

DELEGATED DECISION REPORT

APPLICATION NUMBER

202964

Cabback Lodge, Llangarron, Ross-On-Wye, HR9 6PA

CASE OFFICER: Mr Scott Low
DATE OF SITE VISIT: 28th September 2020

Relevant Development Plan Policies:

Herefordshire Local Plan - Core Strategy Policies LD1, LD2, SD1, SD3, SS1, RA6 & MT1

Llangarron Draft Neighbourhood Development Plan - Policies ENV1, ENV3, EMP1 & TRA1

National Planning Policy Framework (NPPF 2019)

Chapter 2 – Achieving sustainable development
Chapter 9 – Promoting sustainable transport
Chapter 11 – Making effective use of land
Chapter 15 – Conserving and enhancing the natural environment

Relevant Site History: None

CONSULTATIONS

	Consulted	No Response	No objection	Qualified Comment	Object
Parish Council	x		x		
Transportation	x		x		
Ecologist	x			x	
Environmental Health	x		x		
Site Notice	x			1	
Local Member	x		x		

PLANNING OFFICER'S APPRAISAL:

Site description and proposal:

The site located within the South-Western area of the hamlet of Llangarron, accessed via the C1248.

The retrospective application seeks to change the use of the land from residential to a mixed use of residential and as a builder's yard, with activities limited between 8am and 4.30pm, from Monday to Friday.

Representations:

Parish Council – The parish council supports this application.

Transportation - No objection

Ecologist – Further information required

Environmental Health - No objection

Site Notice – 1 general comment with suggested planning conditions which might make the proposal acceptable to them personally.

Local member – No objection

Pre-application discussion:

Arose as a result of enforcement investigation.

Constraints:

None

Appraisal:

Cllr Swinglehurst confirmed via email on 28th October 2020 that she was happy for me to determine this application under delegated powers.

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). The National Planning Policy Framework (NPPF 2019) is also a significant material consideration. It is also noted that the site falls within the Llangarron Neighbourhood Area, which submitted a Regulation 14 Neighbourhood Draft Development Plan in August 2020 and this is therefore of determinative weight in the decision making process.

The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to

be completed before 15 October 2020. The decision to review the Core Strategy has yet to be made and is due early 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.

Herefordshire Council Core Strategy Policies

Policy LD1 requires that developments should demonstrate that character of the townscape has positively influenced the design, scale, nature of the proposal and site selection to ensure the protection and enhancement of the setting of settlements and designated areas.

Policy LD2 requires that development proposals should conserve, restore and enhance the biodiversity and geodiversity assets of Herefordshire.

As the site is well screened from public view by mature existing hedgerows and trees therefore the proposal is not considered contrary to policies LD1 and LD2.

Policy SD1 requires that development proposals make efficient use of land - taking into account the local context and site characteristics and maintain local distinctiveness through incorporating local architectural detailing and materials and respecting scale, height, proportions and massing of surrounding development while making a positive contribution to the architectural diversity and character of the area.

Development proposals should create safe, sustainable, well integrated environments for all member of the community. In conjunction with this, all development proposals should incorporate the following requirements:

safeguard residential amenity for existing and proposed residents

The proposal fails to safeguard the residential amenity of existing residents, due to the general nature of the use of the site and therefore it is deemed contrary to Policy SD1.

Policy SD3 states that measures for sustainable water management will be required to be an integral element of new development in order to reduce flood risk; to avoid an adverse impact on water quantity; to protect and enhance groundwater resources and to provide opportunities to enhance biodiversity, health and recreation. This will be achieved by ensuring that:

1. Development proposals are located in accordance with the Sequential Test and Exception Tests (where appropriate) and have regard to the Strategic Flood Risk Assessment (SFRA) 2009 for Herefordshire;
2. Development is designed to be safe, taking into account the lifetime of the development and the need to adapt to climate change by setting appropriate floor levels, providing safe pedestrian and vehicular access, where appropriate, implementing a flood evacuation management plan and avoiding areas identified as being subject to Rapid Inundation from a breach of a Flood Defence;

3. Where flooding is identified as an issue, new development should reduce flood risk through the inclusion of flood storage compensation measures, or provide similar betterment to enhance the local flood risk regime;
4. Development includes appropriate sustainable drainage systems (SuDS) to manage surface water appropriate to the hydrological setting of the site. Development should not result in an increase in runoff and should aim to achieve a reduction in the existing runoff rate and volumes, where possible;
5. Development proposals do not lead to deterioration of EU Water Framework Directive water body status;
6. In particular, proposals do not adversely affect water quality, either directly through unacceptable pollution of surface water or groundwater, or indirectly through overloading of Wastewater Treatment Works.

Development proposals should help to conserve and enhance watercourses and riverside habitats, where necessary through management and mitigation measures for the improvement and/or enhancement of water quality and habitat of the aquatic environment. Proposals which are specifically aimed at the sustainable management of the water environment will in particular be encouraged, including where they are required to support business needs such as for agriculture. Innovative measures such as water harvesting, winter water storage and active land use management will also be supported. In all instances it should be demonstrated that there will be no significant adverse landscape, biodiversity or visual impact.

As the site is within 150m of a pond/small water course, and 200m of the Garren Brook which is part of the River Wye SAC, no discharge or any run-off from the proposed site to any local watercourse, ditch, pool, stream or culvert is likely to be acceptable unless relevant processes to mitigate/remove all potential contaminants and pollutants including but not limited to oils, fuels, lubricants, silt, nitrogenous materials or any materials or water containing phosphates have been detailed on information supplied to the LPA for consideration. In the absence of sufficient information required for a Habitat Regulations Assessment (HRA) process consultation to Natural England, the proposal is considered contrary to Policy SD3.

The proposal is also considered to be contrary to policy SS1 as the general nature of the use of the site creates an adverse impact to nearby residential properties which outweighs the benefits of the proposal and it is therefore not considered sustainable in this rural location.

Policy RA6 states that employment generating proposals which help diversify the rural economy such as knowledge based creative industries, environmental technologies, business diversification projects and home working will be supported. A range of economic activities will be supported, including proposals which:

Promote sustainable tourism proposals of an appropriate scale in accordance with Policy E4 – Tourism;

Promote the sustainable use of the natural and historic environment as an asset which is valued, conserved and enhanced;

Support the retention and/or diversification of existing agricultural businesses;

Planning applications which are submitted in order to diversify the rural economy will be permitted where they:

Ensure that the development is of a scale which would be commensurate with its location and setting;

Do not cause unacceptable adverse impacts to the amenity of nearby residents by virtue of design and mass, noise, dust, lighting and smell;

The proposal is considered contrary to policy RA6, as the general use of the site creates an unacceptable impact to the amenity of nearby residents.

Policy MT1 requires that development proposals incorporate the following principle requirements covering movement and transportation:

Ensure that developments are designed and laid out to achieve safe entrance and exit, have appropriate operational and manoeuvring space, accommodate provision for all modes of transport, the needs of people with disabilities and provide safe access for the emergency services;

Protect existing local and long distance footways, cycleways and bridleways unless an alternative route of at least equal utility value can be used, and facilitate improvements to existing or provide new connections to these routes, especially where such schemes have been identified in the Local Transport Plan and/or Infrastructure.

As the highways engineer raises no objection and no alterations are required to the existing access and the increase in traffic flow is not expected to be significant, therefore the proposal accords with policy MT1.

Llangarron Neighbourhood Draft Development Plan Policies

Policy ENV1 states that new proposals for development should seek to protect and enhance the landscape character and biodiversity of the Parish. In order to protect the landscape character new proposals should assess the impact on:

- Important views, visually sensitive skylines, valley sides and hillsides
- Nocturnal character, minimising light pollution
- Important woodlands and green spaces, footpaths and bridleways

There are no significant landscaping issues associated with the site as it is well screened from public view by mature existing hedgerows and trees and therefore the proposal accords with draft NDP policy ENV1.

Policy ENV3 stipulates that:

1. New development will not be permitted in areas identified as flood zones 2 and 3 unless it can be demonstrated that there are no other alternatives, in which case full and effective mitigation measures should be provided. No development will be permitted that will result in increased flood risk to properties elsewhere.
2. Where flooding is identified as a potential issue, developers shall undertake full and detailed flood risk assessments (taking account of climate change) to inform decisions upon planning applications.
3. Where the management of surface water drainage needs to be addressed, developers should utilise sustainable drainage systems (SUDS) where this is practicable.
4. Development on all sites should be accompanied by detailed drainage proposals setting out the approach to foul drainage, storm water, SUDs and any proposed flood alleviation, and infrastructure improvements including permeable surfaces, and how these will be delivered effectively.

The proposal fails to provide sufficient information to make a determination as to whether or not there is any detrimental effect to the River Wye SAC and is therefore deemed contrary to draft NDP Policy ENV3.

Policy EMP1 states that proposals for expansion of existing and the creation of new rural businesses will be supported where:

1. The proposal is of an appropriate scale and or use which would not adversely affect the amenity of nearby residents;
2. The proposal would not have a detrimental impact on the character and landscape setting of the villages, heritage assets and the surrounding countryside; and
3. There is no detrimental impact on highway safety

The proposal fails to safeguard the residential amenity of existing residents, due to the general nature of the use of the site and therefore it is deemed contrary to draft NDP Policy EMP1.

Policy TRA1 states that development proposals should:

3. not result in unacceptable road or highway risk, dangers to pedestrians, or traffic congestion;
5. provide appropriate public car-parking for employees and visitors in relation to proposals for employment and business uses.

As the highways engineer raises no objection and no alterations are required to the existing access and the increase in traffic flow is not expected to be significant, therefore the proposal accords with draft policy TRA1.

Planning balance and conclusion

Whilst no objections were raised by highways or environmental health and the proposal accords with some Herefordshire Local Plan – Core Strategy Policies, it fails in terms of sustainability and amenity, policies SS1, RA6, SD1 & SD3 , Llangarron draft NDP Policies ENV3 & EMP1 as well as the guidance provided in chapters 2 & 9 of the NPPF.

It is therefore recommended for refusal.

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

CONDITION(S) & REASON(S) / REASON(S) FOR REFUSAL:

(please note any variations to standard conditions)

1. It is considered that the proposal is contrary to Policy SS1 of the Herefordshire Local Plan –Core Strategy, and the general tenets of the National Planning Policy Framework in that the site is in an unsustainable location for this use.
2. It is considered that the proposal is contrary to Policies SD1 and RA6 of the Herefordshire Local Plan –Core Strategy and policy EMP1 of Llangarron draft NDP, as it fails to safeguard residential amenity of existing residents, due to the general nature of the use of the site.
3. It is considered that the proposal is contrary to Policy SD3 of the Herefordshire Local Plan – Core Strategy and policy ENV3 of Llangarron draft NDP, as insufficient information has been provided for a Habitat Regulations Assessment to take place to establish that no adverse effect to the River Wye SAC has taken place.

Informatives

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations and identifying matters of concern with the proposal and discussing those with the applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which have been clearly identified within the reason(s) for the refusal, approval has not been possible.



Signed:

Dated:29th October 2020..

TEAM LEADER'S COMMENTS:

DECISION:

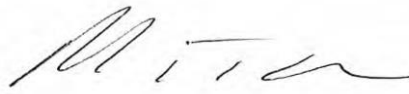
PERMIT

☐

REFUSE

☒

Signed:



..... Dated: 2/11/20.....