

# DELEGATED DECISION REPORT

## APPLICATION NUMBER

### 210559

2 Lugg Green Cottages, Kingsland, Leominster, HR6 9SW

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**CASE OFFICER:** Mr M Tansley

**DATE OF SITE VISIT:** ...21/4/21.....

**Relevant Development Plan Policies:** Herefordshire Local Plan – Core Strategy  
Policies:  
SD1 Sustainable design and energy efficiency  
SD3 sustainable water management and water resources  
SD4 wastewater treatment and river water quality

Kingsland Neighbourhood Development Plan  
Made –Oct 2017  
KNDP 7 Addressing flood risk

**NPPF**

**Relevant Site History:** None relevant to this application

### CONSULTATIONS

	Consulted	No Response	No objection	Qualified Comment	Object
Parish Council	x			support	
Ecologist	x		x		
Site Notice				9 support	1 obj
Local Member	x			support	

## **PLANNING OFFICER'S APPRAISAL:**

### Site description and proposal:

2 Lugg Cottages is one of a pair of semi detached cottages situated very close to the R.Lugg just outside Kingsland, with vehicular access adjacent to the bridge on the C1093 road to Yarpole.

This part retrospective application seek to retains/complete a replacement porch to the north, river facing, elevation.

The porch replaces a smaller flat roof one and has been relocated towards the adjacent cottage following creation of a new front door. It is understood that the works in part seek to prevent a further flooding of the property. It is built of timber frame with a plain tile gabled roof.

### Representations:

Kingsland Parish Council support the application.

#### Council Ecologist-

The site is within 30m of the River Lugg SAC-SSSI

The proposed development does not increase potential occupancy or create any additional foul water flows.

No significant increase in surface water is created.

Foul and surface water have no identified effects and are not considered further.

Protected species are a consideration for the LPA and both Otters and Crayfish are a species included within the citation/reason for designation of the River Lugg SAC-SSSI and so these are a consideration for the HRA process with a development on or adjacent to the SAC-SSSI. The completed HRA and SSSI assessment should be subject to a consultation process with Natural England prior to any grant of planning consent.

The proposed works are not identified as likely to have any effects on any bat roosting or local bat populations. All works can be carried out under the applicant's and their contractors own legal duty of care to wildlife protection as afforded by the Wildlife & Countryside Act that applies over and above the planning process. In this instance the LPA has no reason to require a specific 'protection' condition in regard of these specific species.

Otters and Crayfish could be impacted by the proposed development and construction processes through noise, light, disturbance, run-off and sedimentation, and accidental spills and discharges from

materials used and any machinery operated on the site. Otter mitigation is limited to the site not being accessible to otters. Mitigation and general working measures, along with an otter proof worksite should be secured through a relevant Construction Environmental Management Plan. Ongoing mitigation after the construction has been completed through the management of lighting on the site; and securing Biodiversity Net Gain; can be managed through a Condition ensuring the recommendations in relation to these aspects included in the ecology report are secured through an appropriate condition.

### **Recommended Planning Conditions to secure appropriate mitigation:**

#### **Habitat Regulations (River Lugg SAC) – Nature Conservation Protection -**

Before any work, including any site clearance begins, equipment or materials moved on to site, a fully detailed Construction Environmental Management Plan (CEMP), shall be supplied to the local planning authority for written approval. The approved CEMP and an otter proof barrier around the development site shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have finally been removed.

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

#### **Conclusion**

**NO adverse effects on the integrity of the River Lugg (Wye) Special Area of Conservation; subject to appropriate mitigation being secured. The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019** (the 'Habitats Regulations'): Part 6, section 63(5)

#### Local representations

An objection has been received from the immediate neighbour, on the following grounds-

The porch is out of proportion with the building,  
Overlooks and dominates the front garden,  
Run off outlet discharges across front of property  
Gutter overhangs party wall  
Flood defence understandable but not dependent upon relocation of porch as implied.

9 letters of support have been received, largely on the grounds that it is considered to be an enhancement on the previous porch.

Pre-application discussion:

Following report to enforcement section.

Constraints:

Residential amenity.

Appraisal:

*Policy context and Principle of Development*

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

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

In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS) and the 'made' Kingsland Neighbourhood Development Plan (the NDP). At this time the policies in the Kingsland NDP can be afforded weight as set out in paragraph 48 of the National Planning Policy Framework 2019, which itself is a significant material consideration

The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy was made on 9th November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application.

Notwithstanding the Ecologist comment about a condition prior to commencement, the work is almost completed. There being no ecological nor flooding objections the remaining main issues relate to design and impact upon residential amenity. The new porch is notably different from the previous version and is a more apparent feature to the property. The building is not listed nor in a conservation area. It is not considered that the design has significantly detrimental impact on the character and appearance of the cottages and is therefore considered to comply with policy SD1 in that respect.

In terms of SD3/KNDP7 and SD4 the development addresses flood risk and there is no impact on river water quality.

The porch is now close to the boundary and will have an impact upon the amenity of the neighbouring property. However the front garden does not appear to be the main private area of the garden and much of the impact could result from either or both a fence/porch constructed under permitted development rights. It is considered that in order to achieve a higher degree of privacy and amenity (light) the side 'wall' of the porch should be obscure glazing and a condition is recommended to that end.

On balance the development is considered to comply with relevant CS and NDP policies and general tenets of the NPPF and is therefore recommended for approval.

The Local Member supports this recommendation.

**RECOMMENDATION:**    **PERMIT** ☒    **REFUSE** ☐

**CONDITION(S) & REASON(S) / REASON(S) FOR REFUSAL:**  
*(please note any variations to standard conditions)*

1. The section of porch adjacent to the adjoining cottage shall be finished with obscure glazing and shall be maintained as such for the life of the development.

Reason : to ensure compliance with policy SD1 of the Herefordshire Local Plan- Core Strategy.

## Informatives

### IP1

Signed:  Dated: ...15/6/21.....

#### TEAM LEADER'S COMMENTS:

**DECISION:**    **PERMIT** ☒    **REFUSE** ☐

Signed:  ..... Dated: 16/6/2021

Is any redaction required before publication?    No