

PLANNING AND REGULATORY COMMITTEE
2 FEBRUARY 2021**PROPOSED REPLACEMENT OF EXISTING STAGGERED
JUNCTION WITH A 4-ARM ROUNDABOUT AT A38 / A4104
JUNCTION, NEAR UPTON-UPON-SEVERN,
WORCESTERSHIRE.**

Applicant

Worcestershire County Council

Local Member

Mr P Middlebrough

Purpose of Report

1. To consider an application under Regulation 3 of the Town and Country Planning Regulations 1992 for the Proposed replacement of existing staggered junction with a 4-arm roundabout at A38 / A4104 Junction, Near Upton-upon-Severn, Worcestershire.

Background

2. Worcestershire County Council (WCC), as the County Highways Authority are seeking to undertake highway infrastructure improvements at the existing A38 and A4104 junction, located approximately 1.5 kilometres broadly to the north-east of the centre of Upton-upon-Severn.
3. The existing junction is made up of a staggered single-lane arrangement. The A38 in this location is a single carriageway road, which runs broadly on a north-south basis from the M50 Motorway and Tewkesbury and beyond to the south. To the north, the A38 runs to Worcester and beyond. The A4104 is also a single carriageway road, which runs from Pershore broadly to the north-east and to Little Malvern broadly to the west.
4. The A38 / A4104 junction is an important route for users travelling from the M5 Motorway and provides access to destinations such as the 'Three Counties Showground' and the Malvern Hills Area of Outstanding Natural Beauty (AONB), as well as a number of music festivals that are held within Upon-upon-Severn and the surrounding area throughout the year.
5. With the current junction arrangement, particularly during peak time traffic, extensive queueing is generated on both the A38 and A4104. The County Highways Authority have identified that the junction requires improvements to alleviate this problem and to provide more efficient traffic flows as well as providing a safer junction for vehicles.

6. The County Planning Authority (CPA) received a request under the Town and Country Planning (Environmental Impact Assessment (EIA)) Regulations 2017, from Jacobs on behalf of the applicant on 3 July 2020 for a screening opinion request for the proposed development to establish whether it would be EIA development.

7. The CPA considered that the proposal would not likely create any significant effects on the environment by virtue of its characteristics, location and characteristics of its potential impact. Therefore, the CPA considered that the proposed development would not be EIA development (CPA Reference: 20/000028/SCR). An Environmental Statement would, therefore, not be required.

The Proposal

8. The proposed scheme would provide a new 4-arm roundabout, to replace the existing staggered junction arrangement. In addition to the 4-arm roundabout, WCC are seeking to realign the southern A4104 approach to tie in with the new roundabout arrangement. To ensure compliance with current standards, within the Design Manual for Roads and Bridges (DMRB), the new approach requires a new single lane carriageway, located to the north of the existing A4104, measuring approximately 320 metres long. In order to tie the northern A38 approach into the proposed roundabout, the carriageway at this point would be moved to the west by approximately 20 metres over a short length, which would require the construction of a small section of additional carriageway. The redundant elements of highway would be stopped up and landscaped.

9. Existing footway links, which run along the existing A38 and along the existing A4104, are proposed to be replaced through the provision of a shared footway / cycleway measuring approximately 3 metres wide. Uncontrolled pedestrian crossings would be provided to allow pedestrian movements through the new junction arrangement. In addition to the construction of the roundabout, new section of highway and alterations to the existing highway, there would be changes to the current drainage arrangement, lighting, signage, bus stop arrangements and landscaping. The proposed scheme would largely be located within arable farmland located directly to the west of the A38, due to limited land lying within the existing highway boundary.

10. A number of bus routes travel through the existing junction and two bus stops are located along the A38 north of the proposed roundabout within the red line boundary. Existing bus stop facilities along the A38 are to be replaced on the realigned junction and would be accessed via the shared use footway / cycleway proposed as part of the scheme along the A38.

11. The draft Construction Environmental Management Plan anticipates that construction would begin in March 2021 and last approximately 25 weeks.

The Site

12. Part of the site lies adjacent to Ryall and is approximately 850 metres broadly to the north-east of Upton-upon-Severn and approximately 470 metres, broadly to the

north of The Grove. The site lies approximately 1.3 kilometres broadly to the west of Baughton and approximately 600 metres broadly to the south-west of Earl's Croome.

13. The Scheduled Monument of 'Moated site 150 metres east of St Nicholas' Church' lies approximately 790 metres, broadly to the north-east of the site. The Scheduled Monuments of 'Tower of Old Church' and 'Upton Cross in Old Churchyard' lie approximately 1.1 kilometres, broadly to the south-west of the site. The Upton-upon-Severn Conservation Area lies approximately 790 metres broadly to the south-west of the site.

14. Holly Green Farmhouse, Sunnybank Cottage and Holly Green Cottage and Tudor Cottage are all Grade II listed buildings which lie approximately 50 metres, 90 metres and 190 metres respectively broadly to the south-west of the site. Levant Lodge, which is a Grade II listed building, lies approximately 230 metres broadly to the north-west of the site. Earl's Croome House and Hazeldene are Grade II listed buildings, which are located approximately 185 metres and 245 metres broadly to the north of the site. The Old Rectory, Barn to South of Earl's Croome and Earls Croome Court are all Grade II listed buildings which are located approximately 650 metres broadly to the northeast of the site. The Grade II* listed building Church of St Nicholas is situated approximately 700 metres broadly to the north-east of the site.

15. Nearby residential properties include Bluebell Farm, Bluebell House, Bluebell Cottage and Windrush located to the east of the A38. Broadly to the south-west of the proposed new roundabout is the residential area of Holly Green in Ryall where there are a number of residential properties located within 100 metres of the proposed scheme's extent. This includes Acacia Lodge, which lies immediately to the south of the A4104, other properties on Ryall Road, and also properties in Court Lea which lie to the north of the A4104. Other nearby residential properties include South View and Hemmingsfield Cottage which lie close to the proposed scheme's northern extent lying just to the east of the A38, and Levant Cottage, which lies just to the west of the A38.

16. A Public Right of Way (PRoW) Footpath RP-511 runs broadly on an east-west axis from the western side of the A38, about 85 metres to the north of the A4104 eastern arm. There is a PRoW Footpath RP-509, which is located approximately 55 metres to the north of the site and runs from the western side of the A38, as well as PRoW Footpath EA-538, which is located approximately 60 metres to the north of the site and runs from the eastern side of the A38. A PRoW Footpath EA-542 runs from the east of the A38 and PRoW Footpath EA-543 runs from approximately 80 metres to the south of the site. Both PRoW Footpath EA-542 and EA-543 adjoin the southern side of the A4104 eastern arm at the same point.

17. Part of the site lies within the Lower Severn Strategic Corridor, as identified in the emerging Minerals Local Plan. There is an identified mineral deposit of sand and gravel as identified in the adopted County of Hereford and Worcester Minerals Local Plan located approximately 80 metres broadly to the west of the site. Land adjacent to Ryall North Quarry is being promoted through the emerging Minerals Local Plan. The application site is not within a Minerals Consultation Area as set out in the Emerging Minerals Local Plan.

18. The Grove House Yard waste transfer station (extant CPA planning permission refs: 11/000060/CM and 19/000016/CM, Minute No's 769 and 1031 refers) lies approximately 160 metres, broadly to the south-east of the site. The southern part of the proposed development site lies just within the 250-metre buffer zone around the Grove House Yard waste transfer station, as designated by Policy WCS 16 of the adopted Worcestershire Waste Core Strategy that seeks to safeguard existing waste management facilities from non-waste related development. The historic landfill sites of Hollygreen and Upton-upon-Severn Rural District Council Refuse Tip lie approximately 450 metres broadly to the south-west of the site.

19. The Malvern Hills Area of Outstanding Natural Beauty (AONB) lies approximately 6.5 kilometres to the west of the site. The Cotswolds AONB, of which Bredon Hill is an outlier, lies approximately 6 kilometres broadly to the east of the site.

20. The Common Land of Malvern Hills, Ripple, Smithmoor Common lies approximately 550 metres, broadly to the east of the site.

21. The Earl's Croome Meadow Site of Special Scientific Interest (SSSI) lies approximately 255 metres broadly to the north-west of the site. The Upton Ham SSSI lies approximately 650 metres, broadly to the south-west of the site.

22. Dunstall Common Local Wildlife Site (LWS) lies approximately 2.2 kilometres broadly to the north-east of the site. The Smithmoor Common & Meadows LWS lies approximately 560 metres broadly to the east of the site. Ripple Brook LWS lies approximately 1.7 kilometres broadly to the south-east of the site. The River Severn LWS lies approximately 600 metres broadly to the south-west of the site. Stocks Yatt Meadow LWS lies approximately 1.5 kilometres broadly to the south-west of the site. Pool & Mere Brooks LWS lies approximately 1.3 kilometres broadly to the west of the site. Brotheridge Green Disused Railway LWS lies approximately 2.2 kilometres broadly to the west of the site.

23. The historic park and garden of The Park is located approximately 2 kilometres broadly to the north-west of the site. The Registered Park and Garden of Croome Court lies approximately 2.3 kilometres broadly to the north of the site.

24. The site and surrounding land is Grade 3 Agricultural Land.

25. A CLH Pipeline, which it is understood is used to transport fuel (oil), runs through the western part of the site.

26. Whilst the site lies within Flood Zone 1 (low probability of flooding), land approximately 290 metres to the west of the site lies within Flood Zones 2 (medium probability of flooding) and land approximately 340 metres to the west of the site lies within Flood Zone 3 (high probability of flooding).

Summary of Issues

27. The main issues in the determination of this application are:

- Traffic, highway safety and Public Rights of Way
- Landscape character, visual impacts and historic environment

- Residential amenity (including noise impacts)
- Ecology and biodiversity, and
- Water environment.

Planning Policy

National Planning Policy Framework (NPPF)

28. The revised National Planning Policy Framework (NPPF) was updated on 19 February 2019 and replaces the previous NPPF published in March 2012 and July 2018. The NPPF sets out the government's planning policies for England and how these are expected to be applied. The revised NPPF is a material consideration in planning decisions and should be read as a whole (including its footnotes and annexes).

29. Annex 1 of the NPPF states that *"the policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication"*.

30. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives (economic, social and environmental), which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).

- **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- **a social objective** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- **an environmental objective** – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

31. These objectives should be delivered through the preparation and implementation of plans and the application of the policies in the NPPF; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

32. So that sustainable development is pursued in a positive way, at the heart of the NPPF is a presumption in favour of sustainable development. For decision taking, this means:

- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - 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.

33. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

34. The following guidance contained in the NPPF is considered to be of specific relevance to the determination of this planning application:

- Section 2: Achieving sustainable development
- Section 4: Decision-making
- Section 6: Building a strong, competitive economy
- Section 8: Promoting healthy and safe communities
- Section 9: Promoting sustainable transport
- Section 11: Making effective use of land
- Section 12: Achieving well-designed places
- Section 14: Meeting the challenge of climate change, flooding and coastal change
- Section 15: Conserving and enhancing the natural environment
- Section 16: Conserving and enhancing the historic environment

The Development Plan

35. The Development Plan is the strategic framework that guides land use planning for the area. In this respect, the current Development Plan relevant to this proposal consists of the adopted Worcestershire Waste Core Strategy (WCS) and adopted South Worcestershire Development Plan (SWDP).

36. Planning applications should be determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. The NPPF

is a material consideration in planning decisions.

37. With regard to the weight to be given to existing policies adopted prior to the publication of the revised NPPF, Annex 1 states *"existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)"*.

South Worcestershire Development Plan

38. The SWDP (2016) covers the administrative areas of Worcester City Council, Wychavon District Council and Malvern Hills District Council. The SWDP policies that are of relevance to the proposal are set out below:

- Policy SWDP 1: Overarching Sustainable Development Principles
- Policy SWDP 4: Moving Around South Worcestershire
- Policy SWDP 5: Green Infrastructure
- Policy SWDP 6: Historic Environment
- Policy SWDP 7: Infrastructure
- Policy SWDP 21: Design
- Policy SWDP 22: Biodiversity and Geodiversity
- Policy SWDP 23: The Cotswolds and Malvern Hills Areas of Outstanding Natural Beauty
- Policy SWDP 24: Management of the Historic Environment
- Policy SWDP 25: Landscape Character
- Policy SWDP 28: Management of Flood Risk
- Policy SWDP 29: Sustainable Drainage Systems
- Policy SWDP 30: Water Resources, Efficiency and Treatment
- Policy SWDP 31: Pollution and Land Instability
- Policy SWDP 33: Waste

Worcestershire Waste Core Strategy

39. The WCS policies that are of relevance to the proposal are set out below:

- Policy WCS 16: New development proposed on or near to existing waste management facilities.

Draft Planning Policies

Emerging South Worcestershire Development Plan Review (SWDPR)

40. Worcester City Council, Wychavon District Council and Malvern Hills District Council are reviewing the SWDP. The SWDPR will cover the period to 2041. The 'Preferred Options' consultation version of the SWDPR was consulted on from 4 November to 16 December 2019. The next step is to produce a Publication Version of the SWDPR, which is programmed for November - December 2021. The SWDPR would then be submitted to the Secretary of State for Housing, Community and Local Government for independent examination. The Secretary of State would then appoint an independent Planning Inspector to assess the 'soundness' and legal compliance of the plan. Once the plan is adopted it would replace the existing policies in the SWDP. Having regard to the advice in the NPPF, Section 4, as the SWDPR is still at an early

stage of preparation, only limited weight should be applied to the policies.

41. The SWDPR policies that, for the avoidance of doubt, are of relevance to the proposal are set out below:

- Policy SWDPR 2: The Spatial Development Strategy and Associated Settlement Hierarchy
- Policy SWDPR 3: Strategic Transport Links
- Policy SWDPR 4: Green Infrastructure
- Policy SWDPR 5: Historic Environment
- Policy SWDPR 7: Health and Wellbeing
- Policy SWDPR 25: Design
- Policy SWDPR 26: Biodiversity and Geodiversity
- Policy SWDPR 27: The Cotswolds and Malvern Hills Areas of Outstanding Natural Beauty (AONB)
- Policy SWDPR 28: Management of the Historic Environment
- Policy SWDPR 29: Landscape Character
- Policy SWDPR 32: Management of Flood Risk
- Policy SWDPR 33: Sustainable Drainage Systems
- Policy SWDPR 34: Water Resources, Efficiency and Treatment
- Policy SWDPR 35: Amenity
- Policy SWDPR 36: Air Quality
- Policy SWDPR 37: Land Stability and Contaminated Land
- Policy SWDPR 55: Malvern Hills Allocations

Other Documents

South Worcestershire Water Management and Flooding Supplementary Planning Document

42. The South Worcestershire Water Management and Flooding Supplementary Planning Document (SPD) was adopted in July 2018 and sets out the South Worcestershire Councils' approach to minimising flood risk, managing surface water and achieving sustainable drainage systems. This applies to both new and existing development whilst ensuring that the reduction, re-use and recycling of water is given priority and water supply and quality is not compromised. It relates to policies SWDP 28 (Management of Flood Risk), SWDP 29 (Sustainable Drainage Systems) and SWDP 30 (Water Resources, Efficiency and Treatment) of the adopted SWDP.

South Worcestershire Design Guide Supplementary Planning Document

43. The South Worcestershire Design Guide Supplementary Planning Document (SPD) was adopted in March 2018 and provides additional guidance on how the SWDP design related policies should be interpreted, for example through the design and layout of new development and public spaces across South Worcestershire and is consistent with planning policies in the SWDP, in particular Policy SWDP 21 (Design).

Worcestershire's Local Transport Plan 4 (LTP4) 2018-2030

44. Worcestershire's Local Transport Plan 4 (LTP4) was adopted in November 2017. LTP4 sets out an investment programme for Worcestershire's transport networks, including infrastructure, and technology and services essential to support planned growth, and continued social and economic success. LTP4 consists of a

suite of policies, four statutory assessments and the main document, which includes a strategic delivery programme. It sets five objectives regarding economic, environment, health and safety, equality, and quality of life. LTP4 refers to a number of schemes including the Bluebell Farm (A4104 / A38) Junction at ID Reference SWSTI5, where it states *"A comprehensive review of these junctions in terms of capacity, traffic flows, design and signalling apparatus (where provided) for all suitable transport modes, to identify whether capacity and/or safety improvements are required. If so, this will be followed by a detailed design process to identify a costed improvement scheme to tackle identified issues and constraints"*.

South Worcestershire Infrastructure Study Update Final Report (October 2019)

45. The South Worcestershire Infrastructure Delivery Plan (SWIDP) was first published in November 2012 and updated in October 2014 and July 2016. The Infrastructure Study builds on the SWIDP and includes the Bluebell Farm (A4104 / A38) Junction in the list of Transport Project Schedules.

Worcestershire Local Enterprise Partnership (WLEP) Business Plan 2012

46. This sets out the WLEP vision, which is to *"create the right economic environment to inspire businesses, encourage investment and to create lasting and sustainable employment in Worcestershire by 2017 and beyond"*. It also sets their key measures of success; their role; funding sources; and strategic objectives, which includes 'Objective 4: Planning, Development and Infrastructure'.

47. Strategic Objective 4 states that *"transportation through the movement of goods and people creates opportunities to trade and create economic growth. This connectivity and good infrastructure is essential to maximize Worcestershire's potential and to create a competitive environment"*.

Worcestershire Local Enterprise Partnership's World Class Worcestershire Our Strategic Economic Plan (SEP)

48. The Strategic Economic Plan (SEP) was published in March 2014 and sets out the LEP's vision and strategic framework, which is to ensure that Worcestershire's economy grows even more rapidly and makes an increasingly important contribution to the national economy. The SEP aims to grow the local economy by 2025 by generating over 25,000 jobs and to increase GVA by £2.9 billion.

49. The SEP sets three objectives:

- Create a World Class business location;
- Provide individuals with World Class Skills, and
- Develop World Class competitive and innovative business.

50. The SEP sets out integrated programme areas, which comprise prioritised projects and initiatives to meet these objectives. Transport Investment Programme is an initiative identified within the SEP to meet the objective of 'create a World Class business location'. The SEP recognises that *"additional investment in Worcestershire's transport infrastructure and services is essential to provide business with improved access to markets and employees and to encourage economic growth"*.

Consultations

51. **County Councillor Paul Middlebrough** supports the application.
52. **County Councillor (neighbouring) Tom Wells** supports the application.
53. **County Councillor (neighbouring) Adrian Hardman** has not commented.
54. **Malvern Hills District Councillor David Harrison** has indicated that he supports the application. He has commented that the speed limit on the A38 is presently 50 mph. With regard to the A4104 from Pershore (east) towards this junction, the A4104 runs mainly under national speed limit until approximately 5 metres from this junction where it becomes a 50-mph limit. With regard to the A4104 from Upton-upon-Severn towards this junction, the A4104 is 40 mph limit from Upton Marina as far as Holly Green Farm where the speed limit changes to national speed limit until approximately 10 metres before the A38 junction where it changes to a 50-mph limit. Councillor Harrison notes that no changes are proposed to the speed limits and has commented that this could be a good time to remove the 150 yards of national speed limit when travelling from Upton-upon-Severn on the A4104 and to reduce this to 50 mph.
55. **Malvern Hills District Council (MHDC)** is satisfied that the final scheme appears to have evolved following examination of the options available and includes provision for mitigation of impacts on the built and natural surroundings. Subject to the necessary engagement with relevant technical consultees at the County Council, to ensure planting and lighting proposals are sympathetic to the landscape type and local bat activity, no objection is raised.
56. Officers from MHDC have highlighted the emerging South Worcestershire Development Plan Review (SWDPR) Employment Land Allocations at Bluebell Farm (SWDP NEW 112 also referred to as CFS / Planning Ref: CFS0487, and Land north of Digaway (SWDP NEW 113 also referred to as CFS0696), which would potentially require amended access onto the A38 nearby. They reinforce the recommendation that requirements for a geophysical survey and trial trenching should be set out in a Written Scheme of Investigation to be approved by the MHDC Archaeology & Planning Advisor. They also suggest removing the 150 yards of “national speed limit” when travelling from Upton-upon-Severn on the A4104 and reducing this to 50 mph.
57. **Upton-upon-Severn Town Council** support the application. The roundabout should be eco-friendly and attractive, which might be able to be achieved by using structures and a planting scheme, as it is an important gateway into Upton-upon-Severn.
58. **Earls Croome Parish Council** welcomes the proposal to introduce a roundabout at the A38 / A4104 junction, as it would undoubtedly improve road safety and help to ease existing traffic congestion at peak daily travel times, during Upton-upon-Severn's festivals and when significant events are held at the Three Counties Showground. However, whilst supporting the above proposal in principle, the Parish Council has objections and serious reservations concerning certain aspects of the proposed roundabout, specifically:
59. Consultation: They strongly object to the lack of sufficient consultation with

relevant and affected parties (such as dedicated dialogue between WCC, MHDC, Upton-upon-Severn Town Council, Ripple and Earls Croome Parish Councils, plus impacted residents) concerning the scale, siting and potential impact of the proposed roundabout on local residents, users and the surrounding rural area. They request that implementation of the roundabout is paused until sufficient consultation has taken place, primarily to allow the points highlighted below to be addressed satisfactorily.

60. Perceived justification for adjacent development: They strongly object to the introduction of the proposed roundabout as any form of justification for future development of rural agricultural land in the immediate vicinity of the junction, either for proposed “employment sites” or provision of additional residential schemes. They state that Earls Croome and Ryall/Holly Green are distinct and separate minor category rural communities which are geographically disparate from each other and from the nearest town of Upton-upon-Severn. As per their previously submitted comments to the ongoing South Worcestershire Development Plan Review consultation, the Parish Council have stated that they will continue to strongly object to any form of expansion of residential dwellings and/or employment sites in the immediate vicinity of the A38 / A4104 road junction.

61. Scale and approach speed limits: It appears to the Parish Council that the roundabout has been physically scaled for approach speed limits of between 50 and 60 mph. They strongly request (and have repeatedly requested over many years) that a 40-mph speed limit is introduced on all immediate approaches to the roundabout, thereby allowing its physical scale and corresponding impact to be reduced proportionately. Introduction of this speed limit on approaches would also dramatically improve road safety for all users of the junction (pedestrians, cyclists and motorists).

62. Lighting: The proposed lighting for the roundabout is currently unsympathetic to adjacent residential properties as it would introduce significant light pollution. The lighting scale and impact could be reduced considerably if the roundabout was scaled for a 40mph speed limit on all approaches as proposed above, thereby helping to minimise impact to adjacent and surrounding residential properties. They also comment that it would be helpful to see a detailed lighting scheme.

63. Deactivation, decommissioning and removal of original section of A4104: They note that although the original stretch of A4104 is proposed to be used as maintenance access to the surface water attenuation pond from the A38 direction, there is no detail in the proposed plan as to how the remainder of the original roadway would be decommissioned and removed, for example to return it to agriculture or for it to be used as a base for screening/planting purposes. They strongly object to this omission, as leaving the original roadway in place would have a strong negative visual impact on the surrounding area and approach to the nearby town(s), especially as this route is the main gateway to Upton-upon-Severn, Malvern, the Malvern Hills and surrounding AONB. They also consider that leaving the original roadway in position is also highly likely to attract unwanted attention from opportunistic elements of the Traveller community.

64. Surface water drainage: They appreciate the inclusion of the attenuation pond to support surface water run-off control. However, they are very concerned that the current proposed scale may be insufficient to adequately prevent significant volumes of water from overwhelming surrounding water courses. They therefore urge that the

pond's scale is revisited in order to confirm that it is adequate for its intended purpose.

65. On balance, the Parish Council objects to this proposal based on the comments and rationale presented above and strongly requests that implementation of the roundabout is paused until urgent consultation can take place to adequately address the objections, issues and concerns raised.

66. **Ripple Parish Council** welcome the proposal. They request that 40 mph speed restrictions are imposed on the A38 roundabout approaches and ideally a 30-mph limit along the entire length of the A4104 from its roundabout intersection with the A38 to Upton-upon-Severn. If this is not feasible then they request that the current A4104 40 mph limit is extended in an easterly direction to calm traffic speeds earlier than currently on the Ryall Court Lane and Ryall Road junction approaches.

67. With regard to cycle/pedestrian links, they welcome the proposal for the formation of a 3 metres wide cycle/pedestrian facility as part of the roundabout formation. The Parish Council would like this facility to be extended along the redundant section of the current A4104 route, as part of the restoration of that stretch of highway. They want to see further detailed proposals/plans on the restoration of the redundant section of the A4104.

68. Surface Water Drainage – they welcome the inclusion of an attenuation pond as part of surface water runoff control but consider that it is imperative that this measure is sufficient to ensure that there is no significant additional water infiltration to ditches which form part of the upper reaches of the Ripple Brook drainage network. Increased volume would potentially adversely affect downstream settlements.

69. Protection of A38 / A4104 adjacent properties during construction - they urge that to protect residents and properties from noise and vibration during construction every effort is made to mitigate disturbance. They note that if machinery operates on low vibrating settings during earth and pavement compounding some mitigation is possible. Conditions should be imposed to ensure compliance with best practice.

70. Lighting – they want assurances that lighting would be sympathetic to adjacent properties and would not introduce lighting pollution to properties on the eastern perimeter of the Ryall settlement. They comment that it would be helpful to see a more detailed lighting placement/design plan.

71. A4104 Pedestrian Crossing adjacent to Ryall Road - as part of the A4104 improvements, the Parish Council wish to see the installation of a pedestrian crossing installed in the vicinity of the A4104 Ryall Road junction. Pedestrian access to Upton Upon Severn from Ryall and Holly Green requires crossing the A4104.

72. Controlled Access to Ryall Road during construction - Ryall Road, despite having signed controlled access, is constantly used as a cut through by motorists travelling from the A4104 wishing to avoid the busy A38 / A4104 junction to travel south. There is the added problem of some motorists breaking the 30-mph speed limit. During construction, they wish to see a form of temporary restriction and physical disincentive for “cut through” motorists who access the A38 at the Bluebell Ryall Road junction. The Parish Council request consideration of temporary traffic

calming measures along the Ryall Road for the period of construction works.

73. Parish/Town Council consultation – they agree with Earls Croome Parish Council that a joint meeting with the County Highways Authority would be beneficial to ensure that all the Parish Council's concerns/questions/suggestions are discussed. They request consideration of the points raised but are in support of the overall proposals and therefore recommend that planning permission is granted.

74. **Severn Stoke and Croome d'Abitot Parish Council** support the proposal. This additional infrastructure has been needed for a long time and the proposed roundabout would no doubt significantly reduce queuing traffic, particularly on the road from Upton-upon-Severn. Parish Councillors and residents have regularly raised concerns about the danger the current junction poses to vehicular traffic, cyclists and pedestrians, both at daily peak times and when the various Upton-upon-Severn festivals/Showground events are held. The current junction design gives rise to traffic conditions that are extremely off putting to visitors, who often have to plan an additional one hour travelling time in order to traverse a one mile stretch of road.

75. They consider that the proposal would significantly improve journey times and is therefore vital to the long-term survival of Upton-upon-Severn and Malvern shopping facilities, Upton-upon-Severn festivals, the County Showground and local employment in general. Relieving congestion is an important step in reducing traffic emissions and tackling climate change.

76. Parish Councillors ask that consideration be given to ensure that the approach to the roundabout facilitates slow, careful entry to the feature, without the need to actually stop. This is the diversion route used when the M5 Motorway is shut. It may, therefore, be important that heavy goods vehicles have good visibility and can approach the roundabout with steady, controlled progress, rather than as 'stop, start traffic'.

77. References whether traffic light system, such as that at junction 5 off the M5 Motorway at Wychbold, could be considered as an alternative to the proposal. This route is often the sole feasible alternative for Worcester/Malvern residents and commuters to cross the River Severn, when the A4440 is experiencing difficulties and would therefore make a significant difference to the lives of people from much farther afield. It is also the main bus route for the Upton-upon-Severn/Hanley/Kempsey schools and would significantly improve the safety of this route for children.

78. **Gloucestershire County Council** has commented that the site to which the application relates is located 3 kilometres north of the County boundary with Gloucestershire. In light of the scale and nature of this highway proposal, the County Planning Authority for Gloucestershire do not have other comments or observations to make in respect of the above application. As part of their response, they have noted that Malvern Hills District Council are of the opinion that *'no objection be raised', 'subject to the necessary engagement with relevant technical consultees at the County Council, to ensure planting and lighting proposals are sympathetic to the landscape type and local bat activity,'* and that Upton-upon-Severn Town Council *'recommend approval'*.

79. **Highways England** has no objections to the proposal.

80. **The County Highways Officer** has no objection, subject to the imposition of conditions relating to appropriate conditions relating to construction and layout details; signage information and existing Public Right of Way connection details as well as diversion routes and an updated Construction Environmental Management Plan (CEMP).

81. They comment that the junction is identified as a local congestion hotspot and is subjected to long queues and delays during the peak periods. The junction is identified in Worcestershire's Local Transport Plan (LTP4) as one of the South Worcestershire Strategic Transport Schemes (SWST15 Bluebell Farm (A4104/A38) Junction), which includes a number of junctions that are to be reviewed in terms of capacity and/or safety improvements.

82. Pedestrian and Cycle Movements - there are currently no formal cycle routes through the junction. No details of existing pedestrian and cycle flows have been provided but given the rural nature of the location, it is likely that the flows would be relatively low.

83. Trip Generation – the Transport Statement (TS) states that the scheme is not expected to directly generate additional traffic, however, the additional capacity the proposed improvement would provide is likely to make it a more attractive route compared to other busier alternatives. The junction enhancement would improve the efficiency of the transport network, reducing pollution associated with traffic congestion and help to improve air quality. The reduced congestion should also increase journey reliability for public transport users and improve the environment for walking and cycling.

84. Highway Impact – at the time of writing (comments dated 7 October 2020), the United Kingdom is in the midst of the COVID-19 pandemic. As a result, traffic flows are abnormally low in most areas. As a consequence, the TS has been written on the basis of the available information in terms of traffic flows on the local road network, rather than commission new traffic surveys, and without a recent site visit.

85. A Manual Classified Turning Count (MCC) at the junction has been obtained from WCC undertaken in December 2014, along with an Automatic Traffic Count (ATC) collected on the A38 and A4104 links over a seven-day period. Additionally, data for the A4104 (eastern arm) was provided for March 2016. The traffic counts have identified the peak periods as 08:00-09:00 for the AM Peak and 17:00-18:00 for the PM Peak.

86. In order to determine the operation of the junction in the future years, Temprow growth factors adjusted using the National Trip End Model (NTEM) for rural principal and rural minor roads has been applied to generate the opening year 2021 flows and the forecast year 2036 flows. Subsequently, the JUNCTION 9 modelling software package has been used to assess the performance of the junction. The results show that the A4104 (western arm) is operating over operational capacity during the AM base (2016) and future year (2021 and 2036) assessments with a Ratio of Flow to Capacity (RFC) of 0.99 and delays of 125 seconds in 2016, rising to 1.09 and 1.30 RFC in 2021 and 2036, and delays of 214 and 533 vehicles per second, respectively. In the PM Peak, the junction remains within acceptable capacity in 2021, but operates

near capacity on the A4104 (western arm) in 2036, with an RFC of 0.92 and delays of 98 seconds per vehicle.

87. Following implementation of the scheme, the capacity results for 2021 and 2036 show that the proposed roundabout would operate within capacity with short queues and delays during both the AM and PM Peak periods. No further modelling work is considered necessary.

88. Network Safety – personal injury accident data has been obtained from WCC for the most recent 5-year period (April 2015 to March 2020). The results show 6 slight injury accidents over this period, with an average of 1.2 collisions per annum and a KSI ratio (Killed or Seriously Injured) of zero. None of the collisions involved pedestrians, however one did involve a cyclist. The County Highway Authority do not consider there to be a significant injury accident history at the junction or on roads local to the site.

89. Walking and Cycling – the scheme would provide a 3 metres wide shared pedestrian/cycleway and informal crossing points with provision of dropped kerbs and tactile paving at each arm of the roundabout. This new facility would benefit pedestrians by providing wider footways and cyclists with off-road cycle provision. In addition, the crossings on all arms would be a betterment of the existing single informal crossing provision at the junction. The site has been designed to tie into existing footways on the surrounding highway network serving the site. No construction details, signage information or existing PRoW connection details have been provided, as part of the application. These points would be covered by condition should planning permission be granted.

90. Public Transport – bus stops are provided on the A38 to the north of the A4104. The northbound bus stop is situated approximately 10 metres north of the A4104 and the southbound approximately 60 metres further. The existing bus stop facilities are to be replaced on the realigned junction and would be accessed via the shared use footway / cycleway proposed as part of the scheme along the A38. The northbound bus stop would be relocated to a new position approximately 25 metres north of the southbound bus stop. Widened waiting areas are to be provided. No construction details for the bus stops have been provided. This can be covered by condition.

91. Flooding and Drainage – the proposed scheme is located in Flood Zone 1, having a low probability of flooding. They are satisfied that the proposed surface water drainage measures are appropriate. However, information regarding the maintenance regime is required, in terms of ownership, responsibility and frequency. This should be covered by condition should planning permission be granted.

92. Construction - A draft Construction Environmental Management Plan (CEMP) has been submitted in support of the application. Construction is expected to take place during the day, consisting of 10 hours Mondays to Fridays and 8 hours on Saturdays. There may also be a limited number of 8 hour working days on Sundays. Night time working may be required for tie-in and road surfacing at the end of the construction programme. The draft CEMP is considered acceptable and would form a condition if planning permission was granted.

93. The Planning Statement advises that there is a footway along the A4104 which

would be closed during construction, along with PRoW Footpath RP-511 to facilitate the safe construction of the proposed scheme. temporary diversions would be put in place to minimise disruption to non-motorised users. Once operational, PRoW RP-511 and PRoW EA-542 would connect to the new alignment of the A38 and their routes would be unaffected. Whilst the County Highway Authority has no objection to the principle of temporary closures of footways and PRoWs for the purpose of construction, details of the temporary diversion routes, materials and signage are required to be submitted. This point would be covered by condition.

94. The County Highway Authority has undertaken a robust assessment of the planning application. Based on the analysis of the information submitted and consultation responses from third parties, the County Highway Authority concludes that there are no justifiable grounds on which an objection could be maintained, and that it has no objection subject to conditions.

95. **The County Public Rights of Way Officer** has commented that the definitive line of Ripple RP-511, runs through the development site. In addition, several public right of way cross land adjacent to the development site, notably footpath Earls Croome EA-542. The construction of a roundabout proposes realignment of the A38. The plans indicate realignment would be over land crossed by some 15-20 metres of footpath RP-511 west of where it meets the current line of the A38. This length of path RP-511 would be subsumed by the new highway and the plans indicate the level of the road would be above the adjacent land crossed by the remaining length of the footpath.

96. If the height of the realigned road varies in relation to the ground crossed by footpath RP-511 they request that a means of access between the road and footpath is provided, for example, steps and handrail of a construction agreed with the Countryside Service.

97. The Planning Statement section 2.3 (Proposed Development) states that once the development is operational public right of way EA-542 would connect to the new alignment of the A38. Section 4.1.3 (Use of previously developed land) states redundant elements of highway would be stopped up and landscaped; this includes the area of highway to which footpath EA-542 currently connects. The plans for the development show the existing footway to the east side of the A38 south of the junction with the A4104 would be retained.

98. They need to ensure footpath EA-542 would connect to highway following the development and therefore would be grateful for confirmation whether:

- highway rights would remain over the retained footway or are to be extinguished;
- the stopping up of the redundant highway refers to legal extinguishment of highway rights or these rights will be retained.

99. With the present road alignment, footpath EA-542 connects over the A38 to the A4104 west of the A38. As a result of realignment of the A4104 and the limited footway provision proposed to the south side of the roundabout, this direct connection to the A4104 would be lost requiring users of footpath EA-542 to make several road crossings to access the realigned A4104.

100. The Planning Statement section 2.3 states a single carriage width of the current A4104 would be retained to provide access for utilities and maintenance of the attenuation pond, the remaining surface to be removed and replaced by grassland. They want to understand whether highway rights would be maintained over the full length of the redundant arm of A4104 and if access would be provided from this to the realigned A4104 which would allow the current pedestrian route to be maintained.

101. The Planning Statement notes the need to close footpath RP-511 during construction. Closure of footpath EA-542 is not mentioned but this may be considered necessary. If public safety requires a temporary closure or diversion of a public right of way during works the appropriate application should be made to the Public Rights of Way Mapping Team at Worcestershire County Council at least 6 weeks prior to the earliest requested closure date.

102. **The Ramblers Association** and **Malvern Hills District Footpath Society** have commented that PRowS RP-511 and EA-542 terminate on the A38 near this proposed roundabout. They have noted the advice in the Planning Statement at Figure 2.3 and associated text, in the Transport Statement of paragraph 5.2 and the proposed detailed layout in Drawing Numbered: B2367219-02-JAC-HGN-00-DR-C-0 Rev PO2. They have three minor comments on the proposal, which are as follows.

103. The 'Tactile Paving' for the A4104 eastbound appears to have been retained at its current location and not as described in the Transport Statement at paragraph 5.2. Thus, for walkers, cyclists and others it does not encourage the use of the 'safety triangle' at the new roundabout. They suggest that the tactile paving is re-positioned so that the safety triangle is used.

104. Neither PRow is now shown as quite reaching the newly provided footway/cycleways. While the missing connection distances are minimal and may be on highway land, they have experience of such gaps elsewhere being used to prevent access. They therefore request that the PRow are legally connected to the footway/cycleways.

105. They also query whether any thought been given to allowing walkers/cyclists to use the old A4104 road westbound. This would appear to be far more attractive and direct for some users and ideally (but possibly at more expense) the extension of the proposed new section of the footway/cycleway on the south-west side of the new roundabout to the old junction of the A4104/A38 to-be-gated road would be helpful.

106. **Sustrans** - no comment received.

107. **The County Landscape Officer** has no objection on landscape grounds. They welcome the proposed landscaping scheme that would deliver enhancements and good connectivity through a plan that accords with the wider setting and features inherent in the surrounding Settled Farmlands on River Terrace and Estate Farmlands Landscape Character Types. The list of species proposed for the new woodland and hedgerows would fit well with the existing tree and hedgerow assemblages present in the setting. They agree with the findings presented in the Landscape and Visual Impact Assessment (LVIA), which are that while there would be adverse visual impact to local receptors during construction the benefits of the new junction and its associated landscaping would deliver enhancements and improved

screening following establishment and some maturation.

108. They also comment that typically a scheme of this magnitude should secure its landscape method statement and management through imposition of a Landscape and Ecology Management Plan (LEMP). In this context, they note the matters raised in the ecology response submitted by their colleague (the County Ecologist). The County Landscape Officer is satisfied, from the perspective of landscape and visual impact, that the proposals submitted would deliver an acceptable net gain for the local landscape character. Therefore, they fully support the condition wording (LEMP) recommended by the County Ecologist, which they agree should be attached to any planning permission to ensure delivery of appropriate biodiversity protection and enhancement measures.

109. **Malvern Hills Area of Outstanding Natural Beauty (AONB) Unit** do not wish to comment.

110. **The Campaign to Protect Rural England (CPRE)** has no objection to the scheme. They have also added a general comment about how the applicant should carry out pre-application consultation. They suggest that not only should the applicant consult the Parish Council for the Parish within which the application site lies, but also that adjacent Parishes, whose inhabitants are likely to use the road in question, should also be consulted as non-obligatory consultees.

111. **Open Spaces Society** - no comments received.

112. **West Mercia Police** have no concerns or objections to the proposal.

113. **Historic England** do not wish to offer any comments on the application but advise that the County Planning Authority seek the views of specialist conservation and archaeological advisers as relevant.

114. **Ancient Monument Society** - no comments received.

115. **Malvern Hills District Council Conservation Officer** - no comments received.

116. **The County Archaeologist** notes that the application is now accompanied by a geophysical survey and archaeological field evaluation. The archaeological fieldwork has confirmed that the cropmark enclosure recorded in the Historic Environment Record (WSM06037 – cropmark enclosure) is a prehistoric enclosure that survives well and offers the opportunity to enhance our knowledge of this period in Worcestershire.

117. The proposed development would destroy the part of the enclosure that lies within the redline boundary. The fieldwork has also confirmed that there is no archaeology of such significance that it would result in an objection to the scheme. However, the development would destroy know a prehistoric archaeological site. They therefore have stated that a programme of archaeological work should be included by condition to fully record this archaeology prior to its loss through excavation and possibly watching brief.

118. **Malvern Hills District Council Archaeologist** has deferred to the County

Archaeologist.

119. **Natural England (NE)** has stated that based on the plans submitted, they consider that the proposed development would not have significant adverse impacts on designated sites and they have no objection. They have commented that the proposal is within 0.3 kilometres of Earl's Croome Meadow SSSI, which has been designated as a species rich neutral grassland. Based on the plans submitted and the specific requirements of the CEMP, they consider that the proposed development would not damage or destroy the interest features for which the site has been notified and therefore they have no objection. NE have also provided further general advice including consideration of protected species and other natural environmental issues.

120. **Worcestershire Wildlife Trust** notes the contents of the various associated documents and, in particular, the findings and recommendations set out in the Ecological Assessment Report and the requirements in the CEMP. In addition, they note that some works affecting protected species would need to be covered by licence. Assuming that the ecological recommendations and licences can be implemented effectively, they consider that there would not be significant adverse ecological impacts arising from this scheme and therefore do not wish to object to the application. They are content to defer to the opinions of the County Ecologists for all on-site ecological considerations and do not wish to make further comments on these proposals.

121. **The County Ecologist** has no objections, subject to the imposition of suitable worded conditions. They are in broad agreement with the submitted information which identifies likely significant effects on ecological receptors that briefly comprise a risk of adverse impact upon nesting birds, reptiles and amphibians and mammals including badger and hedgehog and foraging/commuting (and potentially roosting) bats. There are also impacts on habitats including habitat typologies prioritised within Worcestershire's Biodiversity Action Plan. However, there are no significant adverse impacts predicted upon designated sites, either within the development boundaries or the scheme's wider Zone of Influence.

122. There are some limitations identified within the supporting ecological reports. The CEMP give an opportunity to address these issues through provision of subsequent species-specific Method Statements, to be appended to the main CEMP and implemented by appointed contractor and their specialists. The Ecological Appraisal recognises the need for these Method Statements. The County Ecologist is, therefore, of the view that these can be secured through imposing a suitably worded condition.

123. A key matter for consideration is the scheme's approach to mitigate impacts predicted upon great crested newt ('GCN') a European Protected Species and a material consideration in the planning process. The Ecological Appraisal appends a Great Crested Newt Survey Report (B2367219-02-EGN-RP-LE-0003-02, Jacobs, August 2020) which confirms that certain works within the scheme's design, specifically the clearance of hedgerow and verge habitat within proximity to known ponds occupied by GCN, would constitute a contravention of the Conservation of Habitats and Species (Amendment EU Exit) Regulations 2019 and would therefore require derogation in the form a Natural England Mitigation Licence.

124. As the proposed mitigation approach (Licensing Policy One) is novel to Worcestershire County Council, the County Ecologist has set out some further detail on both the rationale and their evaluation of the scheme's proposals in the context of Natural England's (NE) advice.

125. NE Guidance Note WML-G24 (01/11) states that "*Natural England is the licensing authority for the purposes of this licensing regime. In addition to satisfying itself that one of the reasons provided for by the Regulations, in this case imperative reasons of overriding public interest exists, before granting a licence Natural England must also be satisfied that there is no satisfactory alternative and that any action licensed will not be detrimental to the maintenance of the population of the species at favourable conservation status in its natural range. The reason for granting the licence together with the two conditions that must be met before a licence can be granted are what Natural England refers to as the three statutory tests*" (Paragraph 3).

126. "*The Regulations also provide that a competent authority, including a planning authority must, in the exercise of any of their functions, have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions...It is for the planning committee to determine the planning application in light of the three tests*" (Paragraph 4).

127. Paragraph 5 of the Guidance Note states "*In determining whether or not to grant a licence Natural England must apply the requirements of Regulation 53 of the Regulations and, in particular, the three tests set out in sub-paragraphs (2)(e), (9)(a) and (9)(b).*"

(1) Regulation 53(2)(e) states: a licence can be granted for the purposes of "preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment".

(2) Regulation 53(9)(a) states: the appropriate authority shall not grant a licence unless they are satisfied "that there is no satisfactory alternative".

(3) Regulation 53(9)(b) states: the appropriate authority shall not grant a licence unless they are satisfied "that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range."

128. The County Ecologist has focused on the third derogation test, as relates to Favourable Conservation Status ('FCS') of GCN, noting the Supreme Court decision in R (Vivienne Morge) v Hampshire County Council in which the Supreme Court stated that it "*could not see why planning permission should not ordinarily be granted unless it is concluded that the proposed development would (a) be likely to offend one of the prohibitions referred to above and (b) be unlikely to be licensed under the regime described*".

129. The County Ecologist has stated that although Guidance Note WML-G24 refers to Regulation 53 of the Conservation of Habitats and Species Regulations 2010, this has been superseded first by the Conservation of Habitats and Species Regulations

2017 and more recently by the Conservation of Habitats and Species (Amendment EU Exit) Regulations 2019. For expediency, they refer here simply to the 'Habitat Regulations'.

130. Predicted impacts to GCN include risk of disturbance, injury or killing of individual GCN within the works area and the predicted loss of up to 1,139 metres of hedgerow and 0.8 hectares of rough grassland habitat available and deemed suitable to support to GCN on the existing road verges. Proposed mitigation, compensation and enhancement measures include delivery of a net gain of habitat deemed suitable to support GCN comprising 1.3 hectares of woodland, grassland and wetland with creation of a new waterbody suitable for breeding GCN and provision of connective measures to the wider countryside, including a culvert under the proposed road. A proposed landscaping scheme is appended to the Ecological Assessment at Appendix C (Drawing Numbered: B2367219-02-JAC-VGN-00-DR-LE-0018).

131. The County Ecologist considers that these landscaping proposals would constitute a measurable net habitat gain, and that this would provide a welcome benefit to both GCN and other species in the locality, including other species of amphibians, reptiles, breeding birds, foraging bats, hedgehog and badger. In terms of net gain for GCN, it is deemed likely that the proposals would provide an increased abundance at a site level through provision of new habitats in form of terrestrial foraging/over-wintering opportunities and new breeding pond. GCN distribution may therefore be positively affected within their natural range if provision of connective measures from the new breeding pond to wider countryside is effective. They also note that the applicant considers the proposals of sufficiently low risk of disturbance/injury or killing GCN so as to warrant application for a 'Low Impact' Class Licence.

132. The applicant proposes to seek derogation using DEFRA's Licensing Policy 1 "*Greater flexibility when excluding and relocating EPS from development sites*" as was first published in 2017. The policy wording is as follows: '*Defra considers that compensation for EPS impacts can be delivered without the need to relocate or exclude populations, where: exclusion or relocation measures are not necessary to maintain the conservation status of the local population; the avoid-mitigate-compensate hierarchy is followed; and compensation provides greater benefits to the local population than would exclusion and/or relocation.*' It is understood that the policy was worded with GCN in mind and offers '*the opportunity to reduce investment in capture, relocation and exclusion of GCN from development sites and increase investment in the provision of compensatory habitat*' however the licensing process must remain compliant with the mitigation hierarchy by requiring evidence that avoidance and then mitigation measures have been adequately considered prior to development of satisfactory compensation measures.

133. The scheme avoids direct impacts to primary GCN habitat and further mitigation measures can reasonably be secured through the aforementioned species-specific Method Statements as appended to the scheme's CEMP. The County Ecologist considers that this is important as the proposed removal of a trapping and translocation effort could potentially be interpreted as in breach of the County Council's Natural Environment and Rural Communities (NERC) Act (2006) biodiversity duties. Therefore, Reasonable Avoidance Measures should be secured to ensure that mitigation minimises the number of animals left within the impact site prior

to clearance works commencing, and that the habitat provided post-development would have an adequate starting population to enable GCN to utilise it fully.

134. They believe two further matters should be addressed if this licensing approach is to be successful. Firstly, it is necessary to demonstrate that the habitats have long term security, for example through delivery of a long-term LEMP, which could be secured through imposition of suitably worded condition. Secondly, it is imperative to ensure that good quality GCN habitat is well connected to the wider countryside and surrounding GCN meta-population, both in order to facilitate GCN colonisation and also dispersal to achieve the intended contribution towards the species Favourable Conservation Status (FCS).

135. The proposed habitat provision appears at first to be terrestrially isolated from the wider countryside. The compensation site appears severed by the A38 to the east, the A4104 to the south and the proposed new road to the north and west.

136. While the likely number of vehicle movements means that the newly constructed and A38 roads should be considered a significant barrier to GCN movement from east-to-west (subject to confirmation of drainage ditch inspections which they haven't been able to identify within the application pack), the decreased vehicular movement on the A4104 and proposed verge enhancements mean that connectivity from the proposed compensation habitat to the south is possible. A dedicated culvert is proposed under the newly constructed road in order to facilitate terrestrial connectivity for GCN from the compensation habitat to the north, and to the identified amphibian meta-population considered by the applicant most likely to make use of the terrestrial habitat to be impacted by this scheme. They consider this is critical to the scheme's success.

137. ConservationEvidence.Com, which summarises evidence from the scientific literature about the effects of conservation actions, reports 32 studies into the use of culverts by amphibian species with a number of these studies indicating that use of culverts is successful in reducing incidences of road mortality (particularly where culverts are combined with wildlife fencing). However, reports also indicated that certain culvert designs were unsuitable for amphibians. Additionally, in the UK, road drainage gullies are known to present an entrapment hazard for amphibians, including GCN. This can be overcome by use of gulley-pot ladders such as those produced by Enkomat. There is therefore a considered risk that an inappropriate culvert design could fail to provide terrestrial connectivity and the scheme fail the FCS derogation test.

138. In this scenario, because terrestrial connectivity to the identified surrounding meta-population would be reliant on the successful utilisation of the proposed road culvert, they believe it is imperative that an evidence-led design specification is secured prior to construction commencing. Similarly, ensuring road arrangement plans are updated so as to display the number, location and specification of mitigation measures including off-set drainage and gulley-pot ladders is also essential in demonstrating FCS is secured in the long-term. While some of this detail could be articulated within the aforementioned CEMP, an Ecological Design Strategy would be an acceptable alternative to demonstrate how the GCN mitigation measures enmesh with landscaping proposals and the scheme's European Protected Species (EPS) Method Statement.

139. British Standard BS42020:2013 notes that *“It is a criminal offence (subject to certain defences) to consciously harm European protected species without a licence, which would only be issued if the statutory licensing body is satisfied that the derogation criteria are met”*. BS42020 goes on to note that, in England, the use of planning conditions [to ensure adherence between planning and EPS regime] has been established through case law and is also recommended in government planning advice. BS42020 goes on to state that *“Wherever possible, the local planning authority ought to identify very specifically the types and location of activities that are covered by this condition (e.g. demolition/site clearance/pneumatic drilling/removal or alteration to roofs or structures), because only certain activities in certain areas are liable to cause harm, and thereby likely to be in breach of the Regulations. Reference ought also therefore be made to an annexed plan, map or specification as necessary to define the specified activities clearly. This ensures that the condition is proportionate and will not unduly affect the schedule for a development”*.

140. In this scenario, and because of the reliance on DEFRA Licensing Policy One without a supporting Discretionary Advice Service opinion, it is recommended that the applicant should submit a copy of any issued EPS Licence (as to specifically address clearance of vegetation likely to support GCN).

141. Turning to the scheme’s proposed impacts on a group of other European Protected Species, bats, the Ecological Assessment Report Addendum: Bats (B2367219-02-JAC-VGN-00-RP-LE-0011-01, Jacobs, August 2020) highlights a departure from the Good Practice Guidelines, ‘Bat Surveys for Professional Ecologists’ (3rd Ed, Bat Conservation Trust (BCT), 2016).

142. For ‘low value’ habitat BCT guidance recommends one survey visit per season, comprising spring, summer and autumn, with further surveys undertaken if results reveal them necessary. In considering the effects of this departure, the Addendum Report states that *“The spring survey period was missed as, at that point in time, the footprint of the proposed scheme was not as extensive and lighting impacts were considered negligible. In addition, Covid-19 travel and public safety measures and limitations came in to place, in accordance with Jacobs Covid-19 working protocols and the Chartered Institute for Ecology and Environmental Management (CIEEM 2020, Version 1 published 7 May 2020). To compensate for this, two transect visits were undertaken during the summer season and static monitoring was undertaken at two locations for seven consecutive nights at each location”*.

143. The Report goes on to state that *“the lack of survey data from spring and autumn is a limitation that is fully accounted for in the survey findings and recommendations”*. However, it is also noted that guidance produced by the Leicestershire and Rutland Environmental Records Centre in 2014 has been taken into account within the assessment. The Leicestershire and Rutland ERC Guidance Note has not formally been adopted by Worcestershire County Council, and indeed does not have the status of a nationally adopted good practice document; having being superseded by both the aforementioned BCT Good Practice Guidelines (2016), and Guidance Note 08/18 ‘Bats and artificial lighting in the UK’ produced by the Institute of Lighting professionals and BCT in 2018, and also the Eurobats Guidelines 8 ‘Guidelines for Consideration of Bats in Lighting Projects’ produced in October 2018.

144. While being hesitant at supporting the conclusion that the departure from good practice guidance has been fully accounted for, they are supportive of a precautionary approach in designing mitigation measures as aligned with recommendations within CIEEM's Guidance on Ecological Survey and Assessment in the UK During the Covid-19 Outbreak found at <https://cieem.net/resource/guidance-on-ecological-survey-and-assessment-in-the-uk-during-the-covid-19-outbreak-version-3-published-29-june-2020/>.

145. The Addendum Report summarises that no direct impacts to bat roosting features is predicted. Tree surveys confirmed suitability for roosting bats occurs within the scheme's Zone of Influence and static detectors confirmed activity of at least two rare species (Nathusius' pipistrelle and Barbastelle bats). Disturbance of bat species arising from both construction and operational phase lighting has been identified with the potential to impact Potential Roost Features within nearby trees, and this effect is considered to be of County level significance for nature conservation. The risk of impact from construction phase lighting on both hedgerows, the two trees with bat roost potential and also a section of woodland circa 80 metres to the west of the scheme is proposed to be addressed through the scheme's CEMP.

146. Operational phase impacts must be controlled through a lighting plan devised in collaboration with a suitably competent ecologist. Given the recorded activity of rare bat species, the proximity of the scheme to trees with high bat roost potential and risk of unidentified spring/autumn roosts otherwise potentially missed through the constraints to survey timing, they consider it is imperative that a suitable operational lighting scheme is designed and they strongly recommend that this is secured by imposition of a suitably worded condition.

147. The lighting design must fully take into consideration the benefits intended to foraging and commuting bats within the area of proposed net habitat gain and any subsequent interaction with proposed street lighting specifications. In summary, they have no objections to the scheme on the basis that the following matters can be adequately secured through imposition of conditions:

- CEMP to be updated with a number of species-specific Method Statements;
- Lighting Design Strategy, to spatially illustrate the operational phase impact and mitigation measures;
- An Ecological Design Strategy should be prepared to illustrate the aforementioned Great Crested Newt (GCN) mitigation measures, including design specification of the proposed amphibian culvert. These should be based on the proposed Landscaping Scheme; and a
- LEMP to demonstrate long-term security and monitoring proposals of mitigation/compensation/enhancement measures; and

148. **Worcestershire Regulatory Services (WRS) (contaminated land)** has reviewed the documents and records in respect of potential contaminated land issues. They are satisfied with the CEMP in relation to contaminated land. However, given the possibility of the importation of soil for soft landscaping towards the finishing of the project, WRS have recommended a condition relating to full details of soil or soil forming materials.

149. **Worcestershire Regulatory Services (WRS) (land and air quality)** has reviewed the documentation including the Upton A38 Roundabout Air Quality Assessment report and the 'Environmental Assessment for additional buildings at Bluebell Farm' (2 November 2020) technical note. They note that the proposed development is not located within or close to an Air Quality Management Area (AQMA) or local area of poor air quality. The realignment of the carriageway away from existing residential properties, combined with improvements to traffic flow and a reduction in congestion as a result of the scheme, are considered unlikely to have an adverse impact on local air quality at sensitive receptors. They support the conclusions that the operational air quality impacts of the proposed scheme on human and ecological receptors are considered to not be significant.

150. **Worcestershire Regulatory Services (WRS) (noise and nuisance)** has commented that the noise / vibration impact assessments as well as the Environmental Assessment for additional buildings at Bluebell Farm' (2 November 2020) technical note indicates that there is likely to be some short-term disruption during the completion of the noisiest works (breaking up and removal of existing road surface). However, given the short duration this should not result in an adverse impact overall. Other construction phase activities should fall beneath the Lowest Observed Adverse Effect Level (LOAEL) and as such are unlikely to have an adverse impact at the nearest receptors, subject to contractors abiding by Best Practicable Means as laid out in the submitted CEMP.

151. They note that the minor increase in operational noise levels ('+1dB is only potentially significant if the absolute noise level is above the Significant Observed Adverse Effect Level (SOAEL), which is not the case') identified at Bluebell Farm is unlikely to be perceptible relative to existing levels and as such should not pose a significant issue. Additional mitigation has been proposed: "*included within the design is a thin surface course which is implemented for the new road surface which would be quieter than conventional surfacing. This embedded mitigation measure should reduce the minor impact, most likely to a negligible level, although this assessment was not included this within the noise modelling*". This should help offset any predicted marginal increase in noise levels and should be implemented.

152. The vibration assessment appears to have been carried out in line with relevant standards and guidance and concludes cosmetic damage to buildings is very unlikely to occur as predicted vibration levels are well below the level quoted in BS 7385-2 where the risk of damage tends towards zero. Without mitigation vibration from earth and pavement compaction works have the potential to cause significant adverse effects. As such rollers must be operated in low vibration settings and measures within the CEMP abided by. Subject to the implementation of measures to mitigate vibration during the construction phase, vibration should not pose a nuisance. WRS advise that the recommendations within the report be adhered to and added to the CEMP to ensure Contractor compliance. In summary, WRS have no adverse comments or objections to make.

153. **County Public Health** has no comments to make.

154. **Hereford & Worcester Fire and Rescue Service** - no comments received.

155. **South Worcestershire Land Drainage** has commented that the site is located

within the Environment Agency (fluvial) Flood Zone 1 but it should be borne in mind that these maps only model watercourses with a catchment area greater than 3 square kilometres and do not include allowance for climate change. Reference can and has been made to surface water mapping in the accompanying Flood Risk Assessment, refer to the Environment Agency flood maps for surface water.

156. South Worcestershire Land Drainage have no objection in principle to the proposals with respect to flood risk but in section 4.1.1 Climate Change of the FRA the recommended allowance for 'Essential Infrastructure', 'Upper End' categories is +70%, not +40%. The opportunity to convert the existing piped highway drain along the west side of the A38 to open channel is welcomed and would increase capacity and ease access for maintenance. South Worcestershire Land Drainage have also provided an advisory note.

157. **The Lead Local Flood Authority (LLFA)** has reviewed the flood risk assessment (FRA) and other submitted information and assessed the information relating to surface water drainage only. The LLFA is generally supportive of the approach outlined and welcomes the recognition given to understanding and addressing the risk of surface water flooding and any potential impacts in relation to this proposal. The LLFA has no objection to this application and have recommended imposing a number of conditions relating to detailed surface water drainage drawings and a Sustainable Drainage Systems (SuDS) management plan.

158. **Severn Trent Water Limited** has no objections to the proposals subject to the inclusion of conditions relating to the disposal of foul and surface water flows. They have advised that there is a public 100mm pressurised foul sewer located within this site. With regard to clean water comments, Severn Trent Water Limited have noted that they have apparatus in the area of the planned development and that therefore the developer would need to contact Severn Trent Water Limited, New Connections team to assess proposed plans for diversion requirements.

159. **The Defence Infrastructure Organisation (DIO) Online LineSearch BeforeUDig** has stated that their records indicate that there may be a redundant pipeline in the area that is subject to the proposals. They therefore recommend that the advice of a specialist pipeline contractor is sought along with gaining confirmed asset locations and agreements from any other asset owners that may be affected by the works.

160. **Zayo Group**, which provides communications infrastructure, have stated that they have a network at this location that may be impacted. When the scheme progresses, they have asked that detailed design drawings are issued and a request made to them for diversionary works.

161. **Western Power Distribution Online LineSearch BeforeUDig comments** have provided a plan showing that there are existing Western Power Distribution (WPD) Electricity / WPD Surf Telecom apparatus in the vicinity of the proposal. If excavating on site in the vicinity apparatus, the applicant must comply with various requirements, including Health & Safety Executive guidance.

162. **CLH-PS** has commented that it appears from the plans submitted by the applicant that their proposal is to be constructed within close proximity to CLH-PS

apparatus. CLH-PS have been in contact with the applicant's agents who have agreed that they would protect the pipeline before building the new road over the pipeline. The agents for CLH-PS have, therefore, confirmed that they are satisfied that the planning application can proceed.

163. **Worcestershire Local Enterprise Partnership (LEP)** - no comments received.

Other Representations

164. The application has been advertised on site, in the press and by neighbour **notification**. To date, 18 letters of representation, two of which are letters of support; four of which are comments and 12 of which are objections. Their main comments are summarised below.

Support

Highway Issues

- Great opportunity to use the existing road as the starting point of a cycle route into Upton-upon-Severn, as it is already a popular stop off for cyclists and could be even better with improved infrastructure.
- Scheme is a very good solution for road traffic.

General

- Scheme is long overdue and well thought out. Delighted that the proposal for the junction is a roundabout and not traffic lights which they consider would have been more dangerous and caused significant pollution.

Object

Highway Issues

- Need to consider the consequences of the scheme further including modelling as there would undoubtedly be an effect on traffic coming out of Ryall Road and Ryall Court Lane.
- Would not alleviate the sheer volume of traffic going to events in Upton-upon-Severn or at the Three Counties Showground.
- Would create a bottleneck further into Upton-upon-Severn.
- When events are on it is quicker to walk from Upton-upon-Severn to the Three Counties Showground.
- Could reduce speed limits on all roads and have a smaller road improvement.
- Would be an increase of traffic using the Ryall Road as a short cut to and from Upton-upon-Severn.
- Proposed traffic island would not help traffic flow.
- Traffic generally flows freely and of an evening and overnight traffic flows are very light.
- Saw a traffic counting survey taking place whilst the M5 Motorway had obviously been closed due to a jack-knifed lorry – queries whether this is what they have based traffic flows on.

- Roundabout would not be safer for cyclists.
- Increased flow of traffic and road width would make crossing the roads extremely difficult for pedestrians/cyclists/horse riders, especially in peak times and when their children often walk to school crossing both the A4104 and A38.
- Speed limit is concerning and should be reduced as the proposal affords this opportunity.
- Vehicles, especially large commercial types, arrive at the junction often in excess of the current speed limit.
- Would like some preventative measures such as a Gabion basket stone wall to provide additional safety to properties.
- Vehicles which currently have to stop at the junction would not slow down and this would pose difficulties entering and exiting the property. The view east (towards Earls Croome/Baughton) is hindered by a hedgerow.
- Extra volume of traffic once the proposal is complete would create horrendous congestion.

Amenity Issues

- Extremely concerned about the impact that the proposed major works would have on them, including pollution, noise levels and effect on their business that they run from home as well as on family life.
- Vehicles currently travelling north and south do not need to decelerate whereas they would do if proposal allowed, which would consequently increase exhaust fumes and would detrimentally affect air quality.
- Ambience of area would be completely destroyed.
- No restriction on contractors working at night and timescales are likely to extend well into summer months. Endless construction work would have a negative impact on the health and mental well-being of residents, particularly as many of them are working from home due to the pandemic.
- Proposal including vibrations from heavy machinery and excavations could damage properties.
- Dust and dirt caused by digging would contaminate property and garden, preventing opening windows in summer months.
- Queries whether any consideration has been given to dust and debris from the works.

Refers to the absence of streetlights at the current junction. Proposed lighting would be extensive and would have a massive impact on local residents, particularly those close to the scheme in terms of light pollution from streetlights and also headlights which would shine into habitable rooms. Also concerned about increased use of power for streetlights.

- Reducing speed limit would negate need for lights.
- Would cause stress.

Visual Impact, Landscape and Ecology

- Objects to massive size of the scheme with comments referring to it being larger than the Ketch roundabout. Would be urban sprawl and not sympathetic to the rural and beautiful surroundings.

- Should have a more nature friendly and cost-effective scheme that would effectively tackle the current issues. References that the three existing mini roundabouts at Upton-upon-Severn and Tewkesbury manages the flow of traffic adequately.
- Street lights would be a blot on the landscape.
- Rural views across the fields would be spoiled.
- Productive farmland would be lost.
- Would impact on various wildlife including skylarks nesting in the field; barn owls, buzzards, herons, bats that live in nearby buildings and trees, which would also be affected by the lighting, as well as other wildlife such as owls and habitats. Bats could be encouraged by having no lighting at the junction.
- Considers that Great Crested Newts should be left in their existing habitats and that some of them would need to be transported elsewhere as otherwise would be killed by machinery.
- Queries whether the landscaping around the area would be undertaken sympathetically.
- Concerns about blocking views from residents' houses and effect on natural light reaching homes.
- Asks whether trees would be reasonably mature or saplings which would take a number of years to grow and might die. Queries the reference to new woodland area.
- The proposed 'pond' would just be a drainage pit and in the summer would just be a dry bowl.

Future Development

- May be plans subsequently to extend area of housing and / or further industrial development within the vicinity of the proposed development, which would further increase traffic flow and consequentially be dangerous.
- Proposal would give planners justification to over-rule any objections the Parish Council would raise against future development.

Consultation

- Considers that WCC have failed to behave in a considerate manner and must set high standards in terms of being transparent over issues that would affect them.
- Only become aware on penultimate day of consultation of the proposal.
- Only three households directly affected and weren't consulted
- Proposal seems to have been fast tracked in terms of speed that has progressed from initial planning to an apparent start date in early 2021. Considers that decision appears already to have been made.
- Little or no public consultation has taken place with residents, including not consulting the people living at Bluebell Farm. Appalling that nobody contacted them directly as only saw the proposal on Facebook. Queries why has not received written information from the County Council concerning this. Contrasts this with the consultation undertaken by Cemex development of Ryall North quarry.
- Application should be halted until there has been a proper public consultation including a public meeting.

- Due to the efforts of local residents, there were eventually afforded a meeting with two representatives of Jacobs UK Ltd (planning consultant), one acting on behalf of WCC on the 1 October 2020, the same day as 'comments' needed to be submitted.
- No opposing feedback registered on the online planning portal and no updates re ongoing process

Cost

- Costs too much as would be at least £6 million and queries how the money has miraculously appeared.
- The Government (whether Central or devolved) has much better things to be spending money on such as the NHS.
- Local residents' input would have been invaluable in helping the County Council decide on the best value for money scheme.
- Cost is extortionate when facing a global recession. Money could be spent on road repairs.

General

- Oil pipeline goes through site and is close to surface. Cannot see how the pipeline can be protected successfully whilst allowing for sufficient depth of roadway.
- Possibility that BT cables would be disturbed resulting in a loss of internet access, which would be disruptive to owner / occupiers' business
- Concerned that would devalue property and ability to sell property.
- Queries why a modest proposal for a dormer window for garage was refused as it 'would not be fitting' for a local area and therefore does not understand why a supersized behemoth of a roundabout, more suited to an inner city multi junction highway 'is fitting' of a rural area.
- Looks as though decision already made as a contractor has been appointed.
- Significant long-term disadvantages even if short-term gains.

Comments

Highways

- No speed counts and no traffic counts. Considers that the counts would go up on the A38 south for 100 metres as there would be more traffic over a smaller area.
- Cyclists should be able to use the main carriageway at all times and not be encouraged to use so-called 'shared' paths with pedestrians who themselves might feel threatened by cyclists passing in close proximity.
- Queries how cyclists would be able to safely travel through the junction to different destinations
- There is a requirement to provide dedicated routes for cyclists.
- Queries what evidence there is that road safety would be compromised if the existing lighting were to be removed and not replaced.
- Asks whether any thought been given to how the improved flow may affect the frequency of cars travelling on the A4104. Also notes that it can be hard to turn right out of Ryall Road during rush hour and peak seasons.
- Comments whether there is any scope to include a pedestrian crossing point

where the new road would join the existing A4104 in Holly Green. The improved flow from the roundabout could lead to fewer breaks in traffic to get across. If a pedestrian crossing cannot be provided, they ask whether there is any option for a lower speed limit or traffic slowing measures.

- Asks what measures would be taken to prevent Ryall Road from being used to avoid the roadworks during construction.
- Agrees there is a safety issue and suggests that traffic is slowed down to 30 mph through Earls Croome as it is difficult to enter and exit driveways off the fast main road.
- Would need good entrance to the A38.
- Asks whether a single land island should be considered instead in the interests of road safety over traffic flow and speed.
- Notes that one of the collisions was with a lamp post so therefore could be an argument for not installing lighting on the island in case another car hits a lamp post.
- Has provided their own traffic count, which shows that outside the 'rush-hours' there is very little traffic at this junction and that waiting traffic is negligible. Therefore, they query whether the scheme is justified and also query who actually knows what future traffic flows would be.

Visual Impact, Landscape and Ecology

- Asks whether there would be planting, including trees along the new road to replace the existing planting lost and to help embed the scheme in the landscape as well as supporting existing wildlife, such as birds of prey and woodpeckers.
- Also queries whether the row of trees in a block would be retained as they help with road noise, act as a wind break and helps with taking up rainwater that collects towards the bottom of the fields.

Amenity Issues

- Asks what steps would be taken to minimise disturbance to local residents during any nightworks.
- Currently experiences headlights from traffic shining into habitable rooms as traffic travels towards Worcester and asks what the impact of the proposed new road would be with regard to this issue.

The Head of Planning and Transport Planning's Comments

165. As with any planning application, this application should be determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. The relevant policies and key issues have been set out earlier.

Traffic, Highway Safety and Public Rights of Way

166. Paragraph 109 of the NPPF states "*development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*".

167. Gloucestershire County Council have commented that the site to which the

application relates is located 3 kilometres north of the County boundary with Gloucestershire. They do not have other comments or observations. Highways England have no objections.

168. Ripple Parish Council have requested that there is controlled access to Ryall Road during construction of the proposal, including a form of temporary restriction and physical disincentive for “cut through” motorists who access the A38 at the Bluebell Ryall Road junction. They also request consideration of temporary traffic calming measures along the Ryall Road for the period of construction works.

169. Severn Stoke and Croome d’Abitot Parish Council support the proposal, which they consider would significantly reduce queuing traffic, relieve congestion and improve journey times. They have requested that consideration be given to ensure that the approach to the roundabout facilitates slow careful entry to the feature, without the need to actually stop, which may help manage flow. The Parish Council comment that the junction is used as part of the diversion route when the M5 Motorway is shut and that it may therefore be important that heavy goods vehicles have good visibility and can approach the roundabout with steady, controlled progress, rather than as ‘stop, start traffic’. They have also referenced as an alternative the current traffic light system in place at junction 5 off the M5 Motorway at Wychbold if traffic flow is anticipated to be an issue.

170. As set out earlier under the ‘Consultations’ and also under the ‘Other Representations’ heading in this report, concerns have been expressed including about the scale of the scheme, the effect on traffic flows and safety concerns including whether the speed limit can be reduced.

171. In 2019, Jacobs were commissioned by WCC to review both the Upton Junction Improvement Study report and the Business Case study. Jacobs produced the A38/A4104 Junction Enhancement Reports Review in July 2019 which provided details of their findings. This report concluded that a signal-controlled junction was the recommended solution from an economic and efficiency driven perspective. However, while the 4-arm roundabout option would carry a higher level of capital expenditure, risk and an increased duration of project delivery, it would provide additional resilience against future traffic levels. Furthermore, the introduction of traffic signals at the junction would be seen as an urban modification to an existing rural setting, but the roundabout option would reduce this impact.

172. Malvern Hills District Council suggest that consideration be given to adjustment of the speed limit along the section of the A4104 travelling from Upton-upon-Severn towards the new roundabout junction with the A38. They have commented that this could be an expedient time, whilst altering the road layout, to reduce the speed limit to 50 mph and thereby removing the short stretch of national speed limit. Malvern Hills District Councillor David Harrison has also raised this issue.

173. Earls Croome Parish Council consider that the roundabout has been physically scaled for approach speed limits of between 50 and 60 mph. They strongly request that a 40 mph speed limit is introduced on all immediate approaches to the roundabout, thereby allowing its physical scale and corresponding impact to be reduced proportionately. Introduction of this speed limit on approaches would also dramatically improve road safety for all users of the junction (pedestrians, cyclists and

motorists).

174. Ripple Parish Council welcomes the proposal but requests that 40 mph speed restrictions are imposed on the A38 roundabout approaches and ideally a 30 mph limit along the entire length of the A4104 from its roundabout intersection with the A38 to Upton. If this is not feasible then the Parish Council request that the current A4104 40 mph limit is extended in an easterly direction to calm traffic speeds earlier than currently on the Ryall Court Lane and Ryall Road junction approaches.

175. The applicant has set out that the size of the roundabout has been driven by two engineering principles; capacity and safety, and that approach speeds themselves do not alter the size of any roundabout. They comment that the key safety feature of any roundabout is the Entry Path Curvature (EPC), which aims to slow vehicles down by introducing a curved drive through path for each approach to the roundabout. The maximum EPC radius for the roundabout is 100 metres. The A38 Upton-upon-Severn roundabout has been designed to provide the capacity the traffic model requires whilst maintaining sufficient width for Heavy Goods Vehicles (HGVs) and maintaining an EPC of less than 100 metres.

176. The applicant has confirmed that it is now proposed to reduce the speed limit from national to 50 mph on the western arm of the A4104. This would extend from the existing 60 mph / 40 mph limit split through to the proposed roundabout.

177. Along the A38, within the staggered crossroads section between the A4104 arms there are existing narrow footways of approximately 1.1 metres in width, on both sides of the carriageway. To the north and south of the A4104, a footway is provided on its eastern side only. A dropped kerb and tactile paving is provided to assist in crossing the A38, just north of the A4104 to Pershore. Along both the A4104 to Upton-upon-Severn and Pershore, narrow footways (approximately 1.1 metres in width) are provided on the northern side of the carriageway. There are currently no formal cycle routes through the junction. With regard to pedestrian and cycle movements, there are currently no formal cycle routes through the junction. No details of existing pedestrian and cycle flows have been provided but given the rural nature of the location, the County Highway Officer considers it is likely that the flows would be relatively low.

178. Ripple Parish Council welcome the proposed formation of a 3 metres wide cycle/pedestrian facility as part of the roundabout formation but would like this facility extended along the redundant section of the current A4104 route. They also want to see further detailed plans showing the restoration of this section and want a pedestrian crossing installed in the vicinity of the A4104 Ryall Road junction. The Ramblers Association and Malvern Hills District Footpath Society have also queried whether any thought has been given to allowing walkers/cyclists to use the old A4104 road westbound.

179. The scheme would provide a 3 metres wide shared pedestrian/cycleway and informal crossing points with provision of dropped kerbs and tactile paving at each arm of the roundabout. This new facility would benefit pedestrians by providing wider footways and cyclists with off-road cycle provision. In addition, the crossings on all arms would be a betterment of the existing single informal crossing provision at the junction. The applicant has set out that cyclists will be able to access the shared use

footway / cycleway from all directions on approach to the roundabout. The shared use footway / cycleway is then used to manoeuvre around the roundabout towards the cyclists required destination. The scheme does not preclude wider cycleway provision from being brought forward by Worcestershire County Council (WCC).

180. The County Public Rights of Way Officer has commented that the definitive line of Ripple RP-511, runs through the development site. In addition, several public right of way cross land adjacent to the development site, notably footpath Earls Croome EA-542. The construction of a roundabout proposes realignment of the A38. The plans indicate realignment would be over land crossed by some 15-20 metres of footpath RP-511 west of where it meets the current line of the A38. This length of path RP-511 would be subsumed by the new highway and the plans indicate the level of the road would be above the adjacent land crossed by the remaining length of the footpath.

181. If the height of the realigned road varies in relation to the ground crossed by footpath RP-511 they request that a means of access between the road and footpath is provided, for example, steps and handrail of a construction agreed with the Countryside Service.

182. The Planning Statement section 2.3 (Proposed Development) states that once the development is operational public right of way EA-542 would connect to the new alignment of the A38. Section 4.1.3 (Use of previously developed land) states redundant elements of highway would be stopped up and landscaped; this includes the area of highway to which footpath EA-542 currently connects. The plans for the development show the existing footway to the east side of the A38 south of the junction with the A4104 would be retained.

183. They need to ensure footpath EA-542 would connect to highway following the development and therefore would be grateful for confirmation whether:

- highway rights would remain over the retained footway or are to be extinguished;
- the stopping up of the redundant highway refers to legal extinguishment of highway rights or these rights will be retained.

184. With the present road alignment, footpath EA-542 connects over the A38 to the A4104 west of the A38. As a result of realignment of the A4104 and the limited footway provision proposed to the south side of the roundabout, this direct connection to the A4104 would be lost requiring users of footpath EA-542 to make several road crossings to access the realigned A4104.

185. The Planning Statement section 2.3 states a single carriage width of the current A4104 would be retained to provide access for utilities and maintenance of the attenuation pond, the remaining surface to be removed and replaced by grassland. They want to understand whether highway rights would be maintained over the full length of the redundant arm of A4104 and if access would be provided from this to the realigned A4104 which would allow the current pedestrian route to be maintained.

186. The Planning Statement notes the need to close footpath RP-511 during construction. Closure of footpath EA-542 is not mentioned but this may be considered necessary. If public safety requires a temporary closure or diversion of a public right

of way during works the appropriate application should be made to the Public Rights of Way Mapping Team at Worcestershire County Council at least 6 weeks prior to the earliest requested closure date.

187. The Ramblers Association and Malvern Hills District Footpath Society have requested that the Public Rights of Way (PRoW) are legally connected to the footway/cycleways. The Planning Statement advises that there is a footway along the A4104 which would be closed during construction, along with PRoW Footpath RP-511 to facilitate the safe construction of the proposed scheme. Temporary diversions would be put in place to minimise disruption to non-motorised users. Once operational, PRoW RP-511(C) and PRoW EA-542 would connect to the new alignment of the A38 and their routes would be unaffected.

188. Whilst no construction details, signage information or existing Public Rights of Way (PRoW) connection details have been provided, as part of the application, the Head of Planning and Transport Planning considers that this can be controlled by the imposition of a suitably worded condition.

189. Whilst noting the comments about whether a pedestrian crossing could be provided, the applicant has stated that this is outside of the scope of the works for this scheme.

190. The Ramblers Association and Malvern Hills District Footpath Society have commented that the tactile paving for the A4104 eastbound seems to have been retained at its current location and has suggested that the tactile paving should be re-positioned so that the safety triangle is used by walkers, cyclists and others. The applicant has confirmed that the uncontrolled pedestrian crossing of the eastern A4104 section would be repositioned to the splitter island as part of the detailed design process. The Head of Planning and Transport Planning considers that this can be controlled by the imposition of a suitably worded condition.

191. Due to COVID-19, traffic flows are abnormally low in most areas. As a consequence, the Transport Statement (TS) has been written on the basis of the available information in terms of traffic flows on the local road network, rather than commission new traffic surveys, and without a recent site visit. The Manual Classified Counts and Automatic Traffic Count have identified the peak periods for traffic counts as 0800-0900 hours for the AM Peak and 1700-1800 hours for the PM Peak.

192. The Transport Statement (TS) states that the scheme is not expected to directly generate additional traffic, however the additional capacity the proposed improvement would provide is likely to make it a more attractive route compared to other busier alternatives. The junction enhancement would improve the efficiency of the transport network, reducing pollution associated with traffic congestion and help to improve air quality. The reduced congestion should also increase journey reliability for public transport users and improve the environment for walking and cycling.

193. In order to determine the operation of the junction in the future years, Temprow growth factors adjusted using the National Trip End Model (NTEM) for rural principal and rural minor roads have been applied to generate the opening year 2021 flows and the forecast year 2036 flows. Following implementation of the scheme, the capacity results for 2021 and 2036 show that the proposed roundabout would operate

within capacity with short queues and delays during both the AM and PM Peak periods. The County Highways Officer considers that no further modelling work is necessary.

194. In terms of network safety, the County Highways Officer considers that there is not a significant injury accident history at the junction or on roads local to the site. The County Highways Officer has stated that as the proposal involves a significant alteration to the existing public highway, they would expect appropriate Road Safety Audit (RSA) reports to be submitted, together with the Designer's Response.

195. With regard to public transport, the existing bus stop facilities are to be replaced on the realigned junction. Whilst no construction details for the bus stops have been provided, this can be covered by condition. Construction details, such as dimensions, materials, construction make-up, lighting and signing have not been provided. These points can be covered by condition.

196. Appropriate traffic management will be put in place by the contractor during construction works and would be agreed in advance with WCC Highways. Advanced warning signs would be displayed on site and appropriate diversions would be signposted where closures may be necessary.

197. With regard to the redundant highways sections, the Landscape Proposals plan provided in the Landscape and Visual Impact Assessment (LVIA) shows how the redundant sections of highway will be restored. The small sections of the A38 would be landscaped with a mixture of grass, hedgerow and woodland. A single carriage width of the A4104 would be retained to ensure access for utilities and maintenance of the proposed attenuation pond, and the remaining surface would be removed and replaced by species rich grassland. Existing hedgerows would also be allowed to grow out. Highway rights would be removed from the redundant section of the A4104, with access only permitted for maintenance vehicles.

198. In light of the above matters, the Head of Planning and Transport Planning is satisfied that the proposal would not have an unacceptable impact upon traffic, highway safety or Public Rights of Way subject to the imposition of appropriate conditions relating to construction and layout details; signage information and existing Public Right of Way connection details as well as diversion routes and an updated Construction Environmental Management Plan (CEMP).

Landscape Character, Visual Impacts and Historic Environment

199. As set out earlier under the 'Other Representations' section of this report, letters of representation have been received commenting but predominantly objecting to the proposal including concerns about the visual impact.

200. Upton-upon-Severn Town Council considered that the roundabout should be eco-friendly and attractive, which might be able to be achieved by using structures and a planting scheme, as it is an important gateway into Upton-upon-Severn. Malvern Hills Area of Outstanding Natural Beauty (AONB) Unit do not wish to comment. The Campaign for the Protection of Rural England (CPRE) have no objections.

201. Paragraph 170 of the NPPF states that "*planning policies and decisions should*

contribute to and enhance the natural and local environment by...recognising the intrinsic character and beauty of the countryside”.

202. Whilst there are a number of residential properties within close proximity of the site, the area immediately surrounding the existing highway network largely comprises agricultural fields interspersed with hedgerows, trees and drainage ditches. The landscape is gently undulating and rises to the north. Whilst landscape features such as clumps of trees break up and contain some views, there are open views including long distance views towards the Malvern Hills when travelling along the A38. There are views of the existing roads and the junction from nearby Public Rights of Way, and also from existing residential properties.

203. Vegetation loss has been minimised as far as possible and the band of trees to the west of the scheme (following the field boundary and footpath Ripple RP-511) would be retained. As set out under ‘The Proposal’ heading in this report, the proposed scheme would provide for a new 4-arm roundabout as well as some additional sections of road including an additional single carriageway, measuring approximately 320 metres long, located to the north of the existing A4104. The redundant elements of highway would be stopped up and landscaped. There would also be other changes to the current drainage arrangement, lighting, signage, bus stop arrangements and landscaping.

204. The roundabout and associated elements would be a noticeable presence in the landscape and the proposal would increase the highway footprint. There would be adverse visual impacts to local receptors during construction. However, highways are a characteristic feature of the area. The scheme would involve the introduction of landscaping around the proposed roundabout, including along the realigned A4104 and within the land between the old and realigned A4104. The proposed mitigation planting once matured, as well as new features such as wetland areas, would help the development assimilate within its surroundings reinforcing local character and helping to reduce the extent that vehicles would be visible. The County Landscape Officer has no objection to the scheme on landscape grounds subject to the imposition of a Landscape and Ecology Management Plan (LEMP).

205. With regard to heritage assets, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a general duty with regard to listed buildings in the exercise of planning functions. Subsection (1) provides that *"in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses"*.

206. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a general duty as respects Conservation Areas in the exercise of planning function stating *"in the exercise, with respect to any buildings or other land in a Conservation Area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area"*.

207. Paragraph 190 of the NPPF states that *"local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking*

account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal".

208. Paragraphs 193 and 194 of the NPPF states that *"when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of: ...b) assets of the highest significance, notably scheduled monuments...should be wholly exceptional".*

209. The Government's PPG at Paragraph 018 Reference ID: 18a-018-20190723 states *"whether a proposal causes substantial harm will be a judgment for the decision-maker, having regard to the circumstances of the case and the policy in the National Planning Policy Framework. In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. It is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed. The harm may arise from works to the asset or from development within its setting..."*

210. Policies SWDP 6 and SWDP 24 of the South Worcestershire Development Plan require development to conserve and enhance heritage assets, including their setting.

211. Historic England do not wish to offer any comments but advise that the County Planning Authority seek the views of specialist conservation and archaeological advisers as relevant. Conservation Officers from Malvern Hills District Council have been consulted but have not commented on the proposal.

212. The Scheduled Monument of 'Moated site 150 metres east of St Nicholas' Church' lies approximately 790 metres, broadly to the north-east of the site. The Scheduled Monuments of 'Tower of old church' and 'Upton cross in old churchyard' lie approximately 1.1 kilometres, broadly to the south-west of the site. The Upton-upon-Severn Conservation Area lies approximately 790 metres broadly to the south-west of the site.

213. Due to the distance from the Scheduled Monuments and Conservation Area, coupled with the presence of intervening structures and features, including vegetation, as well as the topography of the surrounding landscape, it is considered that the proposal would not have an adverse impact on Scheduled Monuments and the Conservation Area.

214. Holly Green Farmhouse, Sunnybank Cottage and Holly Green Cottage and Tudor Cottage are all Grade II listed buildings which lie approximately 50 metres, 90 metres and 190 metres respectively broadly to the south-west of the site. Levant

Lodge, which is a Grade II listed building, lies approximately 230 metres broadly to the north-west of the site. Earl's Croome House and Hazeldene are Grade II listed buildings, which are located approximately 185 metres and 245 metres broadly to the north of the site. The Old Rectory, Barn to South of Earl's Croome and Earls Croome Court are all Grade II listed buildings which are located approximately 650 metres broadly to the northeast of the site. The Grade II* listed building Church of St Nicholas is situated approximately 700 metres broadly to the north-east of the site.

215. There would be some intervisibility between nearby listed buildings, including from Holly Green Farmhouse and Levant Lodge, and the proposal. Due to the nature of the proposal in terms of new highway and altered road alignment coupled with the presence of intervening features including vegetation, it is considered that the proposal would lead to less than substantial harm to the listed buildings and their settings.

216. Paragraph 196 of the NPPF states that *"where a development 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"*.

217. The Government's PPG at Paragraph 020 Reference ID: 18a-020-20190723 confirms that *"public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress...Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and should not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits"*.

218. The Head of Planning and Transport Planning considers that as the proposal would help to alleviate problems with queuing and provide more efficient traffic flows, as well as providing a safer junction for vehicles and pedestrians, it is considered that the public benefits of the proposal outweigh the less than substantial harm to heritage assets.

219. The County Archaeologist notes that the application is now accompanied by a geophysical survey and archaeological field evaluation. The archaeological fieldwork has confirmed that the cropmark enclosure recorded in the Historic Environment Record (WSM06037 – cropmark enclosure) is a prehistoric enclosure that survives well and offers the opportunity to enhance our knowledge of this period in Worcestershire.

220. The proposed development would destroy the part of the enclosure that lies within the redline boundary. The fieldwork has also confirmed that there is no archaeology of such significance that it would result in an objection to the scheme. However, the development would destroy a prehistoric archaeological site. They therefore have stated that a programme of archaeological work should be included by condition to fully record this archaeology prior to its loss through excavation and possibly watching brief. The District Archaeologist has deferred to the County Archaeologist.

221. Paragraph 197 of the NPPF states that *"the effect of an application on the significance of a non-designated heritage asset should be taken into account in*

determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset". In view of this and based on the advice of the County and District Archaeologists, the Head of Planning and Transport Planning considers that on balance, the impact upon the non-designated heritage assets is not of such significance as to constitute a refusal reason in this instance.

222. In view of this, the Head of Planning and Transport Planning considers that the proposal would not have an unacceptable adverse or detrimental impact upon landscape character, visual impact or the historic environment subject to the imposition of appropriate conditions relating to a Landscape and Ecology Management Plan (LEMP) and a programme of archaeological work, including a written scheme of investigation.

Residential Amenity (including noise impacts)

223. Paragraph 180 of the NPPF sets out that *"Planning...decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development..."*

224. Nearby residential properties include Bluebell Farm, Bluebell House, Bluebell Cottage and Windrush located to the east of the A38. Broadly to the south-west of the proposed new roundabout is the residential area of Holly Green in Ryall where there are a number of residential properties located within 100 metres of the proposed scheme's extent. This includes Acacia Lodge, which lies immediately to the south of the A4104, other properties on Ryall Road, and also properties in Court Lea which lie to the north of the A4104. Other nearby residential properties include South View and Hemmingsfield Cottage which lie close to the proposed scheme's northern extent lying just to the east of the A38, and Levant Cottage, which lies just to the west of the A38.

225. As set out earlier under the 'Other Representations' section of this report, there are various comments and objections including those relating to noise levels, vibration, air and light pollution.

226. County Public Health have no comments to make. Worcestershire Regulatory Services (WRS) (land and air quality) have reviewed the documentation. The proposed development is not located within or close to an AQMA or local area of poor air quality. The realignment of the carriageway away from existing residential properties, combined with improvements to traffic flow and a reduction in congestion as a result of the scheme, are considered unlikely to have an adverse impact on local air quality at sensitive receptors. They support the conclusion in the reports that the operational air quality impacts of the proposed scheme on human and ecological receptors are considered to not be significant.

227. The applicant has submitted a Construction Environmental Management Plan (CEMP), which details a number of commitments and actions to minimise adverse impacts from the construction process on the environment and adjacent residents, including noise, vibration and air quality/dust. Appropriate noise suppression

techniques would be implemented by the contractor during construction. The applicant has provided a noise assessment, which assumes that construction work would typically be undertaken between 07:30 to 18:00 from Monday to Friday, 07:30 to 14:00 on Saturdays with no working on night-time periods, Sundays or Bank Holidays. However, due to the nature of the proposed scheme, some limited night-time and/or weekend working may possibly be required for road tie-in activities and road surfacing. In such cases, specific agreement would be required with the County Planning Authority.

228. Worcestershire Regulatory Services (WRS) (noise and nuisance) have commented that the noise / vibration impact assessment prepared by Jacobs indicates that there is likely to be some short-term disruption during the completion of the noisiest works (breaking up and removal of existing road surface). However, given the short duration this should not result in an adverse impact overall. Other construction phase activities should fall beneath the Lowest Observed Adverse Effect Level (LOAEL) and as such are unlikely to have an adverse impact at the nearest receptor, subject to contractors abiding by Best Practicable Means as laid out in the submitted CEMP. Without mitigation vibration from earth and pavement compaction works have the potential to cause significant adverse effects. As such, WRS have commented that rollers must be operated in low vibration settings and measures within the CEMP abided by. Once the roundabout is operational a betterment is expected at all three sensitive receptors (Bluebell Cottage, Bluebell House and Windrush).

229. WRS note that the minor increase in operational noise levels ('+1dB is only potentially significant if the absolute noise level is above the Significant Observed Adverse Effect Level (SOAEL), which is not the case') identified at Bluebell Farm is unlikely to be perceptible relative to existing levels and as such should not pose a significant issue. Additional mitigation has been proposed: "*included within the design is a thin surface course which is implemented for the new road surface which would be quieter than conventional surfacing. This embedded mitigation measure should reduce the minor impact, most likely to a negligible level, although this assessment was not included this within the noise modelling*". This should help offset any predicted marginal increase in noise levels and should be implemented.

230. The County Highways Officer also notes that a draft CEMP has been submitted. They consider that the draft CEMP is acceptable but that this should be controlled by condition.

231. Earls Croome Parish Council have stated that the proposed lighting for the roundabout would introduce significant light pollution for nearby residents. They consider that the lighting scale and impact could be reduced considerably if the roundabout was scaled for a 40 mph speed limit on all approaches. They comment that it would be helpful to see a detailed lighting scheme. The County Ecologist has requested that a Lighting Design Strategy is secured through condition to spatially illustrate the operational phase impact and mitigation measures.

232. Comments have been received asking that the existing lighting should be removed in order to address existing light pollution. However, the applicant has stated that lighting would need to be retained in the interests of road safety. Comments have also been received about the potential for headlights of vehicles to shine directly into

habitable rooms. Due to the siting of the roundabout and the proposed alignment of the road, coupled with the presence of other features such as existing and proposed vegetation, it is considered that this would help to minimise any potential adverse impacts in terms of vehicle headlights.

233. In view of the above matters, the Head of Planning and Transport Planning considers that the proposal would have no adverse noise, vibration, dust, light or air quality impacts upon residential amenity or that of human health, subject to the imposition of appropriate conditions relating to an updated CEMP, a Landscape and Ecology Management Plan (LEMP) and a Lighting Design Strategy.

Ecology and Biodiversity

234. Paragraph 170 of the NPPF states that *"planning policies and decisions should contribute to and enhance the natural and local environment", by a number of measures including "protecting and enhancing...sites of biodiversity...(in a manner commensurate with their statutory status or identified quality in the development plan); minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures"*.

235. Paragraph 175 of the NPPF states that when determining planning applications, local planning authorities should apply four principles (a. to d.), this includes: *"if significant harm to biodiversity 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"; and "development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity"*.

236. As set out earlier under the 'Other Representations' section of this report, letters of representation have been received commenting but predominantly objecting to the proposal including concerns about the impact on ecology and biodiversity.

237. As set out under the 'consultations' heading of this report, the County Ecologist is in broad support with the supporting documents, which identify likely significant effects on ecological receptors. There are no significant adverse impacts predicted upon designated sites, either within the development boundaries or the scheme's wider Zone of Influence. They note that the applicant intends to provide a number of species Method Statements, to be appended to the main Construction Environmental Management Plan (CEMP) and implemented by appointed contractor and their specialists. These Method Statements can be secured by condition.

238. The County Ecologist comments that a key matter for consideration is the scheme's approach to mitigate impacts predicted upon Great Crested Newt ('GCN'), which is a European Protected Species. The Ecological Appraisal, which appends a GCN Survey Report, confirms that certain works within the scheme's design, specifically the clearance of hedgerow and verge habitat within proximity to known ponds occupied by GCN, would constitute a contravention of the Conservation of Habitats and Species (Amendment EU Exit) Regulations 2019 and would therefore require derogation in the form a Natural England Mitigation Licence. The County

Ecologist also notes that the scheme may also impact on bats, which are also a European Protected Species.

239. Given the presence of European Protected Species, in order to discharge its duty under the Habitat Regulations, the County Planning Authority must consider in relation to the planning application whether any criminal offence is likely to be committed and, if so, the Council must be satisfied that the three Habitats Directive “derogation tests” are met. Only if the County Planning Authority is satisfied that all three tests are met may planning permission be granted. The three derogation tests to consider before a licence can be granted are:

- i. Does the proposal preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment;
- ii. there is no satisfactory alternative; and
- iii. the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

240. With regard to the first test, the information in the application submission sets out that A38 / A4104 junction is an important route including for users travelling from the M5 Motorway as well as providing access to destinations such as the ‘Three Counties Showground’ and the Malvern Hills AONB as well as the various music festivals that are held within Upton-upon-Severn and the surrounding area. The scheme would result in improved infrastructure and travel conditions through the interchange by reducing congestion and making it safer for vehicles, pedestrians and cyclists. As well as social and economic benefits, the proposed habitat mitigation and creation would result in overall net benefit to biodiversity. Therefore, it is considered that Test 1 (overriding public interest) would be met.

241. In terms of the second test in terms of no satisfactory alternative, as set out under the ‘Traffic, highway safety and Public Rights of Way’ section of this report, a signal-controlled junction was initially considered. However, this alternative was ruled out as the introduction of traffic signals at the junction would be seen as an urban modification in an existing rural setting, with associated adverse effects including light pollution.

242. With regard to the third test, the County Ecologist notes that proposed mitigation, compensation and enhancement measures include delivery of a net gain of habitat deemed suitable to support GCN comprising 1.3 hectares of woodland, grassland and wetland with creation of a new waterbody suitable for breeding GCN and provision of connective measures to the wider countryside, including a culvert under the proposed road. They consider that these landscaping proposals would constitute a measurable net habitat gain, and that this would provide a welcome benefit to both GCN and other species in the locality, including other species of amphibians, reptiles, breeding birds, foraging bats, hedgehog and badger. They note that the applicant considers the proposals of sufficiently low risk of disturbance/injury or killing GCN so as to warrant application for a ‘Low Impact’ Class Licence.

243. In this scenario, because terrestrial connectivity to the identified surrounding GCN meta-population would be reliant on the successful utilisation of the proposed road culvert, the County Ecologist considers that an Ecological Design Strategy is necessary to demonstrate how the GCN mitigation measures enmesh with landscaping proposals and the scheme's European Protected Species (EPS) Method Statement.

244. The applicant proposes to seek derogation using DEFRA's Licensing Policy, which relates to "*Greater flexibility when excluding and relocating EPS from development sites*". The County Ecologist comments that the licensing process must remain compliant with the mitigation hierarchy by requiring evidence that avoidance and then mitigation measures have been adequately considered prior to development of satisfactory compensation measures. They note that in this case, the scheme avoids direct impacts to primary GCN habitat and further mitigation measures can reasonably be secured through species-specific Method Statements, which can be imposed by way of condition.

245. The County Ecologist considers that two further matters should be addressed if this licensing approach is to be successful. Firstly, it is necessary to demonstrate that the habitats have long term security, for example through delivery of a long-term Landscape and Environmental Management Plan (LEMP), which could be secured through imposition of a suitably worded condition. Secondly, they consider it is imperative to ensure that good quality GCN habitat is well connected to the wider countryside and surrounding GCN meta-population, both in order to facilitate GCN colonisation and also dispersal to achieve the intended contribution towards the species Favourable Conservation Status (FCS). In this scenario, and because of the reliance on DEFRA Licensing Policy One without a supporting Discretionary Advice Service opinion (from Natural England), they recommend that the applicant should submit a copy of any issued EPS Licence as to specifically address clearance of vegetation likely to support GCN.

246. Turning to the proposed impacts on bats, the County Ecologists notes that the Ecological Assessment Report Addendum: Bats summarises that no direct impacts to bat roosting features is predicted. Tree surveys confirmed suitability for roosting bats occurs within the scheme's Zone of Influence and static detectors confirmed activity of at least two rare species (Nathusius' pipistrelle and Barbastelle bats). Disturbance of bat species arising from both construction and operational phase lighting has been identified with the potential to impact Potential Roost Features within nearby trees. The risk of impact from construction phase lighting on both hedgerows, the two trees with bat roost potential and also a section of woodland circa 80 metres to the west of the scheme is proposed to be addressed through the scheme's CEMP.

247. Operational phase impacts must be controlled through a lighting plan, which can be secured by condition, devised in collaboration with a suitably competent ecologist. Given the recorded activity of rare bat species, the proximity of the scheme to trees with high bat roost potential and risk of unidentified spring/autumn roosts otherwise potentially missed through the constraints to survey timing, they consider it is imperative that a suitable operational lighting scheme is designed and they strongly recommend that this is secured by imposition of a suitably worded condition.

248. Natural England have stated that based on the plans submitted, they consider that the proposed development would not have significant adverse impacts on designated sites and they have no objection. They have commented that the proposal is within 0.3 kilometres of Earl's Croome Meadow Site of Special Scientific Interest (SSSI), which has been designated as a species rich neutral grassland. Based on the plans submitted and the specific requirements of the CEMP, they consider that the proposed development would not damage or destroy the interest features for which the site has been notified and therefore they have no objection. They have also referenced their further general advice, including that relating to the consideration of protected species.

249. Worcestershire Wildlife Trust notes that some works affecting protected species would need to be covered by licence. Assuming that the ecological recommendations and licences can be implemented effectively, they consider that there would not be significant adverse ecological impacts arising from this scheme and therefore do not wish to object to the application. They are content to defer to the opinions of the County Ecologists for all on-site ecological considerations. The County Ecologist also has no objections, subject to the imposition of appropriate conditions.

250. In view of the above matters, the Head of Planning and Transport Planning Regulation considers that the "derogation tests" in the Habitats Directive can be met, and that the proposal would not have an unacceptable adverse impact on ecology and biodiversity at the site or on the surrounding area, subject to the imposition of appropriate conditions relating to the Construction Environmental Management Plan (CEMP) to be updated with a number of species-specific Method Statements; Lighting Design Strategy; Ecological Design Strategy and a Landscape and Ecological Management Plan (LEMP).

Water Environment

251. The proposed development is within Flood Zone 1 (low probability of flooding), as identified on the Environment Agency's Indicative Flood Risk Map. The Government's PPG identifies that all uses of land are appropriate within this zone.

252. The proposed drainage system consists of gullies to capture the surface water flow which connect into ditches or carrier drains running either side of the length of the proposed carriageway. In turn, these discharge into an attenuation pond downstream. The pond is designed to have the capacity to limit the discharge to 1 in 1-year and 1 in 100-year greenfield runoff, by means of a complex control. The attenuation pond has been designed following the principles of Sustainable Drainage (SuDS) to mimic natural drainage by storing runoff and releasing it slowly, filtering out pollutants, and allowing sediments to settle out. The landscaping plan integrates the proposed habitat mitigation with the attenuation pond resulting in biodiversity enhancements. The attenuation pond would be maintained from an access off the former A4104 which would be in part retained for maintenance but would be gated off from the A38.

253. The Highway Highways Officer is satisfied the proposed surface water drainage measures are appropriate. However, information regarding the maintenance regime is required, in terms of ownership, responsibility and frequency. This would be covered by condition should planning permission be granted.

254. Ripple Parish Council welcome the inclusion of an attenuation pond as part of surface water runoff control but consider that it is imperative that this measure is sufficient to ensure that there is no significant additional water infiltration to ditches which form part of the upper reaches of the Ripple Brook drainage network. Increased volume would potentially adversely affect downstream settlements.

255. South Worcestershire Land Drainage have no objection in principle to the proposals with respect to flood risk but in section 4.1.1 Climate Change of the FRA the recommended allowance for 'Essential Infrastructure', 'Upper End' categories is +70%, not +40%. The opportunity to convert the existing piped highway drain along the west side of the A38 to open channel is welcomed and would increase capacity and ease access for maintenance. South Worcestershire Land Drainage have also provided an advisory note.

256. Severn Trent Water Limited have confirmed that they have no objections to the proposals subject to the inclusion of conditions relating to the disposal of foul and surface water flows.

257. The Lead Local Flood Authority (LLFA) have reviewed the flood risk assessment (FRA) and other submitted information and assessed the information relating to surface water drainage only. The LLFA is generally supportive of the approach outlined and welcomes the recognition given to understanding and addressing the risk of surface water flooding and any potential impacts in relation to this proposal. The LLFA has no objection to this application, and to ensure compliance with the NPPF and PPG, has recommended imposing a number of conditions relating to detailed surface water drainage drawings and a Sustainable Drainage Systems (SuDS) management plan.

258. The Head of Planning and Transport Planning considers that the proposal would not have an unacceptable adverse impact on the water environment or flooding, subject to the imposition of conditions relating to foul and surface water drainage scheme and management plan.

Other Matters

Utilities including Pipeline

259. Western Power Distribution (online comments) have provided a plan showing that there are existing Western Power Distribution (WPD) Electricity / WPD Surf Telecom apparatus in the vicinity of the proposal. They have also referenced that if excavating on site in the vicinity of these apparatus that the application must comply with various Health and Safety requirements.

260. CLH-PS have apparatus in close proximity to the site. CLH-PS have been in contact with the applicant's agents who have agreed that they would protect the pipeline before building the new road over the pipeline. The agents for CLH-PS have therefore confirmed that they are satisfied that the planning application can proceed.

261. The applicant has set out that diversions of BT Openreach apparatus would be undertaken with the involvement of Openreach and following any standard procedures to minimise disruption to users.

262. The Defence Infrastructure Organisation (DIO) have stated that their records

indicate that there may be a redundant pipeline in the area that is subject to the proposals. They therefore recommend that the advice of a specialist pipeline contractor along with gaining confirmed asset locations and agreements from any other asset owners that may be affected by the works.

263. Zayo Group have stated that they have a network at this location that may be impacted. When the scheme progresses, they have asked that detailed design drawings are issued and a request made to them for diversionary works.

264. CLH-PS have commented that it appears from the plans submitted by the applicant that their proposal is to be constructed within close proximity to CLH-PS apparatus. CLH-PS have been in contact with the applicant who has agreed that they would protect a pipeline before building the new road over the pipeline. The agents for CLH-PS have confirmed this is satisfactory.

265. In light of this, the Head of Planning and Transport Planning is satisfied that the proposal would not have an unacceptable impact upon utilities.

Consultation

266. Earls Croome Parish Council strongly objects to the lack of sufficient consultation with relevant and affected parties (such as dedicated dialogue between WCC, MHDC, Upton-upon-Severn Town Council, Ripple and Earls Croome Parish Councils, plus impacted residents) concerning the scale, siting and potential impact of the proposed roundabout on local residents, users and the surrounding rural area. Accordingly, they request that implementation of the roundabout is paused until sufficient consultation has taken place, primarily to allow the points highlighted below to be addressed satisfactorily.

267. Ripple Parish Council agree with Earls Croome Parish Council that a joint meeting with the County Highways Authority would be beneficial to ensure that all the Parish Council's concerns/questions/suggestions are discussed.

268. As set out earlier under the 'Other Representations' section of this report, letters of representation have been received objecting to the lack of consultation. The applicant acknowledges that greater pre-application engagement with the community would have been beneficial but that COVID-19 restrictions during the design phase of the scheme have limited opportunities to effectively host engagement events.

269. It is considered good practice as set out at paragraph 40 of the NPPF as well as in Worcestershire County Council's Statement of Community Involvement (February 2015 and update on 20 August 2020) for applicants to engage with the local community and where relevant, with statutory and non-statutory consultees before submitting their applications. Notwithstanding this, it is noted that there is no statutory requirement for applicants to undertake pre-application public consultation on such applications.

270. The statutory requirements for consultation on planning applications by local planning authorities are outlined in the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The statutory requirement is for a site display in at least one place on or near the land to which the application relates for not less than 21 days and; by publication of the notice in a

newspaper circulating in the locality in which the land to which the application relates is situated.

271. Eight public notices were erected on and near the land to which the application relates. A press notice was published in the Malvern Gazette/Ledbury Reporter, giving 35 days' notice. Neighbour consultation letters were sent out to the four properties that were closest to the existing A38/A4104 junction. An electronic copy of the submission was also made available on Worcestershire County Council's website. In light of this, the Head of Planning and Transport Planning is satisfied that the County Planning Authority has complied with the appropriate procedures.

Future Development

272. Earls Croome Parish Council strongly objects to the introduction of the proposed roundabout as any form of justification for future development of rural agricultural land in the immediate vicinity of the junction, either for proposed "employment sites" or provision of additional residential schemes. It should be noted that Earls Croome and Ryall/Holly Green are distinct and separate minor category rural communities that are geographically disparate from each other and from the nearest town of Upton-upon-Severn. As per their previously submitted comments to the ongoing SWDPR consultation, the Parish Council will continue to strongly object to any form of expansion of residential dwellings and/or employment sites in the immediate vicinity of the A38/A4104 road junction.

273. As set out earlier under the 'Other Representations' section of this report, letters of representation have been received that set out that the proposal were to be granted planning permission then it would give planners justification to over-rule any objections that the Parish Council would raise against future development.

274. As set out in the response from Malvern Hills District Council (MHDC), the emerging SWDPR (under Policy SWDPR 55 Malvern Hills Allocations) refers to Employment Land Allocations at Bluebell Farm (SWDP NEW 112 also referred to as CFS / Planning Ref: CFS0487, and Land north of Digaway (SWDP NEW 113 also referred to as CFS0696).

275. As set out under the 'Emerging Planning Policies' section of this report, the SWDPR is still at an early stage of preparation and therefore only limited weight should be applied to the policies. MHDC, who would be the determining Local Planning Authority for applications for employment development, have not referred to any current planning applications relating to either of these allocations in the emerging SWDPR. If any application were to be received by MHDC then it would be for MHDC to consider the merits of any such application, including taking into account any consultation responses as appropriate.

276. In light of this, the Head of Planning and Transport Planning is satisfied that the determination of this proposal (CPA Ref 20/000032/REG3) does not fetter any other body, such as a Parish Council, from commenting on any future application that might be received by MHDC and consulted upon.

Importation of Soils

277. Worcestershire Regulatory Services (WRS) (contaminated land) have reviewed

the documents and records in respect of potential contaminated land issues. They are satisfied with the Construction Environmental Management Plan (CEMP) in relation to contaminated land. However, given the possibility of the importation of soil for soft landscaping towards the finishing of the project, WRS have recommended a condition relating to full details of soil or soil forming materials.

278. In light of this, the Head of Planning and Transport Planning is satisfied that the proposal would not have an unacceptable impact upon human health, controlled waters or ecological systems subject to the imposition of conditions relating to a CEMP and the soil or soil forming materials that are proposed to be used.

Waste

279. The Grove House Yard waste transfer station (extant CPA planning permission refs: 11/000060/CM and 19/000016/CM, Minute No's 769 and 1031 refers) lies approximately 160 metres, broadly to the south-east of the site. The southern part of the proposed development site lies just within the 250 metre buffer zone around the Grove House Yard waste transfer station, as designated by Policy WCS 16 of the Worcestershire Waste Core Strategy that seeks to safeguard existing waste management facilities from non-waste related development.

280. Part b) of Policy WCS 16 states that *“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”*.

281. In this instance, the proposed development relates to alterations to the existing highway. Therefore, it would not be introducing a new sensitive receptor to the area. The Head of Planning and Transport Planning is therefore satisfied that the proposal would not have an unacceptable impact on the waste transfer station.

Other matters

282. Various other matters have been raised as set out in earlier in this report under the 'Other Representations' section of this report. This includes concerns that it appears as though a decision has already been made.

283. As the application is made under Regulation 3 of the Town and Country Planning General Regulations 1992 (as amended), it falls to the County Planning Authority to determine this application, as these Regulations set out the procedure in the case of development being undertaken by a Local Authority. The principle underlying these Regulations is that applications must be made to the appropriate local planning authority in the same way as any other person would make the application and must follow the same procedures as would apply to applications by others.

284. Furthermore, it is not unusual for the County Council as the County Planning Authority to determine planning applications made by, or on behalf of the County Council in relation to other functions or areas of responsibility. For example, the County Council as the County Planning Authority is regularly required to determine applications for facilities required to deliver education, waste management and

highway functions. In all these situations, the County Planning Authority ensures that in dealing with the matter both before and during the application process, as well as at the determination of the application, appropriate processes are put in place (Chinese walls) to ensure that there can be no conflict of interest in the decision making process. In its role as the County Planning Authority, the County Council approaches all applications and the decisions made on them solely on the basis of the planning merits of proposals. It is not swayed in anyway in its decision making processes by what may be viewed as wider County Council corporate or strategic priorities.

Conclusion

285. Worcestershire County Council (WCC) are seeking to undertake highway infrastructure improvements at the existing A38 and A4104 junction, located broadly to the north-east of Upton-upon-Severn.

286. The Head of Planning and Transport Planning is satisfied that the proposal would not have an unacceptable impact upon traffic, highway safety or Public Rights of Way subject to the imposition of appropriate conditions relating to construction details; signage information and existing Public Right of Way connection details as well as diversion routes, and an updated Construction Environmental Management Plan (CEMP).

287. The Head of Planning and Transport Planning considers that as the proposal would help to alleviate problems with queuing and provide more efficient traffic flows, as well as providing a safer junction for vehicles and pedestrians, it is considered that the public benefits of the proposal outweigh the less than substantial harm to heritage assets. They also consider that the proposal would not have an unacceptable adverse or detrimental impact upon landscape character, visual impact or the historic environment subject to the imposition of appropriate conditions relating to a Landscape and Ecology Management Plan (LEMP) and a programme of archaeological work, including a written scheme of investigation.

288. The Head of Planning and Transport Planning considers that the proposal would have no adverse noise, vibration, dust, light or air quality impacts upon residential amenity or that of human health, subject to the imposition of appropriate conditions relating to an updated Construction Environmental Management Plan (CEMP), a Landscape and Ecology Management Plan (LEMP) and a Lighting Design Strategy.

289. The Head of Planning and Transport Planning considers that the “derogation tests” in the Habitats Directive can be met, and that the proposal would not have an unacceptable adverse impact on ecology and biodiversity at the site or on the surrounding area, subject to the imposition of appropriate conditions relating to an updated Construction Environmental Management Plan (CEMP), Lighting Design Strategy, Ecological Design Strategy and a Landscape and Ecological Management Plan (LEMP).

290. The Head of Planning and Transport Planning considers that the proposal would not have an unacceptable adverse impact on the water environment or flooding, subject to the imposition of conditions relating to foul and surface water drainage

scheme and management plan.

291. Taking into account the provisions of the Development Plan and in particular Policy WCS 16 of the adopted Worcestershire Waste Core Strategy and Policies SWDP 1, SWDP 4, SWDP 5 SWDP 6, SWDP 7, SWDP 21, SWDP 22, SWDP 23, SWDP 24, SWDP 25, SWDP 28, SWDP 29, SWDP 30, SWDP 31 and SWDP 33 of the adopted SWDP as well as Policy WCS 16 of the adopted WCS, it is considered the proposal would not cause demonstrable harm to the interests intended to be protected by these policies or highway safety.

Recommendation

292. **The Head of Planning and Transport Planning recommends that planning permission be granted for the Proposed replacement of existing staggered junction with a 4-arm roundabout at A38 / A4104 Junction, Near Upton-upon-Severn, Worcestershire subject to the following conditions:**

Commencement

- 1) **The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this permission;**

Approved Plans

- 2) **The development hereby permitted shall be carried out in accordance with the following approved plans entitled 'Site Location Plan' Drawing Number B2367219-02-JAC-GEN-00-DR-C-0001 Rev P01; 'Existing and Proposed Site' Drawing Number B2367219-02-JAC-GEN-00-DR-C-0101 Rev P01; 'Red Line Boundary' Drawing Number B2367219-02-JAC-GEN-00-DR-C-0102 Rev P02; 'General Arrangement Sheet 1 of 4' Drawing Number B2367219-02-JAC-HGN-00-DR-C-0101 Rev P02; 'General Arrangement Sheet 2 of 4' Drawing Number B2367219-02-JAC-HGN-00-DR-C-0102 Rev P02; 'General Arrangement Sheet 3 of 4' Drawing Number B2367219-02-JAC-HGN-00-DR-C-0103 Rev P02; 'General Arrangement Sheet 4 of 4' Drawing Number B2367219-02-JAC-HGN-00-DR-C-0104 Rev P01'; 'Utilities Diversion Plan' Drawing Number B2367219-02-JAC-VUT-00-DR-C-0002 Rev P01; 'Landscape Proposals' Drawing Number B2367219-02-JAC-VGN-00-DR-LE-0018 Rev P01, except where otherwise stipulated by conditions attached to this permission;**

Detailed Design

- 3) **Notwithstanding the submitted details, prior to the commencement of the development hereby approved, the detailed layout design of the Roundabout, including approach roads shall be submitted to the County Planning Authority for approval in writing. Thereafter, the development shall be carried out in accordance with the approved details;**
- 4) **Detailed drawings at a scale of 1:100/1:500 of the following shall be submitted to and approved in writing by the County Planning Authority before the relevant part of work is begun:**

- i. **Materials;**
- ii. **Pedestrian crossing point construction details;**
- iii. **Shared-use footway/cycle way construction details;**
- iv. **Public Rights of Way connections;**
- v. **Bus stop waiting areas;**
- vi. **Signage; and**
- vii. **Street lighting.**

Thereafter the development shall be carried out in accordance with the approved scheme;

Construction Environmental Management Plan

- 5) **Notwithstanding any submitted details, the development hereby approved shall not commence until an updated Construction Environmental Management Plan (CEMP) in accordance with Worcestershire Regulatory Services "Code of Best Practice for Demolition and Construction Sites" has been submitted to and approved in writing by the County Planning Authority. The approved CEMP shall be implemented for the duration of the construction works. The CEMP shall include but not be limited to the following:**

Hours of Working

- i. **A scheme approving the days and hours of construction operations;**

Dust and Air Quality

- ii. **A scheme to minimise and mitigate the impacts of dust emissions and impacts to air quality;**

Noise and Vibration

- iii. **A scheme to minimise and mitigate the impacts of noise and vibration;**

Water Environment;

- iv. **Measures to be undertaken to ensure that any pollution and silt generated by the construction works shall not adversely affect groundwater and surface waterbodies;**

Contamination

- v. **A method statement for the control of unexpected contamination;**

Highways

- vi. **Measures to ensure that vehicles leaving the site do not deposit mud or other detritus on the public highway;**
- vii. **Details of site operative parking areas, material storage areas and the location of site operatives' facilities (including offices and toilets);**
- viii. **The hours that delivery vehicles will be permitted to arrive and depart and arrangements for unloading and manoeuvring; and**

- ix. Details of any temporary construction accesses and their reinstatement.

Temporary Diversion of Footways and Permissive Routes

- 6) The development hereby approved shall not commence until details of how existing footways and permissive routes affected by construction work would be kept open. Details should be provided to show temporary diversions, free from any obstruction, in a safe condition for use by members of the public and clearly signed. This should be submitted to and approved in writing by the County Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme;

Ecology and Biodiversity

- 7) No development shall take place until the following method statements have been submitted to and approved in writing by the County Planning Authority:
 - i. Great Crested Newt ('Mitigation Strategy');
 - ii. Bats (including construction phase lighting design);
 - iii. Terrestrial wildlife (including avoidance and mitigation measures for badgers, hedgehogs and nesting birds); and
 - iv. Habitat modification (including soil movement, tree and hedgerow protection, water course protection and pollution prevention measures).

The content of the method statement shall include the following:

- a. purpose and objectives for the proposed works;
- b. detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
- c. extent and location of proposed works shown on appropriate scale maps and plans;
- d. timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
- e. persons responsible for implementing the works; and
- f. disposal of any wastes arising from works.

On completion of the Method Statement works, a statement of conformity shall be submitted to the County Planning Authority confirming their successful implementation. The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

- 8) Prior to the development being brought into use, a lighting design strategy for biodiversity for areas to be lit shall be submitted to and approved in writing by the County Planning Authority. The strategy shall:

- i. identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
- ii. show how and where external lighting would be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit would not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

Thereafter the scheme shall be implemented and maintained in accordance with the approved details;

- 9) No development shall take place until an Ecological Design Strategy (EDS) addressing Great Crested Newt Mitigation and Enhancement Measures has been submitted to and approved in writing by the County Planning Authority. The EDS shall include the following:
 - i. Purpose and conservation objectives for the proposed works;
 - ii. Review of site potential and constraints;
 - iii. Detailed design(s) to be based on Drawing Number B2367219-02-JAC-VGN-00-DR-LE-0018 Rev P01 so as to illustrate the number and location of amphibian conservation measures to include set-back gulley-pots and gulley-pot ladders and their stated objectives;
 - iv. Timetable for implementation demonstrating that works are aligned with the proposed phasing of development; and
 - v. Persons responsible for implementing the works.

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter;

- 10) Notwithstanding the submitted details, within 3 months of the commencement of the development hereby approved, a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the County Planning. Thereafter, the LEMP shall be implemented in accordance with the approved details. The LEMP shall include the following:
 - i. Description and evaluation of features to be managed;
 - ii. Ecological trends and constraints on site that might influence management;
 - iii. Aims and objectives of management;
 - iv. Appropriate management options for achieving aims and objectives;
 - v. Prescriptions for management actions;
 - vi. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period);

- vii. **Details of the body or organisation responsible for implementation of the plan; and**
- viii. **Ongoing landscape and biodiversity monitoring and remedial measures.**

On completion of the ecological mitigation and enhancement works, a statement of conformity shall be submitted to the County Planning Authority confirming their successful implementation;

Water Environment

- 11) Notwithstanding the submitted Drainage Strategy, no development shall commence until detailed design drawings for surface water and foul water drainage have been submitted to and approved in writing by the County Planning Authority. Thereafter the development shall be carried out in accordance with the approved details;**
- 12) No works in connection with site drainage shall commence until a Sustainable Drainage Systems (SuDS) management plan which will include details on future management responsibilities, along with maintenance schedules for all SuDS features and associated pipework has been submitted to and approved in writing by the County Planning Authority. This plan shall detail the strategy that will be followed to facilitate the optimal functionality and performance of the SuDS scheme throughout its lifetime. The approved SuDS management plan shall be implemented in full in accordance with the agreed terms and conditions and shall be managed and maintained in accordance with the approved maintenance plan and thereafter;**

Importation of Materials

- 13) Full details of any soil or soil forming materials brought on to the site for use in soft landscaping, filling and level raising must be provided. Where the donor site is unknown or is brownfield the material must be tested for contamination and suitability for use on site. Full donor site details, proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) must be submitted to and approved in writing by the County Planning Authority prior to import on to the site;**

The approved testing must then be carried out and validatory evidence (such as laboratory certificates) submitted to and approved in writing by the County Planning Authority prior to any soil or soil forming materials being brought on to site;

Archaeology

- 14) Notwithstanding any submitted details, no development shall take place until a programme of archaeological work including a Written Scheme of Investigation(s), has been submitted to and approved in writing by the County Planning Authority. The scheme shall include an assessment of significance and research questions; and**

- i. **The programme and methodology of site investigation and recording;**
 - ii. **The programme for post investigation assessment;**
 - iii. **Provision to be made for analysis of the site investigation and recording;**
 - iv. **Provision to be made for publication and dissemination of the analysis and records of the site investigation;**
 - v. **Provision to be made for archive deposition of the analysis and records of the site investigation; and**
 - vi. **Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation;**
- 15) **The development shall not come into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation(s) approved under condition (14) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.**

Contact Points

Specific Contact Points for this report

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Background Papers

In the opinion of the proper officer (in this case the Development Team Manager) the following are the background papers relating to the subject matter of this report:

The application, plans and consultation replies in file reference 20/000032/REG3, which can be viewed online at: <http://www.worcestershire.gov.uk/eplanning> by entering the full application reference. When searching by application reference, the full application reference number, including the suffix need to be entered into the search field. Copies of letters of representation are available on request from the Case Officer.