

MEETING:	PLANNING COMMITTEE
DATE:	6 AUGUST 2014
TITLE OF REPORT:	<p>P133401/F - ERECTION OF 4 NO. BROILER BUILDINGS, AGRICULTURAL STORAGE BUILDING, 2 NO. CONTROL ROOMS, 10 NO. FEED BINS, HARDSTANDING AND ACCESS IMPROVEMENTS AND DRAINAGE ATTENUATION POND AT LAND SOUTH OF PENRHOS FARM, LYONSHALL, KINGTON, HR5 3LH</p> <p>For: Mr Williams per Mr Ian Pick, Llewellyn House, Middle Street, Kilham, Driffield, YO25 4RL</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=133401&search=133401

**Date Received: 10 December 2013 Ward: Pembridge and Grid Ref: 331120,256135
Lyonshall with Titley**

Expiry Date: 14 March 2014

Local Member: Councillor RJ Phillips.

1. Site Description and Proposal

- 1.1 The site is located in open countryside, is relatively flat and forms part of an arable field, surrounded by agricultural land in the control of the applicant. To the north east of the site is Penrhos Court, this is situated approximately 410 metres away. Otherwise the site is surrounded by native field hedgerows and within the surrounding vicinity are small woodland copses. There are no dwellings immediately adjoining the site, however there are various dwellings dotted around in the surrounding landscape, and in particular alongside the A44 situated to the north of site. Access to the site is from the A44 along a stone track and adjacent fields also in the applicant's control.
- 1.2 The application proposes the construction of four broiler units, each measuring 109.7 metres long by 20.116 metres wide with an eaves height of 2.6 metres and a ridge height of 5.2 metres for the housing of up to 180,000 broiler chicks. The application also proposes associated infrastructure to include 10 feed bins, hard standing, storage room, incorporating a biomass boiler fed with woodchip, and an attenuation pond. Access to the site is directly from the A44 utilising an existing farm track, that entails the creation of a new entrance from the highway onto the track in order to provide improvements to the visibility splays.
- 1.3 A screening opinion in accordance with Environmental Impact Assessment Regulations 1999 dated 18 July 2011 carried out by the Council established that a proposed development on site for intensive poultry development for up to 170,000 broilers within five separate building units was EIA schedule 1 development and therefore an Environmental Statement (ES) was required with any formal application for the proposed development.

- 1.4 A revised screening opinion in accordance with Environmental Impact Assessment Regulations 2011 in relationship to the application, (ref: P133401/F), for the erection of 4 broiler buildings, associated storage building, 2 number control rooms, 10 number feed bins, hard standing and access improvements and drainage attenuation pond for housing of up to 200,000 broilers dated January 10th 2014 also established the development as EIA development, therefore an ES in support of the application was mandatory.
- 1.5 The application is accompanied by an (ES) and set of elevation and floor plans. Further information on flood risk, drainage and odour issues were received in support of the application. Later an amended ES was received along with an amended design and access statement and odour report.
- 1.6 The application is presented to the Committee for consideration as a previous approval for development on site dated 10th March 2014 was subsequently quashed in the High Court on 25 April 2014. The Council did not contest the request for judicial review, deciding not to challenge, because it became evident that a few minor updates in support of information submitted by the applicant during the application's processing had not been published in the local newspaper. Although this additional information was not considered crucial to the determination of the application and had been published on the Council's application website, it was seen as a minor technicality and one which was considered that the Council could potentially be legally challenged on. Therefore, in the interests of expediency and with the aim of keeping costs to an absolute minimum, the Council chose not to contest the judicial challenge and instead accepted that the decision be quashed and that the re-determination of the application should follow. A copy of the High Court decision and the judicial review pre-action protocol letter is available for inspection on the Council's application website at:

<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

2. Policies

2.1 National Planning Policy Framework (NPPF)

The following sections are of particular relevance:

Introduction	-	Achieving Sustainable Development
Section 3	-	Supporting a Prosperous Rural Economy
Section 7	-	Requiring Good Design
Section 11	-	Conserving and Enhancing the Natural Environment
Section 12	-	Conserving and Enhancing the Historic Environment

2.2 Herefordshire Unitary Development Plan (HUDP)

S1	-	Sustainable Development
S2	-	Development Requirements
S7	-	Natural and Historic Environment
S10	-	Waste
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR4	-	Environment
DR7	-	Flood Risk
DR9	-	Air Quality
DR13	-	Noise
DR14	-	Lighting
E13	-	Agricultural and Forestry Development

E15	-	Protection of Greenfield Land
E16	-	Intensive Livestock Units
T8	-	Road Hierarchy
T11	-	Parking Provision
NC1	-	Biodiversity and Development
NC2	-	Sites of International Importance.
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
NC8	-	Habitat Creation, Restoration and Enhancement
NC9	-	Management of Features of the Landscape Important for Fauna and Flora
LA2	-	Landscape Character and Areas Least Resilient to Change
LA5	-	Protection of Trees Woodlands and Hedgerows
LA6	-	Landscaping Schemes
CF2	-	Foul Drainage
CF4	-	Renewable Energy
HBA4	-	Setting of listed buildings.

2.3 Herefordshire Local Plan Core Strategy

SS1	-	Presumption in Favour of Sustainable Development
SS4	-	Movement and Transportation
SS5	-	Employment Provision
SS6	-	Addressing Climate Change
RA6	-	Rural Economy
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
E1	-	Employment Provision
LD1	-	Local Distinctiveness
LD3	-	Biodiversity and Geo-diversity
LD5	-	Historic Environment and Heritage Assets
SD1	-	Sustainable Design and Energy Efficiency
SD2	-	Renewable and Low Carbon Energy
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Wastewater Treatment and River Water Quality
ID1	-	Infrastructure Delivery

2.4 Other Material Considerations

Landscape Character Assessment

2.5 The Unitary Development Plan policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/unitary-development-plan>

3. **Planning History**

3.1 None identified.

4. **Consultation Summary**

Statutory Consultees.

4.1 Natural England raises no objections.

4.2 The Environment Agency raises no objections indicating that an Environmental Permit for the site was issued on 8th June 2014 and that this will monitor and manage issues in relationship

Further information on the subject of this report is available from Mr P Mullineux on 01432 261808

to day to day general management, including operations, maintenance and pollution incidents, issues in relationship to relevant emissions and monitoring to water, air and land, as well as fugitive emissions, including odour, noise and operations will be addressed. The response indicates that the EA have given consideration to ammonia assessments, and that odour can be an issue with regards to intensive poultry units and that the applicant's odour impact assessment is considered acceptable and that they do not perceive odour as being a problematic issue as they consider the applicant has gone beyond the recognised guidance to address concerns on odour issues.

The response indicates the noise assessment as a negligible impact on surrounding dwellings and that they do not anticipate dust as a nuisance to residents living nearby. Flood risk issues are considered acceptable and it is noted that surface water from the proposed development will be directed into an attenuation pond, which has been designed to contain a 1 in 100 year event with an 20% allowance for climate change. Water management issues are considered satisfactory and that a manure management plan will be required as part of the permit regulations for the site.

Internal Council Advice

4.3 The Public Rights of Way Manager raises no objections.

4.4 The Conservation Manager (Ecology) has responded to the application indicating:

'I have read the ecological report from Wold Ecology dated September 2013 and concur with its findings. If the planning application is approved I would like to see provision made for the ecological aspects of the site.'

The National Planning Policy Framework 2012 states that "The planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity wherever possible". It goes on to state that "when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity" and "opportunities to incorporate biodiversity in and around developments should be encouraged".'

The response recommends a condition to be attached to any approval notice issued in order to ensure the recommendations set out in section 7.4 of the ecologist's report from Wold Ecology dated September 2013 are followed unless otherwise agreed in writing by the local planning authority.

The response also recommends the attachment of informatives to any approval notice in order to remind the applicant of the provisions of the Wildlife and Countryside Act 1981.

4.5 The Land Drainage Manager initially raised objections indicating a Flood Risk Assessment was required in support of any formal application for development on site due to the area size of the development exceeding 1 hectare. In response to further information on drainage issues received, no objections are raised subject to a condition with regards to a detailed drainage strategy being attached to any approval notice issued.

4.6 The Transportation Manager raises no objections subject to conditions with regards to access, turning and parking and closing off the existing entrance onto the A44 being attached to any approval notice issued. He also recommends an informative note with regards to works in the highway.

4.7 The Environmental Health Manager raises no objections subject to a condition being attached to any approval notice issued with regards to external lighting. Comment is made that issues such as dust, odour, fumes and noise will be controlled via the Environmental

Permit that will be required for the site and issued and monitored by the Environment Agency. A further response raises no objections with consideration to land contamination issues.

- 4.8 The Conservation Manager, (Landscape) indicates that the development can be supported in landscape terms, as it is not considered to adversely affect the landscape character and overall is considered compliant with Policy LA2 of the UDP. The response to the request for re-determination of the application indicates that from a landscape-related perspective, there is no reason for planning permission not to be granted.

The response indicates that in order to ensure that the existing landscape features and elements on and around the site are protected, and that an effective and appropriate scheme of mitigation and enhancement is designed and implemented, the following specific points should be taken into account and conditions attached to any approval notice to reflect these points:

- i) The landscape scheme should be based on an on-site assessment of the landscape and visual receptors identified above, seasonal factors and existing landscape features/ vegetation on and close to the site. It should take into account the findings and recommendations of the ecology report, drainage strategy and other relevant studies.
- ii) Proposals for mitigation and enhancement must be in keeping with the local landscape character using locally-occurring species and mixes. They should demonstrate how mitigation will be effective (in terms of the height of plants at planting, planting densities, width of planting areas and the timescale for plants to grow tall/dense enough to screen views). They should also demonstrate how biodiversity will be maintained and enhanced.
- iii) Plans should be submitted showing the proposed structure of the landscaped areas. The information provided on the landscape plans should include:
 - The location of any trees/hedgerows to be retained/removed and details of tree/hedgerow protection
 - Areas where landscaping is required for mitigation and enhancement
 - Planting schedules and specifications
 - Details of the proposed attenuation pond (including cross-sections and aquatic planting)
 - Existing and proposed levels with cross-sections
 - Details of colours and materials of buildings, surfaces, fencing etc. (all materials should be non-reflective as far as possible and the preferred colour for the cladding is slate blue (BS 18-B-29) or black, as these colours are better assimilated into the local landscape than artificial greens.
- iv) A landscape management plan should be submitted, setting out annual maintenance and long-term (20 years +) management proposals to demonstrate that the proposed mitigation will be effective over time. It should also include sustainable measures for conserving and enhancing biodiversity, taking into account recommendations in the ecology report and ecology comments.

- 4.9 The Conservation Manager (Built Environment), raises no objections indicating *“the parcel of land proposed for the siting of 4no broiler buildings lies to the west of Penrhos Court, a grade II* listed courtyard of buildings, and Penrhos Farm, a grade II listed farmhouse and its associated historic buildings. To the south west of the site are two grade II listed dwellings and a grade II listed cemetery chapel. The site and that of Penrhos Court were visited on*

Wednesday 16 July to assess the impact of the proposal in terms of the setting of the listed buildings and whether the proposal would be in accordance with Policy HBA4.

The site is at least 410m to the west of Penrhos Court and slightly further from Penrhos Farm. It is also approximately 30m lower than either complex of listed buildings with several hedge and tree boundaries breaking up the land between. Having looked at the views from the site towards Penrhos Court and vice versa it is acknowledged that it would be possible to view the one from the other, however the visual impact of either site on the other is considered to be minimal given the distances between. Due to the woodland at Penrhos Court there is no visual interconnectivity between the site and Penrhos Farm.

In the case of the listed buildings to the south west of the site, there would be no visual interconnectivity with the site due to the topography of the land in between. These buildings lie at a distance of just under a kilometre from the site and their setting is not considered to be affected by the proposals.

The principle of the proposal is considered acceptable in relation to its impact on the setting of the listed buildings in the locality and therefore would accord with Policy HBA4'.

5. Representations

5.1 Lyonshall Parish Council has responded to the application stating:

'Lyonshall Parish Council fully supports this application which conforms to the Lyonshall Broiler Chicken Policy.

In particular, there was recognition that the economic benefits are hard to quantify but that a thriving agri-business is important in this rural area. The broiler industry provides many jobs both in the parish and the county.

The applicant should be required to provide screening for the site.

The applicant has agreed to the time constraints for lorry movements set out in the Lyonshall Policy. He has also agreed to apply a one-way system where lorries will turn left into and out of the site to aid traffic flow and reduce the number of lorries travelling through Lyonshall village.

There are houses within 400 metres and an odour assessment has been made. The figures were reviewed and it was agreed that they fell within acceptable levels.'

5.2 Kington Town Council has responded to the application stating:

'Kington Town Council objected to the application that was published in January on several grounds. The Council maintains the objections that were submitted in January. The Town Council noted that Hereford Council's Decision was to Approve the application, and that subsequently the Decision was Quashed under Judicial Review. Neither the Planning Officer's assessment of the earlier application which led to a decision to Approve, nor information that the decision was appealed and quashed is present among the documents presently on the Council's website.

The Town Council has considered the application again, together with the amended documents that have been published recently, and makes the following additional comments:

1. There is a failure to consider adequately the adverse impacts on residential amenity Policy E13 (Agricultural and Forestry Development) of the UDP.

2. *There is a failure to consider and comply with the intentions of Policy E16 (Intensive Livestock Units) of the UDP Para 6.5.22 of the UDP States:*

“Permitted Development Rights under the General Permitted Development Order 1965 do not extend to buildings to be used for the accommodation of livestock.....when these are to be built within 400m of ‘a protected building’. This latter term includes residential and other permanent buildings...As is suggested by the removal of permitted development rights, the relationship to surrounding dwellings or other buildings normally occupied by people will normally be most important in considering planning applications for intensive livestock units. Units should be sited at least 400m from non-agricultural buildings; planning applications for units within 400m of a protected building will be carefully assessed.”

It is clear that the present application is not covered by the General Permitted Development Order and therefore needs careful scrutiny. The intention of the Policy quoted is clear – to give protection to residents in their homes from the effects of close proximity to intensive livestock units, such as 4 large broilers. No special reasons for ignoring the Policy have been put forward in the application.

In the latest (May 2014) Odour Impact document, page 3, there is information that there are 6 dwellings well within 400m of the site, and the Grade 11 listed Penrhos Court 480m distant. It should be emphasised that the 6 dwelling are very firmly within 400m; measurements of 280m, 290m 310m and 380m are given in the application documents.*

The recent Odour assessment suggests that none of the dwellings within 400m are likely to be affected beyond the accepted tolerance limit. This contradicts the document previously submitted, but without explanation. In the present document there are statements that raise concerns.

3.5, page 7 “Odour emission rates from broiler houses depend on many factors and are high variable. Towards the end of the crop cycle (35 days), odour production within the poultry housing increases rapidly and ventilation requirements are greater, particularly in hot weather, therefore emission rates are considerably greater than at the beginning of the crop.”

In warm weather people like to have their windows open and spend time outdoors in their gardens.

And further, “Peak odour emission rates are likely to occur when the housing is cleared of spent litter at the end of each crop. There is little available information on the magnitude of this peak emission, but it is likely to be greater than any emission that might occur when there are birds in the house. In hot weather it will be particularly bad?”

The application offers a suggestion: “....to avoid high odours levels at nearby sensitive receptors (houses) it may be possible to time the operation to coincide with winds blowing in a favourable direction.” Is it likely that the programme of clearing and cleaning the sheds every 8 weeks can be sufficiently flexible to accommodate weather forecasts? In effect the Odour Assessment does not eliminate the probability that nearby residents will be within range of the offensive odour.

The Town Council continues to be concerned about the impact on the local water courses (E16 and DR4). The present application includes a revised Flood Risk and Surface Water Management document that provides details of the drainage systems proposed. It is clear that the proposed site is on impermeable ground, so soakaway systems will not be appropriate. The surface area to be covered by the 4 broilers, the other buildings and the

hard standing necessary for HGVs etc is considerable, the major part of 3.30 ha. Thus the accumulation of rain water from the roofs as well as from the ground and any spillage will become run-off from the site. As is stated in the document, page 5, the development site field is located at the source of the watercourse that runs along the boundary of the site and westwards into the River Arrow just outside Kington. Page 12 of the report, "All surface water runoff from the proposed development will be discharged into the unnamed watercourse to the north of the site." It is proposed to control the amount and rate of discharge into the watercourse by means of the attenuation pond, although this has not been tested. What is of concern to the Town Council is the cleanliness of the water discharged. It would seem inevitable because of vehicle movements, lorries and tractors containing chicken manure, lorries arriving from many different destinations and so on that the surface water is likely to be polluted because there is no filtration or decontamination system proposed. Poultry manure is a major source of contamination of water courses in Herefordshire. The Lugg and Arrow Fisheries Association, together with the Wye and Usk Foundation have been working over the last 10 years to improve the quality of the Arrow and its tributaries. The pollution levels in the Lugg already exceed the permitted levels. Herefordshire Council's recently produced Nutrient Management Plan identifies agriculture as a major source of pollution of the rivers and points to poultry manure as a prime contributor to the high phosphate levels. The Town Council considers it to be unacceptable to discharge the water into the watercourse.

200 tonnes of manure will be produced per cycle from this site (1600 tonnes p.a.) and will be exported from the site. The application states that it will be used "as a sustainable fertiliser." It is unclear what is meant by that description. The Town Council is concerned at the increasing use of poultry manure being spread on local fields because it is contributing to the pollution of our rivers.

Summary

Kington Town Council objects to the application. We consider the site to be unsuitable for the development proposed. We consider that there is a failure to consider adequately the impacts on nearby residents, and a failure to consider adequately the effects on the quality of local water courses. We consider there is a failure to take proper account of the intentions of the Policies E13, E16 and DR4.'

- 5.3 The Ramblers Association comments that a public footpath runs close to the site for the proposed development, and that this footpath must not be damaged or obstructed.
- 5.4 Herefordshire Campaign for the Protection of Rural England object to the proposed development and their objection can be summarised as follows:
- The proposed development does not comply with relevant policies of the UDP, emerging Core Strategy or the NPPF.
 - Concerns are raised about the lack of sufficient landscape screening.
 - There will be an odour impact on nearby dwellings and Kington Town.
 - Concerns about drainage of the site, and that chicken manure is a pollutant and not a sustainable fertiliser as claimed by the applicant's agent.
 - Development represents industrial type development in appearance.
 - Benefits to the local economy are outweighed by the negative impacts, Kington is a well known area for walking.
 - Overall development is not considered sustainable development and not in accordance with the aims of the NPPF.
- 5.5 At the time of writing this report 79 letters of objection have been received from members of the public. (Some have written more than one letter of objection).

Issues raised can be summarised as follows:

- Public highway issues and the increase in vehicular movements as a result of the development.
- Impacts on surrounding residential amenity, noise and odour impacts.
- Drainage issues
- Light pollution issues.
- Detrimental impact on tourism
- Detrimental impact on built historic environment.
- Landscape Impact
- Pollution fears in relationship to surrounding biodiversity
- Procedural issues.

5.6 A letter of objection has been received from Marches Planning and Property Consultancy on behalf of Mrs. Janet Srodzinski, Penrhos House, Kington. Issues in relationship to objections raised can be summarised as follows:

- Detrimental impact on the setting of a listed building and its curtilage, namely Penrhos Court and therefore development contrary to Policy HBA4 of the UDP.
- Cumulative impacts of development will be visible from the Grade II* Hergest Croft Gardens, Offa's Dyke and Hergest Ridge, and National Trust property at Brandon Hill and the Kington Golf Course and therefore development considered contrary to Policies S7 and LA4 of the UDP.
- Detrimental impact to seven dwellings located within 400 metres of the development which would have a threat on residential amenity and human health in relationship to noise, odour, increased traffic and potential threats to the landscape. Therefore development considered contrary to Policies E13 and E16 of the UDP and Paragraph 122 of the NPPF.
- Concerns are raised that the development does not comply with Schedule 4 of EIA Regulations and that the Environmental Statement submitted in support of the application lacks sufficient information on this issue.
- The development is not considered sustainable and in accordance with Policy S1 of the UDP or the NPPF on sustainability issues.
- Insufficient consideration to waste generated from the site and therefore development considered contrary to Policy S10 of the UDP and EIA Regulations.
- Development will have an industrial impact on the rural character of the surrounding landscape and that insufficient landscaping in the form of trees and hedgerows exist on site and therefore development contrary to Policies LA2, S7, E13 and E16 on landscape impact issues.
- Insufficient detail in relationship to ecological issues submitted in support of the application in relationship to the site and the surrounding area and therefore development considered contrary to Policies NC1, NC2 and NC3 of the UDP and the NPPF on ecological issues.
- Insufficient information in support of the application on traffic movement issues as a result of the development and surrounding public highways are not considered suitable to accommodate traffic as a result of the development and therefore development considered contrary to Policy E16 of the UDP.
- Concerns about cumulative impacts and therefore development considered contrary to the UDP.
- Concerns about the economic aspect of the development and information submitted in support of the application and in particular in relationship to tourism and therefore development considered contrary to the aims of the NPPF.
- Also accompanying the objection received from Marches Planning and Property Consultancy is a review of the odour impact and noise impact assessments submitted in support of the application. The odour impact assessment indicates overall that the

report appears to have been produced in a careful and professional manner, although raises concerns about overall predictions. The noise impact assessment raises concerns about potential noise generated on site, however it concludes by indicating conditions can be attached to any approval notice issued in order to control noise generated on site.

5.7 At the time of writing this report 78 letters of support have been received from members of the public. Issues raised can be summarised as follows:

- Economic benefits to the area and county of Herefordshire.
- Reduces food miles
- Provides employment
- Farming business concerned is managed to a high environmental standard.
- Farming businesses need to diversify and chicken farming is one such agricultural enterprise that does not rely on subsidies.
- Transportation issues are considered satisfactory in relationship to adjacent public highways.

5.8 A letter of support has been received from the National Farmers Union, (NFU). The letter states support with consideration to the requirement to continue to expand the British poultry industry, in order to meet rising demand from consumers and reduce food miles, as the UK is not self sufficient in chicken production. Comment is also made about the economic benefits that the proposal will have to the local community and the wider County as a whole.

5.9 The consultation responses can be viewed on the Council's website by using the following link:-

<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

Internet access is available at the Council's Customer Service Centres:-

www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage

6. Officer's Appraisal

6.1 The proposed development is in relation to an existing farming enterprise which extends to 440 acres, mainly in arable production. As part of the business there is also an intensive broiler rearing unit located at the Heath Farm, Lyonshall, where approximately 200,000 broilers are produced on site. (EA site licence allows up to 225,000 on site). It is considered that this broiler unit is not suitable for any further expansion due to concerns about visual and residential amenity. (Site is within close proximity to the A44 and dwellings outside the control of the applicant). The farming enterprise has recently been granted planning approval for polytunnel development in relationship to a farm diversification scheme into cherry production. Information submitted in support of this application refers to the economic benefits to the area concerned if the 'broiler' development is allowed. This outlines the costs of such a development and staff required in order to ensure the effective management of the business venture concerned. Whilst intensive poultry development is often controversial as far as members of the public are concerned, the economic benefits of such development have to be considered. In this instance the broiler production is in relationship to the 'Cargill' chicken processing plant based in Hereford. It must also be made clear that environmental and amenity issues are of paramount importance during the planning process for such development.

6.2 The key issues of concern in relationship to this application are:

- Landscape and historic built environment impact.
- Ecological issues.

- Access and highway safety
- Drainage and flooding issues
- Residential amenity

Landscape and Historic Built Environment Impact

- 6.3 As part of pre-application discussions a sequential site selection test did take place in conjunction with the Council's Landscape Officer and it was concluded that the proposed site as put forward by the applicant, was the most suitable when assessed in relation to the Council's landscape character assessment and in relation to potential highway safety and access issues, as well as issues in relationship to residential amenity. Issues in relationship to agricultural diversification and economic development have also been taken into consideration.
- 6.4 The Environmental Statement accompanying the application includes a section on landscape and cultural heritage impacts and the conclusions are considered acceptable.
- 6.5 The landscape in which the site is located is classed as 'Principal Timbered Farmlands' in accordance with the Council's landscape character assessment, which is a landscape of hedgerows as defined field boundaries with a wooded character and densely dispersed pattern of farmsteads and wayside cottages. The site is not subject to any specific landscape designations and there are no listed buildings within close proximity to the site. The nearest listed building is Penrhos Court which is grade II* listed and located approximately 410 metres from the site. Beyond Penrhos Court is Penrhos Farmhouse which is grade II listed. It is considered that the proposed development, whilst it will be viewed from a public footpath located between the site and Penrhos Court, will have no significant detrimental impact on the setting of either listed building or other listed buildings in the surrounding area. Within the surrounding landscape, are other landscape designations such as the Offa's Dyke footpath, Hergest Croft Gardens, (Grade II*), Hergest Ridge and a National Trust property at Brandon Hill. With consideration to the nature of the development and distances involved it is considered that there is no significant detrimental impact on any of these assets or others within the surrounding landscape.
- 6.6 Whilst it is acknowledged that the proposed development is of a large scale that will have an impact on the surrounding landscape character, the plans clearly indicate that the retention and use of the existing surrounding native vegetation, and the surrounding land topography will help mitigate the visual impact of the development into the landscape and with further landscape mitigation, the findings of the landscape assessment are considered acceptable. It is considered that the development complies with the criteria of Policies LA2, LA5 and LA6 and other relevant policies of the Herefordshire Unitary Development Plan, (UDP) and the National Planning Policy Framework, (NPPF) and with appropriately worded conditions attached to any approval securing detailed landscaping proposals and future maintenance arrangements is in accordance with advice as received from the Conservation Manager (Landscape) in response to the application.

Ecological Issues

- 6.7 Ecological issues in relationship to the site and the surrounding area are considered to have been addressed satisfactory, with the development considered to be in accordance with Policies NC1, NC4, NC7, NC8 and other relevant HUDP policies and the NPPF subject to the attachment of a condition as recommended by the Conservation Manager (Ecology), in order to ensure recommendations as set out in the Environmental Statement on ecological issues are adhered to.

Access and Highway Safety

- 6.8 Access into and out of the site is proposed by making use of an existing field track with creation of a new entrance directly onto the A44, which will link up with the field track. The new entrance is required in order to provide adequate visibility splays.
- 6.9 The application proposes to make use of this track for access to the site which is a length of approximately 190 metres. Information in support of the application indicates that this access track will be upgraded in order to accommodate the development and information submitted in support of the application indicates that the development will generate 608 Heavy Goods Vehicle (HGV) movements per annum, (based on 8 flocks of birds per annum), which represents an average of less than 2 per day and an automated traffic assessment of the A44 close to the site during the month of February has indicated that this will contribute less than 1% HGV movements onto the A44 which is considered acceptable to the Transportation Manager.
- 6.10 The development is therefore considered acceptable in relation to highway safety and transportation issues. Conditions attached to the approval notice on landscape issues will cover issues in relation to hedge planting and blocking up the existing track entrance onto the A44. On transportation and highway matters the development is considered to be in accordance with Policies DR2, DR3, T8, E16 and other relevant HUDP Policies and the NPPF.

Drainage and Flooding Issues

- 6.11 Many letters of objection as well as the response from Kington Town Council raise concerns about potential drainage and flooding issues as a result of development particularly in relation to water pollution and nearby water courses.
- 6.12 The application site exceeds 1 hectare in area, and is located in Flood Zone 1 (low probability), in accordance with the flood risk maps and therefore in accordance with advice as set out in the NPPF on meeting the challenge of climate change, flooding and coastal change, the applicant submitted a Flood Risk Assessment, as well as a separate drainage and management appraisal.
- 6.13 The EA raises no objections noting that the applicant proposes an attenuation pond which is designed to contain a 1 in 100 year event with a 20% allowance for climate change. This is considered acceptable by the EA and as such is not considered to represent any grounds for the refusal of planning permission.
- 6.14 The Land Drainage Manager has responded indicating that there are no objections on drainage and flooding issues and recommends that a condition with regards to a drainage strategy is attached to any approval notice issued.
- 6.15 Therefore it is considered that the development complies with Policies DR4 and DR7 and other relevant policies of the HUDP on drainage and flooding as well as the guidance provided by the NPPF.

Residential Amenity

- 6.16 A number of letters of objection as well as the consultant reports on behalf of the occupant of Penrhos House and the response from Kington Town Council raise concerns about impact of the proposed development on residential amenity. The nearest residential dwellings to the site are located mainly alongside the A44. The nearest residential dwelling known as Penrhos House is located from the closest point of the nearest poultry shed to the edge of its curtilage at approximately 245 metres.

- 6.17 Issues raised with regards to residential amenity refer to odour, noise, (fans operating on site, feed deliveries, machinery operations etc), dust, external lighting and pests (flies). As part of the application the ES includes reports on noise and odour issues and also makes reference to dust and pest control. Neither the Environmental Health Manager or the EA raise any objections on these issues.
- 6.18 It must also be noted that in order for this site to operate the applicant will need an Environmental Permit issued by the EA under the Environmental Permitting (England and Wales) Regulations (ERP) 2010. The response from the EA dated 2nd July 2014 indicates that the site will require an Environmental Permit issued and monitored by the Environment Agency and that the permit will control day to day general management, including operations, maintenance and pollution incidents. In addition, through the determination of the environmental permit, issues such as relevant emissions and monitoring to water, air and land, as well as fugitive emissions, including odour, noise and operation will be addressed, and that a permit for this site was issued on the 5 June 2014, reference VP3236NH.
- 6.19 Although it is considered unusual that a permit for the site has already been issued by the EA, clearly the permit will address issues in relation to odour, noise and dust and matters as referred to in the paragraph above and it is considered that there are no grounds for refusal based on this matter. Issues in relation to waste generated on site are considered to have been addressed satisfactorily as part of the ES.
- 6.20 The ES indicates that manure generated on site will be removed at the end of each flock cycle and that no manure will be stored on site. It will be removed in sealed trailers for use as fertiliser. This is considered a sustainable use, however odour in relation to intensive poultry units is generally during the clean out and disposal operations and therefore it is recommended that conditions with regards to transportation off site and a manure management plan are attached to any approval in order to ensure that potential odour is kept to an absolute minimum. It is noted that the EA in their response dated July 2 2014 indicate that under the environmental permit regulation the applicant will be required to submit a manure management plan, which consists of a risk assessment of the fields on which the manure will be stored and spread. The manure/litter is classed as a by-product of the poultry farm and is a valuable crop fertiliser on arable fields.
- 6.21 With consideration to the above-mentioned EA controls, it is considered that the development is acceptable and with appropriately worded conditions attached to any approval notice, (the EA permit and manure plan regulates on site activities which includes land in the applicants control), complies with Policies DR2, E16 and other relevant HUDP policies as well as the guidance provided by the NPPF on matters in relationship to residential amenity.

Other Matters

- 6.22 Impacts on public footpaths and scale of development on site are considered to be addressed satisfactorily. The development in relationship to tourism interests is also considered acceptable.
- 6.23 Concerns have been raised with regards to cumulative impacts in relationship to other intensive poultry enterprises within the surrounding area. It is considered that there are no cumulative impact concerns in relationship to the development in relation to other intensive poultry units or other industrial developments within the surrounding locality and this also includes consideration of transportation issues. Also the cumulative impact of the development in relationship to the surrounding historic landscape and tourist attractions is also considered acceptable.

- 6.24 The objection from Marches Planning and Property Consultancy indicates that the development does not comply with Paragraph 122 of the NPPF which states “...local planning authorities should focus on whether the development itself is an acceptable use of land, and the impact of the use, rather than the control of the processes or emissions themselves where these are subject to approval under pollution control regimes.” The EA in their response to the application also refer to paragraph 122 of the NPPF and clarify that they would not seek to control the proposals through the planning process. They would control relevant matters through the environmental permit process. It is considered that these issues in relationship to amenity have been considered as part of the planning assessment.
- 6.25 Concerns have also been raised questioning whether the development is in accordance with Schedule 4 of EIA Regulations 2011 and that the Environmental Statement (ES) lacks sufficient detail on this matter. It is considered that the ES as a whole does provide sufficient information on the development. The revised ES refers to an economic appraisal and sustainability appraisal of the development. Poultry units by their nature have to be built to high hygiene and welfare standards and therefore construction materials which are referred to as part of the application are limited in choice. Overall the information submitted in support of the application is considered acceptable on this issue as well as the consideration given to economic issues.
- 6.26 Concerns have been raised with regards to sustainability and in particular in relationship to the NPPF. At the heart of the NPPF is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan making and decision making. Section 3 of the NPPF: Supporting a prosperous rural economy, indicates that planning policies should support economic growth in rural areas and expansion of businesses and enterprises and this includes the promotion and diversification of agricultural businesses.
- 6.27 Procedural issues have been considered earlier in this report. As a result of the original approval notice being quashed in the High Court, the applicant has requested reconsideration of the application by the Council and he has submitted additional information in support of his proposal. Officers believe correct procedures have been followed in accordance with EIA Regulations and the application is now being presented to Committee for a planning decision.
- 6.28 The proposal includes a storage building for the housing of biomass boiler facilities and storage of wood chip and the HGV transportation movements indicate allowance for 2 fuel deliveries per flock cycle. This is considered acceptable. It is recommended that a condition is attached to the approval notice in order to ensure no timber is stored outside of the buildings on site, with consideration to landscape and visual impact issues. Woodchip delivered to the site in its processed state for storage inside a building is considered acceptable.

Conclusions

- 6.29 The application proposes a significant development that will have an impact on the landscape. However it is considered to be of a scale that can be successfully integrated into the surrounding landscape character with consideration to the existing land topography and existing native vegetation adjacent to the site and further landscape mitigation as proposed. Impacts on the historic environment and setting of listed buildings are considered acceptable.
- 6.30 Vehicular access into and out of the site is directly onto the A44 and whilst it is acknowledged that several letters of objection raise concerns about highway safety in respect of additional vehicle movements, there is no evidence to substantiate this and the

Transportation Manager raises no objections in relationship to highway safety and/or capacity.

- 6.31 The site is not located in a high risk flood area and the applicants submitted a flood risk assessment and drainage report which is accepted by the EA and the Land Drainage Manager and it is considered that development will not create flooding and drainage issues in the locality.
- 6.32 Residential amenity and potential odour issues are considered to be addressed satisfactorily. Conditions on odour issues in order to ensure protection of the surrounding environment are recommended to be attached to any approval. Furthermore the site has already had an Environmental Permit issued from the EA in order to operate and this permit controls issues in relationship to amenity, odour and pollution issues.
- 6.33 Having given full consideration to the proposal, representations and the ES, the development is considered acceptable and in accordance with the HUDP and the NPPF.

RECOMMENDATION

That officers named in the Scheme of Delegation to Officers are authorised to grant full planning permission, subject to the conditions below and any other further conditions considered necessary.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990 and the National Planning Policy Framework.

- 2 The development hereby approved shall be carried out strictly in accordance with the approved plans (Site plan – drawing number IP/RW/02, proposed boiler units elevations plan – drawing number IP/RW/03, proposed boiler units elevations plan – site sections– drawing number IP/RW/04, general storage and heating boiler building elevations and floor plan – drawing number IP/RW/04) and the schedule of materials indicated thereon and information submitted in support of the application.**

Reason: To ensure adherence to the approved plans and to protect the general character and amenities of the area in accordance with the requirements of Policy DR1 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 3 Notwithstanding the approved plans all the external colouring of the buildings hereby approved shall be to colour code ‘slate blue’ BS18B29 or other dark colour approved in writing with the Local Planning Authority prior to any development on site.**

Reason: With consideration to the impact on the surrounding landscape and to comply with Policies DR1 and LA2 of the Herefordshire Unitary Development Plan.

- 4 The development hereby permitted shall not be brought into use until the access, turning area and parking facilities shown on the approved plan have been properly consolidated, surfaced, drained and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority and these areas shall thereafter be retained and kept available for those uses at all times.**

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway and to conform with the requirements of Policy T8 and T11 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 5 Prior to the commencement of the development hereby permitted, full details of all external lighting to be installed upon the site (including upon the external elevations of the buildings) shall be submitted to and be approved in writing by the local planning authority. No external lighting shall be installed upon the site (including upon the external elevations of the buildings) without the prior written consent of the local planning authority. The approved external lighting shall be installed in accordance with the approved details and thereafter maintained in accordance with those details.**

Reason: To safeguard the character and amenities of the area and to comply with Policy DR14 of Herefordshire Unitary Development Plan.

- 6 No development shall take place until a Manure and Site Management Plan (which will also refer to storage on site in relationship to the general storage and heating building), has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the provisions of the approved Plan.**

Reason: In the interests of pollution prevention and efficient waste minimisation and management so as to comply with Policies S10 and DR4 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 7 The recommendations set out in section 7.4 the ecologist's report from Wold Ecology dated September 2013 must be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a habitat protection and enhancement scheme must be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved. An appropriately qualified and experienced ecological clerk of works must be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.**

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6, NC8 and NC9 of Herefordshire Unitary Development Plan, in relation to Nature Conservation and Biodiversity and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006.

- 8 No development shall commence until the Developer has prepared a scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and land drainage will be dealt with and this has been submitted to and approved in writing by the local planning authority. The work shall be carried out in accordance with the approved scheme.**

Reason: To ensure the effective drainage facilities are provided for the proposed development, and that no adverse impact occurs to the environment so as to comply with Policy DR4 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 9 The development hereby approved shall be for the housing of chickens, (Broilers),**

only.

Reason: In consideration of the location for the proposed development and its proximity to residential use and to comply with Policies DR2 and DR4 of the Herefordshire Unitary Development Plan.

- 10 All manure moved off site will be so in covered and sealed trailers.

Reason: In consideration of the amenity of the surrounding area and to comply with Policy DR4 of the Herefordshire Unitary Development Plan.

- 11 Notwithstanding the approved plans no development shall take place until a scheme of tree planting and hedge screening has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include details of the species, sizes and positions or density of all trees and hedging to be planted and the proposed time of planting. All tree and hedge planting shall be carried out in accordance with those details. Detail will also include a landscape management plan, which will refer to long term design objectives, management responsibilities and maintenance schedules for all landscaped areas.

The trees and hedges shall be maintained for a period of 5 years. During this time, any trees and hedging that are removed, die or are seriously retarded shall be replaced during the next planting season with others of similar sizes and species unless the Local Planning Authority gives written consent to any variation. If any trees or hedging fail more than once they shall continue to be replaced on an annual basis until the end of the 5-year maintenance period.

Reason: In order to maintain the visual amenity of the area and to comply with Policy LA6 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

12. Prior to the first use of the application site hereby approved the existing vehicular access onto the adjoining highway shall be permanently closed. Details of the means of closure and reinstatement of the area shall be submitted to and approved in writing by the local planning authority prior to the commencement of work on the development hereby approved.

Reason: To ensure the safe and free flow of traffic using the adjoining County highway and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

13. No timber will be stored outside of the buildings on site. No raw timber shall be brought on site for use in the biomass boiler.

Reason: With consideration to landscape and visual impact and public highway and residential issues and to comply with Policies DR2 and LA2 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

14. C87 - G01 Earthworks

15. C90 - G04 Protection of trees/hedgerows that are to be retained

Informatives:

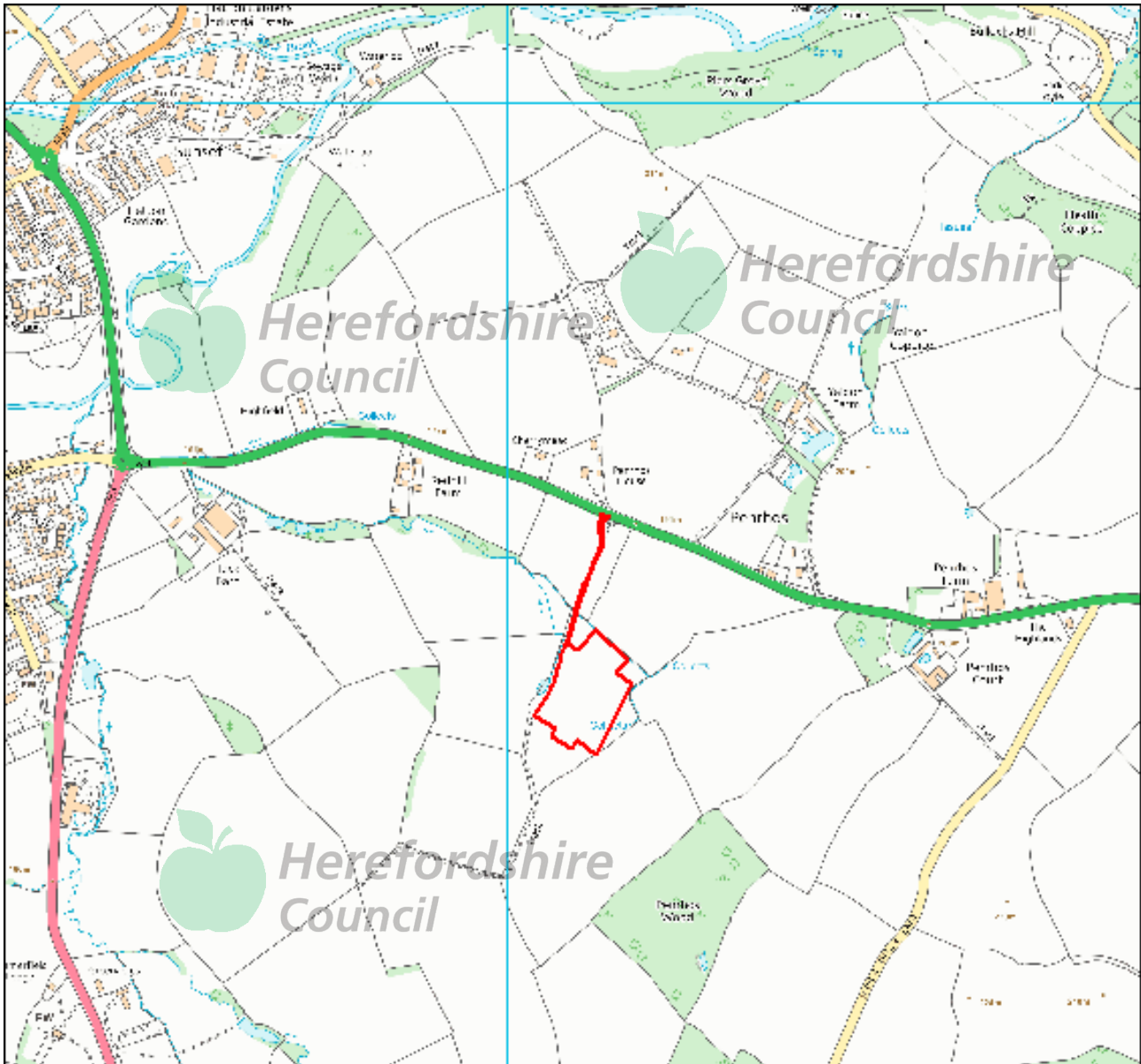
- 1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments/additional information to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
- 2 HN05 Works within the highway**
- 3 N11A Wildlife and Countryside Act 1981 (as amended) - Birds**
- 4 The applicant is reminded that this development will need an Environmental permit issued by the Environment Agency.**

Decision:

Notes:

Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 133401/F

SITE ADDRESS : LAND SOUTH OF PENRHOS FARM, LYONSHALL, KINGTON, HEREFORDSHIRE, HR5 3LH

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