

## Leader's Newsletter January 2023

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Welcome to this, my newsletter reflecting on Cabinet activity in December and looking forward to January.

My apologies that it is later in the month than usual.

We have just heard that we have been successful in our application for Levelling Up Funds. We have done well to have been promised nearly £20m which shows us once again punching above our weight. The disappointment is that the funds for Ross and the other market towns have not been agreed. The Ross project was in my view especially strong. We will use the information gathered to see how we can achieve the same objective but by different means.

I look forward to seeing a more welcoming area outside the Railway Station by March 2025.

You will note from the section from Cllr Harvey that it will be necessary for voters to provide photo ID at the May elections. Please help to get the message out about this.

Regards

*David Hitchiner*

Councillor David Hitchiner  
Leader of the Council

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### **Finance, Corporate & Planning– Cllr Liz Harvey**



#### **Curtilage Listed Buildings:**

A “listed building” is defined by Section 1(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as “a building included in a list of buildings of special architectural or historic interest compiled by the Secretary of State under this section; and for the purposes of this Act –

- (a) any object or structure fixed to the building,
- (b) any object or structure within the curtilage of the building, which although not fixed to the building, forms part of the land and has done so since 1st July 1948.

Historic England in their guidance note identify curtilage as “***The curtilage of a building (the principal building) is in general terms any area of land and other buildings that is around and associated with that principal building.***”

Section 55(2) of the Town and Country Planning Act 1990 defines land or building as within the curtilage should they be used “incidental to the enjoyment of the dwelling-house”. In the 1982 case of *Debenhams plc. v Westminster CC* this was interpreted as the building being ‘ancillary’ to the use of the main building.

“... a limitation to such structures as are ancillary to the listed building itself, for example the stable block to a mansion house, or the steading of a farmhouse, either fixed to the main building or within its curtilage. In my opinion, the concept envisaged is that of principal and accessory”. Lord Keith of Kinke\

There has been numerous case law on the subject of curtilage listing which are used to consider if a building is curtilage listed. However the most important case on this subject is *Attorney General ex rel Sutcliffe v Calderdale MBC* from 1982, which involved the question of whether a row of terraced cottages associated with a listed mill could be considered to be within its curtilage. Lord Justice Stephenson established three tests to determine curtilage listing:

1. Physical Layout.
2. Ownership a) prior to and, on 1st July 1948, **and also** b) at the time of listing
3. Use or function a) prior to, and on 1st July 1948, **and also** b) at the time of listing.

In considering the *Calderdale* case it was judged that the terrace formed part of the curtilage of the listed mill because;

1. The terrace was connected to the mill by a corridor at one end and formed an enclosure with it;
2. Prior to and, on 1st July 1948, and also at the time of listing historically and at the time of listing, the mill and terrace had been in the same ownership;
3. The terrace had been built to serve the mill by housing its workers.

This case thus determined that the curtilage of a listed building includes “*any related objects or structures which naturally form, or formed, with the listed building an integral whole*” (Justice Stephenson, 1982). Importantly, it also confirmed that in defining curtilage, the boundaries should be determined on a case by case basis as there is no ‘one size fits all’ approach – providing that the assessment follows the wording of the Act and considers the *Calderdale* tests.

Size of curtilage is not a determining factor. In the case of *Skerritts of Nottingham v Secretary of State for the Environment, Transport and the Regions*, was decided that:

“*Whether land was in the curtilage of a building was a matter of fact and degree. The curtilage need not be small, nor was the idea of smallness inherent in the term. The curtilage of a principal manor house, for example, was likely to include stables and other outbuildings*”.

As such it is important that the landscape character of the land is considered when determining if its use is incidental to the principal listed building. i.e. a Country House (not a farm) would be likely to have large grounds providing domestic functions associated with the house be they for pleasure or as a garden, and may contain structures or walls built for that purpose, greenhouses, ice houses, garden rooms, etc. In the case of *Kentwell Hall*, gate piers 2km away from the principal house were considered to be curtilage listed at the Court of Appeal.

However recent case law has challenged the principles established by the *Calderdale* case when considering agricultural buildings. In The “*Jews Farm*” ruling (*Egerton v Taunton Deane*, 2008), it was judged that Mill barn and The Old Granary were not curtilage listed despite being in the same ownership historically and at the time of listing, because, the use of farm buildings and domestic use of the farmhouse should be considered separately and were not considered to be ancillary to each other. The test of the physical geographical

layout was introduced at this time as it was considered that the boundary wall that separated the barn and granary from the farmhouse was considered to clearly define the domestic curtilage of the farmhouse. The significant feature of this case is there was a substantial wall between the farmhouse and the two farm buildings and the house looked over garden with the farm buildings to the rear, and as such the farmhouse looked away from the farm buildings rather than look toward them within a courtyard. As the judge put it, the farm house turned its back on the barn and the granary. If all three buildings had fronted onto a single courtyard, for example, the result might have been different.

There will therefore often be cases where barns and other working buildings of a farmstead are geographically related to a farm house, and their use, ancillary to its use, such that they will be found to be within its curtilage. The distinction between domestic and non-domestic farm buildings is, therefore, not always cut and dried, particularly where the farmhouse and working buildings are attached or intimately related; in the Jews Farm case, the geographical relationship of the barn and the granary to the farm house (the first test) was also considered significant, particularly the existence of the wall separating them.

Nonetheless this ruling would appear to be at odds with the Calderdale case and also contradicted previous cases including Goldhill farm and barns where Newark and Sherwood District Council successfully prosecuted the owner for undertaking unauthorised works to the barns which the Authority considered to be curtilage listed. In his judgement Judge Mayor Q.C. referred to the tests of Calderdale and dismissed the appeal on the grounds that the farm buildings were ancillary to the residence of the farmhouse and as such listed under section 1(5).

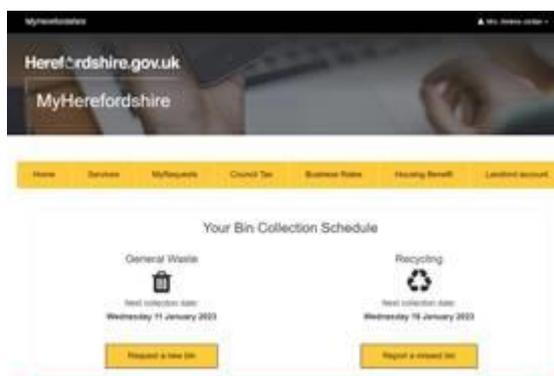
It should be noted that the decision in the Jews Farm case has not been reviewed by any higher courts to date. The ramifications of this case are still be discussed, however the relationship between the curtilage listed building and the principal listed building, both in terms of physical layout and ancillary uses remain a material consideration.

Where it seems that a structure does not, or may not, enjoy protection by being within the curtilage of a listed building, consideration by the owner can be given to inviting Historic England, to revise the list to include the structure in its own right or to show it within a demarcated curtilage. Historic England have provided guidance on curtilage listed structures

<https://historicengland.org.uk/images-books/publications/listed-buildings-and-curtilage-advice-note-10/heaq125-listed-buildings-and-curtilage/>

## Website snippets:

### My Account



The My Account service on the council website , has updated to a new and improved [‘My Herefordshire’ portal](#).

The new system will allow users not only to manage their council tax account but also access all our services from one central point. Users will also be able to track their service requests with us whether they logged themselves or called our Customer Services team.

When users sign up for a My Herefordshire account they will see information on when their bin is due to be collected, planning applications in their area, and other local services, along with quick links to our most popular services.

This is an exciting change as it will mean we will be able to provide an enhanced service to our residents, enabling them to track their service requests, building a history of their requests to enable us to provide better joined up service delivery.

Account holders will still be able to access the system from the home page and will maintain access to existing My Account details such as council tax and benefits records.

## Voter ID



From 4 May 2023, voters in England will need to show photo ID to vote at polling stations in some elections.

If someone doesn't have accepted photo ID, they can apply for a free voter ID document, which is known as a Voter Authority Certificate (VAC).

The electoral commission are running a campaign which we will be supporting to remind people they need to have [accepted Photo ID](#) in place in order to vote or they will need to apply for a VAC. All information on will be available soon on our [elections webpages](#) and there is [national information available](#).

We will then be putting out messaging to encourage those that need to, to apply for a VAC.

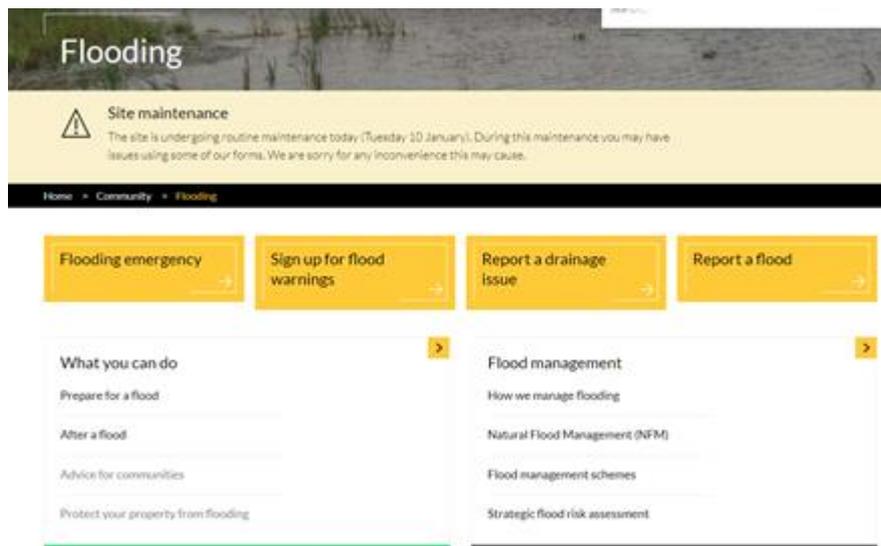
## Supporting Wye Valley NHS Trust



The Emergency Department at Hereford County Hospital continues to be very busy. We are supporting and sharing their messaging encouraging people to use other medical services rather than A & E where appropriate.

For minor ailments people are encouraged to contact their [nearest pharmacist](#) or visit [NHS 111online](#) for urgent health advice (that is not a medical emergency).

## Bad weather



The screenshot shows a website page for 'Flooding'. At the top, there is a banner with the word 'Flooding' and a background image of a flooded area. Below the banner is a yellow box with a warning icon and the text 'Site maintenance: The site is undergoing routine maintenance today (Tuesday 10 January). During this maintenance you may have issues using some of our forms. We are sorry for any inconvenience this may cause.' Below this is a navigation bar with 'Home', 'Community', and 'Flooding'. The main content area has four yellow buttons: 'Flooding emergency', 'Sign up for flood warnings', 'Report a drainage issue', and 'Report a flood'. Below these are two white boxes with right-pointing arrows. The first box is titled 'What you can do' and lists: 'Prepare for a flood', 'After a flood', 'Advice for communities', and 'Protect your property from flooding'. The second box is titled 'Flood management' and lists: 'How we manage flooding', 'Natural Flood Management (NFM)', 'Flood management schemes', and 'Strategic flood risk assessment'.

With the continuing rainfall there is still the potential for more serious flooding. We have areas on our website we can signpost residents to for [General flood information](#) and for [Flooding emergency](#) - which will detail areas affected, road closures and any other emergency information.

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## **Children and families – Cllr Diana Toynbee**

### **Children's Social Services:**

As you know, the service is preparing for their first Ofsted Monitoring Visit, expected in March this year. Inspectors will be considering progress against the recently submitted [improvement plan](#), and providing feedback on next steps. We naturally have to demonstrate that we are making progress, and ensuring that we evidence real impact on children and families is a priority for our service leaders. It was good to see a number of case audits graded as 'good' following moderation in November and December last year, after a long period where case auditing was not yet identifying enough significantly improved practice.



### **Early Help:**

I'm very pleased that the Early Help advice line is up-and-running again within the Multi-Agency Safeguarding Hub (MASH,) and the Children's Help and Support Team are able to provide information, advice and guidance to families and to professionals. They can be contacted on 01432 260261

### **Early Years:**

Early Years Provision is a statutory duty of the council.

We have a great variety of early years settings in Herefordshire – childminders, nurseries, pre-school groups and school nurseries, and they are all inspected by Ofsted.

<https://www.herefordshire.gov.uk/family-support/childcare>

You probably know the ones in your wards well. Without them being open during Covid many of our key workers would not have been able to keep on working.

Our very small council team has a huge job of supporting all our early years settings with training, business advice, Ofsted preparedness, and more.

We will soon have an updated Early Years strategy, and a thorough new sufficiency assessment. Ensuring parents are aware of their entitlements, and take them up, is also a huge job for the council, and I'm pleased that we are well above the national average on take-up. Nurseries and similar settings are crucial opportunities for staff to identify emerging needs and early challenges that particular children may have, so we are building stronger relationships with our social care.

The number of children with SEND in Early Years continues to increase, and I'm delighted that our bid to be part of a national programme ('Dingley's Promise') to strengthen our work in this area has been successful – well done to our team. This will strengthen SEND work in our Early Years. Link here: <https://dingley.org.uk/dingleys-promise-training/>

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## **Commissioning, Procurement and Assets – Cllr Gemma Davies**



### **Cultural Services:**

Black and White House did well over the holidays and looked great. The house was decorated using decorations made by students from the Art College. If you have not already had chance to see the Herefordshire Hoard, the most important archaeological discovery in the county in the last 50 years, you can on Thursday, 26 January and 23 March from 10am to 1pm at the Museum Learning and Resource Centre (MLRC, 58 Friars St, Hereford HR4 0AS). During half-term, the MLRC will also be open on Tuesday, 21 February with activities, refreshments and a chance to see the hoard as well. While, the Renaissance Surgeon will be in residence at the Black and White House from 22-24 February as well.

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## **Housing, Regulatory Services and Community – Cllr Ange Tyler**



It has been busy over the festive period. For example, in addition to the regular Saturday and Wednesday street markets over Christmas, six additional markets were also held on Thursday 8<sup>th</sup>, Friday 9<sup>th</sup>, Thursday 15<sup>th</sup>, Friday 16<sup>th</sup>, Thursday 22<sup>nd</sup> and Friday 23<sup>rd</sup>. It was pleasing to see a good attendance from both new and existing market traders leading to a rise in footfall, with all this also generating much needed additional income for the Council.

Over the Christmas period we agreed to let the Wye Valley Health Trust use the new 60 space mortuary at the Three Elms Trading Estate which was installed at the start of the recent pandemic. Although saddened, I was interested to hear that this mortuary had to operate at 80% capacity over the cold spell, which just goes to show how important a facility this is to the County. We will endeavour to retain this valuable asset to ensure it can be shared with our partner agencies like Hereford hospital, whose own facilities were overflowing and could not cope.

Following the recent appearance of the taxi policy at the Full Council meeting in December, I was interested to learn that the Council successfully defended an appeal of a taxi driver licence revocation at the Magistrates Court on 5<sup>th</sup> January. The officers' success was largely put down to the high visual and audio quality of the cab's CCTV which was used in evidence and clearly showed the driver's inappropriate behaviour to a passenger. To me this highlights the importance of updating our taxi policy, as the current version does not require such a high standard of CCTV and such cases would otherwise be lost. I hope that members will therefore adopt the new policy when next laid before them, so that we can implement the higher standards expected of the council by the Department for Transport.

In December our Trading Standards and Environmental Health Officers responded to our first Avian Flu outbreak of the season, which was at Foy just north of Ross on Wye. Despite the freezing weather, it was heartening to hear that more than twenty of our enforcement officers volunteered to turn out in the early morning on the coldest day of last year to diligently check on all the houses and farms within a 3 kilometre radius of the infected farm, as required by Defra. The response also was supported by our highways team and Balfour Beatty as the weather was so icy it required the track to the infected farm to be gritted for the Defra vets.

Following an investigation by Animal Health officers in Trading Standards, a farmer from Garway has been banned from keeping cattle and sheep for 10 years by Hereford Magistrates Court for failing to ensure that the needs of his sheep and cattle were met and for failing to dispose of dead stock. Although a success for our regulatory service, to me this also highlights a bigger issue concerning the challenges to our farming community, as I am aware that this was a farmer who was not coping.

I also see that our Community Protection Team have continued their run of court success in the New Year by ensuring further prosecutions of fly tippers. I know that both you and the public feel incredibly strongly about this unnecessary and lazy practice of tipping rubbish on council and private land and applaud our officers for chasing up every single strand of evidence to bring these people to justice and to punish them.

### **Winter Pressures Leaflet**

The Talk Community Team have produced a Winter Pressures Leaflet, the leaflets are for all residents who may find they need help, support and advice during this winter period. The leaflet includes information, tips and contacts and covers areas of loneliness, homelessness, food, finances, mental health and winter well-being.

On a final note, I am pleased to announce that a brand new Air Quality Monitoring Station was switched on just before Christmas at the Bargates traffic lights in Leominster, both on time and under budget which I thank our Environmental Health Officers for. As our Leominster members will know, this traffic junction surprisingly creates some of the worst air quality in the county due to queuing lorries and traffic, so it is reassuring to know that we can now monitor hourly levels here to better understand and track the impact of any local improvements made to the signalling and local roads in this area.



## **Health and Adult Wellbeing – Cllr Pauline Crockett**



### **Turning Point – Rough Sleeper Drug and Alcohol Treatment Support:**

Additional national funding has enabled Turning Point to expand their offer for dedicated treatment and support to people currently sleeping rough, and those who are at risk of sleeping rough. The team will be working in partnership with housing services and other agencies to ensure a joined-up approach, making access to support easier. Staff will be actively going out to engage with people at risk, setting up drop-ins at hostels and using the outreach vehicle (Lance) to different parts of the county.

Turning Point will also be offering access to funded treatment, such as inpatient detox and rehab, which can provide people with the opportunity to address their drug and alcohol use in a safe, stable environment. This will also reduce the risk of losing medication or being unable to travel to different places to attend appointments.

As the topic of rough sleeping and homelessness is complex, the team will work with other agencies to make the process as simple as possible, offering to attend appointments, providing advocacy and support with applications and form filling. The team will also help streamline the process of getting access to treatment, providing harm reduction advice, BBV testing, and prescribing.

### **Joint Health and Wellbeing Strategy:**

We have concluded the public engagement exercise on the priorities for our new Joint Health and Wellbeing Strategy. We have received nearly 1000 responses to our online survey and 14 face to face engagement sessions have taken place with the voluntary and community sector and seldom heard groups. We are currently reviewing all of the feedback and it will be presented to the Health and Wellbeing Board at the end of January to decide which priorities should be included in the new strategy. Herefordshire Council has a duty to produce a Joint Health and Wellbeing Strategy that sets out how local partners will meet the health and wellbeing needs of our communities as identified in the Joint Strategic Needs Assessment

### **Intensive poultry farming:**

Cabinet discussed the findings of the Scrutiny work on the health impacts of intensive poultry farming at its meeting of 12/1/23. The recommendations of the Adults Scrutiny report were accepted by cabinet and officers now have 2 months to prepare an executive response. An important finding was the lack of evidence about health harm, and an important recommendation was to develop a Supplementary Planning Document on health.'

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