoining site infrastructure;
- No basis for claims that the proposed development will improve drainage on the adjoining Sandy Lane Industrial Estate;
- Potential impact of raised groundwater levels upon existing underground infrastructure at adjacent site (e.g. drainage; utilities; interceptors, etc).

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3.23 Letters of support for the development have been received, from The Hereford and Worcestershire Chamber of Commerce and the local Member of Parliament, Mark Garnier, who make the following comments:

- The development will deliver economic benefit to Stourport-on-Severn and enhance the river and canal tourist industry;
- The development will widen the appeal of Stourport-on-Severn for visitors;
- The development will open up access to the River Severn to more people.

4.0 Officer Comments

4.1 The application proposes the creation of a new 400 berth marina; the construction of 84 holiday apartments; provision of a new footbridge across the marina entrance; club house including restaurant; bar; gym; boat sales; boat hire facility; site managers accommodation; chandlery; workshops; and, associated development, including access, parking, servicing and landscaping.

4.2 The application as submitted was accompanied by an Environmental Impact Assessment, in accordance with the requirements of Part 5 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. The full suite of documents originally submitted consists of:

- Planning Supporting Statement;
- Design and Access Statement;
- Statement of Community Involvement;
- Environmental Statement, consisting of:
 - Transport Assessment;
 - Noise Assessment;
 - Socio-Economic Assessment;
 - Ecology Assessment;
 - Ground Conditions Assessment;
 - Waste assessment;
 - Drainage and Flood Risk;
 - Water Quality/Pollution-Prevention;
 - Air Quality Assessment;
 - Archaeology Assessment;
 - Visual Assessment;
 - Travel Plan Framework;
 - Holiday Residential Demand Report;
 - Mooring Demand Report.

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- 4.3 During the course of the application's consideration, these original submissions have been supplemented by:
- Development Sequential Test;
 - Addendum to Environmental Statement;
 - Air Quality Assessment Update Note;
 - Detailed responses to matters raised through the consultation process;
 - Detailed responses to matter raised by third parties;
 - Various amendments to originally submitted plans.
- 4.4 The proposed development is centred upon a significant leisure based development with associated works and facilities. The proposal would include a significant level of excavation so as to create a new marina basin thereby allowing direct access to and from the River Severn for a variety watercraft. This is a somewhat complex and rather unique development proposal, the scale and nature of which requires due consideration of a wide range of technical issues, not least of which being those matters relating to flooding and drainage.
- 4.5 The application has been submitted "in full", as a detailed application. To assist in the consideration of the application, the Officer commentary which follows has been subdivided under the following headings:
- Planning Policy and Principle of Proposed Development;
 - Demand for Proposed Development;
 - Sequential Site Selection;
 - Layout, Design and Visual Impact;
 - Transport Issues;
 - Environmental Matters (including Ecology & Biodiversity);
 - Flooding and Drainage Issues;
 - Air Quality;
 - Noise issues;
 - Other issues;
 - S106 Obligations
- PLANNING POLICY AND PRINCIPLE OF PROPOSED DEVELOPMENT**
- 4.6 The comments of the Planning Policy Manager in respect of the application are set out in full at paragraph 3.6 of the report. Further commentary regarding the relevant planning policy backdrop to the application is provided in the following paragraphs.
- 4.7 The National Planning Policy Framework (NPPF) provides clear in principle support for sustainable economic development; encourages the most effective use of land; seeks for the protection and enhancement of the environment; and, espouses high quality design solutions.

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4.8 Paragraph 23 of the NPPF stresses that it is important that the need for leisure uses is met. It is acknowledged that this is in the context of town centre uses, but it does go on to emphasise the need for a supply of suitable sites. Paragraph 28 encourages support for the provision and expansion of tourist and visitor facilities in appropriate locations. Whilst this latter requirement is made in the context of the rural economy, it remains relevant to the current application given the site's location at the very southern extreme of Stourport-on-Severn, and the very rural nature of the land beyond.

4.9 Section 7 of the NPPF relates to matters of good design. Paragraph 56 states that:

“The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people”.

With Paragraph 60 stressing that:

“Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles”.

4.10 Paragraph 103 of the NPPF, which relates to matters of flood risk and drainage, makes it clear that:

“When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment, it can be demonstrated that:

- *Within the site, the most vulnerable development is located in areas of lowest flood risk*; and
- *Development is appropriately flood resilient and resistant, including safe access and escape routes where required*”

Whilst Paragraph 067 of the National Planning Practice Guidance (NPPG) states that development should: *“result in no net loss of floodplain storage”.*

4.11 The NPPF, under Paragraph 118, calls for local planning authorities to seek to conserve and enhance biodiversity, when determining planning applications, and to assist in such considerations a list of six principles are listed under said paragraph. It is not deemed necessary to list these principles in full, but suffice it to say that matters referred to therein include, suitable mitigation measures; protection of irreplaceable habitats; special levels of protection; etc.

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- 4.12 Paragraph 120 of the NPPF relates to matters of pollution, and stresses that planning decisions: *“..... should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse affects from pollution, should be taken into account”*.
- 4.13 Paragraph 122 provides further guidance, stating that: *“ ...local planning authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use”*.
- 4.14 As previously identified, the application site is unallocated within the adopted Site Allocations and Policies Local Plan (SAAPLP), but sits cheek by jowl with established development, most notably the industrial premises located within the wider Sandy Lane Industrial Estate (directly to the north), and the long established existing Stourport Marina (to the west).
- 4.15 Policy DS03 “Market Towns” of the adopted Core Strategy (CS) provides in-principle support for; *“Development which will increase the variety and mix of tourism offer in the town (of Stourport-on-Severn)”*. While Policy CP10 of the Core Strategy supports: *“ sustainable proposals that improve the quality and diversity of existing tourist facilities, attractions, accommodation and infrastructure, subject to the proposals not causing adverse impacts on the surrounding environment and infrastructure”*, and goes on to state that there will be support also for: *“ developments, projects and initiatives that assist in promoting the waterways as a tourist attraction”*. On the basis of these, admittedly “high level” policies, there is clear “in principle” support for a development of this type. However, other policy considerations are at play and warrant specific reference at this point.
- 4.16 Policy CP01 “Delivering Sustainable Development” of the CS requires all new development proposals to demonstrate a reduced overall impact upon the environment, with all new development demonstrating that any contaminated land issues have been fully assessed and addressed.
- 4.17 Policy CP02 “Water Management” states that: *“For developments in areas with known surface water flooding issues, appropriate mitigation and construction methods will be required New developments should seek to provide betterment in flood storage and to remove obstructions to flood flow routes where appropriate New developments should:*
- i. Conserve and enhance the ecological flood storage value of the water environment, including watercourse corridors*”.

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- 4.18 Policy CP03 “Promoting Transport Choice and Accessibility” stresses the need for new development proposals to have regard to traffic impact upon the highway network, and calls for major development proposals to be accompanied by an appropriate Travel Plan, which should set out targets and measures for addressing travel demand.
- 4.19 Policy CP13 of the CS “Providing a Green Infrastructure Network” calls for new development to contribute positively towards the District’s green infrastructure network, and identifies the River Severn and associated wetlands as: “... *key green infrastructure assets and essential to the District’s local distinctiveness*”.
- 4.20 Policy CP14 “Providing opportunities for Local Biodiversity and Geodiversity” states that:
- “New development will be required to contribute towards biodiversity within the District either by enhancing opportunities for biodiversity within the site or by making a contribution to off-site biodiversity projects..... The biodiversity value of the Rivers Severn and Stour will be safeguarded. New development alongside these watercourses should maintain and enhance their biodiversity value.”*
- 4.21 Finally, in terms of the CS, Policy CP15 “Regenerating the Waterways” provides clear in principle support for the proposed development stating that:
- “Any developments, projects and initiatives that assist in promoting the waterways as a tourist attraction will be encouraged ...”.*
- 4.22 In terms of SAAPLP policies, those considered to be of relevance are highlighted within the Summary of Policy at the head of the report, however it is worth highlighting a number of these policies, as follows.
- 4.23 Policy SAL.PFSD1 “Presumption in Favour of Sustainable Development” states that:
- “The District Council will view development proposals which accord with the overarching Development strategy and reflect the principles of sustainable development positively.”*

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- 4.24 Whilst Policy GPB5 of the SAAPLP relates specifically to major tourist attractions within the District , such as the Severn Valley Railway and West Midlands Safari Park, the supporting text to the policy is worthy of note, with paragraph 5.53 of the SAAPLP stating that: *“Tourism is a tremendously important sector of the UK’s economy. This is especially true within Wyre Forest where approximately 10% of jobs are related to the tourism industry..”* Whilst paragraph 5.54 goes on to state: *“The importance of the (tourism) industry is clear to see The planning system can have a significant impact on the tourism sector’s ability to grow”*
- 4.25 Policy SAL.CC7 “Water Management” calls for development proposals to:
- “Help to conserve and enhance watercourses and riverside habitats. Where necessary, this should be through management and mitigation measures for the improvement and/or enhancement of water quality and habitat of any aquatic environment on or adjoining the development site”.*
- 4.26 Policy SAL.UP3 “Providing a Green Infrastructure Network” requires development along the River Severn corridor to: *“... improve the attractiveness of the riverside environment, remove culverts where appropriate, enhance biodiversity value and water quality of the river corridor, and ensure that the functional floodplain is maintained and restored..... Developments which affect Public Rights of Way will be required to make adequate provision for the continuation or diversion of the route. New development will be required to link into Public Rights of Way where appropriate*”
- 4.27 Policy SAL.UP5 “Providing Opportunities for Safeguarding Local Biodiversity and Geodiversity” stresses the need for new development to seek opportunities to enhance biodiversity, with applications accompanied by suitable ecological surveys and mitigation plans.
- 4.28 Policy SAL.UP7 “Quality Design and Local Distinctiveness”, which should be read in conjunction with the Council’s adopted Design Guidance SPD, calls for development of high quality. In this instance, given the location adjacent to an established industry matters of local distinctiveness aren’t particularly relevant, but that does not mean that in terms of a design solution the quality should be diminished. Such matters are discussed in more detail elsewhere in the report.

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DEMAND FOR PROPOSED DEVELOPMENT

- 4.29 The stretch of the River Severn either side of Stourport-on-Severn is recognised as being very popular for pleasure-boating, including narrow boats, given the nearby junction of the Staffordshire and Worcestershire Canal with the River Severn. Stourport is a key destination on the canal and river network, as recognised by the Canal and River Trust (CRT), and the applicants state that, following their consultation with CRT, there is a demonstrable need and demand for additional moorings over and above the current levels available in the area, particularly on the River Severn where a wider range of boats can be berthed.
- 4.30 The applicants have commissioned an assessment of the need for moorings, which has accompanied the application submission in the form of the Mooring Demand Report. The Report identifies a current short fall in mooring provision to cater for the identified demand of some 800 plus moorings. The applicants state that the proposed development would be able to cater to a good proportion of this demand (i.e. 50%, or thereabouts).
- 4.31 This level of demand, and the rationale behind the calculation of said demand, is questioned by the objectors, who claim to have approached other local marinas (but have not specified which ones, save for the relatively new Droitwich Marina) and state that of the five marinas approached, 4 stated that they had moorings available. In response, the applicants make the point that the relative lack of facilities available at other marinas is not comparable with that which is proposed, and for which they can demonstrate a demand.
- 4.32 The application also proposes holiday accommodation, and in this regard the applicants have commissioned a study based upon an underlying demand for self catering accommodation for people living within a 2 hour drive of the application site. The study concludes that the demand would actually exceed the number of units proposed, especially given a likely inter-dependency of the demand for proposed moorings and the need for holiday accommodation. That said, and by way of clarification, the holiday accommodation would not be tied to the moorings, although logic would suggest that a good proportion of the apartments would be likely to be occupied by mooring holders at any given time.

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- 4.33 Whilst it must be said that the backdrop of the existing industrial estate may not be an attractive holiday destination for all, the associated facilities which are to be provided; the nature and proximity of the water-borne activities; the immediate access onto the River Severn and the wider network of waterways; and, the relative ease of access to Stourport-on-Severn, and the wider attractions of Wyre Forest District and Worcestershire will appeal to many. In this regard, and given the significant level of financial investment such a development would require, there is clearly a strong business case for the applicant to wish to pursue this form of development, the wider tourism benefits of which have already been identified by the response of NWEDR, at paragraph 3.7 of the report.

SEQUENTIAL SITE SELECTION

- 4.34 As already identified, the application site is located at the edge of Stourport-on-Severn, and in the immediate proximity of the open countryside beyond. The NPPF, as summarised above, provides in-principle support for tourism and leisure developments, and the development hereby proposed would clearly fall within such categories.
- 4.35 The applicants have undertaken a sequential test in order to assess as to whether or not alternative suitable and available sites exist to meet the above mentioned demand and deliver the intended level of development, in line with advice issued by the Environment Agency. However, in considering other sites they will all be constrained by the obvious need to be located adjacent to the River Severn to allow for immediate access and egress to and from the River.
- 4.36 Furthermore, in considering potential alternative sites, a key factor is the navigability of the River Severn, which upstream of the Stourport-on-Severn is restricted to smaller, shallow bottomed, craft. A further consideration would be matters of accessibility and linkages to and from the site, and in this regard the application site delivers alternatives via the Riverside footpath or via the highway network, both of which link the site to Stourport-on-Severn and the associated access to services and facilities. It is acknowledged that the Highway Authority take a contrary view, as reported at paragraph 3.3 of the report, however given the apparent absence of an alternative site to deliver the scale of development proposed, and the obvious requirements to be adjacent to the River Severn, Officers are of the opinion that the site is supportable, in principle.

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- 4.37 The applicants have concluded that there is no alternative, more suitable or available, site with direct access to the navigable section of the River Severn, capable of accommodating the level of development proposed. On the basis of the information submitted to accompany the application, Officers find no reason to challenge or otherwise disagree with this conclusion. That said, whilst accepting that the site is appropriate, in principle, further detailed consideration is required in terms of the detailed development itself, as set out in the remainder of the report.

LAYOUT, DESIGN AND VISUAL IMPACT

- 4.38 The application site is generally flat although there is in fact a gentle fall (north to south) towards the River Severn of approximately 1 metre, which across a size of this site is hardly discernible. The site is largely undeveloped, although there is evidence of some dilapidated structures, the previous use of which is unclear.
- 4.39 As previously identified, to the south of the site sits the Nelson's Wharf warehouse building which is of typical portal frame/metal clad appearance and external plant and equipment, whilst to the north lie large scale industrial buildings and associated infrastructure, and in the case of the Hydrodec (UK) Ltd premises, this includes sizeable storage tanks and associated above ground pipework.
- 4.40 Setting aside the aforementioned industrial premises, the site is located on a stretch of the River Severn which includes a linear development of various leisure based uses, primarily to the north-west towards Stourport-on-Severn (including Stourport Marina and Caravan Parks), along with a boat yard, all uses which appear entirely compatible with the proposed development.
- 4.41 Access to the development would be via Nelson Road, through the Sandy Lane Industrial Estate, to a gated access and car park, located along the north end of the site (i.e. adjacent to the industrial premises beyond). The car park itself would run west to east along the northern boundary of the site, providing upward of 172 parking spaces within the main car park, supplemented by an additional 171 overflow parking spaces.
- 4.42 Adjacent to the aforementioned gated access is proposed the Clubhouse building, which would also house the restaurant; a function room; gymnasium; and, the Marina Manager's accommodation, all housed within a three storey "focal point" building, with a maximum build height of some 13.2m, when measured from the lowest ground level. The building is designed to have a "nautical feel", made up of a series of solid, angled "fin" walls, which help to define the building and deliver a secure edge to the development. In the proposed location, the building acts as a transition between, and partial screen of, the established and brutal appearance of the existing industrial development to the north.

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- 4.43 The proposed holiday apartments would be accommodated within 3 x four storey buildings of distinctive single-aspect “winged” design, with all apartments facing southwards towards the marina itself, and being protected from the established industrial development to the north. The buildings will stand at a maximum height of some 12.2m and will act as a visual screen of the development to the rear, whilst maintaining breaks in the built form rather than the alternative of the mass and bulk of a single building. No apartments would be located on the ground floor, due to matters of flooding (as discussed further elsewhere in this report). A single storey commercial element is proposed to the rear of each of the apartment buildings, providing some activity at ground floor, along with an entrance plaza.
- 4.44 The proposed elevations, again, have a very clean, nautical, feel almost akin to that of a cruise liner, with individual balconies providing vantage points to overlook the activity within the proposed marina basin and River Severn beyond. Materials proposed include a mix of white render and framed timber panels, with full height window panels to the apartments to maximise natural light and maintain the views and overall holiday feel. The north facing elevations, by contrast, have a reduced level of glazing, and instead utilise solid facades with timber and coloured panel detailing.
- 4.45 Beyond the apartment buildings will be the marina itself, with its total of 400 berths or moorings, catering for a variety of craft sizes, along with a slipway for the launching of craft; a boat hoist; chandlery; and associated development. The proposed marina would feature floating walkways and jetties, with wider centrally located pontoons, with these also housing small concessions such as coffee shops, etc.
- 4.46 With ramped and level access available throughout the development, including the proposed new footbridge which would over-sail the entrance to the marina from the River Severn (thereby retaining the unbroken riverside path), the entire development would be accessible to all. Within each of the buildings, lift access is proposed, in accordance with Part M of the Building Regulations, and all balconies, decks and corridors will be accessible. The Clubhouse reception and bars would also be DDA compliant.
- 4.47 The proposed apartment buildings and, to a lesser extent, the club house building are large in scale and massing and there is little doubt that they would be likely to be of some concern were they to be sited directly adjacent to the natural setting of the banks of the River Severn. However, in their proposed location they do sit well towards the rear of the site, and serve to screen the established industrial backdrop. The marina itself is appropriate to the riverside setting, and the concentration of the recreational and ecological areas (which are discussed further later in this report) between the River Severn itself and the managed marina assist with the transition from the natural environment to the man made.

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- 4.48 There is no denying that the proposed development, and in particular the buildings briefly described above, will represent a significant and rather striking addition to the skyline in this area of the District. That said, the most prominent of views would arguably be from the opposite bank of the River Severn (which actually lies within Malvern Hills District Council) and given the current views towards the existing industrial landscape, notwithstanding the loss of the current open grassland, the development might reasonably be argued as resulting in an improvement to the overall views when facing northwards.
- 4.49 Members will have noted, under paragraph 3.22 above, that one of the grounds for objection from the adjacent industrial premises is that of the compatibility, or otherwise, of the existing and proposed development. This issue is also referred to at paragraph 3.11 by colleagues at Worcestershire County Planning. As described above, the development would effectively be single aspect such that the apartment blocks would “turn their backs” on the industrial premises to the rear, and in doing so the apartments would act as both a visual and sound barrier, to such an extent that, as confirmed under paragraph 3.8, WRS are satisfied that the development would be acceptable in terms of noise and air quality.
- 4.50 Paragraphs 120 and 122 of the NPPF, as previously identified, puts the emphasis upon local planning authorities to ensure that new development is appropriate for its location and whether the development is an acceptable use of the land. In light of the “no objections” response from WRS, albeit subject to a large number of appropriate conditions in respect of the development itself and during the various construction phases.

TRANSPORT ISSUES

- 4.51 As already stated the application has been accompanied by a Transport Assessment (TA), the initial scope of which was agreed with County Highways colleagues.
- 4.52 There is a single vehicular access to the site, as previously described, which would be from Worcester Road, via Sandy Lane Industrial Estate and Nelson Road. As part of the TA, the applicants have undertaken a number of highway junction assessments which it is claimed demonstrate that the existing highway network in the vicinity of the site is capable of accommodating the predicted levels of additional traffic that the completed development would generate. In this particular regard, Members will have noted that the Highway Authority have raised objections to the development, as set out at paragraph 3.3 of the report. Specifically, in terms of vehicular trip impact, the Highway Authority make the comment that:

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“The site will generate additional vehicle trips onto the highway network which will have a severe impact. The junction of the A4025 Worcester Road and Hartlebury Road in Stourport on Severn already experiences queuing and this application places additional load onto this junction. The applicant considers that the amount of additional trips does not have a detrimental impact, however the Highway Authority considers that the cumulative impact does result in severe harm. The junction presently operates overcapacity and this is confirmed by the applicants own assessment and the development proposals worsen this situation”.

4.53 In response, the applicants have commented that:

“The site’s location along Worcester Road does give opportunity for visitors/users of the proposed site to approach the site from the A449 rather than pass through the Hartlebury Road/A4025 roundabout unless travelling from Stourport centre or from the immediate northwest of the Town. In addition to travelling via the A449 Crossway Green roundabout to the east there are also other minor routes between the B4193 and the A4025 that would also avoid the Hartlebury Road/A4025 roundabout. Given these alternative routes it is anticipated that the presence of any discernible traffic queues at the Hartlebury Road/A4025 roundabout may, in practice, dissuade the development’s traffic from using the roundabout and use the alternative less congested routes.”

4.54 To support these comments, the applicants have undertaken a rudimentary desk based exercise, plotting likely arrival routes to the proposed development from various locations within the wider Midlands region, which appears to support the points being made (i.e. that not all visitors to the development would approach via the Hartlebury Road/A4025 roundabout).

4.55 The applicants go on further to comment that:

“ WCC Officers also expressed concerns over the use of TRICS data for the holiday accommodation attraction data from the “Hotels” TRICS category has been used and trip rates from one of the largest inland marinas in the UK during peak summer times and represents a worse case scenario which will not occur for the majority of the year. This is an extremely robust assessment. Generally vehicle trips from holiday users do not travel during weekday peak hours with trips tending to be nearer the middle of the day With regards the A4025/Hartlebury Road roundabout we have already demonstrated using TRICS data, described, that the developments impacts are not severe”

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- 4.56 Notwithstanding the above comments, the Highway Authority have maintained their objection to the development in terms of traffic impact upon the Worcester Road/Hartlebury Road roundabout, as reported at Paragraph 3.3, above.
- 4.57 As previously described, the development proposes a 172 space car park, along with an additional 171 spaces located within an overflow car park, all accessed via the main gated entrance. An emergency access/evacuation route, for vehicles and pedestrians is proposed utilising an existing (currently unused) access point directly into Llewellyn Close, to the north.
- 4.58 The proposal is not solely dependant upon motor vehicles for access, and other non-car modes are available which include pedestrian and cycle movements, along the existing riverside path, along with the obvious waterborne craft entering the marina from the River Severn. On site cycle parking provision is proposed, with the applicant indicating space for 294 cycles. The Highway Authority is, however, seeking a significantly higher number by requiring specific provisions for each of the uses on site (i.e. calculating the level of cycle spaces for the apartments, clubhouse, moorings, etc, separately), with the upshot being a request for 980 cycle spaces which appears somewhat excessive.
- 4.59 The application has been accompanied by a draft Travel Plan Framework, which the Highway Authority does not consider to be acceptable in its current form. However, it is acknowledged that amendments could be made such that it were more fit for purpose, but that would not overcome the objections to the development, as outlined previously, in terms of access and its sustainability credentials, as stated by the Highway Authority.

ENVIRONMENTAL MATTERS (INCLUDING ECOLOGY & BIODIVERSITY)

- 4.60 Landscaped amenity areas or so-called “pocket parks” are proposed between the clubhouse building and the apartment buildings, and a recreation/picnic area is also proposed, with ease of access from the riverside footpath, which will be opened-up to the general public also.
- 4.61 The development as a whole will serve to enhance the attractiveness of the River Severn corridor, and offers an opportunity to improve water quality within the existing storm water systems, which in turn will enhance the water quality and biodiversity within both Hartlebury Brook and the River Severn.
- 4.62 It is worthy of note that some amendments have been made to the layout of the Marina itself since the initial submission, in response to matters raised by the Environment Agency and the Countryside Conservation Officer in particular. Such amendments have been undertaken in order to retain and enhance existing natural habitats and to provide additional mitigation.

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- 4.63 Central to retention of habitats and additional mitigation are the proposed wildlife and ecological wetlands areas which are being preserved and enhanced, in consultation with the Countryside Conservation Officer. These are located either side of the access/egress to the Marina from the River Severn and extend back into the site adjacent to the Hartlebury Brook, incorporating a balancing pond at the north-east corner of the site. Suitable planting and re-profiling work is proposed, along with the introduction of mitigation features such as log piles and otter holts.
- 4.64 The aforementioned wetlands will also be the subject of a low intensity grazing management scheme, using cattle, which will be controlled by the Council's Countryside Conservation Officer. In this regard, a fully costed ecological mitigation scheme has been prepared, and agreed, which would preserve and enhance existing biodiversity on and around the site, and would thereafter remain in the control of the Council.
- 4.65 Notwithstanding the above, there are a number of, relatively minor, issues that would still need to be addressed as identified within the respective consultee responses, and in particular that of the Countryside Conservation Officer, however Officers are content that such matters can be satisfactorily addressed by planning conditions.

FLOODING AND DRAINAGE ISSUES

- 4.66 Without doubt, matters relating to flooding (and flood storage capacity) and surface water drainage lie at the very heart of the proposal, and are pivotal to the success or failure of the planning application under consideration. These are complex and technical matters. The application has been accompanied by a Drainage and Flood Risk Assessment, which forms part of the submitted Environmental Statement. This subject matter has also been the subject of supplemental submissions, primarily in response to concerns and requests for additional details and clarification from the relevant statutory consultees (including the Environment Agency and North Worcestershire Water Management (NWWM)).
- 4.67 It is a fact, and given its location adjacent to the River Severn, not at all surprising that the site lies within the flood plain and is susceptible to flooding. However, interestingly flooding of the site first occurs, not due to water overtopping the River Severn banks, but actually (in the first instance) due to water backing-up from the River Severn along Hartlebury Brook, which itself then overtops.

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- 4.68 The site lies wholly within Flood Zone 3, as defined by the Environment Agency flood map data and the use of hydraulic modelling software has confirmed that the site will flood in the 25 year flood event. That is to say it has a more than 4% chance of flooding each year. Having said all that, the proposed development as a Marina is not surprisingly classified as being a water compatible form of development within the NPPF, and as such notwithstanding the site's location within Flood Zone 3, such a development is acceptable, in principle.
- 4.69 As has already been identified, the applicants state that sequentially there is no preferable and/or available site which is accessible from both the highway and, vitally, the River Severn. Further to the completion of the Sequential Test, the scheme as originally submitted has been amended to remove all residential accommodation (i.e. holiday apartments) from the ground floor of the accommodation blocks, with only "less vulnerable" commercial and associated development now remaining at that level, which is acceptable to the Environment Agency. Otherwise, the development as proposed has changed little from the originally submitted plans.
- 4.70 In considering matters of flooding, it is essential to not merely consider the application site in isolation, especially given the existing flood storage capacity the site has, but also the implications for existing established development (both industrial and leisure based) within the vicinity of the site. In doing so, it is also essential to not just consider the implications of the completed development, but also the effects during the construction period (which is anticipated to be some 2 to 3 years all told).
- 4.71 The submitted Assessment considers the implications during the development in terms of such matters as, but not exclusively:
- The implications of storing excavated materials;
 - Potential for increased levels of sediment entering Hartlebury Brook and the River Severn;
 - The implications of changes in levels;

Each of these matters, and others, has been fully addressed within the submitted Flood Risk assessment, and Addendum thereto.

- 4.72 The Assessment also considers the implications of increased levels of impermeable areas within the site (i.e. hardstanding, not least of which being the sizeable car park as proposed). Surface water run-off will inevitably increase as a result of such factors, and suitable mitigation measures are essential and in this regard the applicants propose to enhance and re-route (in part) the existing surface water drainage system which currently serves Nelson Road and Llewellyn Close and the industrial premises therein, culminating in a new outfall into the River Severn.

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- 4.73 Members will have read the comments made in respect of matters of flood risk from both the Environment Agency and North Worcestershire Water management (NWWM), as set out earlier in this report. Members will have also noted the concerns expressed by objectors to the development in this regard, as summarised above also.
- 4.74 As already identified, these matters have resulted in significant levels of technical submissions, and Officers are reliant upon the expert advice and comments of the relevant consultees in such matters. However, and to assist Members in appreciating such matters the following paragraphs provide a brief summary of the key considerations in terms of flood risk and drainage.
- 4.75 As already identified, the site is located within Flood Zone 3. The application proposes some raising of ground levels to 19.92m Above Ordnance Datum (AOD), which is equivalent to the 1 in 100 year flood event levels, and allowing for climate change. Commercial uses only are proposed at ground floor, as previously described, and these will be made flood resilient by raising the finished floor level (FFL) to 20.52m AOD.
- 4.76 The above mentioned raising of ground levels will result in a loss of existing flood storage capacity across the site of 13.500m³, as identified by the Environment Agency, and this level of compensatory storage cannot reasonably be provided within the vicinity of the site. The applicants claim that the proposed new drainage outfall route (along Nelson Road) to the River Severn (Members are advised that another outfall is proposed from Llewellyn Close to Hartlebury Brook) will provide a betterment in terms of flood risk, however Officers are advised that the instigator for the creation of this new outfall route was not linked to fluvial flood risk (i.e from the watercourses/river) but in relation to pluvial flooding (i.e. surface water/rainfall), and for practical reasons such improvements would have to take place anyway, as without it the entrance to the application site would be subject to localised surface water flooding.
- 4.77 The loss of existing flood plan/storage, without suitable compensatory provision is contrary to national policy as highlighted under Paragraph 103 of the NPPF, a fact which is noted by the Environment Agency in their response to the application, and is acknowledged by Officers. That said, the Environment Agency have indicated that some improvements are achievable in this case, and that the applicants have been able to demonstrate satisfactory mitigation measures in terms the lower order flood events. To put the loss of flood storage into some context, the applicants have provided a “before and after” assessment of the impact of the loss of the flood storage referred to above, based upon a series of node points along the stretch of the River Severn from the bridge at Stourport-on-Severn down to Lincombe Lock. This assessment indicates a resulting rise in the level of the River Severn of just 4mm (i.e. 0.004m).

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- 4.78 Officers would not wish to underplay the potential impacts of flooding, and a stark reminder of the impact of fluvial flooding was provided by the events in Cumbria, Lancashire and Yorkshire at the turn of the year. However, notwithstanding their concerns, the Environment Agency have given a clear indication that were the Council minded to approve the application, despite the aforementioned breach of national policy, they would wish to be re-consulted with regard to potential planning conditions.
- 4.79 As referred to above, there is currently a surface water drainage route which crosses the site from Nelson Road to Hartlebury Brook. However this pipe is block, and is know to contain contaminants such that unblocking this pipe is not deemed desirable or appropriate. That being the case, the proposed alternative outfall pipes, referred to above, are proposed, which are considered to be acceptable, but the full details of such proposals will be the subject of conditions.
- 4.80 Members are again referred back to the objections raised by the adjacent industrial business. Officers can appreciate the concerns being expressed, particular in terms of flood risk and drainage matters, including the potential resulting groundwater levels. As part of the proposed development, the applicants have indicated the use of an in-ground permeable reactive barrier/or groundwater treatment system, along the northern boundary, to prevent any potential ingress of contaminated groundwater onto the site, and in turn into the watercourses. Furthermore, based upon the consultation responses and advice of the relevant consultees, Officers are contented that suitable conditions can be imposed which will ensure that the concerns of the objectors can be satisfactorily addressed, in terms of such matters.
- 4.81 As already described, should the need arise, a dry flood evacuation route has been identified and can be provided via Llewellyn Close, to the north of the site, via an existing access point.

AIR QUALITY

- 4.82 The applicants have considered the potential for air quality impact, both during the construction and the subsequent operation of the completed development. It is acknowledged that during the construction phase that there is a potential for dust to be emitted, however suitable mitigation measures, which can be conditioned, have been suggested, and accepted by WRS.
- 4.83 The operational impacts of the increase in traffic movements to and from the site, along with the marina waterways traffic, have also been assessed, with the likely levels and impacts found to be negligible. Again, WRS are in agreement with the findings, and following receipt of additional information have withdrawn previous less favourable comments, having accepted that the previously submitted findings were on the basis of a "worst-case scenario".

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- 4.84 A further consideration must be the potential impact of existing established industrial premises and their processes upon the development itself, particularly in terms of the occupation of the holiday apartments. In many respects this comes back to the consideration as to whether the existing and proposed developments are compatible neighbours. This matter has previously been addressed under paragraphs 4.49 and 4.50 of this report. Given the lack of objection from WRS, albeit subject to the imposition of appropriate conditions to address both the phases of the construction and the resulting end development, Officers are satisfied that matters of air quality have been satisfactorily addressed.

NOISE ISSUES

- 4.85 As previously stated, the Environmental Statement included the submission of a Noise Assessment, which assessed the noise impact of the development during the construction process as well as from the proposed fixed plant and equipment; boat movements; and, traffic noise, upon completion of the development, upon existing neighbouring and nearby development.
- 4.86 Additionally, the impact of existing industrial premises and associated noise generated upon the proposed new holiday accommodation has been assessed, with the findings of the Noise Assessment concluding that any impact would be negligible, based in part upon the proposed design and orientation of the apartment buildings, as previously described.
- 4.87 Once again, this raises the question of the compatibility of neighbouring development. Members will have noted that in this particular regard, WRS have provided detailed commentary, as set out at paragraph 3.8 of the report, and are satisfied that the development can proceed, subject to the imposition of suitable conditions relating to the construction phases and future occupation of the development.

OTHER ISSUES

- 4.88 Matters specifically relating to ecology and biodiversity have already been highlighted, including reference to the proposed “pocket parks” and the recreation/picnic area. However, as one would only expect with such a scale of development, further landscaping is required, and proposed, including supplemental native planting to enhance existing vegetation; ornamental tree planting; soft landscaping within the main car park (the overflow car park would be a “green” eco-grid system, rather than traditional hard surface); and, screen planting along the northern boundary. In this particular regard, as previously reported the operators of the neighbouring industrial premises have raised concerns regarding the proposed species and their future management, and the potential impact upon existing below ground infrastructure. These concerns are acknowledged and suitable conditions regarding landscaping and future management are considered appropriate in this instance.

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- 4.89 To the east of the proposed marina itself, and running through the application site parallel to Hartlebury Brook is proposed a vehicular access facility, for the use of CRT and the Environment Agency, for access and maintenance purposes in respect of the River Severn. That is to say it would not be available for public use and would incorporate gates and cattle grids at either end. Having said that this same access track would be available for users of the Marina, specifically in relation to a proposed forklift facility for launching/retrieving watercraft from the marina. The control and management of this track would lie with the operators of the marina.
- 4.90 The proposed development will impact upon the existing riverside public footpath, which forms part of the Severn Way. The creation of the access/egress to and from the marina will sever this footpath and as such a footbridge is proposed to ensure that this route is protected and preserved. The proposed footbridge would be a “swing” bridge, to allow for watercraft to enter and exit the marina. A notional bridge design has been submitted for consideration and the proposed format is considered to be acceptable.
- 4.91 There is a further public right of way which crosses the site (from north to south) and, as identified by Worcestershire County Council (Footpaths) in their response under Paragraph 3.12 of the report, this path would be impacted upon by the proposed balancing pond and overflow car park. On this basis an understandable objection has been raised. In response, the applicants have suggested the use of a “boardwalk” solution to over-sail the balancing pond, despite the fact that for much of the year this would actually be dry. This solution has not been agreed by the County Council, and is not the only option available. It is therefore suggested that a suitable condition be imposed which seeks to ensure that an appropriate solution is identified and agreed, prior to the commencement of the development.
- 4.92 Despite the backdrop of the established industrial premises, given the current nature of the application site and in particular its relationship with the natural river bank of the River Severn, the application site is currently relatively unlit, albeit that there is extensive “light glow” from light sources in and around Stourport-on-Severn. It is accepted that the nature and scale of the development as proposed will introduce further artificial lighting, however the areas of the overall site which will provide and accommodate biodiversity enhancements will require lower levels of lighting in the interest of known animal species (e.g. Otter; Bats; Reptiles). In this regard, suitable lighting conditions are suggested.

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SECTION 106 OBLIGATIONS

- 4.93 As already identified, the proposed development will incorporate areas of managed wetlands which will be controlled by the Council's Countryside Conservation Officer. A fully costed ecological mitigation scheme has been prepared, and agreed, which would preserve and enhance existing biodiversity on and around the site, and would thereafter remain in the control of the Council. This proposal is not something that can be controlled via planning condition and must, therefore, be the subject of a S106 Obligation.
- 4.94 A request has been made by the Environment Agency for a financial contribution of £10,000 towards the operation and maintenance of their Flood Warning Service. However the basis of this request has not been evidenced in anyway and as such Officers do not consider this request has been substantiated, and that it fails to meet the requirements of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended), and the associated tests for S106 Obligations.

5.0 Conclusions and Recommendations

- 5.1 This is a somewhat unique proposal, not just for Wyre Forest District, but for the wider region. The scale and nature of the proposal is significant, and the nature of the proposal involves complex technical matters which have necessitated the submission of additional information and clarification during the consideration of the application.
- 5.2 There is clear, in-principle, policy support for the proposal which would deliver a significant new leisure based development, to include new moorings and holiday accommodation, which has the very real potential to enhance the existing tourism offer within Stourport-on-Severn, and the District as a whole, as commented upon by NWEDR.
- 5.3 A number of technical issues have required detailed and lengthy consideration, not least of which being matters relating to flood risk and drainage, as discussed in some detail above. There clearly remain some issues regarding flood water storage, but in light of the respective responses from both the Environment Agency and NWWM there appears to be scope for addressing such matters further via the imposition of suitable planning conditions. On this basis there appear to be no reasonable grounds to delay the consideration of the application. Similarly, detailed drainage matters can be addressed by conditions also.
- 5.4 Matters of ecology and biodiversity have been fully assessed, and an acceptable and appropriate package of mitigation has been identified and agreed with the applicants. The design and layout of the proposed development has been fully assessed and has been found to be acceptable.

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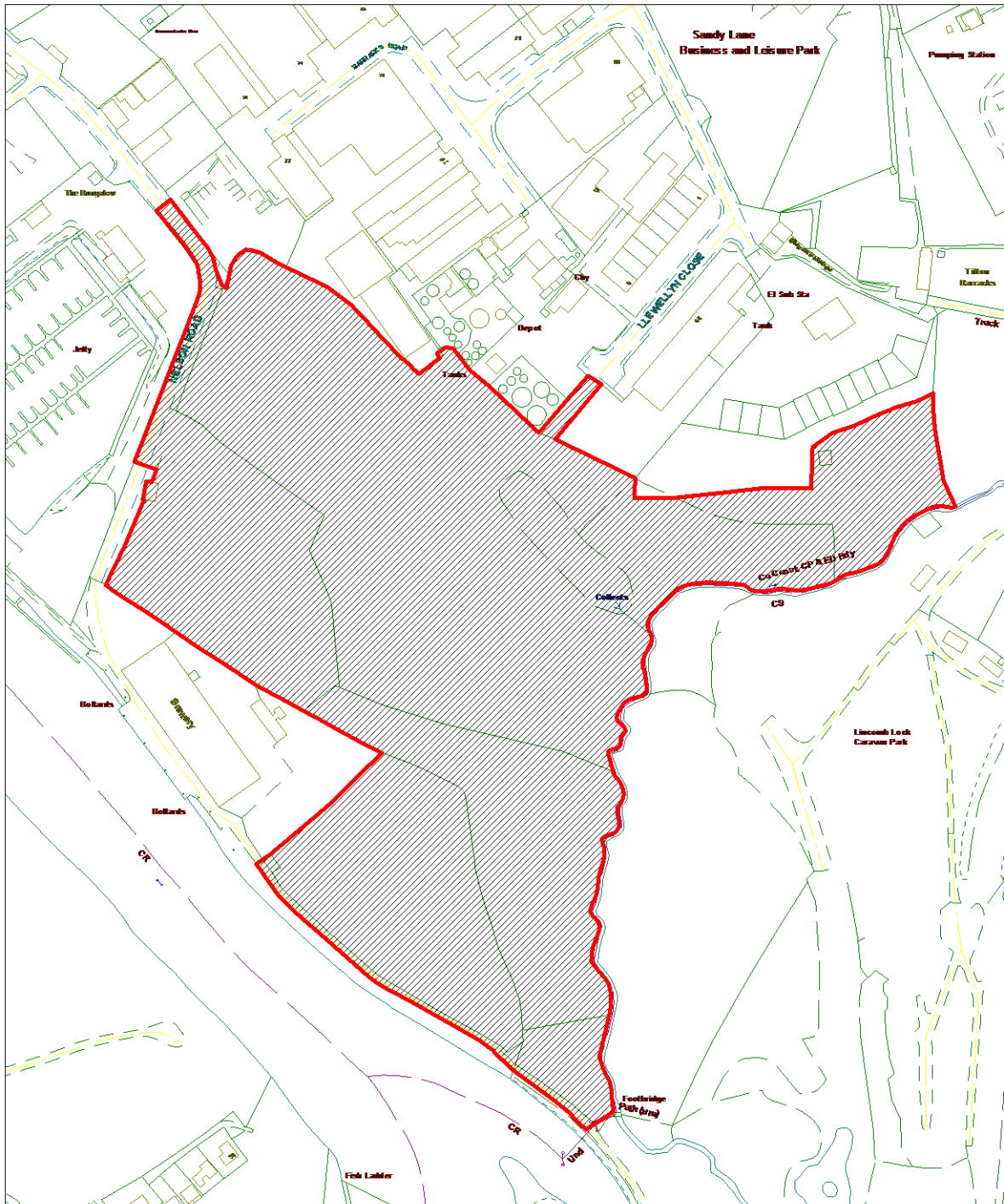
- 5.5 The relationship with neighbouring industrial premises has been assessed, both in terms of the construction phases and the finished development proposal, and subject to appropriate conditions has been found to be acceptable.
- 5.6 The objections of the Highway Authority are acknowledged, and it is clear that the physical location of the site itself lies at the heart of the objections raised. The applicants have sufficiently demonstrated that this is the only suitable site that is available to deliver the scale of development proposed. This would be a significant investment by the applicants, and the benefits of the development in terms of tourism and associated benefits (job creation and economic growth) weigh heavily in favour of the development.
- 5.7 The objections raised by adjoining businesses have been fully assessed and Officers are satisfied that matters raised have either been addressed, or are capable of being addressed via the use of appropriate conditions.
- 5.8 It is therefore recommended that **delegated APPROVAL** be given, subject to:
- a) the signing of a **Section 106 Agreement** to secure the agreed ecological mitigation scheme, consisting of managed wetlands;
 - b) re-consultation with the Environment Agency regarding planning conditions; and
 - c) the following conditions:
 - 1. A6 (Full with no reserved matters)
 - 2. A11 (Approved plans)
 - 3. B1 (Samples and details of materials)
 - 4. Apartments for holiday let only with no permanent occupancy
 - 5. Restriction on commercial uses
 - 6. No residential holiday accommodation on ground floor
 - 7. Permanent occupancy only to apply to Manager's accommodation
 - 8. Sound insulation for holiday apartments
 - 9. Operational Site Waste Management Plan
 - 10. Surface Water drainage strategy
 - 11. Foul and Surface Water drainage
 - 12. Future maintenance of SUDs scheme
 - 13. Contaminated Land and remedial works
 - 14. Archaeological investigation and recording
 - 15. Boundary details
 - 16. Full details of flood mitigation and compensatory flood storage
 - 17. Landscape scheme and approval of species (phase by phase)
 - 18. Lighting details (temporary and permanent) across the entire site
 - 19. Provision of moorings prior to completion and occupation of holiday apartments

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20. Details of all retaining walls and structures
21. Details of piling works
22. Details of proposed dewatering during construction
23. Detailed Assessment of Groundwater conditions across and adjacent to the site
24. Tree survey and subsequent tree retention in line with survey
25. Tree protection measures
26. Site clearance to avoid nesting season
27. Construction Environmental Management Plan for each phase of the development
28. Removal and control of Japanese Knotweed
29. Acoustic screening during construction
30. Details of construction compound
31. Restriction on hours of delivery and construction
32. No delivery or construction vehicles via Llewellyn Close
33. No stock piling of construction materials on site
34. Gate to Llewellyn Close only to be used in emergency
35. Method Statement for breakthrough to River Severn
36. Details of Marina walls
37. Impervious base for fuel storage facilities
38. Wheel cleaning and dust suppression facilities during construction
39. Pollution control strategy during construction (Contamination and silt)
40. Ventilation and extraction equipment details
41. Temporary rerouting of public footpath during construction
42. Surfacing of public footpaths
43. Control use of access track – restricted to Canal and River Trust and Environment Agency
44. Landscape Management Plan (5 years)
45. Surface Water Treatment
46. Details of paving system for overflow car park
47. Design of cycle parking facilities
48. Travel Plan
49. Pre commencement bat, reptile and otter surveys
50. Welcome pack in respect ecological and biodiversity “dos and don’ts”
51. Flood Evacuation Plan

and

52. Any additional drainage and flooding related conditions as agreed following re-consultation with the Environment Agency.



ECONOMIC PROSPERITY AND PLACE DIRECTORATE

**Land at Nelson Road, Sandy Lane,
Stourport on Severn, DY13 9QB**



Date:- 24 February 2016

Scale:- 1:2500

OS Sheet:- S08269NW

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Wyre Forest House, Finepoint Way, Kidderminster, Worcs. DY11 7WF Telephone: 01562 732928. Fax: 01562 732556

Application Reference:	15/0170/FULL	Date Received:	28/04/2015
Ord Sheet:	382983 276068	Expiry Date:	23/06/2015
Case Officer:	Emma Anning	Ward:	Blakebrook & Habberley South

Proposal: Installation of 30m modular lattice tower, antennae and ancillary development

Site Address: KIDDERMINSTER 132KV/11KV GRID SUBSTATION, NEW ROAD/TRAM STREET, KIDDERMINSTER, DY10 1AB

Applicant: Western Power Distribution

Summary of Policy	CP11 (CS) SAL.CC5 SAL.UP6 SAL.UP7 (SAAPLP) KCA.CC1 KCA.UP1 KCA.UP5 KCA.UP6 (KCAAP) Sections 5, 7 and 12 (NPPF)
Reason for Referral to Committee	Councillor request for application to be considered by Committee. Third party has registered to speak at Committee
Recommendation	APPROVAL

THIS APPLICATION WAS DEFERRED FROM THE 15 DECEMBER 2015 PLANNING COMMITTEE PENDING THE SUBMISSION OF ADDITIONAL INFORMATION FROM THE APPLICANT

1.0 Site Location and Description

- 1.1 The application site comprises a 27sq.m parcel of land which is part of the Western Power Distribution grid substation located off Tram Street in Kidderminster. It is sited on land which lies between the Staffordshire and Worcestershire Canal to the west and the River Stour to the East.
- 1.2 The site is part of the Green Street Conservation Area and is adjacent to the Staffordshire and Worcestershire Canal conservation Area.
- 1.3 The site is identified as being in Flood Zone 3 and is known for surface water flooding.

2.0 Planning History

- 2.1 14/0619/FULL – Erection of 30m high telecommunication lattice tower :
Withdrawn

15/0170/FULL

3.0 Consultations and Representations

- 3.1 Kidderminster Town Council - Object to the application and recommend that it is refused on the planning grounds of unacceptable impact on conservation area, listed buildings and canal conservation.
- 3.2 Conservation Officer – The proposed site for the telecommunication mast is an in-filled former canal basin, which sits to the east of the River Stour and is included within the Green Street Conservation Area. This basin sits at right angles to the Staffordshire and Worcestershire Canal, and was formerly accessed under bridge carrying the towpath. The turning space on the opposite bank of the canal survives in use today as moorings.

The basin was constructed between 1859 and 1884, probably to serve the Castle Worsted Spinning Mills of 1877, which had been built on the site of New Pool.

The land to the north of the basin remained undeveloped until The Kidderminster and Stourport Electric Tramway Company which operated an electric tramway service between Kidderminster and Stourport-on-Severn, opened in 1898. The depot and generating station were built on this land and the access named, appropriately, Tram Street.

When the tramway system closed in 1929 the land remained in use as an electricity generating station: it still houses a major sub-station.

The basin was in-filled during the mid-20th century and whilst little evidence of it survives above ground some structure may still exist below the surface, although those remains may have been compromised by the installation of underground 11KV oil cooled cables some years ago.

Impact of the proposal on heritage assets

The proposed development sits within the Green Street Conservation Area and adjacent to the Staffordshire and Worcestershire Canal Conservation Area, both designated heritage assets.

Due to its height, the mast will impact on the setting of these Conservation Areas as they are surrounded at this location by higher ground to the west, north and east. There will also be an impact when viewed from the south due to the relatively flat approach and low buildings.

The impact is the mast silhouetted against the skyline.

15/0170/FULL

Recent photography from a vantage point at approximately the same elevation as the top of the proposed mast indicates that something this tall may be visible in part from vantage points around the town, particularly when viewed against the skyline, but also impinging on views encompassing listed buildings and Conservation Areas.

It is considered that the mast may be visible from the following designated heritage assets situated within the Green Street Conservation Area:

1. Caldwell Hall Grade II*
2. Morton's Works New Road Grade II
3. Victoria Carpet Company Green Street Grade II
4. Stourvale Mills Green Street Grade II

It is considered that the mast will feature in distant views towards the town from the falling sands railway viaduct, which encompasses:

5. Church of St. Mary Grade I
6. Church of St. George Grade II*

The mast will be visible from the following designated heritage assets elsewhere in the town:

7. Slingfield Mill Grade II
8. Piano Building Grade II
9. Brinton's Main Office Building Grade II
10. Chapel of Rest Cemetery Park Lane Grade II
11. Church of St John Grade II
12. 40 Park Lane (Now Weavers Pub) Grade II

In addition to the designated heritage assets above the proposed development may also be directly visible from the following undesignated heritage assets which appear on the Local Heritage List for Kidderminster and sit within the Green Street Conservation Area:

1. Fire Station Castle Road LLK432
2. Kidderminster Corporation Baths Castle Road LLK31
3. Castle Spinning Mills New Road LLK436
4. Champion House Green Street LLK429
5. Elgar House Green Street LLK430
6. Frank Stone Works Green Street LLK435
7. Stourvale Mill Site and Boucher LLK431
8. Former Brinton's Works Castle Road LLK433
9. Water Works House LLK316
10. Pumping Station LLK438

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Amongst other Locally Listed Heritage Assets outside the Conservation Area from which the proposed development will be visible are:

- 11. Willis's Carpet Factory Worcester Street LLK407
- 12. 74-95 Park Street LLK293-314

Whilst clearly some of the assets are some distance away, others are in close proximity.

The impact on these heritage assets will be purely visual: the mast may be visible from and affect the setting of these heritage assets as seen from many varied vantage points across the town centre.

Impact on views into, out of and across the Conservation Area

The principal impact will be on the setting of the Green Street Conservation Area and the Staffordshire and Worcestershire Canal Conservation Area. These are situated in the Stour Valley and surrounded to the west, north and east by higher ground. The approach to the town from the south is largely unimpeded by tall buildings and thus the mast will be visible on the skyline from Worcester Road and New Road.

The structure will also be visible from the south in views towards the town centre and the Conservation Area. Despite its slender profile (excluding the antennae) it will stand a good deal taller than the surrounding buildings – approximately 1/3 taller than the towers belonging to the fire station, Morton's Works and Castle Mills.

Whilst tall structures are a feature of the Kidderminster skyline – and there are several within the Green Street Conservation Area, these generally have a degree of design and style attributable to them.

Historically there is a precedent for very tall structures: photographs from the 1930s show dozens of brick chimneys serving the town centre factories. Most of these have now gone, the most notable survivor being the Grade II listed chimney adjacent to Slingfield Mill.

Less than substantial harm

Although the visual impact of the proposal on the heritage assets identified above must be considered to amount to less than substantial harm, the impact on them will still be somewhat negative.

Development of this type has the potential to increase in impact as additional antennae are added to the lattice mast. The applicant has indicated that two antennae will ultimately be required, both CL dishes, however there is currently no requirement for any additional antennae and thus removal of Class 24 permitted development rights will, as the applicant suggests, prevent uncontrolled additions in the future.

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Archaeology

The location is a former canal basin, the structure of which may well remain below the current datum level. A pre-determination excavation will be required to assess the suitability of the site for the foundations required for the mast, and the design of these should not damage buried archaeology.

Policy

The P (LBCA) A 1990 requires development proposals affecting a Conservation Area to preserve or enhance that Area.

The NPPF at paragraph 131 requires local planning authorities to take account of the desirability of new development making a positive contribution to local character and distinctiveness.

If there are believed to be public benefits to this proposal, then these should be weighed up against the less than substantial harm the mast could have on the Conservation Areas and surrounding heritage assets, in accordance with the NPPF paragraph 134.

Conclusions

I think it would be very difficult to argue that a mast and antenna of the scale proposed would enhance the Conservation Area. I cannot see how the mast will contribute to local character and distinctiveness, other than to create a dominant feature on the skyline of the southern part of the town.

Having said that, this was and is an industrial area, and there is a history of electricity generation and related uses on the adjacent site. If a mast has to be erected in this vicinity I think that the proposed location is probably the best compromise, although it will serve to dominate nearby housing on the west side of the canal.

The very detailed heritage statement submitted with this application at "5. Technical Justification" makes a very clear and compelling case for the provision of microwave links to replace leased BT copper cable, which network BT can no longer maintain.

The heritage statement also clarifies the rationale for the precise location proposed at the southern end of the site, which appears to me to be wholly reasonable given that there will be a total reliance on the mast to protect the sub-station and the need, therefore, to protect the mast from fire.

I believe the application fails to comply with most elements of WFDC Policy SAL.UP6, introducing an alien feature into and adjacent to the Conservation Areas, and failing to enhance or better reveal the significance of the Area. Overall there will be an adverse impact on the setting of the Conservation Areas and to a lesser extent on more distant and wide-ranging views of a number of designated heritage assets.

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However, the supporting documentation (heritage statement) clearly demonstrates that there are no reasonable alternative means of meeting the need for this development, and thus satisfies part a) of SAL.UP6 .

In respect of the NPPF paragraph 134, the less than substantial harm caused to the designated heritage assets affected by the proposal, should be weighed against the public benefits.

I think that ultimately the town cannot function without electricity, and given the main Grid Substation for the town is situated where it is, the proposed development must outweigh the individual significance of both Conservation Areas, as the public benefits are undeniable.

No objections. Suggest condition to withdraw PD rights on the Mast. Suggest condition to record archaeology affected by construction on historic basin.

- 3.3 Historic England – We provided advice previously on an application to erect this tower in another location further to the north - we were concerned about the impact of it on Caldwell Hall, a Grade II* listed structure, known as the oldest secular building in Kidderminster. Then we commented on the new location proposed which was further south, within the Green Street Conservation Area, an area of former carpet manufacturing and of great significance. As the conservation officer has demonstrated the impact of the new mast would be far-reaching and would affect the settings of numerous designated and undesignated heritage assets. We advised that were you minded to grant permission you should seek to limit the amount of fixtures on the mast to reduce its potential to cause harm and you should ensure that the associated boundary treatment was sensitive to the conservation area.

In this amendment we see an additional dish being proposed and we are concerned by the statement that although only one dish was previously shown two were always intended, the second being seen as exempted development. We do not consider this change to be acceptable where such sensitive heritage assets are involved and where as acknowledged it is the accumulation of extra dishes, paraphernalia etc. that causes more impact as they erode the transparency of the mast. Therefore we do not support a second dish here.

We also do not see how steel palisade fencing will enhance or better reveal the significance of the conservation area as under paragraph 137 of the NPPF.

Notwithstanding the fact that other such fencing is in situ a greater effort should be made with the appearance of any new fencing. Therefore we do not support the proposed fencing either.

15/0170/FULL

We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice. It is not necessary for us to be consulted again. However, if you would like further advice, please contact us to explain your request.

- 3.4 Canal & River Trust – After due consideration of the application details, the Canal & River Trust as statutory consultee has no objection subject to the imposition of conditions :

We note the planning history in relation to the previous proposal for a mast for operational purposes in this locality. In terms of the visual impact on the canal corridor it is unfortunate that the tower could not be set further back from the canal or to the rear of the electricity sub-station rather than on the site of the former canal basin. We consider that there will be an adverse impact on the canal corridor, but we note the Applicant's comments regarding the public benefits of the proposal and the requirements of paragraph 134 of the NPPF. In this context we do not consider that the harm outweighs the identified public benefits. Accordingly we can advise that we have no objection to the application subject to the imposition of conditions as set out below.

We welcome the proposal for a condition to remove permitted development rights for the installation of transmission dish antennas to keep the visual harm to a minimum. To address the issue of potential buried archaeology we also welcome the suggestion of a condition that requires any reasonably necessary archaeological survey work is carried out at the application site prior to the installation of the tower.

- 3.5 Kidderminster Civic Society - We are objecting to this application particularly in view of it being in both the Green St Conservation Area and adjacent to The Staffordshire and Worcestershire Canal Conservation Area (both designated heritage assets). The Mast's height (and bearing in mind that such masts tend to end up with additional equipment added to them) will dominate an area that should be unspoiled especially bearing in mind the Attractive Canal setting and the proximity of both of the said Conservation Areas and will inevitably detract from those protections to the local heritage and townscape. Its closeness to Caldwell Tower and other Listed Buildings will detract from their amenity and setting as well.

The area may be of archaeological interest owing to past activities on the site. We believe that this application would be in breach of WFDC Policy SAL UP6 and it should be refused.

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3.6 Environment Agency -
FLOOD RISK

The proposed development is located within Flood Zone 3 (1% annual probability of fluvial flooding) based on our indicative Flood Map for Planning. The site is adjacent to the River Stour (Main River). This location affords some protection from the Kidderminster Flood Alleviation Scheme which protects to a 1 in 100 year standard.

The undefended 1% plus climate change river flood level at this location is 30.66m AOD, based on node 'STOU01_07957' from our River Stour flood model. The 0.1% flood level (Flood Zone 2) is 30.78m AOD.

No level survey or detailed Flood Risk Assessment (FRA) is submitted with the planning application.

VULNERABILITY

We note from your email that you are considering the development as 'essential infrastructure' (Table 2 of the NPPF refers) which "has to be located in a flood risk area for operational reasons". It should be noted that Telecommunications installations required to be operational during flooding are classed as 'highly vulnerable', but a facility which is not generally required to be operational in a flood event is normally considered as 'less vulnerable'.

The supporting statement confirms the sensitivity of the proposal in that a "robust, high-speed communications network is...essential if safe operation of the electricity supply network and government targets are to be met in the public interest". This is on the basis that the protection system sends signals back via the electronic communications network.

SEQUENTIAL TEST

Paragraph 101 of the National Planning Policy Framework requires decision-makers to steer new development to areas at the lowest probability of flooding by applying a 'Sequential Test'. It states that 'Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding'.

Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test if required (see Paragraph 102 of the NPPF).

Based on the scale and nature of the proposal, which is considered non-major development in accordance with the Development Management Procedure Order we would not make any bespoke comments on the Sequential Test, in this instance. The fact that we are not providing comments does not mean that there are no sequential test issues, but we leave this for your Council to consider.

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FLOOD RISK ASSESSMENT

Whilst a detailed FRA has not been provided we would advise the following.

Impact on flood risk elsewhere

Opportunities should be sought to help prevent and reduce flood storage impacts in the local area. However, in this instance, we would not object to the proposed development in the absence of such. This is on the basis that the footprint of the proposed development is equivalent to ‘minor development’ (our flood risk standing advice refers).

Safe development

We would recommend that the proposals should be designed to avoid water damage and remain operational. This is particularly important noting the sensitivity of the proposal.

This is for the benefit of the applicant and the environment. We would suggest that any flood susceptible electrics/other parts within the tower and control kiosk are designed to be sited at least 600mm above the undefended 1% flood level plus climate change (floodplain, or flood-protected, in order to prevent flood risk and associated pollution risk. For longer term sustainability we would also advise that the applicant considers siting above the 1 in 1000 year floodplain level of 30.78, with 600mm freeboard.

It should also be noted that new climate change allowances are being published in the Autumn (2015). These are currently in draft. The table below is for the Severn River Basin district, for your information at this time in considering wider resilience measures.

Total potential change anticipated for period	2015-39	2040-2069	2070-2115
Severn			
Upper end	25%	40%	70%
Higher central	15%	25%	35%
Central	10%	20%	25%

PROXIMITY TO THE RIVER STOUR

The proposal is not within 8 metres of the River Stour (Main River) so will not adversely affect our access and maintenance responsibilities, or impact upon the flow regime.

3.7 North Worcestershire Water Management (NWWM) - Based on the response of the Environment Agency I would make the following comments:

- a) It is up to the Council to decide whether the Sequential Test has been passed.

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- b) The development will not increase flood risk elsewhere
- c) To make sure that the development itself will be safe for its lifetime the Environment Agency suggests that any flood susceptible electrics/other parts within the tower and control kiosk are designed to be sited at least 600mm above the undefended 1 in 100 year + climate change level of 30.66 m AOD (so minimum 31.26 m AOD) and for longer term sustainability they advise that the applicant considers siting at least 600mm above the 1 in 1000 year floodplain level of 30.78 m AOD (so minimum 31.38 m AOD).

3.8 Neighbour/Site Notice – 22 individual letters of objection and a 149 signatory strong petition were received prior to the submission of revised plans on 16th December 2015. Following consultation on said revised plans a further 6 letters of objection were received. The comments made can be summarised as follows:

- a) The height of the mast would make it visible for miles around and totally out of character with the surrounding area.
- b) The location chosen on the site is probably the most conspicuous location possible, right next to a car park & in close proximity to the canal tow path.
- c) In an era of modern technology surely there is an alternative method of communications that does not require such a large mast to be constructed, the option of using five optic cables which would cost WPD £1.36m seems to have been dismissed purely on cost alone however I would imagine this method of communication would far outlast the lifespan of a 30m tower exposed to the elements all year round, and also allow for future communications to be sent by fibre optic as technology advances in the future.
- d) WPD does not appear to have considered utilising existing structures to mount their satellite dishes on to allow a signal to be bounced onwards, this could potentially negate the need to construct the 30m high tower.
- e) The applicant has submitted revised plans but has failed to provide comment on all of the sites suggested by locals as alternatives for the mounting of the required antennae. The amended application now looks very superficially at using a historic chimney but fails to consider Kidderminster College or the Champney Flats at Hoobrook for dish mounts. Using the last electricity pylon adjacent to the Severn Valley Railway Bridge and the Canal has also not been considered commented on. There already is suitable underground trunking from the transformers at Tram Street to the pylon along the canal for an fibre optic cable. This proposal will not require a new mast. A large skeleton tower has recently been constructed in the vicinity of Hoo brook retail centre & with existing cabling that runs from the Tram street sub station along the canal tow path surely this would provide an alternative site for a satellite dish to be mounted on?.

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- f) With the redevelopment of Kidderminster town centre and the possibility of the Tram street area being redeveloped for housing the construction of a 30m high mast would surely put off any construction company thinking of building houses in this area which would have negative effect on the redevelopment of Kidderminster as a whole.
- g) The installation of such a large and intrusive structure would detract from the canal waterway and would deter the canal fraternity.
- h) The impact of the proposed tower would have on the local environment and nearby residents outweighs the reasons for siting such a large structure of such great height at this location.
- i) As the communications are required for communication rather than electrics then the development is unnecessary.
- j) The proposal will adversely affect the saleability of properties in Round Hill Wharf.
- k) The outlook from nearby properties will be blighted.
- l) The mast should be located in a lesser populated area.
- m) There is alternative technology, which would not require a mast, which would achieve the same goal. Fibre optics should be used instead.
- n) However we do not have to look far for evidence that physical links already exist between the Kidderminster and Stourport electricity substations. By viewing their geographic maps and diagrams on the WPD web site. It can clearly be seen that connections exist.
- o) I am very concerned that yet again (!!) poor town planning is overlooking one of Kidderminster's greatest assets -which is the historic carpet industry. Kidderminster's carpet story is unique and has so much potential for tourism and investment in history and leisure as examples - and a great ugly mast in the conservation area, isn't going to sit well in the landscape, or be attractive to canal people - who in previous studies have asserted Kidderminster is unappealing.
- p) WPD claim there is no fibre optics in the area - we understand that it has been put in at the end of Park Lane.
- q) Big companies put profit before the environment and possible impact on peoples lives. They have obviously opted for the cheapest option.
- r) There are many children living in our estate and it is a wonderful place for families. A 30m tower nearby would significantly diminish that. It would restrict views and have potential health implications for us and our children. There have already been a number of explosions at the substation so I also fear for further safety issues.
- s) In safety terms the mast creates the risks of physical damage by collapse, electrical fire and chemical spillage in the event of storm damage or lightning strike.

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- t) The applicant makes reference to the five SAL.CC5 criteria, however they only offer evidence for (i) "the need" for this mast for communications in the event of accidents. However, there is no discussion on alternative technologies. In respect of criteria (ii) the "adverse impact" then has ignored all of the Round Hill Wharf which would be subjected to a ring side view of this carbuncle! For criteria (iii) "other sites" they have ignored many possible industrial sites. For example there are existing pylons which intersect the canal towards Stourport just beyond Hoobrook. Underground trucking already links this site which will accommodate optical fibre lines. This proposal will save the cost of a mast as the dish can be mounted on the existing pylons! In respect of criteria (vi) and "sharing" existing masts such as those on the Champney flats at Hoobrook which may be suitable. In respect of criteria (v) there are several "existing tall buildings" such as the Fire Station tower which could carry a shorter mast.
- u) The application clearly states there is no flood risk. However, there is a flood risk assessment included with the application which reports a high risk of flooding given the close proximity of the River Stour and the canal. Flooding over the tower site could destabilise the ground and create a risk of collapse.
- v) On their revised plan which includes two dishes, Western Power Distribution have also specified the bearings of the dishes as 304 and 358 degrees. This doesn't seem right for links to the Bewdley Arqiva tower and Bishopswood substation which are actually southwest and south of the site. If the WPD revised plan is correct it suggests the dishes are going to be used for a different purpose than that described in the application, so the application should be rejected as falsely presented. I should also point out that drawing KIDD/003 claims to be the North East elevation of the site, but this cannot be correct according to the compass shown in drawing KIDD/002 and note that the tower will actually be 31.5m high if you include the lightning finials.
- w) It is understood that WPD have submitted other applications (on in Bromsgrove) for which they have carried out line-of-sight surveys. Surely this mirrors the suggestion by the objectors that the pylon at Hoobrook could serve this purpose and then run fibre optic link to Kidderminster Substation. Hence no need to build a mast which removes that cost which is replaced by the cost of a relatively short fibre optic link.

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- x) Important is the following statement made by WPD in their planning application for a mast to be situated in Longbridge a little distance from the substation there. Their justification for locating it where they sought approval being as follows. 'Western Power is also restricted from locating the structure nearer to the substation equipment, as we need to adhere to safety regulations regarding falling distances. This stipulates that the structure needs to be 1.4 times its height from live electrical equipment. A survey of the site found that this location is best from a safety point of view.' Presumably the same regulations apply nationwide. WPD would not write this were it not accurate. On that basis the Kidderminster proposal clearly breaches these safety regulations! We know that from their own admission due to having moved their original placement for this mast from the north end of the substation to the southern end that their initial consideration was because that end was safer. It clearly indicates that the south is the more dangerous and now appears to breach safety regulations if what is disclosed above is correct.

4.0 Officer Comments

PROPOSAL

- 4.1 Planning permission is sought for the erection of a 30m high lattice tower with two dish antennae mounted on the mast at 28.5m above ground level. The tower would sit on a 4.3m square concrete base which would have 1.8m high palisade fencing around its perimeter. The development would be located within the existing Western Power Distribution (WPD) site off Tram Street, Kidderminster. The exact location within that site is proposed as the furthest north-east corner of the site adjacent to the boundary with the River Stour.
- 4.2 Kidderminster Grid Substation, together with Bishopswood and Stourport Grid Substations, which form a single 'ring network' are co-dependent on each other for their continued safe operation and communications. Together, the three grid substations supply mains electricity to over 55,000 residential properties, and industrial and commercial premises in Wyre Forest District.

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- 4.3 The proposed development is required as a mechanism to protect the WPD network across the Midlands. Information submitted by the agent confirms that when there is a fault in the network, the control system requires immediate connectivity to shut down the electricity supply lines for protection of the grid substation from the risk of permanent damage or fire. To date WPD's control and communications network has been provided by private BT copper leased lines. However, BT has stated it can no longer continue to support WPD's existing copper network, which has gone far beyond its design life. Unfortunately, BT's replacement copper system, which is cloud based BT technology, will no longer meet the split level latency period of 19 milliseconds for circuit breakers to close the electricity supply lines immediately, which is a strict requirement for a safe electricity network protection system. WPD has therefore no choice but to replace the existing copper BT leased lines, replacing them with a mixture of underground fibre optic cables and microwave links, that will provide the necessary latency for its future protection system and also permit more sophisticated monitoring and control of its supply network.
- 4.4 Whilst WPD are utilising a range of options for providing the communications connectivity they require, they state that at the application site the only feasible option is for a microwave antenna mounted at 28.5m above ground level. The antenna requires a clear line of sight between the Kidderminster site and the linked microwave transmission dish antenna to be installed on an existing national grid radio tower at Bishopswood. From Bishopswood a high-speed microwave and fibre communications link with the necessary latency is available to WPD's control centre at Castle Donington. The antenna will also provide communication resilience for Stourport Grid Substation via line-of-sight communication with the Arqiva broadcast tower at Bewdley, which is not otherwise achievable.
- 4.5 Concerns have been raised that the applicant has failed to consider alternative sites to mount the antenna and that there are other technologies which would meet the requirements of this project. Information provided by the applicant confirms that options to utilise existing structures locally was considered, however there are no structures of sufficient height which have the clear sight lines required to allow required communications. The applicant has also provided comment on the option to meet the need through the use of fibre optic cables as follows:

"In respect of the Kidderminster Grid Substation, WPD has no fibre optic cable anywhere in this area. Therefore to avoid the proposed 30m tower at Kidderminster, WPD would need to lay fibre optic cable from Kidderminster to Bishopswood via Stourport, a straight line distance of 8.7km. The estimated cost of laying 8.7km of fibre optic cable is over £1.36 million - comprising approx. £696,000 for civils, to which can be added a minimum of 40%+ for route deviations and further 40%+ for ducting and cables.

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The disruption to local communities and businesses from over 8.7km of trenching in the highway would be enormous. Most importantly, the cost would be completely prohibitive.”

PRINCIPLE OF DEVELOPMENT

- 4.6 Telecommunications development is referenced specifically in the National Planning Policy Framework and is covered by specific policies in the development plan for the District. Policy SAL.CC5 states as follows:

Policy SAL.CC5 : Telecommunications

Proposals involving the erection of telecommunications equipment will be allocated where it is satisfactorily demonstrated that:

- i. There is clear evidence of need for the development.
- ii. It is sited and designed so as not to result in significant adverse impact to interests of acknowledged importance, subject to operational and technical requirements.
- iii. There are no satisfactory alternative available sites.
- iv. There is no reasonable possibility of sharing facilities.
- v. There is no possibility of erecting antenna on an existing building or structure.

Proposals that will individually or cumulatively have a serious adverse impact on sensitive landscape, townscape or nature conservation will not be approved.

All proposals for telecommunications infrastructure must demonstrate that they meet International Commission guidelines for public exposure.

- 4.7 Provided that the proposal is found to meet all of the requirements of the above policy or there are material considerations which would justify overriding the policy requirement, then the principle of development would accord with the requirements of the development plan. The criteria set out in the above policy is considered in more detail in the remainder of this report.

NEED FOR THE DEVELOPMENT

- 4.8 The applicants have provided detailed information regarding the need to provide communications links from the application site to protect that site and the Stourport Grid Substation. I have no reason to doubt that there is a legal operational and safety requirement to secure the communications which would be delivered by the proposed development.
- 4.9 Several third party responses to the application have queried the need for a mast and have suggested that alternative means of delivering the required communications infrastructure would be viable. The applicants have considered the possibility of fibre optic cables and have indeed opted for this at other sites in the WPD network where it would be operationally possible. In the case of the Tram Street site it would be operationally possible to opt for a fibre optic link however information provided by the applicant, as set out under Paragraph 4.5, indicates the operational implications of such an alternative, as well as the cost prohibitive nature of such works.

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- 4.10 As a result of a re-consultation exercise several alternative sites were put forward by members of the public. The alternatives were presented to WPD for their comment. The table below summarises the proposed alternative sites/options and provides commentary on each from WPD. In terms of the Hoobrook Site, further comments from WPD will be included in the Addenda and Corrections sheet.

Suggested Site: Kidderminster College
<p>WPD Comment: First, line-of-sight is not available from the grid substation to the college – The Tesco building opposite would block the radio signals. A 15m communications tower would need to be installed at the grid substation to provide clear line-of-sight to the college rooftop. Secondly, the college buildings are faced with industrial metal cladding and have an elliptical shaped roof. The building is wholly unsuitable for the installation of transmission dish antennas on it. Thirdly, it is not known if the college authorities are willing to accommodate WPD’s antennas, but in any case the building is not suitable and the college is not open 24 hours a day, 7 days per week, 365 days per year; immediate access to the rooftop with a maximum of one hour’s notice is most unlikely to be available. The alternative is untenable</p>

Suggested Site: Champneys Flats
<p>WPD Comment: As with Kidderminster College line-of-sight cannot be provided back to the grid substation and in this case as the land rises steeply to the northwest of the flats the option of providing a 15m tower at the grid substation to provide the required line-of-sight to the rooftop is not available. It is not known if the freeholder of the flats will be willing to make the rooftop available to WPD but in my experience residential blocks of flats are some of the most difficult on which to secure access. The leaseholders of the individual flats will normally be consulted by the freeholder and unless all are in agreement to the installation – which is now very rare indeed, having regard to the widely disseminated health ‘scare stories’ associated with the installation of electronic communications apparatus, then consent will not be forthcoming. For housing association and council blocks of flats, the situation is now the largely the same; for housing associations and authorities that do not have a moratorium in place against the installation of apparatus on their buildings, the association or authority will normally consult its tenants. Only if none of those tenants objects to the installation – again a very rare event – will consent be given. The alternative is untenable.</p>

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Suggested Site: Electricity Pylon adjacent to Severn Valley Railway Bridge

WPD Comment: The pylon is located about 1.5Km to the south of the grid substation and as the third party objector suggests there is surface trunking running along the canal towpath from the grid substation southwards past the pylon. There is however no link between the pylon and the trunking running along the canal towpath - the pylon stands on the other side of the River Stour on flood liable land away from the river's east bank. First, dealing with the use of the trunking: it currently accommodates an oil cooled 33kV cable. Fibre optic cable cannot be laid in the same trunking; if a fault developed on the 33kV cable it would very likely damage the fibre optic cable too, which would mean that the grid substation 132kV supply would no longer be protected. Power supplied from the Kidderminster grid substation would need to be cut until the communications link could be restored. The 33kV cable in the surface trunking running along the canal towpath is vulnerable to attack and has previously been damaged by thieves attempting to steal the cable. For these reasons any fibre optic cable from the grid substation to the pylon would need to be laid in its own duct buried deep within the canal towpath for protection. This would be a major and very expensive undertaking that would also be very disruptive to the use of the towpath by others. Secondly, while the pylon belongs to WPD the land on which it stands does not. Agreement would therefore need to be reached with the landowner to site an equipment cabinet close to the base of the pylon, to process the radio signals and to provide a low voltage power supply across his land to the cabinet installation. The land on which the pylon stands is flood liable and this would create immense difficulties for installing the necessary flood proof cabinet. The low voltage electricity supplies to power the apparatus need to be completely isolated from the risk of arcing via the antennas from the high voltages carried in the cables on the pylons; pylons are particularly susceptible to lightning strikes and the flood liable ground does not help with isolating the low voltage supplies which may need to be provided to the cabinet as a pole mounted overhead supply. Thirdly, as stated, the pylon stands on the east side of the River Stour some acceptable means of laying fibre optic cable across the River Stour would therefore need to be provided, if it were to be run in its own duct beneath the towpath 1.5Km back to the grid substation. The suggested alternative is untenable.

Suggested Site: Hoobrook

WPD Comment: We are not clear which mast at Hoo Farm Industrial Estate is being referred to here - two are shown on Ofcom Sitefinder. If you can clarify which mast is being referred to here we will get back to you with further detail.

- 4.11 In addition to the sites listed above suggestions were made for town centre sites including Crown House and Slingfield Mill. Whilst WPD have not provided bespoke comments on these options I consider that with the former earmarked for demolition and measuring in at approximately 24m Crown House would not be a viable option. The Grade II Listed chimney stack is only 23m tall and being a Listed Structure it would be extremely undesirable to install any telecommunications equipment on it. There are no other masts in the vicinity of the proportions required to allow for sharing and to mount the antennae at the required height.

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- 4.12 I have no reason to doubt that any of the information provided by the applicant in respect of current fibre optic provision or the likely financial cost of installing fibre optic provision is in any way disingenuous. Being mindful of the Court decision cited by the applicants (*Regina v Westminster City Council ex parte Monahan*, Court of Appeal, 1989) which confirmed that financial constraints can be material considerations in assessing the planning balance of any proposal. Subsequent Court decisions have confirmed this point in 1999 and 2009. I must therefore accept the applicant's position that the financial costs of fibre optic connections would be financially prohibitive at this time. Having assessed the applicant's response to the list of alternative sites and alternative means of provision put forward for consideration and given that there are no reasonably achievable alternative means of securing the required communications network then I am satisfied that criteria i and ii of Policy SAL.CC5 is satisfactorily addressed.
- 4.13 With a height requirement of 28.5m for the antenna to facilitate the required clear sight lines between the antenna and the Bishopswood tower there is clearly a significant operational dilemma for WPD in securing this necessary infrastructure if a fibre optic solution is not viable. Having considered all of the alternatives put forward in the context of the operational requirements of the provider I am satisfied that there are no reasonable prospects of finding an existing building or structure which could meet this need. I am therefore satisfied that criteria iii-v are also satisfied.

IMPACT ON LANDSCAPE & HERITAGE ASSETS

- 4.14 The location of the application site would mean that the proposal would impact on two Conservation Areas, the townscape of Kidderminster and would have the potential to affect the setting of statutory and non-statutory Listed Buildings, accordingly the advice of the Conservation Officer has been sought and is detailed above.
- 4.15 Photomontage (existing and proposed) drawings submitted by the applicant show how the proposal would appear from specific vantage points outside of the application site. The comments of the Conservation Officer at paragraph 3.2 of the report provide a very robust assessment of the likely visual impacts of the proposed development both on heritage assets and on the wider townscape.

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- 4.16 There is no need for additional comment or the reiterating of the points made and conclusions drawn in the comments of the Conservation Officer other than to concur with the views stated. Whilst the conclusion differs from those expressed by both Historic England and Bewdley Civic Society, I am mindful that the Conservation Officer has carefully balanced the harm to the landscape and heritage assets against the need for the development. Whilst the development will, no doubt, have some adverse impact on the townscape of Kidderminster and will adversely affect heritage assets such impacts when weighed against the operational and technical requirements and need for the development are, in my view, significantly outweighed by other considerations namely to essential need to ensure a safe electricity supply to Kidderminster and beyond is maintained.
- 4.17 Whilst the proposal is contrary to the requirement of Policy SAL.CC5 of the Site Allocations and Policies Local Plan which resists development which would have an adverse impact on sensitive townscape, landscape or nature conservation, there are material considerations in this instance which would weigh heavily in favour of the approval of the scheme.
- 4.18 Specific concerns relating to the design of the proposed boundary palisade fencing have been considered however, given that the sub station site already benefits from such fencing and that the appearance of the site is industrial in nature then I do not feel that further palisade fencing in this location would cause the degree of harm suggested.

HEALTH IMPLICATIONS

- 4.19 Concern has been raised that the proposal would have health implications for local residents. The NPPF at paragraph 45 refers to the need for 'a statement that self-certifies that, when operational, International Commission guidelines will be met'. This statement, commonly known as an ICNIRP declaration is not appropriate in this case. The transmissions between the microwave dishes will be linear, non-radiating signals: from point-to-point, one dish to another, and at very low power levels. These low power microwave signals do not fall under the scope of ICNIRP, which covers non-ionizing radiation that is emitted by the antennas that mobile phone operators install on their base stations and which emit beams to provide coverage to the surrounding area. The only exclusion zone for microwave dishes is directly in front of them, and as such they are always installed so no access can be gained to the dish antennas, due to the interruption in service that would be result if that were possible. At the application site the microwave dish will be in the high security grid substation compound to which the public has no access and mounted at 33.5m AGL (to the centre line of the dish antenna) on the lattice tower. Paragraph 46 of NPPF confirms that "*Local planning authorities must determine applications on planning grounds. They should not ... determine health safeguards if the proposal meets International Commission guidelines for public exposure*".

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FLOOD RISK

- 4.20 The site is within an area known to be susceptible to flood risk and as such comment of the proposed flood risk has been provided by the applicant. The information submitted has been considered by both the Environment Agency and North Worcestershire Water Management (NWWM) who comment as detailed above.
- 4.21 In line with the comments of the Environment Agency and of NWWM I have considered whether the application site is a sequentially preferable site. Being mindful of the need to locate the mast close to the electricity supply component which it is communicating with and the fact that there are no other sites available to meet the needs of the development then I am satisfied that the requirements of the sequential test have been met. Given that the design of the development (being open sided) would not increase flood risk elsewhere (as confirmed by NWWM) and that conditions could be attached to any permission which would ensure that any flood susceptible parts of the mast were located at a suitable height above ground, then I am satisfied that the development does not pose a flood risk either on site or elsewhere.

OTHER MATTERS

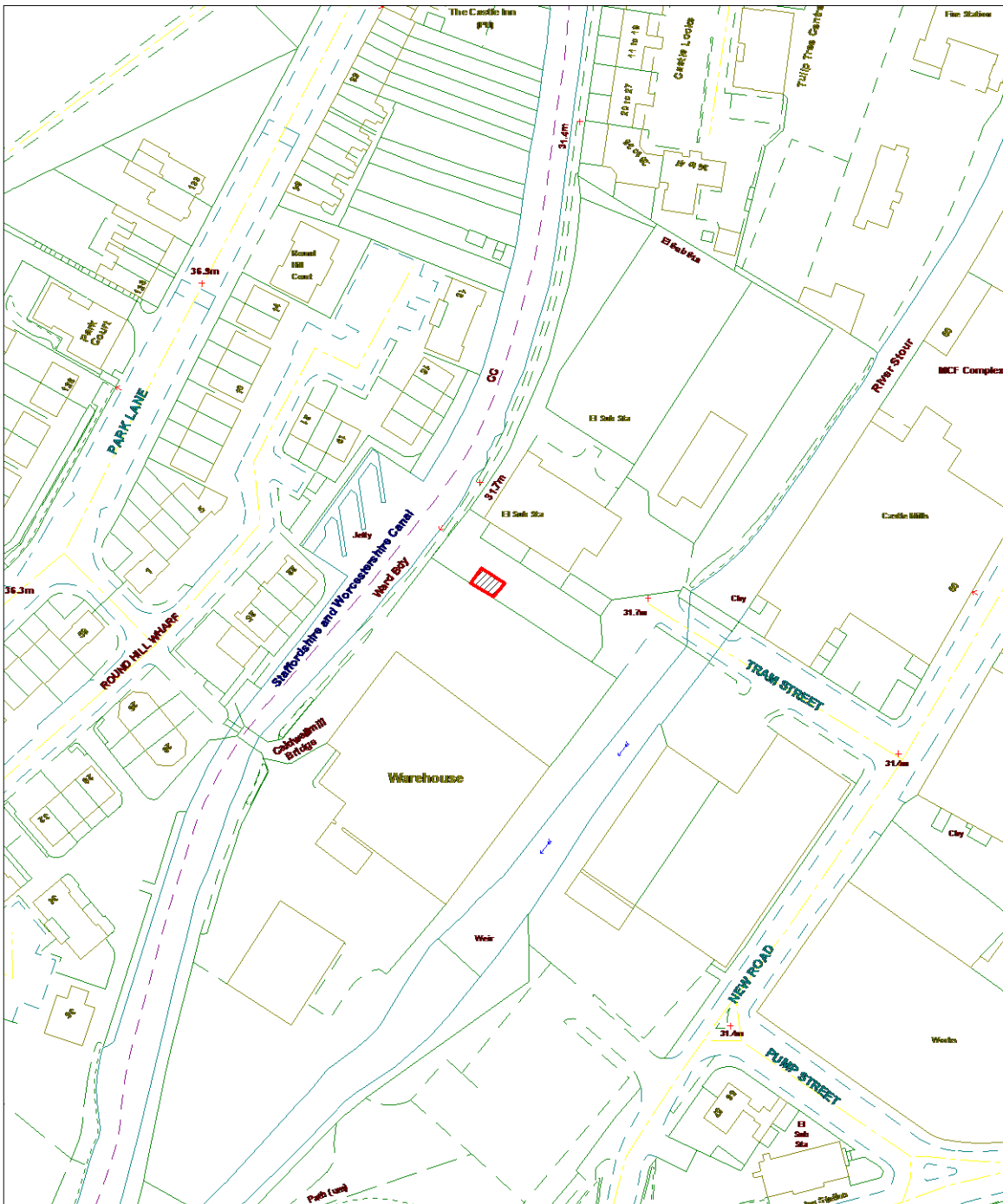
- 4.22 Concerns raised by either statutory or non-statutory consultees which have not already been addressed above are considered below.
- 4.23 Objections have been received stating that the proposal would blight property values and would be a disincentive for developers wishing to redevelop areas of Kidderminster. Property and land values are not material considerations for the purposes of determining a planning application and as such I can afford no weight to objections based on either of these grounds.
- 4.24 It is advanced that the proposal would lead to blight to the outlook of occupiers of properties on Round Hill Wharf. The mast is approximately 38 metres from the nearest property. Whilst there is no doubt that the outlook would be affected, I am mindful that there is no automatic 'right to a view'. Whilst the view from properties will undoubtedly change it is unlikely that the effects of such changes would be so great as to be considered detrimental to the amenity of occupiers sufficient to warrant a refusal of planning permission in this instance.
- 4.25 The safety of the proposed mast has been brought into question specifically in relation to the required falling distances for structures and the requirement of a separation distance of 1.4 times the proposed height between the mast and associated sub station. In response to this query WPD have advised that the siting of towers 1.4 times their height from electrical apparatus is actually a safety guideline that is achieved wherever possible. Indeed, the original site proposed for the tower at the Kidderminster grid substation was as distant as it was possible from the apparatus.

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- 4.26 The tower has been re-sited to its current location at the specific request of the Conservation Officer. In respect of the safety of the tower, it has been designed so that the weight of the base is greater than that of the tower. It is therefore extremely unlikely for the tower to topple unless it is cut from its base, and for that reason is enclosed within its own palisade fence compound within the existing high security palisade fenced compound at the grid substation to ensure maximum security of the tower. I am satisfied that WPD have adequately considered the safety of the site.

5.0 Conclusions and Recommendations

- 5.1 The proposal would introduce a dominant feature to the townscape of Kidderminster which would have adverse impacts on the visual amenity of the townscape as well as causing 'less than substantial' harm to nearby heritage assets.
- 5.2 There is no doubt that it is vital that communication links between the Tram Street site and the Bewdley and Stourport receivers is essential and given that the existing BT lines are at the end of their life that an alternative means of communication must be found. The applicant has demonstrated that an antenna mounted at 28.5m is, at this present time, the only feasible option to provide the communications needed. Without a new means of communication then the site would not be safe for operation. Bearing in mind that the site helps to supply electricity to 55,000 households then the importance of ensuring it is able to continue to function is clear.
- 5.3 Having carefully considered the proposal it is felt that the need for the development and the practical constraints associated with fulfilling this need carry substantial weight when considering this proposal and do amount to material circumstances sufficient to outweigh the harm to visual amenity and the harm to the setting of heritage assets in this instance.
- 5.4 It is therefore recommended that the application be **APPROVED** subject to the following conditions:
1. A6 (Full with no reserved matters)
 2. A11 (Approved plans)
 3. Material/finish of mast to be agreed
 4. Removal of 'permitted development' rights for further antenna on the mast
 5. Any flood vulnerable equipment to be located on the mast to be set above known flood levels. Details to be submitted and approved.



ECONOMIC PROSPERITY AND PLACE DIRECTORATE

**Kidderminster 132KV/11KV Grid Substation,
New Road/Tram Street, Kidderminster, DY10 1AB**



Date:- 01 December 2015

Scale:- 1:1250

OS Sheet:- S08276SE

Crown Copyright 100018317 2014

Wyre Forest House, Finepoint Way, Kidderminster, Worcs. DY11 7WF Telephone: 01562 732928. Fax: 01562 732556

Application Reference:	15/0240/FULL	Date Received:	28/04/2015
Ord Sheet:	381313 277637	Expiry Date:	23/06/2015
Case Officer:	John Baggott	Ward:	Franche & Habberly North

Proposal: Change of use from Retail Shop (A1) to Hot Food Takeaway (A5)

Site Address: 106 AUDLEY DRIVE, KIDDERMINSTER, DY11 5NF

Applicant: Mr J Mattu

Summary of Policy	CP03, CP09 (CS) SAL.GPB3, SAL.CC1, SAL.CC2 (SAAPLP)
Reason for Referral to Committee	Third party has registered to speak
Recommendation	APPROVAL

1.0 Site Location and Description

- 1.1 The application premises are located at the western end of a small two storey parade of shops, with private flats above, within this otherwise residential estate road. Immediately to the front of the shops is a roughly triangular area of hardstanding which is highways land and provides no formal parking to serve the shops, but does appear to provide a means of vehicular access from the public highway to the fronts of the properties at 108-114 (even only) Audley Drive.
- 1.2 The premises are currently vacant, as too is the adjacent similar sized retail unit. A double unit to the east side of the parade is occupied by a small general convenience store.
- 1.3 Immediately visible when entering Audley Drive from the south, via Beaufort Avenue, this parade of shops occupies a location on the outside of a bend in the road. To the west of the parade of shops is a small area of grassed amenity land, which features a public footpath which provides a direct link through to the main arterial estate road, Conningsby Drive.

2.0 Planning History

- 2.1 There is no planning history of relevance to this particular retail unit.
- 2.2 However, Members are advised that a separate planning application, for a change of use to (A5) Hot Food Takeaway has recently been submitted in respect of the above mentioned adjacent vacant retail unit (known as 104 Audley Drive). This application is currently the subject of neighbour notification and consultation.

15/0240/FULL

3.0 Consultations and Representations

3.1 Kidderminster Town Council – The application was originally submitted prior to the establishment of the Town Council.

3.2 Highway Authority – No objections.

Whilst the change of use proposed will increase the number of trips associated with the site it is considered that this will not create a situation where the result of this will create safety of capacity concern and under the tests of the NPPF a severe impact cannot be demonstrated. The proposal is in a local shopping parade which a significant residential catchment surrounding it which maximizes the opportunity to access the site on foot, any trips by car are considered to be pass and whilst these may wait on the carriageway this is a short duration stay on a road which serves as a local access road. Consequently whilst this proposal will increase trips they are unlikely to be car based trips and what car trips that do occur are considered to not create an unacceptable situation. I do not require any conditions to assist in controlling this development.

3.3 Worcestershire Regulatory Services (WRS) – No objections, subject to installation of extraction equipment as submitted and the associated plans and elevations.

3.4 Crime Risk Advisor (West Mercia Police) – No objections.

3.5 Neighbour/Site Notice – In total, 31 letters of objection have been received against the proposed development from local residents. The grounds for objection can be summarised as follows:

- Resulting litter dropped by customers;
- Adverse impact upon family pets attracted to litter;
- Noise, particularly late in the evening, from customers and vehicles calling at the premises;
- Noise and nuisance caused by delivery vehicles;
- Lack of off-street parking for customers and employees;
- Congestion on the public highway;
- Increased on-street parking and impact upon highway safety due to road layout and nearby junctions;
- Potential for attraction of vermin, associated with littering;
- Potential for anti-social gathering and behaviour, particularly in the evenings;
- Devaluation of neighbouring properties
(Officer Comment: *This is not a material planning consideration*);
- Impact upon existing hot food takeaway in terms of competition
(Officer Comment: *This is not a material planning consideration*);
- In appropriate opening hours proposed within a residential area;
- Concerns regarding impact on heath due to fumes.

15/0240/FULL

4.0 Officer Comments

- 4.1 As previously stated, the application premises is a currently vacant retail (A1) unit located at the end of a small parade of shops within this otherwise residential road. The parade of shops sits facing out onto the triangular area of hardstanding, and there is no immediate vehicular parking to specifically serve the premises.
- 4.2 The application proposes a change of use of the ground floor unit to a hot food takeaway (A5 use). The occupation of the flat directly above, which is accessed via an external staircase to the rear, is in no way associated with the proposed change of use.
- 4.3 No alterations to the shop front are proposed, with the existing centrally located doorway and full height glazing to be retained. Internally, at the front of house, would be a fryer and service area, with associated kitchen and storage located at towards the rear.
- 4.4 Internally, new associated extraction equipment is proposed to handle cooking fumes, which includes an external flue, to be mounted on the exposed end wall of the unit. This flue would be of galvanised metal appearance, along with a cowl, and would extend up to a minimum of 1.0m above the roof of the flat above. There is a side facing obscure glazed window at first floor level on this side elevation which is understood to serve the bathroom of the first floor flat above. The proposed flue would be sited 1 metre to the side of this window, as recommended by Worcestershire Regulatory Services (WRS).
- 4.5 The applicants propose opening times of 08:00 to 22:00, Monday to Saturday, and 12:00 to 22:00 on Sunday. There has been no objection to such proposed opening hours from WRS.
- 4.6 Policy SAL.GPB3 “Protecting and Enhancing Local Retail Services” of the Site Allocations and Policies Local Plan (SAAPLP) provides support for retaining and protecting existing convenience retail uses in neighbourhood centres, with Audley Drive being such a designated neighbourhood Centre. The reasoned justification which accompanies the policy recognises that: *“The loss of convenience retail facilities in a settlement or neighbourhood can have a serious impact upon people’s quality of life and potentially harm the overall vitality of the community”*. And goes on to state that: *“.... proposals that would result in a significant loss of facilities could also have a serious impact upon the vitality and viability of that centre as a whole due to their role in providing a range of facilities for the surrounding area”*.

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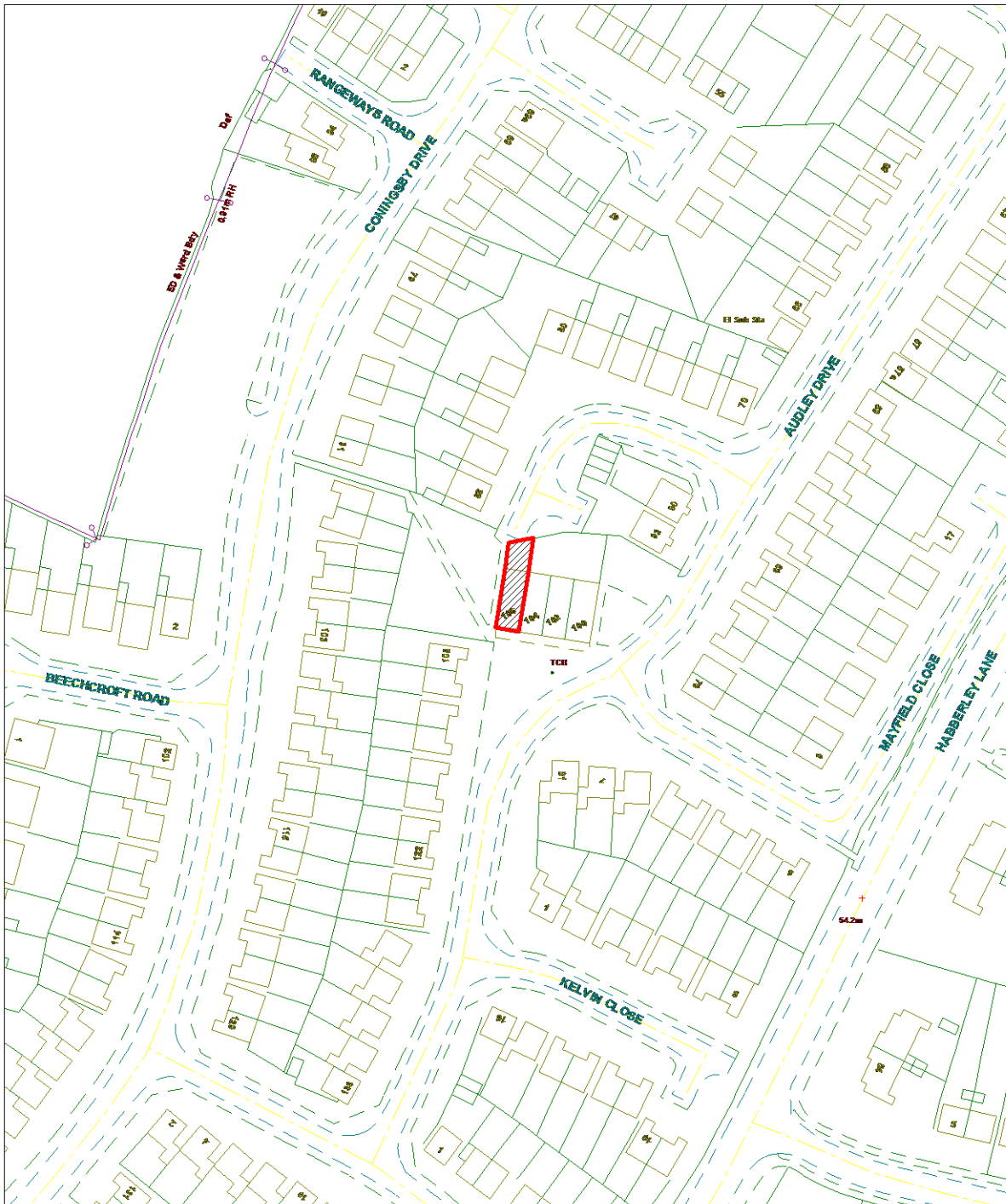
- 4.7 Whilst the above policy, and the supporting text, are of relevance it is the case that the proposed change of use relates to a vacant retail unit (formerly occupied by a Newsagent) and would not, therefore, replace an existing functioning retail outlet. Furthermore, as described above, the end two units of this parade of shops is occupied by a convenience retail store, which would not be detrimentally impacted upon by the proposed change of use.
- 4.8 It is the case that local parades of shops such as this have been the subject to much change over the years as peoples shopping habits have changed and the range of products that small convenience shops can stock is restricted. There are numerous examples, both within the district and far beyond, where similar parades of shops have seen significant change, and in many cases extended levels of vacancy, with often once thriving little centres now shuttered-up and in decline. There is no easy answer to this type of situation.
- 4.9 Policy SAL.CC1 of the SAAPLP states that: *“Proposals which would lead to the deterioration of highway safety will not be allowed”*, whilst Policy SAL.CC2 calls for suitable levels of car parking to serve development, as required. The nature of hot food takeaways is that they tend to attract transient customers, who will park on the public highway for a short space of time. This already appears to be the case, for vehicle borne customers of the existing convenience store within this parade of shops.
- 4.10 As summarised in paragraph 3.5 above, the application has been subject to a significant number of objections, primarily from near neighbours and residents of Audley Drive and beyond. The nature of the objections raised are not unusual for such a use, particularly within a predominantly residential estate such as this, and Officers can appreciate that matters such as perceived levels of noise, fumes and increased levels of on-street car parking by customers of the proposed hot food takeaway are a real concern to local residents.
- 4.11 That said, as identified above, no objections have been raised by either WRS or County Highways, and as such Officers would not be able to substantiated reasons to resist the application on such grounds. It is worth pausing at this juncture, as it is the case that for many of the objectors the issue of highway safety and on-street parking, etc, were grounds that they were under the impression that County Highways were also raising objections to. However, it is the case that an initial objection response has since been withdrawn and superseded by the no objection response as reported under Paragraph 3.2 of the report.

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- 4.12 Some of the other concerns expressed by local residents could be loosely categorised as “by-products” of the proposed change of use, such as dropping of litter; noise and nuisance from customers; potential anti-social behaviour; etc. That is not to down-play the relevance or importance of such matters to objectors, and such matters are understood. The requirement to install a litter bin outside the premises is a reasonable requirement, and could be conditioned, however that would not necessarily guarantee it would be used by customers. No objections have been raised by the Crime Risk Advisor (West Mercia Police) to the proposal. Any resulting anti-social behaviour would be a matter for the Police, should it occur.

5.0 Conclusions and Recommendations

- 5.1 The application proposes the change of use of a vacant retail unit within a small parade of shops, to a hot food takeaway. In principle, such a change of use is considered appropriate and supportable.
- 5.2 The objections raised by local residents, which have been summarised above, are understood and only to be expected with such a form of development, in such a predominantly residential area. That said, in the absence of objections from the key consultees, namely County Highways and WRS, despite the level of local opposition, Officers feel that they are unable to substantiate a robust and defensible reason for refusal for this application.
- 5.3 It is therefore recommended that the application be **approved**, subject to the following conditions:
1. A6 (Full with No Reserved Matters)
 2. A11 (Approved Plans)
 3. Installation of extraction equipment in full accordance with submitted and agreed details
 4. Hours of trading restricted to 08:00 to 22:00 (Monday to Saturday) and 12:00 to 22:00 (Sunday)
 5. Restriction on deliveries (not before 07:30 nor after 21:00, Monday to Saturday) and at no time on a Sunday
 6. Provision of new litter bin to the front of the premises



ECONOMIC PROSPERITY AND PLACE DIRECTORATE

**106 Audley Drive
Kidderminster, DY11 5NF**



Date:- 01 February 2016 Scale:- 1:1250 OS Sheet:- S08177NW Crown Copyright 100018317 2014
Wyre Forest House, Finepoint Way, Kidderminster, Worcs. DY11 7WF Telephone: 01562 732928. Fax: 01562 732556

Application Reference: 15/0329/FULL **Date Received:** 10/06/2015
Ord Sheet: 378859 275081 **Expiry Date:** 05/08/2015
Case Officer: Emma Anning **Ward:** Bewdley & Rock

Proposal: Residential development comprising of 4No. Dwellings with associated access and amenities

Site Address: FORMER WOMENS ROYAL VOLUNTARY SERVICE HALL, LAND OFF LAX LANE, BEWDLEY, DY12 2DZ

Applicant: Metro Realty Homes Limited

Summary of Policy	DS01 DS03 CP01 CP02 CP03 CP05 CP11 CP15 (CS) SAL.PFSD1 SAL.DPL1 SAL.CC1 SAL.CC2 SAL.CC7 SAL.UP6 SAL.UP7 SAL.UP9 SAL.B2 (SAAPLP) Design Guidance SPD Sections 2, 6, 7, 10, 12 (NPPF)
Reason for Referral to Committee	Statutory or non-statutory Consultee has objected and the application is recommended for approval. Third party has registered to speak at Committee
Recommendation	APPROVAL

1.0 Site Location and Description

- 1.1 The application site is a brownfield site measuring approximately 800sq.m. The site sits to the rear of properties fronting Lax Lane and is accessed off a private drive between 44 Lax Lane and the British Red Cross Society building. With the exception of the British Red Cross Building which sits on the northwest boundary, the site is bounded by residential development on all sides; sharing the southwest boundary is 46 Lax Lane and its residential curtilage; the southeast boundary is shared partly with the rear curtilage of 20 Gardners Meadow and partly with the rear garaging and parking area for properties in Gardners Meadow; and the northeast boundary abuts a car parking area for residents of Gardners Meadow.
- 1.2 The proposed development site is part of a wider site identified as an area for regeneration in Bewdley under Policy SAL.B2 of the Site Allocations and Policies Local Plan.
- 1.3 The site is within Flood Zone 3 and is known as being susceptible to surface water flooding.
- 1.4 The site shares a boundary with Bewdley Conservation Area.

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2.0 Planning History

- 2.1 06/0474/OUTL – Residential development (access to be determined) :
Withdrawn

3.0 Consultations and Representations

- 3.1 Bewdley Town Council – No objection to the proposal and recommend approval. However, town councillors are aware of the concerns expressed by Bewdley Civic Society and, while being pleased with amendments/reduction in scale made to the original application, are still mindful of the fact that these 3 bed properties may become two (or more) car households, in which case there is inadequate provision for parking, plus limited visitor spaces in the area of development. This is exacerbated by the fact that is already limited available parking in Lax Lane and adjacent roads are no parking zones.
- 3.2 Highway Authority - This site has been subject to a previous planning application which was opposed by the Highway Authority and in this application has previously raised concerns. The Highway Authority has reviewed its position on this site following further discussions with the Local Planning Authority and the Applicant and considers that notwithstanding the previous concerns the scale of development is such that it would not give rise to an adverse impact on the highway network in terms of safety or capacity. Bewdley is a sustainable community and residents are not dependent on the use of private vehicles, so whilst the site will generate vehicle traffic I would estimate only 2 vehicle trips are generated in the peak hours. Interrogation of accident statistics indicates that there is no recorded accident record in Lax Lane and therefore whilst the access may fall short of the desired visibility splay the limited trip generation and lack of accident history does not give cause for concern. It is also noteworthy that the applicant is proposing improvements to visibility to benefit future site users.

Considering all the factors of the local environment, scale of the development, recorded data and national guidance documents it is concluded that this development will not result in a severe impact and therefore should be allowed to proceed subject to conditions.

Conditions;

- a) Access, turning and parking
- b) Cycle Parking (Multi Unit)

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- 3.3 Environment Agency - We note that this is a revision to the application submitted last year and, as such, our comments remain consistent with those provided at the time (our ref: SV/2015/107833/01).

Flood Risk: The proposed development is located within Flood Zone 3 of the River Severn based on our Flood Map, where there is a high probability of flooding. The application site access is in an area that benefits from our Bewdley Flood Defence Scheme (FDS). However, it must be noted that the defences are demountable and rely on being established on each occasion the River is in flood. The defences provide protection for the 1 in 100 year flood event with a degree of freeboard (the defences are predicted to overtop when the river level at the Bewdley gauge reaches 23.25m AOD; the 100 year flood level at the gauge is 22.89m AOD). On this basis we consider the defences provide some allowance for climate change, however, this would be with minimal freeboard.

An ordinary watercourse (Snuff Mill Brook) drains from the slopes to the south west of the proposed development site down to the River Severn. This watercourse is known to have caused local flooding in the area and especially upstream of the site. We note that you have consulted with the North Worcestershire Water Management (NWWM) Team, as the relevant consultee (Lead Local Flood Authority) on flooding from ordinary watercourses.

Sequential Test: The NPPF (National Planning Policy Framework) details the requirement for a risk-based Sequential Test (ST) in determining planning applications. See paragraphs 100–104 of the NPPF and the advice within the Flood Risk and Coastal Change Section of the government's National Planning Practice Guidance (NPPG). Section 5 of this guidance states that "*The aim (of the ST) is to steer new development to Flood Zone 1... Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test if required*".

In this instance, we note that the proposed development is located on part of a larger site, which is allocated (SAL.B2) for mixed use development in your Council's Site Allocations and Policies Local Plan (adopted July 2013).

In considering the above, and the scale of the proposed development (less than 10 dwellings), we would expect your Council to be satisfied on the ST aspect of the proposed development. Provided you are satisfied with the ST then we would provide the following comments on the Flood Risk Assessment (FRA) as a requirement of the second part of the Exception Test (paragraph 102 of the NPPF).

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Flood Risk Assessment (FRA): The FRA that accompanies this application is the same as that submitted with the previous proposals. However, as the current proposals represent a reduction from five to four dwellings we are satisfied that the FRA remains relevant and seeks to address the relevant issues. We have no modelled 100 year plus climate change flood level available for the River Severn in this location.

The FRA, undertaken by COUCH Consulting Engineers (dated January 2014, ref. C6259-01), has used our modelled 150 year flood level of 22.46m AOD as the 100 year plus climate change level. Given our knowledge of the flood model and historic events in this location, we would accept the use of the 150 year flood level in this instance.

We note that there will be minimal loss of flood storage/impact on flood flow routes as a result of the proposed development. Consideration will need to be given to safe development requirements, particularly residual risk as the flood defences are demountable in this location.

Safe Development: The FRA confirms that finished floor levels of the proposed dwellings would be set at least 600mm above the 150 year flood event (i.e. at least 23.06m AOD). To achieve this all habitable accommodation is proposed on the first and second floors. The ground floors are to be maintained as open car ports and store rooms. We would not wish to see any living accommodation on the ground floor of the proposed dwellings and would recommend a condition limiting habitable accommodation to be set no lower than 23.06m AOD.

With the defences erected, safe access and egress would be available for the site during a 100 year plus climate change flood event. As mentioned above, there is minimal freeboard on the defences for this event, so if there was any indication of the river level being close to overtopping the defences the properties would need to be evacuated.

If the defences are not erected then the FRA has confirmed that a safe ccess would not be available for the proposed development. Flood depths of up to 830mm within Lax Lane (the only available site access/egress) would occur during a 100 year plus climate change event and 1m deep during a 1000 year event. Your Council's Level 2 Strategic Flood Risk Assessment (SFRA) breach scenarios for the Bewdley defences show the site as a 'moderate' hazard rating, which translates as 'danger for most'.

Flood Management and Evacuation Plan: As there is significant residual flood risk in relation to the demountable nature of the defences and the risk of breach scenario, considering the potential flood depths and impacts upon safe access, it is critical that an adequate Flood Management and Evacuation Plan is in place. We have a Flood Warning Service available for the River Severn. However, due to the local fast responding nature of the Snuff Mill Brook there is no Flood Warning Service available for this watercourse.

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We do not normally comment on or approve the adequacy of flood emergency response and flood evacuation procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users if they sign up to the Flood Warning Service.

The NPPG (Paragraph 057, Reference ID: 7-057-20140306) places responsibilities on LPAs to consult their Emergency Planners with regard to specific emergency planning issues relating to new development. In all circumstances where warning and evacuation are significant measures in contributing to managing flood risk, we will expect LPAs to formally consider the emergency planning and rescue implications of new development in making their decisions.

Local Pluvial/Surface Water Flooding: The FRA provides no assessment of flood risk from the Snuff Mill Brook. We note that the NWWM Team have commented on this aspect of flood risk, indicating the level of flooding as being shallow in the immediate area surrounding the site. The greater flood risk comes from the River Severn, but when preparing a Flood Management and Evacuation Plan there should also be reference to any issues regarding local shallow flooding. We note that the NWWM have commented on the surface water drainage proposals, as a matter that falls within their remit.

Developer Contribution: As discussed above, the site benefits from the Bewdley FDS, maintained and operated by us, in addition to our flood warning service. We consider the implementation of the FDS and our flood warning service would enable redevelopment and ensure the safety of occupants for this site, in line with an approved Flood Management and Evacuation Plan. Therefore we consider that a developer contribution towards these schemes is considered directly related to the development, necessary and reasonable, in line with the NPPF. On this basis we would seek a developer contribution towards maintaining and operating the two schemes.

We would seek a contribution to take into account the benefit to the proposed development of deploying the demountable defences over the lifetime of the development. For your information, the cost of the FDS calculated for the proposed development (5 dwellings) would be £206,856. This figure has been based on a detailed assessment of our maintenance, storage and operation costs for the Bewdley FDS, divided by the number of existing properties protected and then worked out as a proportion for the lifetime of the development (taken as 100 years for residential development). It should be noted that this figure is based on our current annual costs for the FDS and does not take into account the 50 year lifespan of the demountable defences i.e. the cost is likely to be higher in considering replacement of the FDS. We would also normally seek £4,000 (£1,000 per new dwelling) towards maintaining and operating our flood warning service, required to manage the risk to the development.

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The above information has been provided in order to provide you with an overview of the costs incurred in storing, maintaining and deploying the Bewdley FDS. We appreciate that this gives an overall developer contribution figure of £210,856 (£52,714 per dwelling), which is unlikely to be financially viable for the applicant in progressing the development proposal. We would, however, expect the applicant to offer a proportionate sum, demonstrating viability for the consideration of your Council.

Any sum would need to be agreed and secured upfront prior to any planning permission being granted through a unilateral undertaking or a Section 106 agreement as part of the permission.

We would like to comment that in the absence of contributions, the cost of flood warning and any 'maintenance, rebuild, or structural alterations' would potentially place an increased burden on the public purse. It may also place additional burden/ risk to life on the emergency services and/or any rescuers.

Foul Drainage: We would have no objection to the connection of foul water to the mains foul sewer, as proposed. The LPA must ensure that the existing public mains sewerage system has adequate capacity to accommodate this proposal, in consultation with the relevant Sewerage Utility Company.

Pollution Prevention: Developers should incorporate pollution prevention measures to protect ground and surface water. We have produced a range of guidance notes giving advice on statutory responsibilities and good environmental practice which include Pollution Prevention Guidance Notes (PPG's) targeted at specific activities. Pollution prevention guidance can be viewed at: <https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>

Export & Import of wastes at site: Any waste produced as part of this development must be disposed of in accordance with all relevant waste management legislation. Where possible the production of waste from the development should be minimised and options for the reuse or recycling of any waste produced should be utilised.

3.4 Bewdley Civic Society - Objects to the proposal for the following reasons:

- a) The scale and massing is out of character with, and is insensitive to its backland situation and the cottage architecture of this area of Bewdley. It lacks respect for the adjacent 1.5 storey buildings.
- b) The three storey height would create a dominant and obtrusive feature amongst the cottage architecture.
- c) The 10.2m high, featureless gable wall would have a negative impact on Lax Lane and the adjoining Conservation Area, towering above and overwhelming other buildings. It therefore fails to meet the test of good design and local distinctiveness.

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- d) The gable facing 20 Gardners Meadow would impact on the rear amenity area due to its height, width and siting behind the building line.
- e) The proposed upper floor living areas would create unnecessary overlooking of neighbours.
- f) The layout is poor and ill-considered with parking dominating over amenity space, the proposed amenity space is not sufficient.
- g) Access to the site is restricted. The Civic Society would not wish to see a reduction in parking on Lax Lane.
- h) The proposed relocation of the sub station so close to an existing property is a concern due to potential noise nuisance.
- i) The Civic Society does not have an objection, in principle, to residential development on this site.

3.5 Conservation Officer - (Comments dated 13 August 2015)

Further to my comments of 8th July 2015 I have received revised drawings 7129-P-75A and 7129-P-76A indicating amendments to the end gable elevations and eaves details.

I have no objections to the revisions proposed which go some way to enliven what are otherwise very simple brick elevations.

Whilst these revised designs do improve the visual appearance of the scheme, the degree of “enhancement” to the Conservation Area is, however, negligible.

Therefore as neither WFDC Policy SAL.UP6 nor Policy SAL.B2 can be fully satisfied, then in this circumstance paragraph 134 of the NPPF is relevant.

Paragraph 134 states that “where a development proposal will lead to a less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use”.

The fact remains that the scale and visual impact of a three storey development in this location does cause less than substantial harm to the significance of the adjacent Conservation Area, but I would have thought an over-riding consideration for any residential development on the site is the need to address the flood risk issues, and this pushes the height up over what was considered appropriate in the past.

Recommendation

Approve if it is considered that the public benefits of bringing the site back into use or securing its optimum use, in accord with NPPF paragraph 134 outweigh the visual impact of the three storey design on the Conservation Area.

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(Comments dated 8 July 2015)

The development lies adjacent to the Bewdley Conservation Area. It is also relatively close to several listed buildings lining Lower Park and the north side of Lax Lane.

The former building on the site was single storey and had very little visual impact on the surrounding heritage assets. The requirements of flood zone 3 however stipulate that ground floor habitable rooms should be avoided within new dwellings. This has resulted in a development of three storeys rather than two storeys which is the predominant building form in the surrounding area.

The Heritage Statement identifies that development on this scale has potential to impact on the setting of the surrounding designated heritage assets.

The model views produced are very helpful in understanding the proportions of the proposed development and how it will sit in a wider context including that of the adjacent Conservation Area.

Impact on surrounding listed buildings

Whilst the ridge height of the proposed development is greater than the surrounding buildings, its impact on the listed buildings lining the north side of Lax Lane is reduced by distance and the former school, brewery and 44 Lax Lane which line the south side of Lax Lane. For most properties the only glimpse of the new building will be of the roof, visible over the Brewery.

The principal heritage asset facing the development is 15 Lower Park. This is the birthplace of the former Prime Minister Stanley Baldwin and originally had substantial grounds and formal gardens. 48 Lax Lane, a relatively modern property, now occupies part of these gardens.

The proposed development will almost certainly be visible from the upper floors of 15 Lower Park (and probably 14 Lower Park), however its impact is somewhat reduced by the separation distance and the mature trees in the garden.

The development may be visible from Sayers Almshouses but 48 Lax Lane obstructs views. The development will probably also be visible from the gardens and rear of 6 and 7 High Street, both three storey listed buildings, but the separation distance will significantly reduce its impact.

Impact on the Conservation Area

The Bewdley Conservation Area boundary includes Lax Lane but not those buildings lining its south side, except 44 Lax Lane and its garden. This undesignated heritage asset is now all that remains of a court of 6 cottages set at right angles to Lax Lane. The 1884 map shows how the original access to these cottages ran through what is now the garden of 44 Lax Lane. It appears that the present WRVS site access was constructed relatively recently.

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The 1884 map also indicates a tannery on the site of what is now the Brewery. The significance of the tree-lined path behind the school and the tannery (which opens out into the application site) remains unclear. It may have been a formal garden or related to the tannery. Certainly there exists potential to uncover evidence of the former uses of the site during the works and I would expect an archaeological programme to be required as a post-determination condition.

Whilst not impacting physically on the surrounding Conservation Area, the proposed development will affect views towards and across the site both from within and outside the Conservation Area. For example the proposed development will be visible from several vantage points around the town including from the Severn Valley Railway although it is anticipated that these views will largely be obscured by existing buildings and trees. An exception is the view from the river and car park to the south where the new development will rise above the adjacent housing in Gardener's Meadow.

Development affecting Conservation Areas is required to preserve or enhance those Areas (P (LBCA) A 1990). I think that a development of three storeys on this site will impinge on the Conservation Area by virtue of the height of the building interrupting views across, towards and from it. It is not possible for either the applicant or for those assessing the application to access all potential vantage points, particularly those from outside the public domain, however on balance I think that some low level of harm, albeit not substantial will be caused to the Conservation Area. The development cannot then be considered to preserve the Conservation Area as it currently exists.

Clearly it is desirable to find some use for the site and NPPF paragraph 134 allows for the level of harm caused to the Conservation Area to be offset by any public benefits the scheme.

I think it is probably a little exaggerated to state that *"in its present state the application site materially harms and detracts from the appearance of the Bewdley Conservation Area"*. The only view into the site from the public domain within the Area is through the gates along the drive-way, however there are undoubted public benefits from bringing back into use a site which has been designated for development under Policy SAL.B2: a site which is derelict poses environmental risks and there is potential for anti-social behaviour and other nuisances which in time could harm the character of Conservation Area.

Design

The designs now submitted have progressed considerably since the early pre-application discussions and this process has been documented within the application.

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There is still some improvement that could be achieved with these designs:

- 1) The eaves detail: a more prominent over-hang than is shown could be visually more attractive.
- 2) The gable end details need resolving as some drawings show bargeboards and others mortar verge fillets.
- 3) The lack of chimneys. Chimneys are a prominent feature in Bewdley and I think the designs could be enhanced by the addition of chimneys to the end gables, if not to every property. (The adjacent development features chimneys which add balance and character to the dwellings).

The development itself is quite representative of the historic courts which lined streets in Bewdley, albeit taller and now providing parking. It is linear in form and accessed from a narrow entrance from the street.

With some minor revisions to the design I think that on balance this development would serve to enhance the Conservation Area, whereas as submitted it probably has a neutral impact. Whilst the neutral impact is sufficient to satisfy the P (LBCA) A 1990, enhancement is a specific requirement of WFDC Policy SAL.UP6 (2).

Electricity Sub-station

The application documentation indicates the removal of the existing electricity sub-station and its relocation within the site. Given that this operation is likely to be a considerable undertaking for the utility concerned, there is no evidence submitted with the application that an agreement has been reached in this respect. In the event that the utility is unable to relocate the sub-station to the location proposed, please note that I would not consider it appropriate to relocate such a facility into the Conservation Area, because this is an alien feature which would harm the character of the Conservation Area.

Boundary Treatment

The plans indicate that a new boundary wall will be built along the entrance driveway from Lax Lane forming the garden wall of 44 Lax Lane. This wall will sit within the Conservation Area and will be visible from Lax Lane. The detailing, materials and mortar used in this wall should match that being employed on the repairs to the adjacent historic wall forming the southern boundary of the site (with the car park for 15 Lower Park).

Summary

The proposals will, as they stand, in my opinion cause less than substantial harm to the Conservation Area. This can be mitigated by the public benefits of bringing the site back into use, in accord with Policy SAL.B2.

A degree of enhancement to the Conservation Area could be achieved by minor revisions to the designs, which could be considered to mitigate any adverse impact on views into, within or out of the Conservation Area, in which case the scheme would then comply with Policy SAL.UP6.

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Recommendation

Seek revisions to the design of the dwellings as outlined above, either prior to determination or via a minor amendment. This to comply with Policy SAL.UP6.

- 3.6 Planning Policy Manager – Application site is part of a larger site allocated in the Site Allocations and Policies Local Plan under Policy SAL.B2 Smaller Bewdley Sites. This policy states that the site (the larger site incorporating the craft units (on Local Heritage List) and Red Cross hall fronting Lax Lane) is designated for business units (B1), residential development (C3) and community uses. Any proposals for development should:
- i) Address any flood risk issues
 - ii) Provide a suitable design solution which integrates well with the Conservation Area, Listed Buildings and the Local Heritage List
 - iii) Ensure they incorporate appropriate remediation, building and drainage design in order to deal with any land contamination.

The larger site was also included in the Strategic Housing Land Availability Assessment as site B304 where it was considered that the southern part of the site, including the WRVS building and the Red Cross building, would be suitable for redevelopment to provide up to 10 dwellings. This would enhance the streetscene greatly by removing buildings which detract from the setting of the Conservation Area (boundary runs along Lax Lane).

The site at Lax Lane is located entirely within Flood Zone 3. The site does, however, benefit from a Flood Alleviation Scheme along Severn Side South. Although the site is in flood zone 3, it was considered for allocation due to the lack of other available sites within the centre of Bewdley. The Adopted Core Strategy only allows for small scale development within Bewdley on previously developed sites and therefore potential development sites are restricted to the built-up area of the town. This allows for very few development options, with only one site lying in flood zone 1. As availability of sites is so limited in Bewdley, sites within more flood prone areas have had to be considered, such as Lax Lane. This site allows for limited development in keeping with surrounding uses which officers consider to be consistent with wider sustainability benefits to the local community as per the NPPF. Any application on this site will require a Flood Risk Assessment to ensure safe development can be provided and that it does not increase flood risk in the area.

NPPF paragraph 102 states that if following a sequential test it is not possible/consistent with wider sustainability objectives for development to be located in flood zones 1 or 2, an exception test can be applied. There are 3 criteria to be met in order to pass the exception test.

- a) Demonstrate that the development provides wider sustainability benefits to the community that outweigh the flood risk and be informed by the strategic flood risk assessment
- b) The site should be on previously developed land

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- c) Site specific flood risk assessment must show that the development will be safe for its lifetime without increasing flood risk elsewhere.

The development site is protected by demountable flood barriers but these still have a residual risk due to the speed with which they can be erected. This will need to be taken into account when considering development. In terms of the exception test, the proposal meets criterion a) as the development will meet a local housing need by providing 2/3 bed starter homes within the town centre with good access to bus services and local facilities. It also meets criterion b) as the site is previously developed. In terms of the final criterion, in its current state, the site is entirely hard landscaped. If developed, at least 20% will be soft landscaped in the form of gardens and therefore surface water run-off will be reduced. In addition to gardens, permeable paving could be used for parking areas / access road to further reduce surface water run-off. However, the scheme, as proposed, does not appear to promote any SUDs measures as per the requirements of CP02: water management.

If the flood defences fail or are not erected in time, the site is likely to flood to a depth that would make access very difficult. In the previous withdrawn scheme (14/0326) the ground floors of the houses did not contain any habitable rooms, just a utility and carport which would be left open to allow water to flow through so that it could not back up against the buildings. In times of flood, there would be no dry access/egress so residents would need to stay put in their homes. However, this revised scheme shows the ground floors now containing a kitchen/dining room and toilet as well as a carport.

Thus there is no means for floodwater to flow through non-habitable rooms as previously.

In terms of Policy SAL.B2, this also states that any proposal should integrate well with the adjoining Conservation Area and the surrounding Listed Buildings. Although, the buildings immediately adjacent to the site are not designated heritage assets (apart from the craft centre on Lax Lane), almost all other buildings in the site's vicinity are statutorily listed. The proposed ridge heights are greater than surrounding buildings, but as the development proposed is at the far end of the site, impact on the Conservation Area and Listed Buildings will be somewhat reduced.

Under Policy SAL.UP6 Safeguarding the Historic Environment, proposals affecting a Heritage Asset will need to identify how the scale, height and massing of the new development and the materials and design do not detrimentally affect it. Although this proposal replaces what was previously an incongruous development in close proximity to both the Conservation Area and a number of Listed Buildings, it must not detract from their setting or views both into and out of the Conservation Area. The proposal must demonstrate that it enhances the Conservation Area. I consider that this requirement has been met.

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Under Policy SAL.UP7 Quality Design and Local Distinctiveness, all proposals must show through their Design and Access Statements that they are of the highest design quality. A number of criteria are relevant to this application: (i) ...draw on the contribution of the historic environment to local character and distinctiveness – a number of attributes have been incorporated into the design such as dormer windows and steep eaves. I consider that the addition of chimneys would replicate surroundings dwellings, both historic those in Lax Lane and newer ones on Gardners Meadow. (vii) Maximise natural surveillance – the dwellings front onto a parking area in Gardners Meadow thus increasing natural surveillance to an area which previously had none. (viii) Have an appropriate building footprint for the locality and do not represent over-development of the site – the number of dwellings has reduced from 5 to 4 but the floorspace has increased from 84 to 108 sqm and the houses from 2 to 3 bedrooms. I consider the amenity space to be minimal for dwellings of this size, with a small garden fronting onto Gardners Meadow and another area adjacent to the parking space. (ix) Integrate well within the existing streetscene – the dwellings front onto Gardners Meadow – they are set slightly back in order to give small front gardens. I assume that setting them further back into the site would infringe the 45 degree code for the neighbouring dwellings.

To summarise, my main concern is around flood resilience, with the revised design now showing kitchen/dining room on the ground floor.

3.7 North Worcestershire Water Management (NWWM)

Flood risk to the development

This development is located within flood zone 3 of the river Severn. According to NPPF all development in flood zone 3 should be subject to both the sequential and exception test. The Flood Risk Assessment (FRA) submitted states that the Council has however advised that since the site forms part of the Lax Lane allocated development site which is covered by Wyre Forest District Council Policy SAL.B2 in the Site Allocations and Policies Plan the undertaking of the Sequential Test is not considered necessary in this case. I am not sure I actually support this decision as not all sites have been reviewed in enough detail.

The FRA states that in the absence of the 1 in 100 year + climate change allowance flood level for the Severn, it is assumed that the 1 in 150 year flood level without climate change is representative *). The flood level is 22.46 m AOD, which is 710 mm above the current low levels on the site (21.75 m AOD). Finished flood levels should be set 600 mm above the predicted flood level, which would be 23.06 m (1310 mm above current low levels). Given the levels the proposal is to have all habitable rooms on the 1st and 2nd floor. It is proposed that the ground floor will consist of open car ports to not interfere with any flood flow. This is important and I wondered whether it would be possible to condition that the car ports will remain open for the duration of the development and that these cannot be converted into habitable areas.

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The FRA does not mention at all the ordinary watercourse (Snuff Mill Brook) that flows through Lax Lane, via the Severn Trent surface water sewer which has also not been mentioned. I regret that this information has not been included as it was this system that caused wide spread flooding in Lax Lane area back in 2007. I believe flood waters at the site were about 100 mm deep. We've had JBA modelling the watercourse / sewer system and the results demonstrate that the risk of flooding from the brook at the location of the development site is less than the risk of flooding from the Severn, so inclusion of details would not actually have altered the outcomes of the assessment or changed any mitigation measures proposed. But for completeness I do believe this risk should have been incorporated especially as this risk has not been mitigated by flood defences, whereas the risk of flooding from the river Severn obviously has been addressed to a certain degree by the demountable barriers.

I am happy that the FRA submitted recognises that there is a residual flood risk as there is always the risk that the defences won't get erected in time or get overtopped. Given this residual flood risk, it will be important that an adequate Flood Management and Evacuation Plan will be in place for the future occupiers.

Flood risk resulting from development

I understand that the site is currently 100 % impermeable so the development will not result in an increase in runoff. It should result in lower discharge levels. The FRA mentions an anticipated impermeability of 80 %. As the FRA has not been updated and still refers to 5 dwellings instead of the now proposed 4, I would assume that the anticipated impermeability will be below 80 %.

I understand that the building currently present on the site has a larger footprint than the proposed dwellings together, which means that flood plain storage compensation will not be required.

Details regarding maintaining flow in the flood plain have been included above.

Dealing with surface water runoff

In the FRA further consideration of the use of SuDS such as permeable paving has been advised, but no further details have been submitted regarding this. From the information submitted I understand that the intention is that all drainage will go to existing foul and surface water sewers. According to the Council's core strategy the use of SuDS should be considered for all developments. As the area is prone to flooding I would certainly urge that SuDS get considered in full before discharge to the surface water sewer is proposed.

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As explained above, the surface water sewer in Lax Lane is actually the culverted watercourse. As the capacity of this system is limited the more the discharge into this system can be reduced, the better. The use of SuDS would also mean that water from car parking areas will not discharge directly into the sewer / watercourse system which will be of benefit for the water quality.

Conclusions

I would recommend that conditions gets attached regarding the future floor levels, a Flood Management and Evacuation Plan and the future use of the ground floor of the dwellings. I would also recommend a condition in respect of surface water.

- 3.8 Worcestershire Regulatory Services (WRS) - WRS records indicate part of the site has a potential contaminated land history of 'Leather Tanning and Dressing'.

Recommendations:

The history of the site suggests that contamination issues may potentially be a significant issue. As a result, in order to ensure that the site is suitable for its proposed use and accordance with The National Planning Policy Framework, Conditions are recommended below for inclusion on any permission granted. The National Planning Policy Framework advises that Planning Decisions should ensure the site is suitable for its proposed use taking account of ground conditions, pollution arising from previous uses and any proposals for mitigation including land remediation.

The Framework also requires adequate site investigation information be prepared by a competent person is presented. Little information is known or has been provided on this site and consequently a Phase I study is recommended.

- 3.9 Worcestershire Archive & Archaeology Service - The proposed development site lies on the edge of the medieval settlement on a road that may be one of the oldest in the town, leading down to the ford which was the main river crossing prior to the construction of the first bridge in 1447. While there has been no direct archaeological fieldwork in the vicinity, the eastern side of Lax Lane probably contains post medieval remains, but its function in the medieval period is unknown. In addition, the site is located in an area of Palaeolithic potential which has been identified during a recent project funded by Historic England. The area has the potential for archaeological deposits and artefacts to survive from early Prehistory.

Given the scale of the development, and the anticipated archaeological potential, the likely impact on the historic environment caused by this development may be offset by the implementation of a conditional programme of archaeological works.

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- 3.10 Severn Trent Water (STW) - No objection subject to drainage condition.
- 3.11 Disability Action Wyre Forest - Comment: welcome level thresholds on all properties, however proposals are a bit vague on gradient.
- 3.12 Neighbour/Site Notice – 5 letters of objection have been received.
The main matters raised are summarised as follows:
- i) Despite the new design we remain very concerned with the lack of consideration shown in this revised application for our amenity (22 Gardners Meadow). This 10m/33' high block will dominate and overshadow what small amenity gardens we have. It could not have been positioned to have a worse impact. Our outlook and amenity will be totally compromised and ruined by the height, scale and sheer dominance of this proposed block.
 - ii) The reduction in the number of units and the tiddling with the architecture has not affected the basic and primary concern with this development...its sheer size, scale and dominance and disrespect for its historic location and its neighbours. Its windows will have a panoramic view into adjoining amenity areas.
 - iii) Whilst there is no objection in principle to a residential development (it accords in land use terms with Policy SAL.B2), the manner proposed in this revised application is again very ill-fitting for its backland situation. This new design again fails to have any respect for its location in terms of height, size or scale, and in my opinion it fails the tests of Policy SAL UP7. Quality Design and Local Distinctiveness which requires any new development to *integrate well within the existing street scene and have regard to the traditional design and materials of the locality and avoid inappropriate features and detail.*
 - iv) The proposed development is totally at odds with its immediate surroundings. The ratio of brick to-roof and brick-to-window on the surrounding properties is again quite different to that being proposed; this further exacerbates the lack of regard to its immediate context. This is a back-land development and to be appropriate within this context should use artisan-cottage type architectural vocabulary as would be typical in a setting similar to this. It could take a steer from Pump Court.

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- v) This backland area comprises 1½ storeyed cottages in Gardners Meadow (echoing those in Lax Lane), single storey Victorian former school buildings and Red Cross Hall, a 1930's dwelling and a traditional 2 storey cottage. All low rise. The original WRVS building was single storey. The Architects have failed to meet their own brief as set out in their Chapter 05. They recognize it is a sensitive location and yet produce a building totally out of scale with anything around it. It is clearly not the place for such a huge building block. It is a backland site surrounded by low rise buildings and cottage architecture; that is its intrinsic character. This development clearly upsets the balance and character of the area and will seriously and detrimentally affect the adjoining Conservation Area and will dominate and overwhelm the adjoining neighbours.
- vi) The development also represents over-development of the site in terms of numbers. This only serves to exacerbate the un-neighbourly impacts of the scheme highlighted above because it has to be so close to the boundaries with neighbouring properties. A lesser density would permit a greater distance from boundaries and would not occupy quite so much of the constrained site.
- vii) You will note that all the three-storey buildings in the vicinity of the site are frontage properties without exception, and occupy vista positions; there are NO three-storey properties on back-land sites in this locale, this would be totally alien to the historic grain of the town in this part of the town. It is acknowledged that there is three-storey development off Severn Side South, however this replaced large warehouse structures. The former W.R.V.S. site has been occupied with a single-storey structure until it's recent demolition. There is no historical precedent for this site to be development with a three-storey scheme.
- viii) The introduction of the small 1m gap between the blocks and the staggering of units 3/4 will have no effect on reducing the visual massing and impact of the development. It will still read as one huge mass of building from most viewpoints and especially from Lax Lane.
- ix) The impact of a 10m high gable on the small rear private garden area of No 20 Gardners Meadow and its neighbours would be very damaging and dominating in terms of its sheer scale, visual impact, light loss and overshadowing. It emphasizes and confirms the disregard the development has for the surrounding area quite contrary to the statements in the DnA.
- x) The windows at 1st and 2nd floor levels enable a panoramic and intrusive view into adjoining garden amenity areas of Nos. 44 and 46 Lax Lane and 19-17 Gardners Meadow.

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- xi) The adjoining Gardners Meadow (GM) cottages were built at 23m AOD in accord with EA/FRA safe floor level advice. This scheme raises that by some 2m (to the height of the GM door/window heads) with the first floor level providing the “safe” floor level to accommodate the flood risk when a mere 700mm will suffice. Providing safe floor levels still enabled an acceptable development at GM, and there should be no reason why this cannot be reproduced on this site. The development does not need to be lifted a whole storey ie. 2.4m to meet the EA/FRA safe floor level requirements. It is this design element that causes the problem with the scale and height of the development. A 700mm increase in ground floor levels over existing ground levels can be lost over the site and still provide gentle and easy access to any new properties. The site’s high boundary walls and the Gardners Meadow development (at 23m AOD) create a significant barrier to any floodwater and reaching this site. Flood water can only reach the site via Lax Lane and vehicular access into the site. A 700mm hump in the driveway would safeguard the site from the 100/1000yr flood predictions.
- xii) When we sought permission to build our house the Planning Authority told us that we would only get permission for a dormer bungalow which faced on to Lax Lane since any development had to be of a scale and design which was compatible with the cottages in Lax Lane. This proposed development is closer to Lax Lane than our house, and we consider it essential that the Planning Authority should apply the same planning principles to it that they applied to us. Failure to do so would constitute maladministration.

4.0 Officer Comments

PROPOSAL

- 4.1 Planning permission is sought for the construction of four dwellings arranged as two pairs of semi detached homes. The properties would occupy the north-east part of the site closest to the boundary with Gardners Meadow and would have principal elevations which would front onto the private Gardners Meadow development. Private amenity space would be afforded to each dwelling to the front and rear.
- 4.2 It is proposed that the properties would be three storey, three bed dwellings with integral car ports to the ground floor. Private amenity space would be provided to the front and rear, as well as refuse and cycle storage off the shared courtyard at the rear. The homes would be of a brick and tile finish.
- 4.3 Pedestrian and vehicular access to the properties would be via the existing access off Lax Lane which would lead to the shared courtyard area for visitor parking (2 spaces) off which the private car parking spaces, carports and private amenity areas could also be accessed.

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PRINCIPLE OF DEVELOPMENT

- 4.4 The site benefits from a site-specific policy designation afforded by the Site Allocations and Policies Local Plan, namely Policy SAL.B2 which identifies the site as suitable for a range of uses namely business (B1), community uses and residential. The extent of the allocation covered by Policy SAL.B2 goes beyond the application site to include the commercial units fronting Lax lane, thus the application site takes up only part of that wider site. With this in mind I am comfortable that a proposal exclusively for residential development on part of the site would allow the intention of the development plan in this instance, which is for a mix of uses, not to be compromised as such a mix would be retained through the continued use of the properties which front Lax Lane. To allow a development of the type proposed would not, in my view, compromise the Council's aspirations for the wider site allocation. This is a view supported by the Planning Policy team who, in their comments, confirm that the wider site has been identified in the Strategic Housing Land Availability Assessment (SHLAA) as suitable for up to ten dwellings.

LAYOUT & DESIGN

- 4.5 The site is a backland site with no visible presence (save for the mouth of the access) on to any public highway and as such careful consideration had to be given to the siting of any development on the site. The applicants, following pre-application discussions with the planning team, have located the dwellings in a linear arrangement 3m from the shared north-eastern boundary with Gardners Meadow affording the proposed dwellings a principal elevation fronting Gardners Meadow. I particularly welcome this arrangement as I consider it would have been detrimental to the established streetscene of Gardners Meadow to have new development which would 'turn its back' on the existing streetscene. As it is proposed, the development would present as a continuation of the Gardners Meadow streetscene which I consider is by far the most appropriate arrangement for the dwellings proposed on this site. It is the case, due to the main pedestrian and vehicular access to the site being to the rear of the proposed dwellings, that they would be 'dual fronted', which I consider to be appropriate for a site such as this. The comments provided by the Conservation Officer support this conclusion as it is suggested that the layout of the development itself is quite representative of the historic courts which lined streets in Bewdley.

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- 4.6 As detailed above, the properties would have private amenity space to the front and rear. The amenity space would range in length from between 2m to 3m for the front gardens and 5.4m to 7.7m for the rear gardens. These lengths are of modest size however there are no set minimum sizes for amenity space provision set out in the development plan. The primary consideration is to ensure that the amenity space shown would afford sufficient space for the storage of domestic paraphernalia such as refuse bins and for areas for clothes drying as well as some space for the enjoyment of outdoor space. Given that the provision for the storage of refuse has been shown within each plot and that there would remain sufficient space to afford enjoyment of the outside space to future occupiers of the dwellings then I am satisfied that the proposed amenity space provision is adequate. It is not unusual in Bewdley for properties to have modest gardens, shared courtyards or courtyard gardens and therefore on this basis I further consider the proposed arrangements for private amenity space to be acceptable. I do however feel that, given the modest size of the amenity space to be afforded to each dwelling, it would be prudent to withdraw 'permitted development' right for any further extensions or detached outbuildings which could result in the reduction in the amount of curtilage afforded to each property. The proposed plans show details of the boundary treatments to be used in the courtyard and around the private amenity areas and the planting proposed. In order to ensure that suitable landscaping is brought forward then conditions requiring further details to be agreed in conjunction with the Council's Arboricultural Officer would be required. Similarly full details for the proposed bin stores would be required.
- 4.7 Concern has been raised that the proposed layout represents over-development of the site. Policy CP05 of the Adopted Core Strategy gives an indicative minimum figure of 30 dwellings per hectare for sites within Bewdley. The proposed scheme would amount to 40 dwellings per hectare which is consistent with the aspirations of the development plan.
- 4.8 The design of the proposed dwellings is a result of extensive pre-application discussions between the applicant and Council officers including the Conservation Officer. As set out above the dwellings are proposed to be brick and tile construction in a traditional architectural style. The comments of the Conservation Officer as set out above detail how the proposed design has been revised to incorporate the design-specific amendments sought. I am satisfied, based on the comments of the Conservation Officer that the architectural design of the proposed properties is acceptable and, in terms of the architectural form proposed, would harmonise with surrounding development.
- 4.9 Of greater concern to third party objectors and the Civic society is the scale of the development proposed and any potential impacts of such on the Conservation Area, the streetscene and on the amenity of existing adjoining occupiers. Each matter is covered in turn below;

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IMPACT ON STREETSCENE & CONSERVATION AREA

- 4.10 The proposed dwellings would be spread across three storeys and would have a height to the ridge of 9.8m. For comparison neighbouring properties at 20 to 24 Gardners Meadow measure approximately 8m to the ridge. The proposed dwellings would therefore stand 1.8m taller than the neighbouring property. There is concern that the backland nature of this site and the fact that surrounding properties are majority two storey dwellings, that the introduction of three storey buildings would be out of keeping with the established character and pattern of development in this locality and that as a result harm would be caused to the setting of the Conservation Area.
- 4.11 I do not agree that the increased height of the proposed dwellings would result in the creation of an incongruous feature in the townscape of Bewdley. Whilst properties immediately adjacent to the site are some 1.8m lower, there are properties in the near vicinity, including 3 to 8 Gardners Meadow which do stand at three storeys. I find that the relationship of the proposed properties with the terrace of properties comprising 20 to 14 Gardners Meadow acceptable, the 1.8m difference in height, in my opinion, would not result in the new being visually 'at odds' with the old. Similarly, given that three storey dwellings are a feature of the Bewdley townscape, then provided that any new development is of an acceptable design which would not detract from the wider setting, I see no reason to legitimately conclude that the proposal would be an incongruous or alien feature.
- 4.12 The Council's Conservation Officer makes specific reference in his comments to the impact of the design and massing of the proposed development on the setting of the Conservation Area, concluding that the design offers only a slight enhancement whilst the massing would result in 'less than substantial' harm to the wider setting. On this basis I have to find the design of the proposed dwellings acceptable as whilst they do not greatly enhance the adjacent Conservation Area, nor do they detract from it due to their architectural design. The scale of the proposed dwellings does however stand to have an impact and as such in accordance with the requirements of paragraph 134 of the National Planning Policy Framework this harm should be weighed against any public benefits of the proposal, including securing its optimum viable use. In accordance with the advice of the Conservation Officer, if it is considered that there are material considerations which would outweigh the harm of the visual impact of the three storey design then planning permission should not be withheld on that basis.
- 4.13 **IMPACT ON AMENITY**
Another concern raised which relates directly to the impact of the scale and design of the proposed dwellings, is the impact on the amenity of existing occupiers. The perceived detrimental impacts being as follows;
- a) Overshadowing and overbearing impact to 20 Gardners Meadow
 - b) Views across and into adjoining amenity areas (44 and 46 Lax lane and 17 to 19 Gardners Meadow)

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- 4.14 No. 20 Gardners Meadow is a residential property which shares the south-east boundary of the site, from which a separation distance of 2.2m to the proposed gable of the new dwelling is proposed. The siting of the property proposed closest to this boundary (Plot 4) is proposed in order to respect the 45 degree code relative to light to windows on the rear elevation of 20 Gardners Meadow and therefore I conclude that the development would not result in a loss of light to any habitable room. With respect to overshadowing, I am not able to conclude that there would be any significant detriment as the rear elevation and garden faces south-west therefore there would be no material difference in the amount of sunlight to the property or rear garden as a result of the proposed dwelling against the shared boundary. For this reason I cannot conclude that the proposed properties would have an overbearing impact on occupiers of 20 Gardners Meadow.
- 4.15 The concern relating to the direct overlooking of existing residential gardens has been carefully considered. As a general ‘rule of thumb’ I would expect to see window to boundary separation distances of approximately 10m for first floor windows increasing to approximately 15 at the second floor. Measurements from windows of the proposed dwellings towards the amenity areas referenced above are as set out below;

Proposed Dwelling (Plot)	Existing Dwelling	Window:Curtilage Distance	Acceptable / Unacceptable
Second Floor Plot 4	19 Gardners Meadow	16.6m	Acceptable
Second Floor Plot 3	46 Lax Lane	13.6m	Acceptable
Second Floor Plot 1	44 Lax Lane	15m	Acceptable

- 4.16 At no point would any existing private amenity area be afforded less than 10m separation distance from a proposed first floor window, I consider this to be an acceptable arrangement. At the second floor, window to curtilage separation distances range from 13.6m to 16.6m which I too consider to be acceptable. I conclude this specifically in relation to 46 Lax Lane due to the generous size of the garden associated with the property which would, in my view, ensure that any shortfall in the target of 15m separation distance is compensated for elsewhere.
- 4.17 Whilst the concerns raised by consultees and neighbours have been carefully Considered, having assessed the likely impacts I am satisfied that there would be no significant loss of amenity to existing occupiers as a result of the proposed development.

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ACCESS & HIGHWAY SAFETY

- 4.18 As detailed above, the proposed development would utilise the existing access off Lax Lane. Several concerns relating to the intensification of the use of the access were raised by Worcestershire Highways at the pre-application stage and as such the applicants submitted a Transport Assessment (TA) with the application. The TA has been carefully considered by Worcestershire Highways who have commented as set out above. In light of the comments made and the conditions suggested I am satisfied that there is no legitimate reason to suspect that there should be any harm caused to highway safety as a result of the proposal and that sufficient car parking provision is proposed for the development.

WATER MANAGEMENT

- 4.19 The site is identified as being within Flood Zone 3 and is therefore at high probability of flooding. Whilst there are flood defences in Bewdley, they are demountable and as such protection relies on the being established on each flood occasion. Snuff Mill Brook flows through Lax Lane via the existing Severn Trent surface water sewer which has been known to cause surface flooding in the local area. This 'ordinary watercourse' is also relevant to the consideration of this application
- 4.20 A Flood Risk Assessment (FRA) has been submitted and has been considered by both the Environment Agency (EA) and North Worcestershire Water Management (NWWM). The Environment Agency have not raised an objection to the proposal rather they acknowledge the fact that the site is allocated for residential purposes and as such rely on the Local Planning Authority to be satisfied that the sequential test is satisfied. On this point I refer back to the comments of the Planning Policy officer which confirm that due to the short supply of sites in Bewdley the application site was allocated following inclusion in the Strategic Housing Land Availability Assessment (SHLAA). It is on this basis that I accept that the site would be a sequentially preferable site required to meet housing need in Bewdley. The sequential test is therefore in my view satisfied. Whilst the comments of NWWM question this approach the National Planning Policy Framework (at paragraph 107) is clear that "on sites allocated in development plans through the Sequential Test, applicants need not apply the Sequential Test". The exception test required by the National Planning Policy Framework therefore remains to be considered as the development constitutes 'more vulnerable' development in Flood Zone 3a.
- 4.21 For the exception test to be considered to have been passed then the following must be shown through the submission of a Site Specific Flood Risk Assessment:

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- a) it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and
- b) a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
- c) within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and
- d) development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.

4.22 The Environment Agency, in their comments, assume that the Council is satisfied by the sequential test and thus provide comment on the exception test relative to the Site Specific Flood Risk Assessment provided. The comments of the EA can be summarised as concluding that the main considerations are the safe development requirements, specifically the residual risk from the fact that the flood defences are demountable in this location. In order to make the development safe the EA recommend that finished floor levels of habitable rooms be set at least 600mm above the 150 year flood event (i.e. at least 23.06. AOD) and agree that this could be secured by condition. NWWM go further in and suggest that in a condition requiring the car port to remain open in order to prevent any interference with any flood flow. Due to the residual risks afforded to the proposed development the EA also suggest that an adequate 'Flood Management and Evacuation Plan' is in place and they suggest securing this by condition in agreement with the Council's Emergency Planning Officer. Having considered the comments made the conditions are thought to be reasonable and necessary given the flood risk associated with this site.

4.23 The Flood Risk Assessment submitted does not reference the 'ordinary watercourse' in the vicinity Snuff Mill Brook. As the Lead Local Flood Authority, NWWM have provided comment on the risk this watercourse poses to the development and have concluded that the greater risk is from the Severn and as such even if Snuff Mill Brook had been included in the Flood Risk Assessment then the conclusions of that report would not have altered. In order to ensure adequate drainage of the site it is recommended that a condition requiring full details of drainage which would include an assessment of the use of SuDS in the first instance should be considered in order to satisfy the requirements of Policy CP02 of the Adopted Core Strategy. I consider this a necessary and reasonable condition given the location of the site the potential impact of the proposed development on flood water flows.

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- 4.24 In summary, despite being in an area at high risk of flooding I am satisfied that the site is a sequentially preferable site and that the need to provide housing in Bewdley carries significant weight in considering this application. Furthermore, given that the exception test can, through the use of appropriate conditions, be met then I consider that the development is capable of implementation without detriment to water management in this instance.

OTHER MATTERS

- 4.25 The proposal involves the relocation of the existing sub station which currently sits on the north-west boundary some 7m from the south-west boundary, shared with the curtilage of 44 Lax Lane and the rear parking area associated with Stanley Baldwin House. It is proposed to relocate the sub station to that boundary resulting in it being 7m closer to 44 Lax Lane. Concern has been raised that this could lead to a potential noise nuisance. Accordingly the advice of Worcestershire Regulatory Services (WRS) has been sought and will be added to the update sheet.
- 4.26 Worcestershire Archive & Archaeology Services have provided comment as detailed above. Having considered the matters raised and the condition suggested I consider that it would be reasonable, in the interests of ensuring no harm to any archaeological remains on site, that a condition requiring a programme of archaeological works should be added to any permission issued.
- 4.27 The site has been identified, by WRS as being susceptible to potential land contamination and as such, in order to ensure the site is suitable for the proposed residential use, the conditions suggested by WRS would, in my view, be a reasonable and necessary addition to any permission granted.
- 4.28 Members will note that part of the application site includes a modest strip of land currently belonging to 44 Lax Lane where a brick wall and timber entrance gate currently stand. In order to achieve the required visibility splays set out in the Transport Assessment the applicant has secured the land and will demolish and reposition the wall. In accordance with the recommendations of the Conservation Officer and in order to ensure that the setting of the Conservation Area is not compromised a condition requiring full details of the design and finish of the wall should be a condition on any approval given.
- 4.29 The comments of the Environment Agency suggest that a financial contribution towards the running and upkeep of the flood warning system for Bewdley should be secured via Section 106 of the Town and Country Planning Act 1990. Having considered whether this is a reasonable request I have to conclude that, given that the intention of Section 106 of the Town and Country Planning Act 1990 is a mechanism to make a development proposal acceptable in planning terms, that would not otherwise be acceptable then I have to conclude that such a requirement would not be reasonable in this instance.

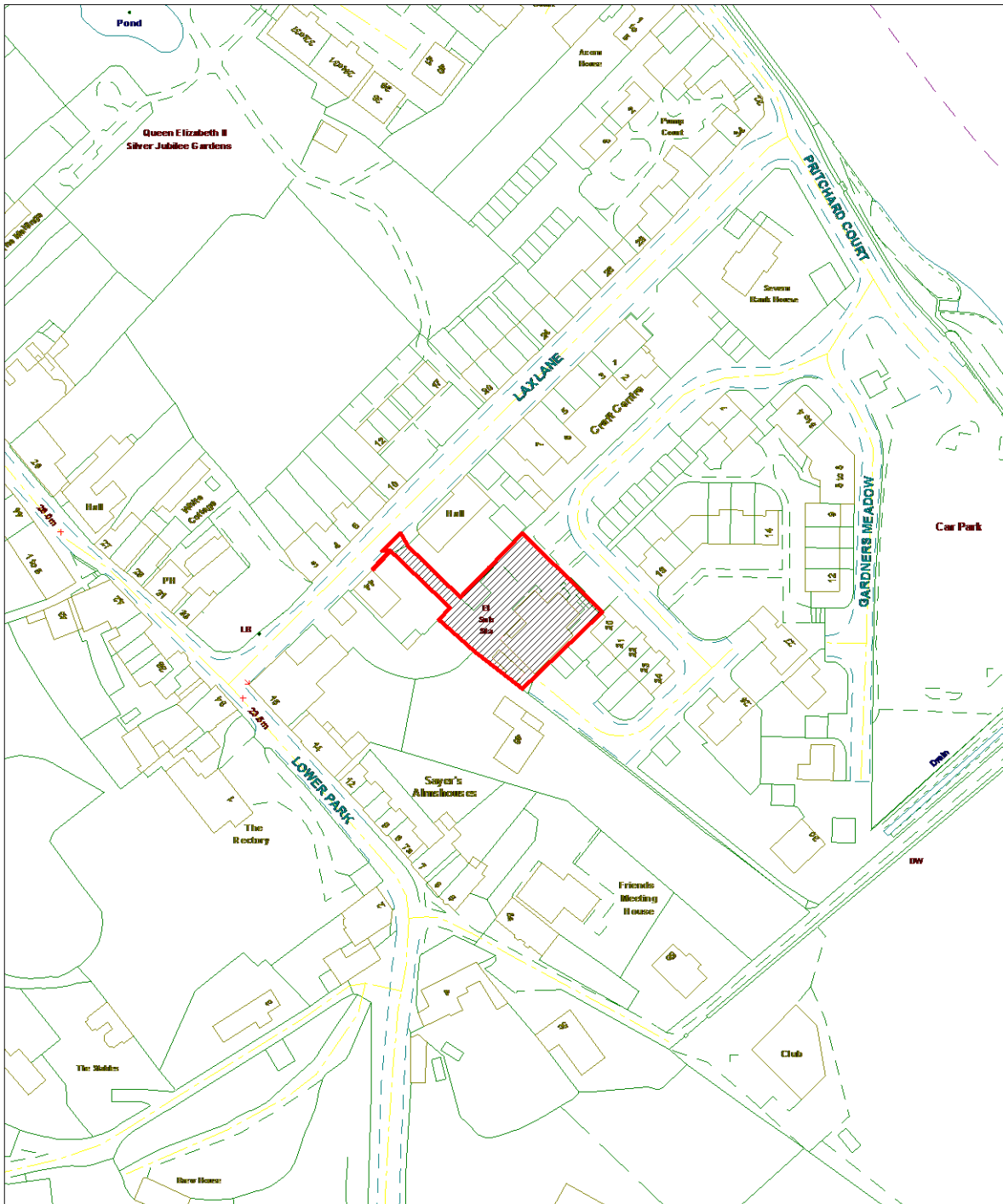
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5.0 Conclusions and Recommendations

5.1 The proposed development has been carefully considered against the development plan for Wyre Forest District and in the context of all consultation responses received. The application site is allocated as a mixed use site in the Site Allocations and Policies Local Plan. Included in the mix of uses considered to be suitable is residential use. Given that the proposed use would not prejudice the wider policy aspirations of the site and that it is a sequentially preferable site within Bewdley I am satisfied that the principle of the development is sound. The development is capable of implementation without significant harm to flood risk, highway safety and neighbour amenity.

5.2 It is therefore recommended that the application is **APPROVED** subject to the following conditions:

1. A6 (Full with no reserved matters)
2. A11 (Approved plans)
3. Materials (including hard surfacing) to be agreed
4. Windows to be set back 75mm from edge of brickwork
5. Full planting details to be agreed
6. Landscape implementation to British Standard
7. Full details of replacement wall to Lax Lane to be agreed
8. Details of the bin storage to be agreed
9. Highway conditions
10. Full details of proposed drainage (incorporating an assessment of Suds) to be agreed
11. Car port to remain open – no doors or conversions to habitable space
12. Notwithstanding the detail shown on the proposed plans, finished floor levels of all habitable rooms to be set no lower than 23.06M AOD. The applicant shall provide amended internal layout drawings which demonstrate compliance with this requirement.
13. Flood management and evacuation plan to be agreed
14. Removal of Permitted Development Rights for extensions and outbuildings
15. No side facing windows to SE elevation of Plot 4.
16. Archaeology conditions



ECONOMIC PROSPERITY AND PLACE DIRECTORATE

**Former Women's Royal Voluntary Service Hall
Land off Lax Lane, Bewdley, DY12 2DZ**

Date:- 24 February 2016 Scale:- 1:1250 OS Sheet:- S07875SE Crown Copyright 100018317 2014
 Wyre Forest House, Finepoint Way, Kidderminster, Worcs. DY11 7WF Telephone: 01562 732928. Fax: 01562 732556



Application Reference:	15/0578/FULL	Date Received:	12/10/2015
Ord Sheet:	385610 273858	Expiry Date:	11/01/2016
Case Officer:	John Baggott	Ward:	Wyre Forest Rural

Proposal: Demolition of existing halls to rebuild new multi-functional examination & lecture hall with recreational facilities within and the erection of perimeter fencing

Site Address: MADINATUL ULOOM ISLAMIC COLLEGE, HEATH LANE, STONE, KIDDERMINSTER, DY10 4BS

Applicant: MADINATUL ULOOM ISLAMIC COLLEGE

Summary of Policy	CP02, CP11, CP12 (CS) SAL.UP1, SAL.UP7, SAL.UP8 (SAAPLP) Design Guidance SPD NPPF (Sections 7 and 9)
Reason for Referral to Committee	'Major' planning application Third party has registered to speak at Committee
Recommendation	APPROVAL

THIS APPLICATION WAS DEFERRED FROM THE 16TH FEBRUARY 2016 PLANNING COMMITTEE MEETING

1.0 Background

- 1.1 Officers were alerted to building work being undertaken, following the unreported demolition of a previous building, at the application site. Following a visit to the site, and a subsequent meeting to discuss the full extent of the works taking place, it became clear to Officers that the applicants appeared to have misinterpreted the permitted development rights as they relate to Schools and Colleges.
- 1.2 Such permitted development rights are set out under Schedule 2, Part 7, Class M, of the Town and Country Planning (General Permitted Development) (England) Order 2015, and these do make allowance for not insignificant alterations and additions over and above the original educational buildings, up to 25% above the original, subject to the criteria set out under Class M. This is regardless as to whether the educational establishment in question is within the Green Belt or not.

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- 1.3 On the basis of the above, an extension to the previous building may have been permissible under Class M (subject to the criteria referred to), and it appears that this had been the original intention of the College. However having commenced work on repairs to the roof of the building in question, the applicants state that such was the poor condition of the roof and the building's superstructure that a more effective, long lasting, solution would be to demolish the building and rebuild, incorporating the additional floorspace. By doing so, any permitted development rights that might have been relied upon were immediately lost to the applicant.
- 1.4 A retrospective application was subsequently submitted seeking consent for the development already under construction, which is the subject of this current application (i.e. a multifunctional hall, etc). Members are advised that the initial submission has since been supplemented by an additional element, namely the inclusion of a 2.4m high perimeter fence, and following subsequent further intervention by Officers, revised and additional plans and information have been forthcoming, including a supporting Planning Statement.
- 1.5 Members are also advised that Officers have evidenced other building work taking place elsewhere on the overall site. This matter is currently being investigated by Officers.

2.0 Site Location and Description

- 2.1 Located within the West Midlands Green Belt, the application site is located off Heath Lane, and has an overall area of approximately 9 hectares, made up of a series of one and two storey buildings; a network of pedestrian and vehicular routes; playing field; and associated open space.
- 2.2 Originally built as a military training camp, and later being used as a teacher training college, the site has been occupied by the current applicants as a primarily boarding college (initially for girls but for the last 10 years as a boys only Islamic College) since the mid/late 1980's. That is to say 30 years or so.
- 2.3 The buildings on the site have been subject to a steady programme of refurbishment and upgrade over the years, as evidenced in part by the planning history below. This has been a relatively slow process due to limited funding streams, with the College reliant upon private fund raising to facilitate investment and improvement of the current facilities.

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- 2.4 The current application relates to the replacement of a not insignificant section of a larger original building, located towards the Heath Lane frontage and main entrance of the site and, as indicated above, is retrospective in nature as the building works have commenced and have been continuing on site. That said, works do appear to have ceased in recent weeks and the building is by no means completed, as members will have witnessed at the recent visit to the site by Planning Committee Members.

3.0 Planning History

- 3.1 There was a series of planning applications, primarily during the mid to late 1980's, for alterations, extensions and new build within the complex, as summarised in the table below.

WF/0510/85	Prayer Hall alterations & extensions	Approved (13/08/85)
WF/1002/85	9 x Two Storey Dormitory Blocks	Approved (11/03/86)
WF/87/0360	Erection of Replacement Dormitories	Approved (23/06/87)

- 3.2 It is worthy of note that in terms of the above summarised planning history, the planning permission granted under WF/0510/85, which does not appear to have been implemented, actually permitted a two storey building to house a Prayer Hall, including a Mihrab (a semicircular niche in the wall that indicates the direction of Mecca and hence the direction to face when praying), and was characterised by distinctive, architectural features, which would be instantly recognisable of being of an Islamic style.
- 3.3 Furthermore, in both 1985 and 1987, planning permission was granted for replacement two storey dormitory blocks on the site, some of which have subsequently been constructed and are visible on site.
- 3.4 The extent of the Green Belt insofar as it relates to the Wyre Forest District is the same today as it was as far back as 1974, and as such at the time of the above mentioned applications the site, as it is today, was located within the Green Belt. In light of the above, and bearing in mind that whilst there have been some alterations to the exact wording of national and local Green Belt policy the thrust of the policy remains the same, there is clear evidence of previous support for applications proposing not insignificant two storey redevelopment of buildings on the College site.

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4.0 Consultations and Representations

4.1 Stone Parish Council – Object to the proposed development.

The application and the provisions therein were considered to be incomplete and many aspects appeared to leave large swathes of various aspects unaddressed and therefore no guidance was registered. It has been necessary to put aside the wide media speculation and reports that the College site developments were purported to be, this background has been extremely widespread and no realistic guidance has been forthcoming to deny or confirm the media publications.

Consideration of available information and listed reason for Stone Parish Council rejection:

1. Worked started on site before planning permission was given, it is assumed that there had been no site inspection checks made on any site works.
(Officer comment: Planning legislation makes provision for the submission of retrospective applications. Matters relating to inspections are not to be confused with those required under the Building Regulations).
2. The college is situated in Green Belt open countryside, and from what plans have been supplied shows the building in question to be considerably in excess of those referenced on the submitted plans, indeed the actual building is of industrial size proportions and not representative of planning dimensions advised.
(Officer comment: National and local Green Belt policies does allow for certain types of extensions, alterations and replacement buildings, subject to relevant criteria and the nature of the development. Revised, accurate plans have been submitted).
3. Concern has been expressed about the capability of existing facilities to cope with excess sewage and water drainage most likely to be generated from the changes on the site.
4. Another potential and major problem affecting the College site is the local roads infrastructure, local access roads are of single vehicle proportion where no two vehicles can pass, extreme caution needs to be exercised on these roads. The surfaces of these local lanes are, in some areas close to the College already severely degenerated and in need of substantial repair, any increase in traffic to the College in the sort of volumes experienced at certain times will only exacerbate the road infrastructure.

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5. Demolition work of existing buildings etc started and site clearance work went unchecked and uncontrolled, indeed foundations, steelwork were left to proceed without any inspections being undertaken by planning authorities and these only being cursorily carried out, site control has been extremely poor and lacking in this situation.
(Officer comment: Officers have visited the site on a number of occasions to establish the facts relating to the planning application. Matters relating to inspections during construction come under the Building Regulations. In this regard, the works are being overseen by an "Approved Inspector". This being the case, there are no powers for the Council's Building Inspectors to intervene; inspect; or "police" the development).
6. It is understood that the erected building is larger in width, height and length than the stated dimensions on the plans.
(Officer comment: Revised plans have been submitted).
7. There appears to be no compatibility or conciseness (sic) of details in the application and no categorical reference is made to the use of the building.
(Officer comment: The proposed use of the building is stated on both the planning application forms and the title box of the submitted plans).
8. There appears to be a lack of ability to exercise planning authority control over this runaway development.
(Officer comment: Officers have intervened and advised the applicants accordingly. The decision to continue to construct the building in the absence of the requisite planning permission is done so entirely at their own risk).
9. There is concern over future changes of use which outwardly do not appear to have been addressed by the inspecting authorities.
(Officer comment: This is nothing more than speculation. The application proposes a multi-functional hall to serve the College and it is that proposal that is being considered).
10. In view of recent world events and with no apparent OFSTED involvement of inspection, etc, there are grave concerns for community security.

Following re-consultation, upon receipt of the aforementioned additional information, further representations have been submitted by Stone Parish Council. Whilst some of the grounds listed for their continued objection to the application repeat those previously reported above, the full response is reproduced below, in the interests of clarity and completeness.

(The) council considered the above Revised Planning Application at its most recent meeting and RESOLVED to recommend refusal to the application for the following reasons;

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1. The Parish Council were very disappointed that the revised drawings and plans had no clear sizes and detail for the proposed buildings. Council were disappointed that work started on site prior to any planning application being lodged.
(Officer Comment: As with the originally submitted plans, the revised plans have been provided at a recognised metric scale).
2. We wish to remind your planning committee members that this site sits within the Greenbelt and the proposed development will encroach on that countryside.
3. In view of current drainage problems around our parish concern has been expressed about the capacity of existing drainage coping with additional sewage and drainage demands. The Parish has a past history of flooding and raw sewage overflowing into adjacent fields from the college.
4. No drainage drawings have been submitted with this application.
5. Lack of Highway Infrastructure is another concern, with most roads around the College being single lanes where no two vehicles can pass safely. The surfaces on some of these roads around the college are severely degenerated and in need of substantial repair, any increase in traffic to the College will exacerbate that problem.
6. We are concerned that demolition works to existing buildings started on site prior to any planning consultation or checks took place.
7. The Revised Drawings show larger buildings than what was originally envisaged.
8. There appears to be no compatibility or conciseness of details in the revised application and no categorical reference is given to the use of the building. The design brief refers to a sports hall but that is not shown on the drawings?
(Officer Comment: The proposed hall is multi-functional, and not specifically designed as a sports hall).

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9. The Fencing being erected on site is of an industrial nature and not the V-Teck Mesh stated would be used.

(Officer Comment: The proposed perimeter fencing is of a green coated paladin design. This remains unaltered. The fencing the Parish Council appear to be referring to is a very small section either side of the main gates. This is not representative of the proposed perimeter fence.)

10. We have concerns at the lack of Ofsted involvement on this site and its last visit over three years ago. Have they been consulted on these plans to see if they meet their required specifications?

(Officer Comment: There is no statutory requirement to consult or notify Ofsted in respect of applications for planning permission. Ofsted's has its own inspection regime).

Finally the Parish Council are concerned that there appears to be a lack of Planning Authority control on this site and no reassurance has been given to my members and the community they serve that the matter is being controlled and monitored most vigorously.

(Officer comment: Officers have intervened and advised the applicants previously that the decision to continue to construct the building in the absence of the requisite planning permission was done so entirely at their own risk. Subsequently, Officers have continued to monitor the site and are in discussions with the College representatives regarding unrelated matters).

4.2 North Worcestershire Water Management (NWWM) – No objection.

I understand that the proposal will increase the floor area from 1520m² to 1750 m² (230 m² increase) and that this application is therefore strictly speaking a major application. As such I am commenting upon this application on behalf of the County Council which as you know is the statutory consultee for all major applications with possible drainage implications.

The application site is to my knowledge not at risk of flooding from any source. I understand that the proposal is to discharge both foul and surface water from the development to a public sewer. I have checked the online sewer map and have not found any public sewers indicated on this map in the direct vicinity of the development site. Following Building Regulations the discharge of surface water to a storm water sewer is only permitted if discharge to the ground (infiltration) or discharge to a watercourse is not possible. Discharge of storm water to a foul sewer is not permitted under any circumstances.

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National standards published by Defra earlier this year stipulate that sustainable drainage should be used wherever possible and that discharge (both peak flow and volume) leaving a site should not increase as a result of any development. I appreciate however that in this instance there is only a relatively small increase in floor space area. Moreover, I also understand that the increase in floor area is in areas that were already hardstanding and as such there is no increase in runoff as a result of the proposed development.

CONCLUSION

I believe that strictly speaking the proposed development should be treated as a major application and as such we would expect provision of SuDS, compliance with technical standards for SuDS, information regarding maintenance etc. However, as there is only a relatively small increase in floor area and it is thought that there are no drainage implications, I don't believe that this would be a realistic expectation. I therefore believe that a pragmatic approach should be followed instead.

As the provision of sufficient drainage is adequately covered by the Building Regulations I believe that a future building control application will deal with this aspect of the proposed development and that it will therefore not be needed to attach a specific drainage condition to any future approval. I would however recommend that the applicant seeks clarification/confirmation concerning the drainage infrastructure present.

- 4.3 Neighbour/Site Notice – The application has generated a significant level of local opposition and it is fair to say many of the responses received appear to have been partially fuelled by documents identified on social media relating to the fundraising for the development and associated concerns regarding the intended use of the building, as explained in more detail at paragraphs 5.12 to 5.15 of the report.

At the time of compiling this report, a total of 241 objection letters/emails have been received (which includes multiple correspondence from some addresses), some of which are located within the immediate vicinity of the application site, with others somewhat further afield. These include a small number of additional comments received following re-notification after receipt of additional information from the applicants, along with comments received just prior to, and post, the February Planning Committee at which time the application was deferred from the agenda prior to consideration by Members.

The grounds for objection are summarised below, with Officers' comments provided where appropriate, particularly highlighting those matters raised which are not material planning considerations.

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In no particular order, the objections raised have been made on the following grounds:

- Retrospective nature of the development, which will set a precedent;
(Officer comment: Planning legislation makes provision for retrospective applications, which should be treated in the same way as any other application.)
- Misrepresentation of the proposed development and its intended use is as a public mosque;
(Officer comment: As clarified elsewhere in the report, the application does not propose a public mosque)
- Inappropriate and alien architectural style and detailing in this rural location within the Green Belt;
- No justification for the size of the building proposed;
- Excessive size of building, including claims that the building is 50% to 70% larger than the original building;
- Excessive height of the building (two storey);
- Size of building under construction compares with purpose built mosques throughout the Midlands, with capacity for 3000;
(Officer comment: As previously stated, the application does not propose a public mosque).
- Industrial appearance of the building;
- Size of building is comparable with the sports hall at Wyre Forest Glades Leisure Centre;
- Other building on the site have been demolished and replaced;
(Officer comment: Officers are investigating such matters separately).
- Adverse impact upon the Green Belt;
- Adverse impact upon Highway Safety;
(Officer comment: No change of use is proposed and such existing highways movements will be unaffected).
- Excessive traffic generated by the development;
(Officer comment: No change of use is proposed and such existing highways movements will be unaffected).

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- Inadequate provision made for drainage;
- Noise pollution due to “calls to prayer”;
- Light pollution due to level of use of glazing and “glass wall”;
- Appropriateness of fundraising to facilitate the development;
(Officer comment: This is not a material planning consideration).
- Nature of Preachers present at fundraising events;
(Officer comment: This is not a material planning consideration).
- Nature of teaching and role of OFSTED;
(Officer comment: This is not a material planning consideration).
- Council’s eagerness to approve the application;
(Officer comment: Such a comment is without foundation. The application was submitted in October 2015, fully 5 months ago, which is hardly a sign of (alleged) eagerness. During the consideration of the application, Officers have pursued additional information, which has since been received, to assist in determination of the application based upon the facts).
- Stated proposed use is a cover for alternative use;
(Officer comment: This is nothing more than speculation).
- Likely increase in the number of students at the College;
- Potential for an increase in the number of “one-off” events such as graduations; open days, etc;
- Lack of existing/previous plans provided;
- Inaccurate drawings and discrepancies between the as built and proposed plans;
(Officer comment: Such matters have been addressed and revised plans have been submitted)
- Development will increase the level of boarding/sleeping accommodation;
(Officer comment: The current application proposes no additional boarding accommodation).
- College objected to previous proposed Travelling Show people application on adjoining land;
(Officer comment: Fail to see the relevance of what is a factually inaccurate comment).

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- The inclusion of a Mihrab feature on the building indicates that the building is intended as a Mosque;
- Further demolition and rebuilding works is taking place to accommodate a further 110 students;
(Officer comment: Officers are investigating other building work separately).
- The new building is comparable to the construction of a new school or hospital in the Green Belt;
- Out of character with the area and Stone village;
- Likely underuse of the hall for 99% of the year;
- Lack of consultation/publicity for the application;
(Officer comment: Near neighbour letters were sent out at the time of the original application submission, supplemented by the posting of a site notice and press notice. Following receipt of revised plans and details, all previous respondents (in excess of 130) were individually notified).
- Council is taking a lenient approach to the development;
- Community safety;
- Future change of use and speculation about future uses;
- There is an existing Mosque at The Horsefair, Kidderminster;
(Officer comment: This comment is irrelevant. The application does not propose use as a public mosque).
- Concerns regarding conservation matters on adjoining land;
(Officer comment: There are no adjoining conservation or protected areas).
- The college is ignoring the planning rules;
(Officer comment: If this were truly the case then the College would not have been likely to have made the retrospective application when challenged by Officers about the unauthorised development).
- Visual impact and out of keeping with the area;
(Officer comment: Given the utilitarian nature of many of the existing, former military buildings on the site, such a comment is difficult to understand).

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- Lack of information submitted with the application;
(Officer comment: Additional information has been sought, received and objectors have been duly notified).
- Errors made on the application forms;
- Pedestrian safety;
- No benefit to the local community;
- The agent is not locally based;
(Officer comment: Fail to see the relevance. This is not an unusual occurrence with planning applications).
- Even with revised information, there will still be 3000 people at the site once a year;
(Officer comment: This is no different to the current situation, with the College erecting a temporary marquee within the grounds to cater for such events).
- No compliance with the Building Regulations;
(Officer comment: The Council's Local Authority Building Control (LABC) service is in receipt of an "initial notice" regarding the development, which specifies that the works are being overseen by an "Approved Inspector". This being the case, there are no powers for the LABC to intervene; inspect; or "police" the development).
- If planning permission were to be granted, there would be a need for suitable and enforceable planning conditions.

4.4 In addition, representations have been submitted by PJ Planning (consultants) on behalf of Stone Residents Group. An initial letter of objection was received on 23rd December 2015, and the grounds raised therein for objection are contained within the summary of grounds listed under paragraph 4.3, above. Officers are aware that Members will have received a letter from PJ Planning (dated 10th February 2016) in advance of the February Planning Committee meeting, and matters referred to within said letter are addressed at the appropriate junctures within this report. A further letter was received, by Officers from PJ Planning on 12th February 2016, as well as a letter from Solicitors acting on behalf of Stone Residents Group, further questioning the content of the original, subsequently deferred, Committee report, and in particular the issue of the appropriateness, or otherwise, of the development in the Green Belt, with specific reference made to comparisons between the "before" and "after" building sizes. This particular matter is addressed in detail elsewhere in this report.

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- 4.5 Members are advised that 6 letters of support have been received, which make the following comments:
- Existing teaching accommodation is inadequate, with corridors being used for teaching and recreation;
 - The proposed development is not a mosque, but is a facility for the College students;
 - Current lack of adequate dining hall;
 - Need for multi-functional hall to cater to the daily needs of the College;
 - Proposed building will be a visual improvement to previous building.

5.0 Officer Comments

- 5.1 As described earlier, the site and buildings have been occupied as an Islamic College for some 30 years (the last 10 years as a boys/male only college), and the use is clearly long established and lawful. The College has confirmed that the current number of students attending the College is 259, of which 239 are boarding, with the remaining 20 day students.
- 5.2 The site features a number of dormitory buildings to provide accommodation for the boarding students, with the College clarifying that the current maximum capacity of the College for boarding students is 275, based upon the accommodation available (i.e. there is a current surplus boarding capacity of 36 spaces).
- 5.3 The overall site features a wide range of single and two storey buildings with the latter being, primarily, upgraded dormitory accommodation blocks, as previously approved in the 1980's. Setting these buildings aside, the remainder of the site still features an assortment of the now somewhat dated, previously military, utilitarian buildings, which were never designed for the current use, and in many cases are of "single-brick" construction, and in this regard the College has been undertaking a gradual programme of upgrading and maintenance of these buildings, including in some cases new external cladding and re-roofing, to assist with both appearance and the insulation of said buildings.
- 5.4 As already identified, the current application is, at least in part, retrospective and seeks permission for the redevelopment of a section of the College buildings to provide a new multi-functional hall for use by the College. The previous section of the overall building which was evident in this location of the site has been demolished and a replacement, larger, portal framed structure is currently under construction.

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5.5 The College's decision to demolish and rebuild without fully considering, or appreciating, the consequences of such actions is in no way condoned, but Members will be aware that planning legislation does make allowance for the submission of retrospective planning applications, which in turn must then be considered in the same way as if the development had not already commenced.

5.6 The application proposes the erection of a multi-functional hall, which would be capable of accommodating and facilitating the following activities, which are as listed within the applicant's Planning Statement:

- A college hall for assemblies and collective worship for the students of the college (daily);
- As an examination hall (for students throughout the year);
- As an indoor recreational facility (Table Tennis, Pool, Badminton, etc).
- As a communal teaching area;
- As a teaching area for small groups in the mezzanine;
- Graduation ceremonies; induction days; and, open day events.

The hall will be fitted with moveable screens to allow it to be sub-divided into smaller useable spaces to provide additional flexibility and education space. Currently the level of teaching accommodation is restricted and the additional, replacement, space is vital to enable the College to function.

5.7 In terms of the graduation ceremonies, and with particular reference to concerns expressed by objectors regarding the capacity of the building, the College state that their graduation ceremonies are combined with two other independent colleges located elsewhere in the country, and due to the central location of the College it accommodates the ceremonies for all three colleges. In the past a marquee has been erected on the playing field, but the new building will be able to accommodate all students and parents for such events.

5.8 The applicants stress, and given the nature of some of the objections received it is essential to make this clear, that the building is proposed to be used by the College, for students of the College, and in relation to the normal functions of the College, in the same way as any multi-functional hall at any other educational establishment. This application does not, in anyway shape or form, propose or include the use of the hall as a public mosque.

5.9 The following Officer commentary has been sub-divided into the following headings:

- Retrospective nature of the application;
- Proposed use of the building;
- Green Belt Policy;
- Scale, design and appearance of the building;

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- Does the Development Constitute Appropriate or Inappropriate Development in the Green Belt?
- Other matters.

RETROSPECTIVE NATURE OF THE APPLICATION

- 5.10 The circumstances of the application and its resulting retrospective nature are regrettable and such actions, no matter how and why they occur, cannot be condoned. The applicant's took a decision to replace rather than repair a section of an original building on the College site, without considering the consequences, which is clearly not acceptable, and the College are the first to acknowledge this error on their part.
- 5.11 Whatever the reasons for the actions taken, the Town and Country Planning Act 1990 (as amended) does make provision for the submission and consideration of retrospective applications such as this, and the Local Planning Authority (i.e. the Council) must consider such an application in the same way as if it had been submitted prior to the development commencing. That is to say, the applicants should in no way be penalised for their actions, and the application should be determined, on its merits, with reference to the relevant national and local planning policy and any other material planning considerations.

PROPOSED USE OF THE BUILDING

- 5.12 The intended use of the building has been at the very heart of concerns expressed, and many of the objections made, against the development, with many claiming that the building is proposed to be used as a public mosque which is simply not the case.
- 5.13 Any misconception or confusion regarding the proposed use can perhaps, at least in part, be attributed to the fundraising and marketing efforts of the College. The College states that funding of independent College buildings such as this is not something which tends to attract significant levels of public donation from the wider Muslim community. As a means of attracting funding, the College used social media and other resources, and in doing so asked prospective donors to sponsor a Musalla (Muslim Prayer Mat) within the new facility, which in the interests of fundraising, was unfortunately described as a mosque. Indeed, 3000 Musalla spaces were stated as being available for sponsorship, and on this basis it is perhaps understandable why, in some quarters, there was some confusion as to the true intended use of the proposed building. Unfortunately, whilst this whole issue of the fundraising activities of the College hangs heavily over the application, it must not cloud the planning material considerations in this case.

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- 5.14 The College acknowledges that, with the benefit of hindsight, that such a form of marketing was not best advised and should not have been carried out. It is a certain fact that it has not been at all helpful, and has in turn generated a significant level of opposition to a perceived proposed future use of the resulting facility, which was never actually intended.
- 5.15 As previously clarified above, at paragraph 5.6, the proposed building is proposed as a multi-functional facility, to serve the College, and as previously stated, there is no intention to use the building as a public mosque. It is the case that it would provide a facility for collective prayer and worship for students and staff, but in this regard that would be no different than any multi-functional hall at any other educational establishment, up and down the length and breadth of the Country.
- 5.16 As an aside, but worthy of note at this juncture, the College states that the College site is totally inappropriate as a location for a mosque due to its remote rural location and not being located in close proximity to an established Muslim community. Furthermore, the College states that the Government's School Inspection service (OFSTED) would not allow buildings on the site to be publicly accessible in the interests of safeguarding the safety and well-being of students. This statement has been challenged by some objectors, but it should be remembered that the College operates as a boarding college with significant numbers of students (currently 239 out of 259 students – i.e. 92%) present on site 24/7, including weekends, and as such any potential "out of school hours" use of the facilities, as occurs with many "day schools" would not be appropriate or supported by the College, for the reasons already stated.
- 5.17 The College have indicated that should it be deemed necessary and appropriate, a suitably worded planning condition which would prevent the building from being used as a public mosque would not be resisted. Officers consider that such a condition would be appropriate in this case.

GREEN BELT POLICY

- 5.18 The College is situated within a rural location, within the West Midlands Green Belt. There is little in the way of other development within the immediate vicinity of the site, with the exception of a small number of residential properties. The surrounding countryside is very much agricultural in nature and appearance.
- 5.19 The starting point in considering Green Belt policy is the National Planning Policy Framework (NPPF), which states, at Paragraph 87, that:

"...inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances."

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Whilst Paragraph 88 (of the NPPF) stresses the need for local planning authorities to ensure that substantial weight is given to any harm to the Green Belt, when considering planning applications, and states that:

“ ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.”

5.20 Paragraph 89 of the NPPF makes it clear that: *“A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt”*, but notwithstanding this statement, under the very same paragraph, then goes on to list six exceptions to this, which include the following three exceptions, which are considered to be of particular relevance to the consideration of the current application:

- *the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*
- *the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;*
- *limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.*

The Council's own adopted Site Allocations and Policies Local Plan (SAAPLP) Policy SAL.UP1 effectively replicates the NPPF position in terms of what would constitute appropriate development in the Green Belt.

5.21 In light of the above, notwithstanding the Green Belt location of the site, there is scope for favourable consideration of an appropriate form of development within the Green Belt, and in this case the alteration and extension of a building, which in line with the first of the listed bullet points taken from Paragraph 89 of the NPPF (above) is, in principle, an appropriate form of development, subject to the detail and in particular whether the additions are considered to be disproportionate when compared to the original building. Furthermore, as stated in the third bullet point, above, the partial redevelopment of what is clearly a previously developed site in the Green Belt, is also an appropriate form of development, but again subject to the detail, and in this particular regard the critical consideration is as to whether the replacement building will have a greater impact on the openness of the Green Belt.

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- 5.22 Whilst the new hall, and therefore the resulting overall building, would be larger than its predecessor, as detailed later in this report, it is located on a similar footprint and as with the previous structure is attached to the retained section of the original building. That is to say, neither the previous nor proposed structures were or are freestanding buildings.
- 5.23 There is established landscaping along the southern and eastern boundaries of the site, such that only glimpses of the building might be seen. However, it is acknowledged that such matters of screening carry minimal weight when considering the issue of openness and this relationship is therefore not relied upon in determining the acceptability or otherwise of the application. However, the relationship to, and backdrop of the existing adjoining buildings, is a significant and relevant consideration, and this matter is referred to in more detail below.

SCALE, DESIGN AND APPEARANCE OF THE BUILDING

- 5.24 The demolition of the previous building was, as already identified, undertaken prior to the submission of this current planning application, and this being the case Officers have not had the luxury of being able to make 100% accurate comparisons between the building which was previously present on site, and the building the subject of this application. Such comparisons have also been hindered by the absence of any “existing/previous” elevation drawings having been submitted to accompany the application. However, whilst “existing/previous” floor plans have been prepared it would appear that in demolishing the building, the College did not undertake any measurements or retain any accurate records of the elevations of the section of the building that was removed. This has not been helpful, and as such Officers have had to rely on photographic evidence of the now removed section of building and have based assumptions about the previous building height upon comparisons with known building heights of the retained adjoining buildings, and with reference to the aforementioned photographs.
- 5.25 With reference to the above paragraph, the demolished section of building had maximum dimensions (when measured from the point where it joined the retained section of the building) of 38m x 30m. It is also worthy of note that there was an additional freestanding building which was also removed, with dimensions of some 12m x 5m. Allowing for recesses within the building, Officers have calculated that the footprint of the section of building(s) demolished equated to 1151sq.m. However, it is reiterated that this was not a stand alone building, rather it formed part of a larger overall building.

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- 5.26 The replacement structure, which like its predecessor is attached to the retained section of the original building, as measured from the same position where it joins the retained section of the building, is indicated on the plans submitted as 48.6m x 32.4m. These dimensions have been checked against the as-built structure, and allowing for the absence of an external brick skin (at the time of the inspection) these dimensions were found to be accurate. That being the case, the footprint of the new-build is calculated as being 1575sq.m. This equates to an approximate increase in the footprint of some 37% (the previous deferred report inaccurately stated 27% at this point).
- 5.27 That said, clearly it is necessary to not only consider the footprint, but also the volume of the building under construction. On the basis of the evidence available to Officers, it is estimated that the previous building, which was of a stepped, predominantly flat-roof design, stood at a height of no more than 4.5m. The new building is of a shallow, dual-pitched roof design, with eaves height of 5.5m, and a ridge height of 7.4m as confirmed by Officers on site. Members are advised that the ridge height (of 7.4m) actually exceeds the highest point of the existing adjoining building by approximately 0.7m.
- 5.28 On the basis of the dimensions referred to above, the volume of the section of building that has been demolished and the volume of the replacement structure have been calculated, and the respective volumes (and footprints) are set out in the table below.

		Footprint	%age increase	Volume to eaves	%age increase	Volume to ridge	%age increase
<i>Before</i>	<i>Section of building demolished (in isolation)</i>	1,151m ²	-	5,179m ³	-	N/A	
After	Replacement section of building (in isolation)	1,575m ²	37%	8,660m ³	67%	10,156m ³	96%

- 5.29 On the basis of the figures summarised above, the representations received on behalf of Stone Residents Group (from PJ Planning) and previously also sent to Members of the Planning Committee drew the conclusion that the footprint and volume comparisons were such that the new build was disproportionate and had a greater impact upon the openness of the Green Belt, and as such was inappropriate development which should therefore be refused. However, in assessing the difference between the buildings (i.e. “before” and “after”) the author of that letter has done so in isolation, as if this was a stand alone building which it was/is not, and in actual fact the section of building demolished, and replaced, forms part of a larger building, much of which is being retained, as is evidenced by available historic map data aerial photographs of the site.

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- 5.30 The section of the original building that has been retained has been calculated to have a footprint of 1,289m², and when added to the section that has been demolished (i.e. 1,151m²) this equated to a footprint of 2,440m². These figures are based upon the plans as submitted on behalf of the applicants, with the relevant dimensions subsequently having been checked on site by Officers.
- 5.31 Measurements have also been made on site to ascertain the height of the original buildings that have been retained, and these have been compared with the scaled revised drawings as submitted. The drawings have been found to be accurate, with the various roof heights (both pitched and flat roof) ranging between 3.0m (for just a very small section of the building), to 4.0m in height and up to a maximum height of some 6.7m.
- 5.32 For the purpose of calculating the volume of the original building, and in order to be consistent with the height figure used to calculate the volume of the section of building that has been demolished, a conservative figure of 4.5m in height has been used, even though there are clearly significant sections of the buildings which do actually exceed this height.
- 5.33 The table below in part repeats the table above, when comparing the “before” and “after” footprints and volumes in isolation. However, the table goes further and provides comparison of the “before” and “after” with reference to the original overall building and that section of which has been retained and the resulting increase that the new replacement section of the overall building (i.e. the subject of this application).

		Footprint	%age increase	Volume to eaves	%age increase	Volume to ridge	%age increase
<i>Before/After</i>	<i>Section of original building which has been retained</i>	1,289m ²	-	5,800m ³	-	N/A	-
<i>Before</i>	<i>Section of building demolished (in isolation)</i>	1,151m ²	-	5,179m ³	-	N/A	-
<i>Before</i>	<i>Entire building including demolished section</i>	2,440m ²	-	10,979m ³	-	N/A	-
After	Replacement section of building (in isolation)	1,575m ²	37%	8,660m ³	67%	10,156m ³	96%
After	Entire building including replacement section	2,864m²	18%	14,460m³	32%	15,956m³	45%

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- 5.34 Members' attention is drawn to the bottom row of this table, which is highlighted in bold text, and which summarises the resulting increases in footprint (18%) and volume (45%), which in both instances are considered to be proportionate additions to the building when compared with the previous overall building.
- 5.35 Notwithstanding the above, consideration should be given to the change in height above what previously sat on the site should not be ignored, especially in light of its Green Belt location. The additional height facilitates the inclusion of a section of internal balcony wrapping around the hall, and with the addition of windows at that level, the building takes on a two storey appearance, which is somewhat different to what was previously evident in this location on the site. A fact referred to in a number of the objections received.
- 5.36 It should be remembered, however, that the replacement section of building does not sit in isolation. Whilst it is located in arguably the most prominent location on the College site, in relative close proximity to the Heath Lane frontage, and thereby is visible from the public realm, it should be read against the backdrop of the balance of the building it adjoins, and the wider developed areas of the College site.
- 5.37 In design terms, the building is somewhat different from the existing converted utilitarian military buildings evident on the site, and in many regards this is no bad thing. The pale red brick external appearance, with a grey sectional roof, will feature arched windows at ground floor and first floor level (to serve the internal balcony) around all three exposed elevations. The rear elevation, which faces east, will feature a small addition, which appears as a Mihrab (a semicircular niche in the wall that indicates the direction of Mecca and hence the direction to face when students are at prayer). The elevations of the building clearly include architectural features which are a nod towards an Islamic style of architecture, which given the nature of the College appears to be a perfectly reasonable design solution.
- 5.38 The scale, design and appearance of the building have been assessed against policies SAL.UP7 (Quality Design and Local Distinctiveness) and SAL.UP8 (Design of Extensions – Non-Residential Extensions) of the SAAPLP. In terms of its design and the intended function(s) of the building, within this educational establishment, the proposed development is found to be acceptable, and is not considered to result in an over-development of the site. It is acknowledged that matters of local distinctiveness are difficult to address in this instance, especially given the backdrop of the less than attractive former military buildings which sit within the overall site. To seek to replicate these would be undesirable.

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DOES THE DEVELOPMENT CONSTITUTE APPROPRIATE OR INAPPROPRIATE DEVELOPMENT IN THE GREEN BELT?

5.39 As previously identified, both worthy of repetition at this point, the NPPF states, under Paragraph 87, that:

“...inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.”

5.40 Paragraph 89 of the NPPF reinforces this point and makes it clear that: “A local planning authority should regard the construction of new buildings as *inappropriate in the Green Belt*”, before proceeding to list six exceptions to this, three of those listed exceptions being:

- *the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*
- *the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;*
- *limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.*

5.41 As has previously been highlighted, the current application relates to the replacement of a previous section of an original building on the site. That is to say, it represents “*the extension or alteration of a building*”, as stated in the first of the bullet points above. What therefore needs to be assessed is whether the replacement section of the building results in “*disproportionate additions over and above the size of the original building*” (Officers’ emphasis).

5.42 As clarified above, and summarised in the table at Paragraph 5.33 of the report, the resulting increases in footprint (18%) and volume (45%), over and above the original building are considered to be proportionate additions to the building when compared with the previous overall building, which included the section since demolished and now replaced. On the basis of the above comparison of the “before” and “after”, it is Officers’ opinion that the proposed development satisfies the criteria of the above first bullet point (taken from Paragraph 89 of the NPPF), and as such constitutes appropriate development in the Green Belt.

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- 5.43 However, notwithstanding the above, it is also appropriate to consider further the impact of the height and mass of the replacement building with regard to any *“greater impact upon on the openness of the Green Belt and the purpose of including land within it than the existing development”*, as required by the third bullet point (listed above) as taken from Paragraph 89 of the NPPF.
- 5.44 As has already been described, the replacement section of building consists of a shallow pitched roof, with an eaves height of 5.5m and a ridge height of 7.4m. The section of the building it replaces featured a stepped, but essentially flat roof, and stood at no more than 4.5m in height. Therefore, the height of the replacement building compared to that which it has replaced is 1.0m higher (to eaves) and up to a maximum increased height of 2.9m (to the ridge).
- 5.45 This replacement building is located in the same location as that section which it has replaced, albeit with a larger footprint, as described previously. The new building will be/is viewed against the backdrop of the immediately adjoining section of the building, and further against the wider extent of the various existing College buildings, some of which are full two storey with pitched roof (in particular the dormitory blocks).
- 5.46 The College site is a previously developed site in continuing use, located within the Green Belt. The development constitutes partial redevelopment of the site, and it is Officers’ opinion that, notwithstanding the greater height of the replacement section of building, compared with what was evident before, the development *“would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.* (i.e. previous section of the building). It is, therefore, Officers’ opinion that the proposed development satisfies the criteria of the above third bullet point also (taken from Paragraph 89 of the NPPF), and as such constitutes appropriate development in the Green Belt.
- 5.47 However, notwithstanding the above commentary and Officers’ opinion, should Members disagree with Officers regarding the appropriateness of the development in the Green Belt, take a contrary view, and consider that the development is inappropriate in the Green Belt, and thereby harmful, by definition (as stated in Paragraph 87 of the NPPF), it is first necessary to consider whether very special circumstances exist to clearly outweigh the harm, in line with Paragraph 88 of the NPPF.

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- 5.48 No definitive definition as to what may, or may not, constitute very special circumstances is provided in planning legislation and guidance, rather it is left to the decision maker to afford weight to any very special circumstances advanced by the applicants, and any others that may exist. In this regard, and whilst promoting the development as being appropriate in the Green Belt, the applicants have advanced the following factors as constituting very special circumstances that would weigh in favour against the potential harm to the Green Belt of the development were it determined that the development was inappropriate. These have been provided by the applicants via the submitted planning statement, and supplemented by a subsequent additional submission.
- 5.49 In the interests of clarity and completeness, the following paragraphs are quoted, verbatim (and shown in italics), from the applicant's submission in terms of very special circumstances. The applicants ask that they be considered to overcome and outweigh any perceived harm to the Green Belt.
1. *The college is a long established use dating back to the early 1980s. It was originally used as a military barracks during the Second World War and were later converted into educational use. The buildings have been repaired despite the college having limited funds, but are in essence the original military buildings. It is a boarding college with children living and studying in buildings that are quickly deteriorating. For the health and well-being of the students at the college the replacement hall is essential for it to continue providing high quality education*
 2. *Ofsted during its inspections in 2010 and 2013 commented upon the poor state of buildings within the college grounds and identified that improvements were needed. There is therefore an overriding need for the college to have up-to-date and modern education facilities for the boys to be well-educated, cared for and safeguarded. The proposed replacement multi- purpose hall will provide much needed quality accommodation. An Ofsted inspection took place during February 2016 and it is expected that similar comments will be made by the Inspector regarding the physical fabric of the building.*
 3. *The College must provide high quality education for its students and this is impossible within the existing buildings. The proposed development will provide an essential college hall for college assemblies and collective worship, a large communal classroom for Religious Studies, an examination hall, indoor recreation facilities and a function room for the annual graduation ceremonies.*

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4. *Without the development being permitted the College would not be able to function as there are no other buildings within the College site that could be used instead. Attached (immediately below point 4) is a statement from the College's Principal outlining how the school is currently managing without the additional school buildings.*

Statement by the School Principal regarding current teaching facilities

The area demolished included:

- *3 large halls*
- *The school library*
- *The school kitchen with food preparation areas*
- *Storage rooms/areas.*
- *Tuck shop*

The above catered for all the students and staff of the college.

Since the beginning of the new academic year in September 2015 and subsequent demolition of the old halls, the college has only been able to relocate the kitchen. The college is now without a functional library, and has lost vital storage areas.

The 3 large halls were used daily for the following:

- 1. Breakfast, lunch, tea, dinner and school time breaks.*
- 2. Exams*
- 3. Lectures*
- 4. Assemblies*
- 5. Indoor PE activities*
- 6. Parents days*
- 7. Recreational activities such as table tennis and pool.*

All the above is now taking place in an area measuring 365 sq metres compared to 1520 sq mtrs which has been demolished.

We desperately need the new multifunctional hall, for us to be able to cater for our pupils.

The college is over stretched in terms of space and struggling to cater for important day to day school activities.

To sum up the previous facilities were a lifeline for the college and its smooth running.

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We request the committee to look at our application favourably for the sake of the education of our students.

5. *Paragraph 72 of the NPPF states:*

“The Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:

- give great weight to the need to create, expand or alter schools...”*

The Government therefore supports the expansion of schools as it will widen the choice in education. If the hall is not approved the education of the almost 300 boys will be adversely affected.

6. *During August 2011 the Government published a policy statement ‘Planning for Schools Development’. The statement made specific reference to Local Authorities making full use of their planning powers to support state-funded schools applications. Whilst private education providers were not included in this statement such institutions do increase choice and opportunity and raise educational standards for those members of society wishing to opt out of the state education system. It is argued that the same approach to both state and private education planning applications should be adopted. There is a clear need for the replacement hall to enable the school to raise educational standards and provide modern educational facilities for the students.*

OTHER MATTERS

5.50 The application also proposes the installation of perimeter fencing, set on the college side of existing landscaping, that is to say inside the existing natural boundary hedges (which will be retained). A green paladin fence, up to 2.4m in height is proposed, which will assist with site security. This type of fencing is one commonly used around schools, both in urban and more rural locations. This proposed fencing is deemed perfectly acceptable in this location.

5.51 Members will have noted objections made with regard to highway safety and increased levels of traffic calling at the site. However, the application, as described above, proposes no form of change of use. That is to say, the lawful use as an educational establishment remains and in terms of the day to day levels of traffic calling at the College the application will maintain the status quo.

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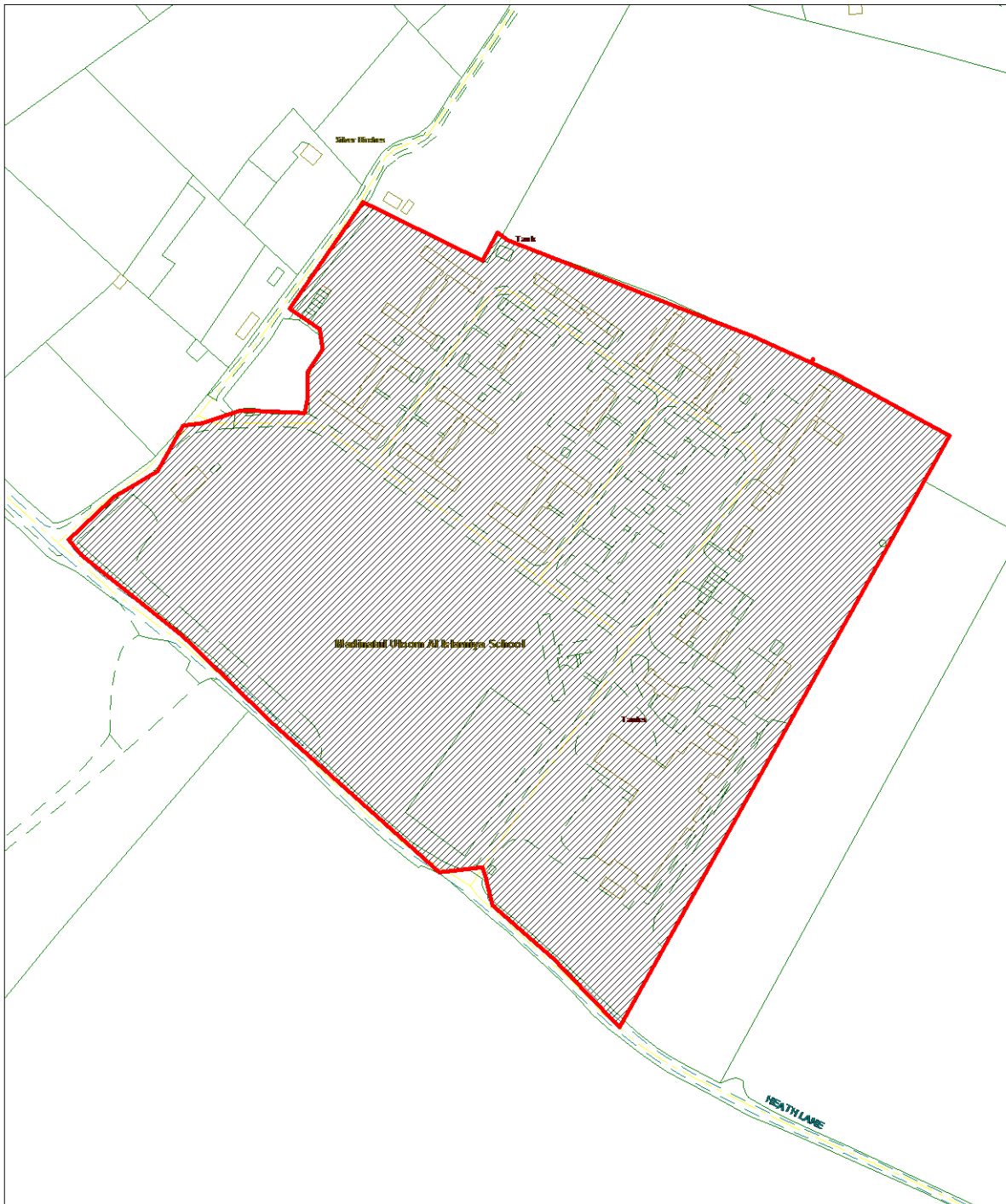
- 5.52 It is the case that the College proposes to use the new multi-functional hall for graduation ceremonies and similar College related events, such as induction days and parent days, etc. The fact is that such events already occur at the College, and currently depend upon the use of a temporary marquee within the grounds, and as such the proposed development will not generate any greater level of traffic than is currently the case.
- 5.53 Objections have also been received in relation to matters such as the adequacy of services (electrical, water and drainage) and the impact of the development upon these. It should be remembered that this is a replacement, albeit larger, building and as such any calls upon such services will not be significantly greater than has previously been the case. Even so, it would appear appropriate for suitable foul and surface water drainage details to be submitted, by condition.
- 5.54 In terms of related inspection of works undertaken, as previously indicated, the development is being overseen by an Approved Inspector and not the Local Authority (LABC) service. This option is available to any applicant/developer, and in such instances it is for the Approved Inspector to ensure compliance with the Building Regulations. There is no role in such instances for the LABC.

6.0 Conclusions and Recommendations

- 6.1 The retrospective nature of this application should not weigh against the applicants rather the application should be treated, on its merits, in the same way as any other planning application, as clarified in the main body of the report.
- 6.2 It is unfortunate that the applicants took the approach to fundraising for the development that they did, as referred to at paragraphs 5.13 and 5.15 of the report. There is no doubt that this approach has, at least in part, fuelled some of the concerns expressed by a large number of objectors regarding the intended use of the building. However, despite this, it is the case that the application proposes the erection of a multi-functional hall, to replace a previous sub-standard section of the original building, for the use of the College. No public access is proposed, and the replacement section of building, whilst it would be used for prayer by the students and staff would not be used as a public mosque.

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- 6.3 The Green Belt location of the site is a major factor in the consideration of the application, and in particular the location and physical size of the replacement structure. The NPPF, under paragraph 89 makes it clear that extensions and alterations to original buildings constitutes appropriate development in the Green Belt, provided that the additions are not disproportionate. Furthermore, “... *partial or complete redevelopment of previously developed sites which would not have a greater impact upon the openness of the Green Belt ...*” are also identified as constituting appropriate development in the Green Belt.
- 6.4 The use of the replacement section of building proposed is the same as that it replaces (i.e. educational use), and, whilst its appearance will be different from what it replaces, in terms of its size it is not considered to be disproportionately larger than its predecessor. Furthermore, the building would have no greater impact upon the openness of the Green Belt, especially given the backdrop of the immediately adjoining buildings and the wider site and its assortment of one and two storey buildings. In light of the above, Officers consider that the development is constitutes appropriate development within the Green Belt.
- 6.5 In design terms, whilst different in appearance to the previous building and the other buildings evident on the overall site, the replacement multi functional hall is found to be acceptable.
- 6.6 It is therefore recommended that **APPROVAL** be given subject to the following conditions:
1. A11 – Approved Plans.
 2. B6 – External Materials.
 3. Use restricted to use by the College – Not to be used as a publicly accessible mosque.
 4. No use of tannoy or other external amplified equipment.
 5. Restriction on the number of events (Graduation ceremonies; open days, etc) per year.
 6. No removal, and protection, of existing boundary hedge and tree species during the installation of the perimeter fence.
 7. Foul and Surface Water Drainage Details to be submitted and agreed in writing



ECONOMIC PROSPERITY AND PLACE DIRECTORATE

Madinatul Uloom Islamic College
Heath Lane, Stone, DY10 4BS

Date:- 01 February 2016 Scale:- 1:2500 OS Sheet:- SO8573NE Crown Copyright 100018317 2014
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WYRE FOREST DISTRICT COUNCIL

PLANNING COMMITTEE
15TH MARCH 2016

PART B

Application Reference:	15/0664/FULL	Date Received:	20/11/2015
Ord Sheet:	376257 274359	Expiry Date:	15/01/2016
Case Officer:	Emma Anning	Ward:	Bewdley & Rock

Proposal: Single storey front extension, two storey side extension

Site Address: AMBLESIDE, CHURCH LANE, BEWDLEY, DY12 2UH

Applicant: Mr & Mrs T Winterburn

Summary of Policy	CP11 (CS) SAL.UP7 SAL.UP8 SAL.CC2 SAL.CC7 (SAAPLP) Design Guidance SPD Section 7 (NPPF)
Reason for Referral to Committee	Planning application represents departure from the Development Plan
Recommendation	APPROVAL

1.0 Site Location and Description

1.1 The application site comprises a detached bungalow and its residential curtilage accessed from Church Lane (off Long Bank), Bewdley. Neighbouring residential properties sit to the west and north however to the east the property looks towards Wharton Park Golf Course and to the south is open countryside.

1.2 The property is in an area of open countryside.

2.0 Planning History

2.1 11/0730/FULL – Extensions and modifications to dwelling and erection of attached garage including demolition of existing detached garage : Withdrawn

2.2 WF.0063/88 – Extension : Approved

15/0664/FULL

3.0 Consultations and Representations

3.1 Bewdley Town Council – No objection

3.2 North Worcestershire Water Management (NWWM) – This property is upstream of Blackmanstitch, which flooded a number of times in recent years from overland flow. It is therefore extra important that the proposed development will not result in any additional runoff leaving the site.

The design statement submitted with this application states that better sustainable drainage will be incorporated into the design, which I welcome, but no specific plans have been submitted. The proposed development would result in a substantial increase in the house foot print. I have currently no information to appreciate whether there will be an increase in total hardstanding (I don't know whether the garden area that will be used for the extension is currently paved or not). If there will be a significant increase in hardstanding then I believe further details regarding the proposed surface water drainage for the site would be appropriate, given the flood risk experienced down the hill. A standard drainage condition would suffice, or alternatively details can be submitted as part of this application. If there won't be a significant increase in hardstanding then I have no adverse comments to make.

3.3 Neighbour/Site Notice – No representations received

4.0 Officer Comments

4.1 Planning permission is sought for the construction of a single storey front extension and two storey side extension to the property to facilitate an improved internal configuration of the property and to provide an additional bedroom including rooms in the roofspace.

4.2 The additions to the building would add only a modest amount to the existing footprint of the building (36 sq.m) however the greatest increase to the property would be in the additional floorspace which the alterations would afford through the creation of the first floor within the modified roofspace.

4.3 The roof of the existing property is a un-unified collection of roof types, including cat slides, dormers, gable fronts and hipped elements which fail to harmonise with each other to the detriment of the visual appearance of the property. The proposed plans would see the roofscape of the dwelling altered significantly to create a more unified design approach. There is little doubt in my mind that the resulting proposed dwelling would have a much greater aesthetic appeal than the existing property.

15/0664/FULL

- 4.4 The key policy consideration is Policy SAL.UP8 of the Site Allocations and Policies Local Plan which requires that extensions to residential properties be in scale and in keeping with the form, materials and architectural characteristics of the original property and that they should be subservient and not overwhelm the original building which should retain its visual dominance.
- 4.5 There are limited records of the original building held by the Local Authority however details which are available from the application submitted in 1988 suggest that the 'as existing' building at that time was a modest T-shape bungalow with a hipped roof. Taking that property as the original dwelling it is clear that, as the property stands today, it has already been significantly extended beyond the point of the extensions being subservient to the original building. To further extend the property would therefore only add to the degree of overwhelming of the original dwelling and would further erode the architectural characteristics of the original. The proposed plans therefore would fail to satisfy the requirements of Policy SAL.UP8.
- 4.6 This application is therefore presented to members as a departure from the requirements of the development plan, specifically Policy SAL.UP8 of the Site Allocations and Policies Local Plan and the advice contained in the Design Guidance SPD.
- 4.7 In forming a recommendation for approval I am mindful that the existing building already significantly overwhelms the original dwelling and that its current form is neither aesthetically pleasing nor does the internal layout serve the needs of the current occupiers. It is on this basis that the prospect of further extensions and modifications to the dwelling have been entertained.
- 4.8 Whilst the additions proposed are large and would fail to accord with the strict letter of the policy requirements set out in the development plan, I have balanced this 'in principle' policy harm against the tangible benefits, in terms of the improved appearance of the resulting dwelling. Given that the proposal would result in a visually superior property I consider this a benefit to the overall appearance of the site and the immediate area, which offsets the non-compliance with Policy SAL.UP8.
- 4.9 The proposal would not cause overlooking of neighbouring property and there would be no harm to neighbour amenity as a result of the development. The property is a stand-alone dwelling within a rural area of the district in a location where there is no dominant design style or street character and therefore the proposed alterations to the property would not serve to erode the existing streetscape or to create an incongruous feature in this setting.

15/0664/FULL

- 4.10 Concern has been raised by NWWM that there is insufficient details contained in the application to conclude that the development would not exacerbate a flood risk on land within the vicinity of the site. This matter could be dealt with by condition and I consider it would be both necessary and reasonable to do so.

5.0 Conclusions and Recommendations

- 5.1 Having balanced the planning considerations carefully against the harm of the proposed development, I am minded to conclude that the 'in principle' harm of the extensions as referred to within Policy SAL.UP8 of the Site Allocations and Policies Local Plan would be offset by the improvements to the overall appearance of the building and the fact that no other harm would arise as a result of the proposal.

- 5.2 I therefore recommend that the application be **APPROVED** subject to the following conditions:

1. A6 (Full with no reserved matters)
2. A11 (Approved plans)
3. Materials to be agreed
4. Drainage details to be submitted and agreed

WYRE FOREST DISTRICT COUNCIL

Planning Committee

15 March 2016

PLANNING AND ENFORCEMENT APPEALS

Appeal and Application Number	Planning Inspectorate Reference	Appellant	Site (Proposal)	Form of Appeal and Start Date	Written Reps. or Statement Required By	Proof of Evidence required by	Public Inquiry, Hearing or Site Visit date	Decision
WFA1440 14/0060/HHED	APP/HH/14/1380	Mr D Scriven	NEW HOUSE FARM BELBROUGHTON ROAD BLAKEDOWN KIDDERMINSTER High Hedge Complaint	WR 04/08/2014	08/09/2014			

Appeal and Application Number	Planning Inspectorate Reference	Appellant	Site (Proposal)	Form of Appeal and Start Date	Written Reps. or Statement Required By	Proof of Evidence required by	Public Inquiry, Hearing or Site Visit date	Decision
WFA1457 15/3053/PNRE	APP/R1845/W/1 5/3136851	Mr A Taylor	AGRICULTURAL BUILDING AT BROCKENCOTE HOUSE FARM Change of use of Agricultural Building to Dwellinghouse	WR 27/10/2015	01/12/2015			Dismissed 08/02/2016
WFA1458 14/0661/OUTL5	APP/R1845/W/1 5/3133945	Callow Oils Ltd	LAND AT STATION YARD OFF LYNWOOD DRIVE BLAKEDOWN Outline application with access and layout to be determined for up to 16 residential dwellings and provision of parking	HE 16/11/2015	21/12/2015			Dismissed 16/02/2016

Appeal and Application Number	Planning Inspectorate Reference	Appellant	Site (Proposal)	Form of Appeal and Start Date	Written Reps. or Statement Required By	Proof of Evidence required by	Public Inquiry, Hearing or Site Visit date	Decision
WFA1459 15/0667/ENF	APP/R1845/C/15 /3136640	Mr D Matthews	GREEN ACRES THE HOLLOWAY CHADDESLEY CORBETT Erection of new residential dwelling (Enforcement Case 15/0097/ENF)	WR 25/11/2015	30/12/2015			
WFA1460 15/0405/FULL	APP/R1845/W/1 8/3138636	Mr J Kelly	LAND AT LONG BANK BEWDLEY Proposed Agricultural Building	WR 01/12/2015	05/01/2016			

Appeal and Application Number	Planning Inspectorate Reference	Appellant	Site (Proposal)	Form of Appeal and Start Date	Written Reps. or Statement Required By	Proof of Evidence required by	Public Inquiry, Hearing or Site Visit date	Decision
WFA1461 15/0403/FULL	APP/R1845/D/15 /3140332	Mr & Mrs Evans	COURT FARMHOUSE WOLVERLEY ROAD WOLVERLEY KIDDERMINSTER Erection of an extension to a dwelling (existing pool building to be demolished)	WR 21/12/2015	25/01/2016			Dismissed 18/02/2016
WFA1462 15/0558/FULL	APP/R1845/D/16 /3144109	Mr J Wenlock	TANNERSHILL BARN HOP POLE LANE BEWDLEY DY122LD Proposed detached garage	WR 15/02/2016	21/03/2016			

Appeal Decision

Site visit made on 8 February 2016

by Martin Whitehead LLB BSc(Hons) CEng MICE

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 February 2016

Appeal Ref: APP/R1845/W/15/3136851

Brockencote House Farm, Chaddesley Corbett, Kidderminster DY10 4PS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr A Taylor against the decision of Wyre Forest District Council.
 - The application Ref 15/3053/PNRES, dated 2 July 2015, was refused by notice dated 28 August 2015.
 - The development proposed is change of use of agricultural building to dwellinghouse.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. Development permitted under Class Q Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) includes (a) a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; and (b) building operations reasonably necessary to convert the building.

Main Issues

3. The main issues are whether the cumulative floor space of the existing building is in accordance with the maximum floor space given in Q.1(b) of Class Q of Part 3 of Schedule 2 of the GPDO; and whether the building operations required would be limited to those reasonably necessary to convert the building to the proposed use.

Reasons

4. The appeal site includes a large steel portal frame structure with two ridges to its corrugated pitched roofs and blockwork dwarf walls with wide gated openings. Although the appellant has argued that the structure consists of 2 separate buildings, I observed that the 2 parts of the building have very little separating them and the framework for the 2 pitched roofs share the same uprights between them. As such, the structure appeared to me to form a single building.
5. One of the criteria for determining when development would not be permitted under Class Q Part 3 of Schedule 2 of the GPDO, given in Q.1(b), requires the

- cumulative floor space of the existing building or buildings changing use not to exceed 450 sq m. The Council has suggested that the details provided demonstrate that the floor space of the existing building is about 590 sq m, and I have been given insufficient evidence to prove that it is significantly different from this area.
6. The appellant has argued that the proposal would convert a building that has a footprint of 342 sq m into a dwelling house with a floor space of 439 sq m, and the attached separate building would be demolished and used as its curtilage. However, I have found that the structure is a single building with a floor space of over 450 sq m. Furthermore, the proposed development would involve the demolition of more of the existing building than is reasonably necessary to convert it, due to the formation of the curtilage from a significant part of the building.
 7. Even if the existing structure were considered to form 2 separate buildings, the use of the space that would be left by the demolished building would be residential curtilage which comes within Class C3. As such, it would be included in the proposed change of use. Therefore, its footprint should form part of the overall floor space of the existing buildings changing use and the cumulative floor space would exceed 450 sq m. Based on the above, whichever way the proposal is considered, the cumulative floor space of the existing building or buildings is not in accordance with the maximum floor space given in Q.1(b) of Class Q of Part 3 of Schedule 2 of the GPDO.
 8. With regard to the required building operations, the report from Pennell Associates, dated 17 April 2015, recommends that an analysis of the structure should be undertaken to confirm the capacity of the structural members and any strengthening which may or may not be required to accommodate the final change of use. The appellant has accepted that the report suggests that works would be necessary to strengthen the building as part of the conversion, but claims that it has shown that the building is sound and robust.
 9. The national Planning Policy Guidance (PPG) confirms that it is not the intention of the permitted development right to include the construction of new structural elements for the building. In this respect, I consider that insufficient structural survey information has been provided to show that the proposal would satisfy the intentions of the PPG, particularly as the proposal would include the formation of a new first floor. Therefore, based on the evidence provided, I conclude that the existing building has not been shown to be structurally strong enough to take the loading for the proposed residential use and the proposal would not be in accordance with criterion Q.1(i).

Conclusions

10. For the reason given above, I have found that the cumulative floor space of the existing building or buildings fails to accord with the maximum floor space given in Q.1(b) of Class Q of Part 3 of Schedule 2 of the GPDO; and the building operations required would not be limited to those reasonably necessary to convert the building to the proposed use. Therefore, having regard to all matters raised, I conclude that the appeal should fail.

M J Whitehead

INSPECTOR

Appeal Decision

Hearing held on 26 January 2016

Site visit made on 26 January 2016

by Keith Manning BSc (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 February 2016

Appeal Ref: APP/R1845/W/15/3133945

Land at Station Yard, Off Lynwood Drive, Blakedown, Kidderminster DY10 3LF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Callow Oils Ltd against the decision of Wyre Forest District Council.
 - The application Ref 14/0661/OUTL, dated 27 October 2014, was refused by notice dated 22 July 2015.
 - The development proposed is 16 dwellings.
-

Decision

1. The appeal is dismissed.

Preliminary and procedural matters

2. A finalised statement of 'Common Ground' (SoCG) was submitted at the hearing which erroneously suggests that the application is in outline with all matters reserved other than access. However, as it transpires that the Council had in any event directed¹ that layout must be included and the appellant had acceded to this I take the application as I find it, as I explained at the hearing, namely that it is in outline with all matters reserved apart from access and layout, the latter being defined on Drawing No Zeb 843/010 Rev C.
3. By reference to the 'Wheatcroft principles'² the appellants requested at the opening of the hearing that a subsequent application (Ref 15/0683/OUTL) intended to address the Council's express concerns, which has been submitted to the Council for determination, be substituted for determination by me at this appeal. The Council contests this approach as not only has the site boundary changed but it is for a significantly different layout for a lesser number of houses. Moreover, the SoCG, at paragraph 2.10, confirms that the appellant is content to pursue the appeal as it currently stands.
4. Irrespective of the latter point, I do not consider the 'Wheatcroft principles', which would in this case rely on lack of potential and substantial prejudice to interested parties, could be extended to embrace the new proposal which would otherwise fall to be determined by the Council in the first instance in the usual fashion. Accordingly, I determine the appeal as I find it.

¹ By notice under Article 4(2) of the Town and Country Planning (Development Management Procedure) Order 2010 (as Amended) dated 4 December 2014

² *Bernard Wheatcroft Ltd v SSE* [JPL 1982 p37]

Main Issues

5. I consider the main issues to be as follows:-
- Whether the proposed development would conflict with and harmfully undermine the intentions of the development plan in respect of;
 - a) The Council's spatial strategy for housing development; and
 - b) The living conditions of future and existing residents with particular regard to noise, privacy and outlook
 - If so, are there material considerations that would outweigh such conflict with the development plan?
 - Whether it would represent sustainable development for the purposes of the National Planning Policy Framework ('the Framework').

Reasons

Physical and policy circumstances

6. The appeal site is a classically configured redundant railway yard occupying land alongside the main Birmingham to Worcester line, a busy strategic link in the network which carries many passenger and goods trains in the course of 24 hours³. Some passenger services stop at Blakedown Station, others pass straight through. An automated level crossing is situated on the road between the station yard and the station itself and a 'whistle board' is situated on the stretch of railway alongside the site.
7. The site, which was in the main previously used for oil storage and distribution, is on the same level as the railway but its overgrown south-western end, which appears to have been long abandoned, is at a level which is elevated above the houses at the head of Lynwood Drive and the equivalent area at the head of Swan Close, owing to the topography. The site as a whole has a long frontage to Lynwood Drive, off which the access is proposed. The current access to the yard, past Station Cottages, would be closed and the land opposite those dwellings would be used for a small increment of station parking. The circumstances of the site are such that the Council accepts that an element of affordable housing in accordance with policy objectives could not be viably provided.
8. The parties essentially agree that it is unallocated but previously developed land in a sustainable location (i.e. the village of Blakedown) looking for a beneficial use. Although it is within the settlement boundary, it is nevertheless outside the areas therein allocated primarily for residential development in the Council's Site Allocations and Policies Local Plan 2006 – 2026 (the 'Site Allocations Plan'). This was adopted in July 2013 having been independently examined and confirmed to be sound in the context of the Framework, which was published in March 2012.
9. The site falls outside the qualifying criteria of SAL.DPL1 of the Site Allocations Plan which aims to satisfy the bulk of the Council's housing development needs on previously-developed land in the main urban areas, primarily but not exclusively within Kidderminster.

³ See, for example, Doc 4

10. The proposed housing also falls outside the qualifying criteria for Rural Housing set out in policy SAL.DPL2 of the Site Allocations Plan. Both this policy and SAL.DPL1 are policies relevant to the supply of housing but as the parties agree that there is currently a five year supply of deliverable housing sites for the purposes of paragraph 49 of the Framework (and I have no reason to disagree with that assessment) then it follows that they are up-to-date and the 'presumption in favour of sustainable development' is not specifically engaged by virtue of the circumstances set out in the second bullet point of that part of paragraph 14 of the Framework which concerns decision taking.
11. Whilst the parties agree that an adequate supply of deliverable housing sites does not preclude permission being granted for additional housing development that is sustainable⁴, there is dispute over whether such development in a sustainable location may be approved contrary to the strategic aims of an up to date development plan. That dispute is relevant in part to the first issue I have identified.
12. The other principal component of the development plan relevant to my determination is the Council's Core Strategy, adopted in 2010 prior to the publication of the Framework. Relevant policies include DS01 and DS04 which respectively concern development locations and rural regeneration. Insofar as they set the principles subsequently adopted on the basis of their soundness in that context in the Site Allocations Plan, I have no reason to find them inconsistent with the Framework for the purposes of this appeal.
13. Policy CP11 of the Core Strategy and policy SAL.UP7 of the Site Allocations Plan concern design quality and local distinctiveness, both attributes promoted by the Framework and are in varying degrees relevant, albeit less so in many respects than if the proposal was fully detailed. The Council's recently adopted *Design Guidance Supplementary Planning Guidance* ('the SPD') also merits significant weight, albeit not the weight to be accorded to the development plan itself. Again, however, the detail in the SPD is more readily applied to fully detailed proposals than issues of principle.
14. The Churchill and Blakedown Neighbourhood Plan was published for consultation purposes in October 2015 but, being at a relatively early stage in the processes leading to adoption, carries only limited weight.

Spatial strategy for housing development

15. The Council's spatial strategy for housing development is clearly set out in policies DS01 and DS04 of the Core Strategy and more particularly policies SAL.DLP1 and SAL.DPL2 of the Site Allocations Plan. The latter are very specific in the criteria that must be satisfied and on the basis that these are not met and not presented by the appellant as being met, there is prima facie a clear conflict with the intentions of the development plan regarding the spatial strategy for housing development; and I am clear that the development plan is up-to-date in all relevant respects and that the proposed development would not accord with it. By virtue of s38(6) of the Planning and Compulsory Purchase Act 2004, however, this of itself would not necessarily lead to refusal of planning permission, because material considerations are potentially capable of outweighing conflict with the development plan.

⁴ SoCG paragraph 2.11

Living conditions

16. As far as noise from the railway is concerned it is of course the case that many houses in the village are close to the railway and indeed that is the case throughout the country. This site, by virtue of its shape and dimensions would place conventional two storey houses with gardens in particularly close proximity to a notably busy line with regular soundings of the locomotives' warning devices being added to the generality of noise from the passage of the rolling stock. Whilst the evidence from the acoustics report is clear that within the dwellings an acceptable level of noise attenuation could be achieved, the short rear gardens of plots 1-10 in particular would be dominated by the 2.5m acoustic fence required to achieve a predicted residual noise level of 59.9dB. In practical terms this would exceed the BS 8322:2014 'upper guideline value' by some 5dB, an exceedance typically considered to be of moderate significance according to the appellants' acoustic consultants.⁵
17. It is important to appreciate the British Standard's recognition that 55db is not always achievable in external amenity spaces in such situations and that a pragmatic approach is sometimes required if potential housing development land is not to be sterilised, notably *"in higher noise areas such as city centres or urban areas adjoining the strategic transport network"* where *"compromise between elevated noise levels and other factors, such as the convenience of living in these locations or making efficient use of land resources to ensure development needs can be met might be warranted"*. The BS 8322:2014 guidance continues with the advice that *"In such a situation, developments should be designed to achieve the lowest practicable levels in these external amenity spaces but should not be prohibited."*
18. In this instance, however, the proposed dwellings are in a village environment and the current adequacy of the residential land supply does not place an overriding premium on maximising efficiency of land use. Nevertheless, I accept that, given the lack of an absolute standard, the potential for disturbance could be seen as to some degree a matter of consumer choice, whereby noisy external space might be traded off for the convenience of living in a rural area but very close to a station providing good access to a range of urban destinations. That would in some respects be a logical extension of the principle embodied in the BS 8322:2014 guidance. However, I also acknowledge the force of the Council's argument that the World Health Organisation recommends that noise exposure in outside amenity areas should not exceed 55dB, and that the Worcestershire Regulatory Services guidance⁶ deploys 55dB as the *Significant Observed Adverse Effect Level (SOAEL)* for the purposes of railway noise in daytime in outdoor living space, using the terminology of the *Noise Policy Statement for England*, published in 2010; albeit it is clear from this that there is no objective noise-based measure that defines SOAEL that will be applicable to all sources of noise in all situations and that, consequently, the SOAEL is likely to be different for different noise sources, for different receptors and at different times.
19. It seems to me that the Worcestershire Regulatory Services guidance is a considered approach locally to addressing that difficulty and therefore merits weight as a material consideration, as of course does the Planning Practice Guidance (PPG). This advises that *"if external amenity spaces are an intrinsic*

⁵ Doc 2

⁶ *Noise control Technical Guidance – Development Control 1st Edition: November 2013*

part of the overall design, the acoustic environment of those spaces should be considered so that they can be enjoyed as intended”.

20. All things considered, the outcome in the plots 1 -10 would be houses facing very short rear gardens dominated by an acoustic fence verging on being unacceptably oppressive from both habitable room windows and a small amenity area in which the noise levels would noticeably exceed the relevant SOAEL. Of itself, that exceedance of the guidelines would not be decisive but the proposed layout does not, bearing the above considerations in mind, represent good design and that of itself is contrary to the intentions of not only Policy CP11 of the Core Strategy and policy SAL.UP7 of the Site Allocations Plan, together with the SPD, but also those of the Framework and the PPG, both of which advocate high quality design.
21. Although the noise potential of the railway does not in my estimation present an insurmountable obstacle to residential development in principle, it certainly weighs heavily against it in the absence of design solutions that are unsatisfactory, as in the currently proposed layout. The living conditions of most future residents would be unsatisfactory by reason of noise and outlook combining to create a living environment that would be considerably less than ideal and certainly not as good as might be achieved by more creative design. The Framework is clear that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
22. The layout as proposed would also compromise the living conditions of certain existing residents by reason of harm to both outlook and privacy, notably the occupants of 69 Lynwood Drive and 19 Swan Close. I was able to visit the former property and, although I was unable to visit the back garden of 19 Swan Close, I was nevertheless able to walk into the overgrown south-western extremity of the appeal site where units 15 and 16 are proposed. From this vantage point the effect of the marked difference between the lower lying area in which Swan Close and the head of Lynwood Dive have been constructed and the track bed of the railway and adjacent appeal site is very apparent. Units 15 and 16, the latter in particular, would visually dominate the rear gardens of the nearest existing properties on each street to create an overbearing presence that would be unacceptably harmful to the living conditions of their occupants.
23. The proximity and change of level is such that physical means to screen the proposed dwellings on Plots 15 and 16 for the sake of privacy in the rear garden of 19 Swan Close in particular, but also 69 Lynwood Drive, would themselves very likely be wholly unacceptable and, without such means, the intrusive overlooking that would be possible would certainly be so. No doubt the proposed houses could be designed so as to prevent outlook from the relevant windows; but this is unlikely to be a satisfactory situation for prospective occupants and would not address the visual dominance that would be experienced by the nearby existing residents.
24. In my estimation the obvious difficulty with this part of the layout as proposed cannot be satisfactorily overcome by the imposition of planning conditions. Moreover, I doubt that the south western extremity of the site could be re-graded to bring it down to a level compatible with the adjacent established dwellings without compromising the stability of the main rail bed beyond.

I have no evidence to suggest that my doubts in this respect are not well founded. Whilst the proposed layout appears to work here in two dimensions, it is very clear, on thorough examination of the site and its environs, that it does not do so in three.

25. For these reasons, I consider the consequence of developing the site as proposed would be unacceptable harm to the living conditions of the occupants of the existing properties I have referred to. This would represent unacceptably poor design contrary to policy CP11 of the Core Strategy and policy SAL.UP7 of the Site Allocations Plan, as well as the intentions of the SPD and the Framework. The latter is clear not only on the importance of good design but also on the importance of amenity.

Material considerations and sustainability

26. The proposed housing development is in a notably sustainable location and would make beneficial use of previously developed land which is currently vacant, unsightly and potentially afflicted by significant contamination⁷. There would be economic benefit as is generally the case when new houses are developed, and the provision of market housing does have social benefits (albeit these would be greater if affordable housing were a practicable component of the proposed scheme of development). Therefore there would be benefits across the three dimensions of sustainable development.
27. However, there would also be significant harm in terms of conflict with an up to date development plan spatial strategy, and the intention that development should be plan-led is a core principle of the Framework. In any event there would be harm in terms of conflict with development plan policy for good design for acceptable living conditions for existing residents, notably in respect of privacy and overlooking. The position in respect of railway noise impacting on prospective residents is less clear cut but, on the basis of the layout proposed, there would be harm nonetheless, adding weight in the balance to the other harms I have identified.
28. For all the above reasons, I am clear that the scheme of development as presently conceived would conflict significantly and harmfully with the development plan, so as to undermine its intentions. I have taken into account all other matters raised but no material considerations sufficient to outweigh that harm have been identified. At its core the Framework conceives of sustainable development as being plan-led unless material considerations indicate otherwise. On that basis, therefore, the scheme as currently proposed cannot be said to represent sustainable development for the purposes of the Framework.

Overall conclusion

29. The proposal conflicts with an up to date development plan and does not otherwise represent sustainable development as a consequence of material considerations outweighing that conflict. It follows that the appeal must fail.

Keith Manning

Inspector

⁷ Phase 1 Desk Study

APPEARANCES

FOR THE APPELLANT:

Mr G Sibley MRTPI	RCA Regeneration Ltd
Mr R Csondor MRTPI MRICS	RCA Regeneration Ltd
Mr S Jones MSc	RCA Regeneration Ltd
Mr G Bowland BSc MIOA	Hepworth Acoustics

FOR THE LOCAL PLANNING AUTHORITY:

Mr P Round PGDipTP MRTPI	Principal Development Control Officer
Mr P Barker	Senior Officer, Worcestershire Regulatory Services
Mrs R Brown BA (Hons) MRTPI	Planning Policy Manager
Mrs E Anning BA (Hons) MA MRTPI	Senior Development Control Officer

INTERESTED PERSONS:

Mr Shade	Local Resident
Mr & Mrs M & L Robson	Local Residents
Mr M Cox	Local Resident
Mrs M Lomas	Local Resident

DOCUMENTS

- 1 Council's notification letter and list of those notified
- 2 Letter dated 14 January 2015 from Hepworth Acoustics to RCA Regeneration
- 3 Statement of Common Ground dated January 2016
- 4 'Realtime Trains' printout for Blakedown for 25 January 2016

Appeal Decision

Site visit made on 10 February 2016

by **D J Barnes MBA BSc(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18/02/2016

Appeal Ref: APP/R1845/D/15/3140332

Court Farmhouse, Wolverley Road, Wolverley, Worcestershire DY10 3QE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Evans against the decision of Wyre Forest District Council.
 - The application Ref 15/0403/FUL, dated 13 July 2015, was refused by notice dated 27 October 2015.
 - The development proposed is the erection of an extension to a dwelling (existing pool building to be demolished).
-

Decision

1. The appeal is dismissed.

Main Issues

2. It is considered that the main issues are:
 - (a) Whether the proposal would be inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - (b) The effect of the development on the openness of the Green Belt and the purposes for including land within it;
 - (c) The effect of the development on the visual amenity of the Green Belt and character and appearance of the area and the host property, including its significance as a local heritage asset; and
 - (d) If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether the proposal would be inappropriate development for the purposes of the Framework and development plan policy

3. The Framework identifies that an extension to a building in the Green Belt is not inappropriate development provided that it does not result in disproportionate additions over and above the size of the original building. In
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this case, although an addition is under construction, there is no specific evidence which indicates that the appeal property has been extended since 1 July 1948 and it is, therefore, the original building. The Framework's approach is echoed in Policy SAL.UP1 of the Wyre Forest Site Allocations and Policies Local Plan (LP) which also refers to proposals being considered on a case by case basis.

4. The Council has provided measurements for the floorspace and footprint of both the original property and the proposed side and rear single storey extensions. The appellants have not challenged these measurements and, based upon my assessment of the submitted drawings, they appear to be a fair reflection of the scale of the appeal scheme relative to the original property. Although referred to in the description of development, a single storey outbuilding has already been demolished and this was the case when the Council determined the appeal application. In addition to being a separate building erected at a later date, because of its demolition the footprint and floorspace of the former outbuilding is not included as part of original building.
5. The available measurements indicate that the floorspace of the property would increase by around 61% which the Council consider could be acceptable subject to other considerations. However, the footprint of the original building would increase by some 121%. In my judgement, because of the scale of the increase in the footprint, which is reinforced by the increase in the floorspace, the appeal scheme would result in disproportionate additions over and above the size of the original building. The issue of the fallback position, including the Lawful Development Certificate, is considered later in this appeal decision.
6. Except in specific circumstances, the erection of a new dwelling would be inappropriate development in the Green Belt. By reason of its form, siting within the curtilage and internal configuration, I do not share the Council's concerns that insufficiently strong links would exist between the proposed extension and the host property so that the appeal scheme would be capable of being occupied as a separate dwelling. For these reasons, the appeal scheme would not amount to a new dwelling within either the Green Belt or the open countryside which would otherwise conflict with LP Policies SAL.DLP1, SAL.DPL2 and SAL.UP1.
7. However, on this matter it is concluded that the proposed development would amount to inappropriate development within the Green Belt and, as such, it would conflict with LP Policy SAL.UP1 and the Framework. Paragraphs 87 and 88 of the Framework state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances and that substantial weight should be attached to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The question of any other harm and the other matters in this case are now considered.

The effect of the development on the openness of the Green Belt and the purposes for including land within it

8. Paragraph 79 of the Framework states that one of the essential characteristics of Green Belts is their openness. The proposed conservatory attached to the

south elevation is not of such a scale that, when considered in isolation from the remainder of the appeal scheme, it would cause material harm to the openness of the Green Belt.

9. By reason of the demolition of the former outbuilding, there is currently an open gap between the property and Heathfield Lodge which is visible from the road. Although the existing timber fence does limit views, the roof of the proposed extension adjoining the property's east elevation, including both the front and side roofslopes, would be visible from the road and would occupy a significant proportion of the gap. For this reason, the width, depth and height of this element of the appeal scheme would have a materially detrimental effect on the openness of the Green Belt.
10. However, there is a Lawful Development Certificate to erect a single storey addition (Ref 15/3069/PNH) adjacent to the property's eastern elevation. This addition is under construction and its roof would similarly be visible from the road. By reason of the difference in depth and overall bulk, the proposed elevation would have a greater effect on the openness of the Green Belt when compared to the smaller addition. However, the difference in the degree of harm caused to the openness of the Green Belt between these schemes would not be significantly. For this reason, and taking into account the proposed conservatory, it is concluded that the appeal scheme would not cause unacceptable harm to the openness of the Green Belt and, as such, it would not conflict with the Framework.
11. By reason of the appeal scheme being contained within the existing residential curtilage, it is concluded that the proposed development would not materially conflict with the purposes of the Green Belt as expressed in the Framework, especially safeguarding the countryside from encroachment.

The effect of the development on the visual amenity of the Green Belt and character and appearance of the area and the host property, including its significance as a local heritage asset

12. The property forms part of a group of dwellings, including former agricultural buildings converted to residential use, located within open and verdant countryside. Both the property and the former agricultural buildings are included on the Council's Local Heritage List, principally for their group value. The Heritage Statement submitted by the appellants as part of this appeal was prepared for a scheme to re-use the former outbuilding rather than provide an assessment of the effects of the proposed development on the heritage asset.
13. The property is a 2-storey dwelling of brick and tile construction but has been altered by some of the walls being painted white, the formation of an opening for patio doors within the southern elevation and the erection of uPVC window frames. Although altered, the property maintains the character of a late 18th century farmhouse with a strong symmetrical form, design and appearance. The former barns which have been converted have not been substantially altered by additions and retain a coherent appearance when viewed from the road.
14. By reason of its scale and wrapping around the eastern and part of the southern elevations, rather than being a subservient extension, the appeal scheme would be a significant and dominant addition to the property which

would unacceptably harm its character, in particular its current form. This harm would be accentuated by the scale and bulk of the proposed development visually and physically dominating the appearance of the property's eastern elevation. Further, when viewed from the road, there would be a poor visual and physical relationship between the proposed extension's roof and the property's eastern elevation. For these reasons, the appeal scheme would cause unacceptable harm to the character and symmetrical form, design and appearance of this late 18th century farmhouse. Although not substantial, and for the same reasons, there would be an adverse effect on the significance of the property as a heritage asset.

15. The addition under construction and the potential for other additions to the property's southern elevation being erected as permitted development have been carefully noted. However, these other additions can be distinguished from the appeal scheme because they would not result in a wraparound element which materially detracts from the character and, in particular, the form of the property. This consideration equally applies to the appellants' claim concerning what could be disregarded as permitted development being added to the proposed extension because this results in the wraparound form of the appeal scheme.
16. As has already been noted, the proposed extension would be a notable feature when viewed from the road but this visual impact is mitigated by the addition which is being constructed. The proposed conservatory would not be particularly visible from the surrounding area, principally because of its siting and the enclosure of the property's curtilage. For these reasons, there would be no unacceptable harm caused to either the visual amenity of the Green Belt or the character and appearance of the surrounding open countryside. However, these matters are demonstrably outweighed by the unacceptable harm which has been identified.
17. Accordingly, it is concluded that the proposed development would cause unacceptable harm to the character and appearance of the host property, including its significance as a local heritage asset, and, as such, it would conflict with LP Policy SAL.UP6 and SAL.UP8. These policies require development not to have a detrimental impact on the significance of a heritage asset and for residential extensions to be in scale and keeping with the form and architectural characteristics of the original buildings and to be subservient to the host dwellings. These policies are consistent with the Framework's core principle of securing high quality design.

If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development

18. The proposed development has been judged not to materially harm the openness, purposes and visual amenity of the Green Belt. However, this matter merely results in there being no additional harm to that arising from the inappropriate development and the weight attached to these matters needs to be tempered accordingly. Therefore, moderate weight has been attached to them.

19. Reference has already been made to the Lawful Development Certificate and other additions which could be erected as permitted development. The appellants have identified that if all these additions were constructed then the cumulative footprint would only be about 8sq m less than the appeal scheme. As with the Council's measurements, there are no reasons for me to disagree with the appellants' calculations. Taking into account the addition already being erected there are no reasons for me to discount the potential for the other additions being constructed at a later date, notwithstanding prior approval might be required and the Council's comments about access to the garage.
20. The difference between the floorspace and what would also be the footprint of the appeal scheme and the fallback position quantified by the appellants' calculations is not significant. However, the combined form of the addition under construction and the other potential additions would differ to the appeal scheme because of the wraparound form and design. For the reasons already given concerning the unacceptable effect on the character and symmetrical form, design and appearance of the property, only moderate weight has been given to this matter in the determination of this appeal.
21. The appellants have referred to the former outbuilding and a drawing of what existed has been provided. However, this outbuilding has been demolished and can only be given limited weight in assessing the changes to the extent of built development within the property's curtilage.
22. Family circumstances and the need for improved accommodation have been identified by the appellants alongside the ability for sustainable living to be achieved, including the provision of a home office. However, some of these accommodation needs would be fulfilled by the addition currently under construction or other additions which the appellants claim could be erected. Further, I am mindful that family circumstances can and do change over time and they are rarely reasons which outweigh Green Belt policy which may endure for a longer period. Accordingly, these matters attract only limited weight in the determination of this appeal. Similar weight is given to the lack of harm being caused to living conditions of the occupiers of neighbouring dwellings because this matter does not materially alter the main issues which have been identified.

Conclusion

23. These other considerations, even when taken together, do not clearly outweigh the harm by reason of inappropriateness, the harm to the character and appearance of the host property, including its significance as a local heritage asset and the conflict with national and local policy. Accordingly, it is concluded that the very special circumstances required to justify the development do not exist and, taking into account all other matters, this appeal should fail.

D J Barnes

INSPECTOR