

# DELEGATED DECISION REPORT

## APPLICATION NUMBER

### 203335

Land at Broomy House, 83 Broomy Hill, Hereford,

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**CASE OFFICER: Mr Adam Lewis (previously Alistair Wager)**  
**DATE OF SITE VISIT: 12<sup>th</sup> May 2021**

**Relevant Development  
Plan Policies:**

**Herefordshire Local Plan – Core Strategy**

SS1 Presumption in favour of sustainable development  
SS2 Delivering new homes  
SS3 Releasing land for residential development  
SS4 Movement and transportation  
SS6 Environmental quality and local distinctiveness  
SS7 Addressing climate change  
HD1 Hereford  
HD3 Hereford movement  
H3 Ensuring an appropriate range and mix of housing  
MT1 Traffic management, highway safety promoting active travel  
LD1 Landscape and townscape  
LD2 Biodiversity and geodiversity  
LD3 Green Infrastructure  
LD4 Historic environment and heritage assets  
SD1 Sustainable design and energy efficiency  
SD2 Renewable and low carbon energy  
SD3 Sustainable water management and water resources  
SD4 Waste water treatment and river water quality

**National Planning Policy Framework**

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

*The preparation of the Hereford Area Plan was halted in*

*November 2020 when the decision was taken to review the Core Strategy. A draft of the plan had not yet been published and the supporting documents associated with it attract no weight for decision making purposes.*

**Relevant Site History:** P161414/F – Proposed new dwelling and garage – Approved in part of curtilage 2016

## CONSULTATIONS

	Consulted	No Response	No objection	Qualified Comment	Object
City Council	X				X
Transportation	X		X		
Historic Buildings Officer	X		X		
Ecologist	X		X	X	
Landscape	X		X	X	
Land Drainage	X		X		
Natural England	X		X		
Welsh Water	X			X	
Press/ Site Notice	X			X2	X10
Local Member	X		X		

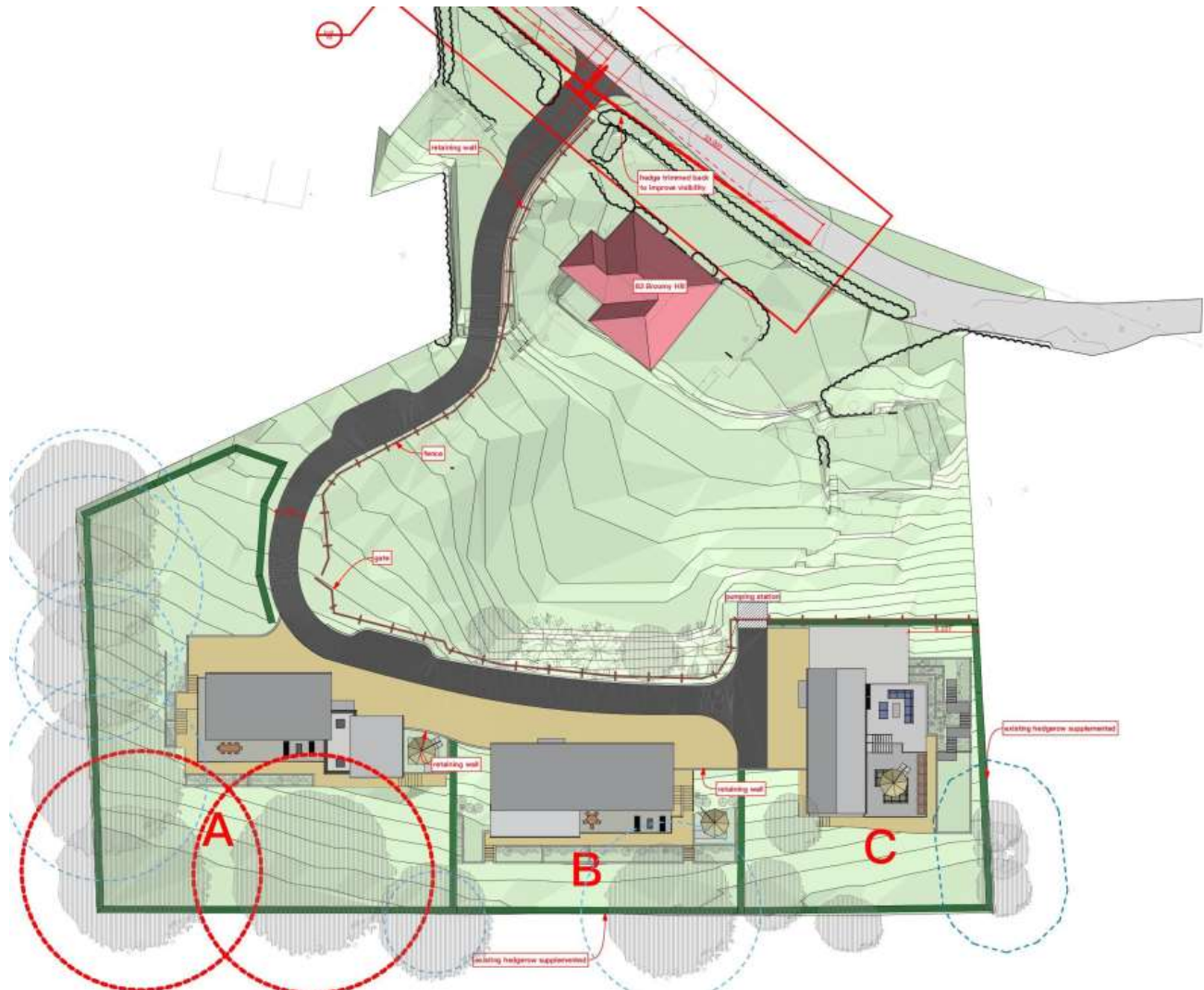
## PLANNING OFFICER'S APPRAISAL:

### Site description and proposal:

The application relates to a site on the western edge of Hereford to the north of the River Wye. No. 83 Broomy Hill is a large detached dwelling of 1930's origins which is built in red brick and sits within a generous curtilage of around 0.8 hectares. The garden falls away steeply to the south towards the river and the lower ground is occupied by the Hereford Society of Model Engineering and the Broomy Hill waterworks museum (including a Grade II\* listed pumping station). The existing curtilage hosts a number of mature trees and is wholly within the Broomy Hill Conservation Area. The site is accessed off Warham Lane / Broomy Hill to the north.

The application is made in full and seeks planning permission for the erection of three dwellings (revised from four since the initial submission of the application). A new access would be created off Broomy Hill to the north west of the existing dwelling and an access road formed through the curtilage towards a parcel of land at the southern end of the plot totalling around 04 hectares. The dwellings themselves would be arranged in a staggered line on an east-west axis with varying orientations. Each would be detached with accommodation spread across two storeys which works with the sloping topography of the site, with external areas also being terraced to form amenity areas. The dwellings themselves would be contemporary in character with a mixed palette of external materials to include

timber cladding, render, stone and standing seam for the roofs. The site layout plan is shown below;



The application is supported by;

- Design and Access / Planning Statement
- Ecological Assessment
- Landscape Appraisal
- Tree Survey and Arboricultural Impact Assessment
- Heritage Statement
- Surface and Foul Water Management Strategy
- Highways ATC Survey

## Representations:

**Local Member** – Updated of Officer's recommendation 8<sup>th</sup> June 2021. No adverse comments have been received and redirection to Planning Committee has not been sought.

## **City Council – Objection**

*Hereford City Council Planning Committee strongly objected to Planning Application 203335. Councillors did not find the designs in sympathy with the area, and were concerned that appropriate planning had not been done. Runoff water could easily cause the nearby Waterworks Museum and Broomy Hill Railway to encounter further flooding than they already do. Given the size of the dwelling in such a rural setting, the application should be reconsidered. Councillors suggest that a site visit should be completed to fully assess the location's suitability. There were also worries over the loss of trees in a conservation area, and no evidence had been produced to show an effort to keep these*

## **Transportation Manager – No Objections**

Comments 9<sup>th</sup> April 2021

*The previous highways comments on this application set out that the first section of the private drive should be widened appropriately to allow for vehicle passing at the access point. This is now shown on drawing number 7367-1 D and is acceptable for addressing this outstanding point.*

*In order to secure the provision of the access point condition CAB is recommended in relation to the splays (2.4m x 33m in accordance with drawing 7367-1 D). In addition the construction of the access and the connection to the public highway should be subject to condition CAE in the event that permission is granted.*

*Sufficient space exists within the garage areas to accommodate secure cycle parking without unduly impacting upon the parking areas available for vehicles associated to the dwellings.*

*There are no highways objections to the proposals subject to the recommended conditions being applied.*

## **Conservation Manager (Landscape) – Mixed Comments**

Comments 27<sup>th</sup> April 2021

*The graphic representation of the revised drawings (in particularly the landscape) is different in comparison to the original drawings, so a fair assessment of change is made difficult. However, it appears there are less trees and landscape open space, particularly along the critical areas that are exposed to the public domain and public footpath.*

*The principles of my comments still stand from the 05/11/2020, however assurance of appropriate space for existing and proposed large trees to grow successfully, and to ensure the development is integrated into the wider landscape character (with appropriate visual mitigation) is required*

Comments 5<sup>th</sup> November 2020

*The development harms the landscape (removal of trees, being within close proximity to existing large trees, disturbance and covering of natural ground, and destruction of biodiversity), and the landscape setting of a historic precinct, recreation and leisure area (Hereford Waterworks Museum, Hereford Society of Model Engineering and open space along the River Wye).*

*A reasonable proposal of mitigation has been suggested, however the close proximity of the buildings to the property boundaries (particularly buildings B, C and D) does not allow for sufficient space for trees to grow into large specimens to make an enhanced background for the scale and structure warranted for the landscape setting. Therefore the development will be apparent, particularly in the winter months. The development encroaches onto existing large trees, particularly the visually dominant Copper Beech, impacting the presence of these trees, and possibly impacting their health.*

*Fortunately for the development the surrounding properties provide foreground mitigation (as evident and expressed within the before and after visuals), so the depth of the landscape is increased. This 'borrowing' of landscape, should not waive the setback of the development, as they have no control over this landscape.*

*Should the development proceed, the potential desire to open up the landscape to capture views over the River Wye or to capture light, may impact on the density of the planned mitigation and therefore increase visual exposure of the buildings. This would need to be considered in the conditions set for the development.*

*With adjustment of the set back of the buildings to allow a wider zone for large trees, I would have no objection, together with the strategy of planting proposed on the Landscape Mitigation Plan, dated 23 September 2020, within the Landscape Statement.*

*The Landscape Mitigation Plan is schematic and requires further detail that can be submitted as conditions. This would include a detailed soft and hard landscape plan; with levels (existing and proposed); information pertaining to retaining walls and pavements; root protection areas marked (as defined by BS 5837:2012) and other details as per best practice standards. The soft landscape plan, should include all proposed planting, accompanied by a written specification setting out species, size, quantity, density and cultivation details. A management plan and maintenance schedule for 5-10 years period shall be submitted to ensure the establishment of the planting and provide a long term structure for the landscape.*

*Reason: In order to maintain and enhance the landscape setting of the area and to conform with Policy LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.*

### **Conservation Manager (Historic Buildings) – No Objections**

Comments following amendments – 26<sup>th</sup> April 2021

*I have previously commented on the first design which resulted in a reduction in numbers by one unit and I now consider that the revised scheme is much improved. The one observation being that the gable end glazing on Unit C is considered to be too far forward and would be less prominent if set back further with a deeper roof overhang*

Initial Comments 4<sup>th</sup> November 2020

*The site lies within the Broomy Hill Conservation Area and overlooks the Grade 2\* listed Broomy Hill Pumping Station. There are other listed buildings close - by but they would be unaffected by the proposal. Generally the built environment is characterised by quite substantial Victorian and later villas set within mature landscaped gardens, with Broomy House being among one of the largest detached dwellings with substantial gardens which slope steeply down towards the water meadows of the River Wye.*

*The proposal sites four detached dwellings at the bottom of this sloping site and they are cut into the bank so they will remain discreet from Broomy Hill itself and will not impact upon the street scene. There is an oblique view of the site from the Pumping Station, but predominantly this is towards No 83 itself and I do not consider that the proposal would substantially harm the setting of this listed building. The main impact of the development will be when viewed from the water meadows.*

*I am not opposed to some development in this location and the contemporary architectural style a I think continues the distinctive character of the area.*

*A concern is the number of dwellings proposed – for such substantial houses the garden sizes are small and four such closely spaced houses do not adequately reflect the existing character of the area where the detached houses have a good degree of planting between them. The extent of glazing facing on what will be the main public side of the buildings is also a matter of concern as glass will be very reflective and would be an alien element in the landscape – this could be ameliorated by increasing the verge overhangs of the gable ends, or setting the glazing line back to create a better shadowed elevation. Changing from glass balustrades to metal or wire handrails would also help in this respect – with the number of trees present keeping glass clean will in any event be difficult to maintain.*

### **Conservation Manager (Arboriculture) – No Objections**

Comments 27<sup>th</sup> April 2021

*My previous concerns about the location of the soakaways and their close proximity to retained trees has been addressed by placing them outside of root protection area. As this was the reason for my objection I can confirm that I am satisfied that the proposed erection of 3 dwellings now appears compliant with policies LD1 and LD3, subject to conditions.*

### **Conservation Manager (Ecology) – No Objections subject to Conditions**

*The site is within the catchment of the River Wye SAC and a Habitat Regulations Assessment process is triggered by this application and the required appropriate assessment completed by the LPA must be subject to a formal ‘no objection’ response from Natural England prior to grant of any planning consent.*

*The following notes are made in respect of the HRA process.*

- No surface water will be discharged to the local main sewer system and all surface water can be managed on-site through appropriate SuDS-Infiltration systems.*
- All foul water is proposed to be managed through connection to the local mains sewer network.*
- At this location the mains sewer system is processed by DCWW’s Hereford (Eign) waste water treatment works (wwtw).*
- The Hereford (Eign) wwtw discharges final outfall in to the ‘English’ – Middle section of the River Wye SAC*
- At the this time LPA Ecology have not been notified by Natural England that the English section of River Wye is failing its conservation status*
- The additional phosphate pathways can currently be accommodated within the phosphate headroom accepted as part of the council’s Core Strategy (2015)*
- The LPA ecology have no reason to consider that a connection to the mains sewer system cannot be achieved at this location (but may be subject to further technical considerations outside of the scope of this assessment)*
- The agreed foul water and surface water management schemes can be secured by condition on any planning consent granted.*
- The site is within 200m and overlooks the River Wye so there is an identified potential for the site preparation and construction processes to affect the River Wye SAC (and protected species) such as through transport, noise, dust, spills and discharges, storage of materials, site clearance, equipment and storage of materials.*
- A Construction Environmental Management Plan is identified as being appropriate to ensure all such aspects and effects are fully considered and mitigated.*
- The required CEMP can be secured as a Pre-commencement condition on any planning consent granted.*
- The site is within 200m and overlooks the River Wye so any additional external lighting that could affect the intrinsically dark landscape (local amenity and nature conservation) on the eastern, southern or western boundary of the development could have a direct effect on light sensitive nocturnal protected species and other species associated with the designation of the SAC. Any other lighting towards the north*

*should be compliant with latest guidance from the Institute of Professional Lighting Engineers-Bat Conservation Trust.*

- *A condition to secure the required lighting controls can be secured on planning consent granted.*

*Subject to NE comments the following conditions are requested on any planning consent granted. - CKJ (as amended for brexit)*

*Additional ecology comments - The supplied ecology report is noted. It is noted that no biological records data appear to have been utilised. The CEMP required as part of the wider Habitat Regulations Assessment process will ensure all relevant ecological working methods and risk avoidance measures are fully secured and no further ecology protection condition is required. The impacts of any external lighting on the local biodiversity and known presence of protected species in the locality is also considered and mitigated through the HRA process.*

*As identified in supporting information and as identified in the NPPF, council's core strategy polices and ethos of the soon to be enacted Environment Bill all development should clearly demonstrate how it will deliver a secured, net gain in local biodiversity potential. A detailed plan showing locations and detailing the specification of all biodiversity net gain features including but not limited to enhancing Bat roosting, Bird nesting, Insect populations, Hedgehogs and Reptiles, alongside any proposed tree and shrub planting should be secured through condition. NS based on CKQ*

### **Land Drainage Engineer – No Objections**

*We have reviewed the application and we have no objections to the development. However we note that there is a foul pumping station proposed. The applicant will need to contact DCWW to ensure that a connection can be granted, but also to ensure that the pumping station can be positioned appropriately on the site, in accordance with DCWW requirements. Our understanding is that the pumping station would need to be adopted by DCWW, although this needs to be confirmed through dialogue with DCWW. If a privately owned pumping station is proposed then further discussions will be required regarding maintenance*

### **Welsh Water – No Objections / Conditions Recommended**

*Surface Water Management Plan and Foul Drainage Strategy for 83 Broomy Hill, Hereford Contract Ref: L0269 and note that the intention is to drain foul water to the mains sewer and surface water to soakaways to which we offer no objection in principle. However, we note that porous paving will be used on the proposed access road, car parking and hardstanding and if there is any adoptable drainage or watermain proposed to be within this porous area it will not comply with our adoption criteria and request that this be addressed and amended where necessary. The report does acknowledge that a public sewer crosses over where the proposed access road will be created, we advise that the ground levels should be retained and best practices adopted in terms of excavations at this location to avoid the risk of damage to the asset.*



*Notwithstanding the above, if you are minded to grant planning permission we request that the following Conditions and Advisory Notes are included within any subsequent consent.*

### **Natural England – No Objections**

*Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection*

#### *European site - River Wye SAC - No objection*

*Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has undertaken an Appropriate Assessment of the proposal, in accordance with Regulation 63 of the Regulations. Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process.*

*Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.*

#### *River Wye SSSI - No objection*

*Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection*

### **Hereford Civic Society – Objection**

Comments 5<sup>th</sup> May 2021

- 1. These comments relate to amended drawings, dated April 2021 on the Council's planning portal. We previously commented in November 2020 on the proposed erection on this site of four dwelling houses (under the same Planning Application number).*
- 2. The majority of our earlier comments made in November 2020 are equally applicable to this amended application.*
- 3. Our principal concern is the site's location at the western edge of the Broomy Hill Conservation area and its particular sensitivity to inappropriate over development (in the context of its setting) and the removal of a large number of trees.*
- 4. The three proposed dwellings form a line on the site's southern boundary as did the four dwellings included in the original plans. In the amended plans. House "B" in particular is in full view from the floodplain, being both the closest to the boundary and with the least tree cover from retained vegetation*

5. *The contemporary design of dwellings "A" and "C" would become more acceptable with the removal of "B". Partly because of differing orientation, they will be seen as individual homes rather than forming part of a "development".*
6. *The removal of "B" may allow the placing of Houses "A" and "C" a few meters further to the north and at a slightly higher elevation from their present planned position. Were this possible, additional landscaping/ tree cover (when viewed from towpaths along the River Wye) may be possible, providing retention of much of the current wooded setting.*
7. *The Broomy Hill Conservation Area is enjoyed by many because of its location close to the River Wye, its adjacent long-distance footpath and Hereford City centre. It deserves the protection afforded by it being a conservation area.*

Comments 8<sup>th</sup> November 2020

1. *Development history. 83 Broomy Hill Lane (Broomy House) was constructed in the 1930's in grounds of approximately 2 acres. To the west, #85 Broomy Hill Lane, was built in 2016 (Planning Application P161414) on land that had originally formed part of #83. DCC041182 was approved in 2004 for the construction of #an outdoor swimming pool and a building for changing.*
2. *Location. The development site lies at the western edge of the Broomy Hill Conservation Area on ground that for the most part shares its southern boundary with the northern boundary of the Hereford Society of Model Engineering. The original 1930's house, the outdoor pool and changing room are positioned adjacent to the plot's northern boundary (Broomy Hill Lane, also known as Warham Lane). The house enjoys panoramic views over its extensive wooded grounds to the south, across the River Wye flood plain, the River Wye and towards south Herefordshire as most of the ground between the house and its southern boundary slopes steeply towards the floodplain and the river*
3. *The location where construction of these four large contemporary dwellings is proposed, is adjacent to the River Wye floodplain and hence will not have the advantage of the same views or solar gain from its southern aspect unless there is the wholesale removal of much of the current woodland and shrubbery. Such removal would seriously compromise the Conservation Area as the site is on the Conservation Area's western boundary and in full view from the river/ river towpaths and from the Hereford Society of Model Engineering's outdoor railway layout which in summer attracts large numbers of members of the public on its open days (as does the Waterworks Museum, its next-door neighbor).*
4. *On the Block Plan, the only trees that are shown as being retained are those on the Model Engineering Society's side of the common boundary.*
5. *The proposed dwellings are not to a design that draws on local architectural styles.*
6. *The proposed dwellings will have (from the towpath) the appearance of a long terrace as there is little space between them.*
7. *For the size of accommodation offered, the dwellings are on small plots (which even in an "acceptable" setting could well be considered over development). The Broomy Hill Conservation Area is known for its large plots, roomy houses, large gardens dominated by trees, giving the appearance of a park land setting. What is proposed is out of character.*

8. *Each of the proposed dwellings possess an outside dining terrace which infers an entitlement to privacy which will be denied through their close proximity to the Model Engineering's outside display area and the adjacent Waterworks Museum. This may lead to residents of these dwellings seeking to place restrictions on their operations or opening hours, reducing their amenity value for Hereford residents and visiting tourists.*
9. *The absence of a modicum of garden might suggest that the proposed dwellings may not be designed for year-long residents.*
10. *Access to the development site is via a new long/ mostly downhill private drive from Broomy Hill Lane. Construction of this will necessarily have to be to a well-engineered standard ahead of contractors' access, in order to avoid soil erosion caused by contractors' vehicles and equipment ascending/ descending the 1:8 incline.*

**Letters of Objection from 8 individuals** were received in the initial consultation;

- Impact upon highways – safety of access and additional traffic
- Impact upon Conservation Area and character of Broomy Hill
- Increase in impermeable area and runoff rates contributing to flooding
- Loss of trees and green infrastructure
- Impact upon setting of listed waterworks museum (Grade II\*)
- Harm to the biodiversity value of the site
- Contemporary style of architecture not in keeping with area
- Effect on privacy of neighbouring dwellings
- Lack of garden space for new dwellings
- Detriment to experience of riverside walks

**Two Letters of Objection** were received following the amendments to the plans and subsequent re-consultation. They raised the following points

- Impact upon highways – safety of access and additional traffic
- Impact upon Conservation Area and character of Broomy Hill
- Overdevelopment of area based on quantum of development

**One General Letter** was received on behalf of the waterworks museum. It raised general queries regarding the potential for conflict between new residential uses and the museum in terms of noise and its ongoing operations. Assurances were also sought in terms of drainage arrangements and impact upon trees

Pre-application discussion:

P191143/CE - Pre-App Advice - Proposed residential development of four detached market dwellings each with associated garaging & private gardens – With Chloe Smart

Constraints:

Broomy Hill Conservation Area

Numerous mature trees on site

Listed buildings nearby – Broomy Hill Pumping station Grade II\*

Protected species records – on site and adjacent

Appraisal:

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) is also 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

As a starting point Core Strategy strategic policy SS1 sets out a presumption in favour of sustainable development, which is reflective of the positive presumption enshrined in the NPPF. The policy goes on to confirm that proposals which accord with the policies of the CS (and, where relevant other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise

The Council is currently unable to demonstrate a five year supply of housing land. The most recent supply statement outlines that the supply position in Herefordshire currently stands at 4.22 years. This renders the policies most relevant to the application as being ‘out-of-date’ and means that the presumption in favour of sustainable development as set out at Paragraph 11 (d) of the Framework is engaged. Should an application be made at the present point in time, the presumption directs that permission should be granted, unless;

- i. *. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development; or*
- ii. *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole*

Policy HD1 of the CS sets out that Hereford will deliver 6,500 new homes across the plan period. It sets out that this will be achieved through strategic allocations, as well as through

windfall sites and existing commitments which are expected to deliver 3,200 dwellings. It also sets the expectation that non-strategic allocations will be forthcoming through the production of the Hereford Area Plan and NDP's. The preparation of the Hereford Area Plan was however halted in November 2020 in light of the impending CS review.

Considering the site spatially and relative to the built up part of the city, it lies on the north west suburban fringes of Broomy Hill but has a clear relationship with existing development both on the north and south side of the river. It is experienced as part of the city and therefore I am satisfied that the site is an appropriate location for new residential development.

### ***Design, Character and Heritage Impacts***

Policy SS6 of the CS requires that all development proposals should conserve and enhance the environmental assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity and heritage assets and especially those with specific designations. This is further reinforced by policy LD1 which requires that schemes are positively influenced by the character of the townscape in terms of their design, scale and site selection. It further directs that development should serve and enhance the natural, historic and scenic beauty of important landscapes and features – especially Conservation Areas. SD1 also requires that schemes are designed to maintain local distinctiveness by respecting scale, height, proportions and massing of surrounding development whilst making a positive contribution to the character of the area.

The site here also lies in an area of heritage sensitivity. It is within the Broomy Hill Conservation Area and there are listed buildings nearby Broomy Hill pumping station. In terms of the former, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places additional statutory duties upon the local planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area in exercising planning functions. In respect of the setting of listed buildings. Section 66 of the same Act sets additional responsibilities to have special regard to their settings.

These duties are manifested in the development plan through policy LD4. This requires amongst other things to ensure that new developments 'protect, conserve, and where possible enhance heritage assets and their settings in a manner appropriate to their significance through appropriate management, uses and sympathetic design. Paragraph 194 of the NPPF directs that any harm to the significance of the designated heritage asset, including from development within its setting, should require clear and convincing justification. Paragraph 196 goes on to direct that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

The site in this case is on the fringes of the city where density of development is typically lower as the urban environment transitions to the open countryside. The existing dwelling fronts onto Broomy Hill and the new dwellings would be set within its generous curtilage to the south. With the exception of the new access, the impact of the development when experienced from Broomy Hill itself would be limited as the new dwellings would be barely discernible given the

difference in levels and the treatment of the intervening ground. From the south however the site is more prominent, being visible from well trafficked public vantage points such as the riverside footpaths and in longer distance views from the south of the Wye. From this direction the site presents itself as a wooded slope sandwiched between scattered built forms on the lower and higher ground. The scheme seeks to retain the most significant trees on this slope, however it is acknowledged that there would be an overall reduction in tree cover within the site and the introduction of three new dwellings would inevitably alter the largely verdant character of the hillside. However, meaningful efforts have been made to reduce the impact of the scheme by reducing numbers and increasing the spacing between units to reduce the effect of massing when viewed in the wider context. The retention of significant trees and additional planting will also help mitigate this impact further, whilst appropriate materials and finishes can be secured by condition to ensure that the scheme is recessive in the landscape. Overall therefore, it is acknowledged that the scheme would give rise to changes to the character of the landscape which are considered harmful – however it is not considered that this harm is significant in the context of CS policies LD1 and this needs to be weighed in the planning balance. In this regard, the Council's Landscape Officer has not offered fundamental objections to the scheme and he has advised that the indicative landscape mitigation strategy provided in the supplied report by Peter Quin Associates is appropriate in its scope. The scheme can be secured in detail, updated to reflect the reduction in number of dwellings, by condition if permission is to be granted (alongside an ongoing maintenance strategy).

In terms of the designs of the dwellings, the cotemporary approach is considered to be appropriate to work with the topography and constraints of the site. The bespoke design for each unit also reflects the ad hoc and unplanned nature of existing development in this area of Broomy Hill and the palate of materials is considered to be high quality. Full details will be secured by condition and restrictions upon PD rights will also be imposed to ensure future alterations can be adequately controlled in the interests of safeguarding the Conservation Area and the character of the locale given the prominent hillside location. Subject to this, the scheme is considered to accord with SD1 with regards to design.

The Council's Historic Buildings Officer has considered the amended scheme and advises that no objection are now offered in terms of the effect of the scheme on the historic environment, although it is considered that there would be a degree of harm to the Conservation Area which tends to the lower end of the 'less than substantial' spectrum. When assessed with regards to the tests set out at Paragraph 196 of the NPPF, it is considered that the public benefits of the scheme in terms of providing housing in an area where there is an identified shortfall in supply would outweigh the minor harm identified. It follows therefore that the scheme does not cause tension with LD4 and the duties upon the LPA under Section 72 and 66 of the Act are fulfilled.

### ***Residential Amenity***

Policies SD1 of the CS requires that development proposals safeguard residential amenity for existing and proposed residents, for instance in terms of overlooking, overshadowing or overbearing. This accords with the principles of the NPPF with regards to securing good standards of amenity for all existing and future occupants of land and buildings – as set out at Paragraph 127. The scheme in this case provides dwellings within generous curtilages and

reasonable spacing between plots, thus delivering good standards of living for future occupiers. The scheme also avoids any detriment to any existing residents through overlooking or overshadowing. There is hence not considered to be any conflict with SD1 in these terms.

### ***Highways, Transport and Pedestrian Connectivity***

In considering the highways implications of the development Core Strategy Policy MT1 is of relevance. Amongst other things, this requires that proposals demonstrate that the strategic and local highways network can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network. In doing so proposals should ensure that developments are laid out to achieve safe entrance and exit, and to ensure that adequate maneuvering and operational space is available – having regard to the Council's Design Guide for New Developments.

The dwellings would be served by a new access onto Broomy Hill to the north west of the site and an associated access road through the site. A traffic count survey has been undertaken on this road to understand speeds and volumes to inform appropriate visibility splays. The Council's Transportation Manager subsequently confirms that appropriate visibility splays can be achieved and that the amended site access road is of a suitable specification to support the dwellings. Implementation of these can be secured by condition. There is also adequate parking and maneuvering space within the site and the dwellings provide adequate opportunity for cycle storage. On this basis, it is considered that the scheme accords with the requirements of the design guide and CS policy MT1.

### ***Ecology and Green Infrastructure***

Policy LD2 of the CS states that all development proposals should conserve, restore and enhance the counties biodiversity assets wherever possible. Amongst other things, this should be achieved through the retention and protection of nature conservation sites and habitats in accordance with their status. In relation to trees and green infrastructure. Policy LD3 of the CS requires that development proposals should protect, manage and plan for the preservation of existing and delivery of new green infrastructure such as trees, woodlands and hedgerows. These policies are underpinned by Chapter 15 of the NPFF, particularly Paragraph 170 which requires that planning policies and decisions should contribute to and enhance the natural and local environment by, amongst other things, protecting and enhancing valued landscapes and minimising impacts on and providing net gains for biodiversity

The application is supported by an ecological survey and the Council's Ecologist has not identified any significant concerns with its findings. As part of the HRA process, a CEMP will be secured by condition and this will incorporate relevant ecological working methods and risk avoidance measures to be implemented throughout the construction phase. Conditions will also be imposed to secure a scheme of biodiversity enhancement and on this basis there is not considered to be any conflict with LD2.

The proposal site currently hosts a number of trees which made a positive contribution to the setting of the Conservation Area and character of the locale in general. The trees have been extensively surveyed as part of the supplied arboricultural report and this identifies the majority of trees of high retention value to be located at the peripheries of the site, including a number of notable cedar and beech trees to the southern boundary which form an important part of the site's setting when experienced from public vantage points to the south. These would in the majority be retained as part of the development and the Council's Tree Officer has confirmed that the scheme sets out adequate protections measures to ensure their long term health would not be compromised. Within the site a larger number of smaller trees would be removed, however it is not considered that this would lead to an unacceptable loss of green infrastructure or harm to the setting of the conservation area. Suitable compensation for these can be secured as part of a detailed landscaping plan to be secured by condition. Overall, it is not considered that the scheme would have an unmitigated adverse impact upon trees or green infrastructure which brings the proposal into conflict with LD1 or LD3.

### ***Foul and Surface Water Management***

Policy SD4 relates to wastewater management and river water quality, and requires that new developments should seek to connect to the existing mains wastewater infrastructure in the first instance. It would also need to be demonstrated that these arrangements would have no likely significant effect upon water quality or designated conservation sites such as the River Wye SAC in accordance with the Conservation of Habitats and Species Regulations. In respect of surface water, policy SD3 of the CS considers measures for sustainable water management - requiring these to be an integral element of new development in order to reduce flood risk and avoid an adverse impact upon water quantity

In respect of foul water management, the scheme here proposes a connection to the mains wastewater infrastructure running to the north of the site and Welsh Water have offered no objection to this in principle. The application is supported by an outline strategy for this connection which confirms that a pumping station will be needed for this arrangement given the topography of the site. The Council's Land Drainage Team have no objection to this arrangement and confirm it complies with SD4.

In respect of flooding, the raised topography is such that the site itself is beyond the reaches of the River Wye flood plain and not at risk of fluvial flooding. In terms of surface water management, the proposal is supported by the results of infiltration testing and this confirms conditions to be suitable for the use of soakaways to manage runoff from the dwellings themselves. The parking areas will be laid to porous material to ensure there would be no increase in runoff from these areas. Again the LPA drainage engineer has confirmed these arrangements are acceptable with regards to SD3 and offers no objection.

### ***Habitats Regulation Assessment***

It is noted that the application site lies within the catchment of the River Wye Special Area of Conservation where the Habitats Regulations are applicable. Under the regulations, there is a requirement for the LPA as the competent authority to assess the plan or project to ensure



there would be no unmitigated adverse effect on the integrity of the designated site. The proposal in this case has been assessed by the LPA ecologist and potential impacts upon the SAC have been identified through foul water generation and impacts during construction given the close relationship to the River Wye. In accordance with Regulation 63, an appropriate assessment has been conducted and this concludes that the adverse impact can be mitigated through securing appropriate foul water management arrangements and a Construction Environmental Management Plan by condition. This has been subject to consultation with Natural England as the relevant statutory body and they have offered no objections. The scheme therefore avoids detriment to the SAC and complies with the regulations / CS policy SD4.

### ***Planning Balance and Conclusions***

The NPPF sets out the presumption in favour of sustainable development. Achieving this relies on the pursuit of three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are an economic objective; a social objective and an environmental objective.

The absence of a five year housing land supply is such that the policies of the Core Strategy must be taken as being 'out-of-date'. Its policies consequently attract reduced weight and the presumption at Paragraph 11 directs that planning permission should be granted unless the Framework provides a clear reason for refusing the development, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

The proposal site in this instance is on the fringes of Hereford where there is good access to range of services, facilities and employment nearby. The location of the site is therefore considered to be an acceptable one for new residential development with regards to policy HD1 of the CS and the principles of the NPPF. The delivery of three dwellings would make a small but meaningful contribution to housing supply, which is light of the currently shortfall is a benefit which must be afforded significant weight. This would also bring about benefits in the social sphere, as well as the economic sphere in terms of contributing to the local economy through expenditure in the construction phase.

In the environmental sphere, it is considered that the scheme would lead to a degree of adverse impact upon the character of the landscape and townscape in the locale. However, the level of the impact in this regard has been mitigated and the level of harm is relatively low. Further potential for impact in respect of green infrastructure, ecology, waste management and heritage have all been adequately addressed and no policy tension is identified in this regard.

Overall therefore, in the application of the presumption set out in the Framework there are no issues identified of such material weight that would suggest the scheme would not constitute a sustainable form of development. The proposal largely accords with the relevant policies of the NPPF and the CS and the hence benefits from the positive presumption. It is recommended for approval accordingly, subject to the conditions below.

The Local Member has been informed and no objections have been offered to the scheme or the delegated procedure. The applicant has agreed to the imposition of pre-commencement conditions as required by the 2018 Regulations.

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

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

*(please note any variations to standard conditions)*

1. C01
2. C06 - 7367-1 D, 7367-2 D, 7367-3 D 7367-6 D, 7367-7 D received 1<sup>st</sup> April 2020 and 7367-4 E received 15<sup>th</sup> May 2021
3. C13 – External materials
4. Notwithstanding the provisions of article 3(1) and Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015,(or any order revoking or re-enacting that Order with or without modification), no development which would otherwise be permitted under Classes A, AA, B, C, D, E and H of Part 1 and of Schedule 2, shall be carried out.

Reason: In order to ensure that future alterations and development can be adequately controlled in the interests of upholding the character of the scheme, the character of the local and the significance of the Broomy Hill Conservation Area in accordance with policies SD1, LD1 and LD4 of the Herefordshire Local Plan Core Strategy and the National Planning Policy Framework.

5. No development, including any site clearance or demolition, shall begin until a Construction Environmental Management Plan (CEMP) including a full Ecological Working Method Statement and a specified 'responsible person', has been supplied to and improved in writing by the local planning authority. The approved CEMP shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have finally been removed; unless otherwise agreed in writing by the local planning authority.

Reason: To ensure all habitats and species are protected having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1, LD2 and LD3

6. With the exception of site clearance and groundworks, no further development shall commence until a detailed landscaping scheme based on the recommendations within the report by Peter Quin Associates shall be submitted and approved in writing by the local planning authority. The scheme shall include a scaled plan identifying:

- a) Trees and hedgerow to be retained, setting out measures for their protection during construction, in accordance with BS5837:2012
- b) Trees and hedgerow to be removed.
- c) All proposed planting, accompanied by a written specification setting out; species, size, quantity, density with cultivation details.
- d) All proposed hardstanding and boundary treatment.

Reason: To safeguard and enhance the character and amenity of the area in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework

- 7. All planting, seeding or turf laying in the landscaping scheme approved pursuant to Condition 6 shall be carried out in the first planting season following the occupation of the building or the completion of the development, whichever is the sooner. Any trees or plants which die, are removed or become severely damaged or diseased within 5 years of planting will be replaced in accordance with the approved plans.

Reason: To ensure implementation of the landscape scheme approved by local planning authority in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework

- 8. Before any of the dwellings hereby approved are occupied, a schedule of landscape maintenance for a period of 10 years shall be submitted to and approved in writing by the local planning authority. Maintenance shall be carried out in accordance with this approved schedule.

Reason: To ensure the future establishment of the approved scheme, in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.

- 9. Prior to the first occupation of any of the dwellings hereby approved, a fully detailed and specified Biodiversity Enhancement Plan including a relevant location plan that is appropriate with the scale, nature and location of the development including provision of fixed habitat features (enhancing bat roosting, bird nesting, insect populations, hedgehog homes and movement corridors) shall be provided to the planning authority for approval. The approved scheme shall be implemented in full and hereafter maintained unless otherwise agreed in writing by the planning authority.

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

10. Except where otherwise stipulated by condition, the development hereby approved shall be carried out strictly in accordance with the details set out within the Tree Survey & Arboricultural Impact Assessment by Mackley Davies Associates Ltd and as shown on approved plan 7367-2D

Reason: To ensure that the development is carried out only as approved by the Local Planning Authority and to conform with Policies LD1 and LD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

11. Before any other works hereby approved are commenced, visibility splays, and any associated set back splays at 45 degree angles shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 33 metres in each direction along the nearside edge of the adjoining carriageway in accordance with approved plan 7367-1 D. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.

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

12. Prior to the first use of the new vehicular access hereby approved, the access shall be constructed at a gradient not steeper than 1 in 12 and in accordance with a specification which has been submitted to and approved in writing by the Local Planning Authority.

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

13. Any new access gates or doors to the site access shall be set back 10 metres from the adjoining carriageway edge and shall be made to open inwards only.

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

14. All foul water shall discharge through a connection to the local Mains Sewer network ((Hereford-Eign waste water treatment works) and surface water shall be managed through a soakaway system within the development boundary; unless otherwise agreed in writing by the Local Planning Authority

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

Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD2, SD3 and SD4

15. At no time shall any external lighting be installed on the southern, eastern or western elevations or garden areas of the permitted development. All other lighting installed shall demonstrate compliance with latest best practice guidance relating to lighting and protected species-wildlife available from the Institution of Lighting Professionals

Reason: To ensure that all species and Dark Skies are protected having regard to the Wildlife and Countryside Act 1981, the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan - Core Strategy policies SS6, LD1, LD2 and LD3 and the Dark Skies initiative (DEFRA-NPPF 2013/19)

16. None of the dwellings shall be occupied until the sewerage disposal and drainage works have been completed in accordance with the details set out with in the Surface Water Management Plan and Foul Drainage Strategy reference L0269. Those arrangements shall thereafter be maintained in perpetuity.

Reason: In order to ensure that satisfactory drainage arrangements are provided and to comply with Policy SD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

17. No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment in accordance with policies SD1, SD3 and SD4 of the Herefordshire Local Plan Core Strategy

18. CBK

19. CE6

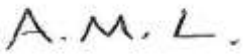
## **Informatives**

1. IP2
2. The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption

Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com)

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

3. The planning permission hereby granted does not extend any rights to carry out any works to the public sewerage or water supply systems without first having obtained the necessary permissions required by the Water industries Act 1991. Any alterations to existing premises resulting in the creation of additional premises or merging of existing premises must also be constructed so that each is separately connected to the Company's water main and can be separately metered. Please contact our new connections team on 0800 917 2652 for further information on water & sewerage connections.
4. I09
5. I30

Signed:  Dated: 24<sup>th</sup> June 2021

**TEAM LEADER'S COMMENTS:****DECISION:**PERMIT ☒REFUSE ☐

Signed:  Dated: 24 June 2021.....

Is any redaction required before publication?    No