

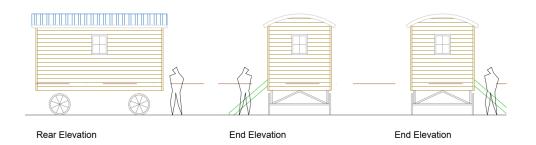
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MEETING:	PLANNING AND REGULATORY COMMITTEE				
DATE:	5 JUNE 2024				
TITLE OF REPORT:	233688 - CHANGE OF USE OF AGRICULTURAL LAND TO USE FOR HOLIDAY HUTS. 2 SHEPHERD HUTS AND CREATION OF CAR PARKING AREA. AT LAND AT UPPER HOUSE, LYNE DOWN, HEREFORDSHIRE, For: Mr & Ms Judd & Dray per Mr Derrick Whittaker, 1 Farjeon Close, Ledbury, Herefordshire, HR8 2FU				
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=233688				
Reason Application submitted to Committee - Redirection					

Date Received: 13 December 2023 Ward: Old Gore Grid Ref: 364479,231260

Expiry Date: 8 February 2024 Local Member: Cllr Barry A Durkin

1. Site Description and Proposal

- 1.1 Upper House lies to the north-west of Lyne Down and to the south-west of Much Marcle, the nearest identified settlement. The site is accessed from a single width access track some 4 metres wide. The access is shared by three properties (Upper House, The Kittles and White Cottage). The site slopes to the south-east and is elevated above main access road. The site has an existing parking and turning area and is located to the north-east of the Grade II listed building (The Kittles).
- 1.2 The proposal is for two holiday units, with a footprint of 13.44 square metres each and a height of 3.8 metres. The proposal also includes for the provision of additional car parking and associated landscaping and has evolved during the course of the application. Specifically, it has been reduced from four shepherds huts to two. A typical elevation treatment is provided below.



2. Policies

- 2.1 Herefordshire Local Plan Core Strategy 2011 2031 (CS)
 - SS1 Presumption in favour of sustainable development
 - SS5 Employment provision
 - SS6 Environmental quality and local distinctiveness
 - SS7 Addressing climate change
 - RA3 Herefordshire's countryside
 - RA5 Re-use of rural buildings
 - RA6 Rural economy
 - E1 Employment provision
 - E4 Tourism
 - LD1 Landscape and townscape
 - LD2 Biodiversity and geodiversity
 - LD4 Historic environment and heritage assets
 - SD1 Sustainable Design and energy efficiency
 - SD3 Sustainable water management and water resources
 - SD4 Waste water treatment and river water quality
- 2.2 Much Marcle Neighbourhood Development Plan (MMNDP)
 - SD1 Sustainable Development
 - EM1 Employment & Economy
 - **NE2** Biodiversity
- 2.3 National Planning Policy Framework (NPPF)
 - 2. Achieving sustainable development
 - 6. Building a strong, competitive economy
 - 11. Making Effective use of land
 - 12. Achieving well-designed places
 - 16. Conserving and enhancing the historic environment
- 2.4 The Core Strategy 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/info/200185/local_plan/137/adopted_core_strategy

2.5 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy was made on 9th November 2020 and the review process is currently underway. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application. In this case, the most relevant policies of the CS – which are considered to be those relating to meeting housing needs, guiding rural housing provision, highways safety and safeguarding features of environmental value (amongst others) – have been reviewed and are considered to be consistent with the NPPF. As such, it is considered that they can still be attributed significant weight.

3. Planning History

3.1 No Planning History

4. Consultation Summary

Statutory Consultations

4.1 Welsh Water Comments

We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

This application is located in an unsewered area and since the proposal intends on utilising an alternative to mains drainage, we would advise that the applicant seek advice from the Environment Agency and the Building Regulations Authority as both are responsible to regulate alternative methods of drainage.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

Internal Council Consultations

4.2 Area Engineer Team Leader

13 March 2024

Whilst there are no objections to the principle of the development there are concerns over the existing access and its current use. The access shows limited visibility splays to the western side.

Please supply visibility splays from the existing access as well as the number of movements/vehicles which currently use this lane for access to the highway.

20 May 2024

- The number of shepherds huts has been reduced from 4 to 2, therefore reducing the movements down from the site
- The shepherds huts are singular bedrooms therefore the number of vehicles likely to be associated with them is also only one.
- It is noted that the visibility splays do not meet current standards however MfS 2 states "It has often been assumed that a failure to provide visibility at priority junctions according to the values recommended in Mfs1 and 2 will result in an increase in injury collisions. Research carried out by TMS consultancy for MfS2 has found no evidence of this".
- The proposed site would also have vehicles associated with it due to the agricultural nature of the site, whilst the vehicles size would potentially change, the numbers of vehicles using the former site had the potential to be higher.

With the small increase in vehicles these proposals will look to put on the network, under the NPPF these proposals would not be classed as severe and therefore should not be refused.

4.3 Principal Natural Environment Officer (Ecology)

19 February 2024

From supplied and available information there are no HRA, SSSI or other statutory nature conservation constraints for this specific development at this location.

From supplied and available information the LPA has sufficient information to consider that the development will not have a detrimental effect on any local populations of protected species (eg bats). An informative to remind the applicant of their and their contractors' obligations to wildlife protection during construction is suggested.

Wildlife Protection Informative

The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended), with enhanced protection for special "protected species" such as Great Crested Newts, all Bat species, Otters, Dormice, Crayfish and reptile species that are present and widespread across the County. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it advised that advice from a local professional ecology consultant is obtained.

As identified in the NPPF, NERC Act, Core Strategy LD2 and action within the council's declared Climate Change & Ecological Emergency all developments should demonstrate how they are going to practically enhance ("Net Gain") the Species (Biodiversity) potential of the area. To secure these enhancements a relevant Condition is suggested:

To obtain Species (Biodiversity) Net Gain

Prior to first occupation of the dwelling approved under planning permission, evidence of the suitably placed installation on the approved building, or on other land under the applicant's control, of a minimum total of FOUR bird nesting boxes and TWO Bat roosting features/boxes should be supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority. No habitat boxes should be located in Ash trees due to future effects of Ash Dieback Disease and likely loss of these trees.

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

As the site is an area that affords an intrinsically dark landscape that benefits local amenity and nature conservation, including presence of local populations of light sensitive protected species, a condition to secure and manage any proposed or future external lighting is requested on any planning permission finally granted.

Protected Species and Dark Skies (external illumination)

No external lighting shall be provided other than the maximum of one external LED down-lighter above or beside each external door (and below eaves height) with a Corrected Colour Temperature not exceeding 2700K and brightness under 500 lumens. Every such light shall be directed downwards with a 0 degree tilt angle and 0% upward light ratio and shall be controlled by means of a PIR sensor with a maximum over-run time of 1 minute. The Lighting shall be maintained thereafter in accordance with these details.

Reason: To ensure that all species and local intrinsically dark landscape are protected having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife & Countryside Act (1981 amended); National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1-3; ; and the council's declared Climate Change and Ecological Emergency.

25 March 2024

I note the new amended documents. Having read through the documents attached to this application and the previous consultation by internal consultee J. Bisset we have no further ecology comments to make. We refer to the consultation and conditions proposed on the 19 February 2024 as follows:

Wildlife Protection Informative

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NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1-3; ; and the council's declared Climate Change and Ecological Emergency

5. Representations

5.1 Much Marcle Parish Council

Much Marcle Parish Council have considered the application at the meeting held on the 10th January. The application is supported with conditions that the access road and visibility are taken into proper consideration

5.2 Third Party Representations

A total of 24 letters of objection have been received. The responses can be summarised as follows:

- Concern over residential amenity
- Concern over impact upon and condition of the local highway network
- Concern over commercial waste
- Concern over foul water discharges to cesspit (addressed within revision of scheme)
- Concern over biodiversity impacts
- Concern over noise
- Legality over use of access road
- Concern over lighting
- Concern over further intensification
- Impact upon the Grade II listed asset
- 5.3 The consultation responses can be viewed on the Council's website by using the following link:-

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=233688&search-term=233688ncil

6. Officer's Appraisal

Policy context and Principle of Development

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:

 "If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."
- 6.2 In this instance the adopted development plan is the Herefordshire Local Plan Core Strategy (CS), and the made Much Marcle Neighbourhood Development Plan, and the National Planning Policy Framework (NPPF) is also a significant material consideration.
- 6.3 CS Policy RA6 seeks to support employment generating proposals which help to strengthen and diversify the rural economy; a range of economic activities will be supported to this end.
- 6.4 This includes the support and strengthening of local food and drink production as well as supporting the retention or diversification of existing agricultural businesses. Proposals will need to be of a scale suitable for the location and setting. The economic benefits for the rural economy will need to be weighed against any impact on the amenity of nearby residents, impact of the local road network and ensure they do not undermine the achievement of water qualities target. The policy incorporates the following criteria
 - Ensure that the development is of a scale which would be commensurate with its location and setting;

- Do not cause unacceptable adverse impacts to the amenity of nearby residents by virtue of design, mass, noise, dust, lighting and smell,
- Do not generate traffic movement that cannot safely be accommodated within the local road network; and
- Do not undermine the achievement of water quality targets in accordance with policies SD3 and SD4.
- 6.5 It also sets out to promote the rural economy through supporting proposals that will help to diversify the rural economy and generate employment. This includes through "supporting and/or protecting the vitality and viability of commercial facilities of an appropriate type and scale in rural areas, such as village shops, petrol filling stations, garden centres and public houses".
- 6.6 CS Policy E1 states that development proposals which enhance employment provision and help diversify the economy of Herefordshire will be encouraged where:
 - the proposal is appropriate in terms of its connectivity, scale, design and size;
 - the proposal makes better use of previously developed land or buildings;
 - the proposal is an appropriate extension to strengthen or diversify an existing business operation;
- 6.7 CS Policy E4 provides the framework as to the criterion for the support of development proposals which relate to tourism in Herefordshire. It is stated that the county will be promoted as a destination for sustainable tourism. Development proposals would be supported where;
 - It is ensured that there is no detrimental impact on the county's varied natural and heritage assets and the overall character and quality of the environment
 - there would be new accommodation and attractions throughout Herefordshire which would diversify the tourist provision and extend the tourist season and increase the number of visitors staying overnight.
 - Regards are had to the visual amenity of public/cycling routes such as Public Rights of Way (PRoW).
- 6.8 The policies above make it clear that there is local and national support 'in principle' for sustainable tourism related proposals and the use of the shepherds huts can be controlled through a condition limiting their occupation to holiday accommodation only. The scheme here would make a contribution to the wider economy through increasing visitor numbers to the area. There are benefits in the social and economic sense. Whilst site specific impacts are dealt with in more detail below, it is considered that the principle of the development in the revised and scaled back form is acceptable and in accordance with the strategic aims of the CS and NPPF

Impact upon the Highway Network

- 6.9 CS policy MT1 promotes development that provides a safe means of access and that can be accommodated on the local highway network. This is underpinned by Paragraph 115 of the NPPF which states that 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.
- 6.10 It is acknowledged that the proposal would represent a modest intensification in vehicular activity associated with the use of the site as the occupants would be reliant on private transport methods to access the site. It is however acknowledged that there has been no objections raised by the local highways authority with regard to the proposed scheme. Furthermore it is recognised that the isolated nature of the site is such that guests would be reliant upon the use of a car to access the site but clearly this is part of its attraction for tourism and as such there is an inevitable tension

in terms of the sustainability of the location and the benefits associated with small scale tourism enterprises. It is considered that the benefits of the proposal should be given appropriate weight.

Scale, Design, and Appearance

- 6.11 CS Policy LD1 is also of relevance to this proposal and requires that proposals demonstrate that the character of the landscape and townscape has positively influenced the design scale, nature and site selection of the development. The proposal is also considered against CS Policy SD1, which relates to the design of new buildings including garages. The policy states that proposals should be designed to maintain local distinctiveness through detailing and materials, respecting scale, height, and proportions and massing of surrounding development.
- 6.12 Policy SD1 of the MMNDP states that proposals for development should take into account, the location, scale, density, design, form, construction and operation of development.
- 6.13 It is considered that the revised proposal, consisting of two shepherds huts, is limited in scale which when combined with their temporary form and the well screened nature of the site is such that it would not have an adverse impact upon the wider landscape. It is noted that a commitment to additional landscaping is provided and as such it is considered reasonable to ensure a proper species mix and details of treatments are secured by condition.

Water Resources

- 6.14 CS Policy SD3 states that measures for sustainable water management will be required to be an integral element of new development in order to reduce flood risk; to avoid an adverse impact on water quantity; to protect and enhance groundwater resources and to provide opportunities to enhance biodiversity, health and recreation. Where flooding is identified as an issue, new development should reduce flood risk through the inclusion of flood storage compensation measures, or provide similar to enhance the local flood risk regime. CS Policy SD4 states that development should not undermine the achievement of water quality targets for rivers within the county, in particular through the treatment of wastewater
- 6.15 The proposal seeks to replace an existing septic tank with a modern package treatment plant (One 2 Graf). It is noted that owing to the topography the proposal would be gravity fed and would result in a positive impact in relation to the quality of water resources of Herefordshire. The proposed car park does not feature any non pourous hardstanding as such there would be limited impacts upon surface water. The site does not fall within any of the impact zones that require a Habitat Regulations Assessment and as such there is no objection raised to the replacement of the exisintg cesspit with a new phospate treatment plant which represents a significant enhancement.

Ecology

- 6.16 CS Policies LD2 and LD3 are applicable in relation to ecology and the impact on trees. These state that development proposals should conserve, restore and enhance the biodiversity and geodiversity asset of the County and protect, manage and plan for the preservation of existing and delivery of new green infrastructure.
- 6.17 It is not considered that the proposal would have an adverse impact upon any protected species. It is however advised that should any protected species be identified during construction that work should cease and an accredited ecologist consulted prior to recommencing work. Furthermore, the site is located within a rural area and in this regard it is considered reasonable to protect the intrinsically dark skies of Herefordshire and secure an appropriate level of biodiversity net gain. In accordance with the positive response from the Ecologist, conditions are recommended.

Residential Amenity

- 6.18 CS Policy SD1 states that development must safeguard the amenity of existing and proposed residents.
- 6.19 The intended use is not an inherently noisy one, particularly if it is responsibly managed. Furthermore, given the distance between the site and adjacent properties and the relatively small scale nature of the proposed use it is not considered that there are reasonable grounds upon which to withhold planning permission. Some control over activities are considered appropriate to protect the amenity of adjacent residents and these include a restriction on amplified music, fireworks, and open fires within the application site.

Protection and Conservation of Heritage Assets

- 6.20 CS Policy LD4 states that proposals affecting heritage assets should conserve, and where possible enhance the asset and their settings through appropriate management, uses and sympathetic design.
- 6.21 Policy SS6 states that development proposals should conserve and enhance those environmental assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity and heritage assets and especially those with specific environmental designations. In addition, proposals should maintain and improve the effectiveness of those ecosystems essential to the health and wellbeing of the county's residents and its economy
- 6.22. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states 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.
- 6.23 The site lies around 90 metres to the North East of the Grade II listed building (The Kittles). It is your officers view that the proposal would not adversely impact the character nor setting of the Grade II listed asset given the topographical change, the establishing vegetation and the scale of the proposed development.

Conclusion

6.24 Whilst acknowledging the relatively high level of local concerns in respect of the application, when the proposal is assessed against the adopted development plan, it is considered that it is compliant with regard to all relevant planning policy and material considerations. It is therefore concluded that the proposal is recommended for approval.

RECOMMENDATION:

That planning permission be granted subject to the following conditions and any other further conditions considered necessary by officers named in the scheme of delegation to officers:

- 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.
- 2. The development hereby approved shall be carried out strictly in accordance with the approved plans (23_515/sk01D; 23_515/SK02 A; 23_515/SK03 C; 23_515/01 C; 23_515/02 A; 23_515/03 A; 23_515/ 04; and the schedule of materials indicated thereon.

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 SD1 of the Herefordshire Local Plan – Core Strategy, Policy SD1 of the Much Marcle Neighbourhood Development Plan, and the National Planning Policy Framework

- 3. No development shall commence, including site clearance and ground works, until a landscape scheme, is submitted and approved in writing by the local planning authority. The scheme shall include a scaled plan identifying:
 - A. All proposed planting, accompanied by a written specification setting out; species, size, quantity, density with cultivation details.
 - B. All existing and proposed hardstanding and boundary treatment.

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

4. The shepherds huts shall be used for holiday accommodation and for no other purpose (including any other purpose in Class 3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: The local planning authority wish to control the specific use of the land/premises, in the interest of local amenity and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework

5. As detailed in supplied plans and reports all foul water shall discharge to new One 2
Graf

Treatment Plant discharging to a drainage field and all surface water shall be managed by appropriate onsite infiltration-soakaway systems; unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to comply with Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife & Countryside Act (1981 amended) National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, SD3, SD4 and LD2

6. No external lighting shall be provided other than the maximum of one external LED down-lighter above or beside each external door (and below eaves height) with a Corrected Colour Temperature not exceeding 2700K and brightness under 500 lumens. Every such light shall be directed downwards with a 0 degree tilt angle and 0% upward light ratio and shall be controlled by means of a PIR sensor with a maximum over-run time of 1 minute. The Lighting shall be maintained thereafter in accordance with these details.

Reason: To ensure that all species and local intrinsically dark landscape are protected having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife & Countryside Act (1981 amended); National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1-3; ; and the council's declared Climate Change and Ecological Emergency

7. No amplified or other music shall be played outside the following times 10:30pm and 08:00am. There shall be no fireworks nor open fires within the application site.

Reason: In order to protect the amenity of occupiers of nearby properties and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

8. Prior to first occupation of the shepherds huts hereby approved, evidence of the suitably placed installation on the approved building, or on other land under the applicant's control, of a minimum total of FOUR bird nesting boxes and TWO Bat roosting features/boxes should be supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority. No habitat boxes should be located in Ash trees due to future effects of Ash Dieback Disease and likely loss of these trees.

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

9. All planting, seeding or turf laying in the approved landscaping scheme shall be carried

out in the first planting season following the occupation of the building or the completion

of the development, whichever is the sooner. Any trees or plants which die, are removed or become severely damaged or diseased within 5 years of planting will be replaced in accordance with the approved plans.

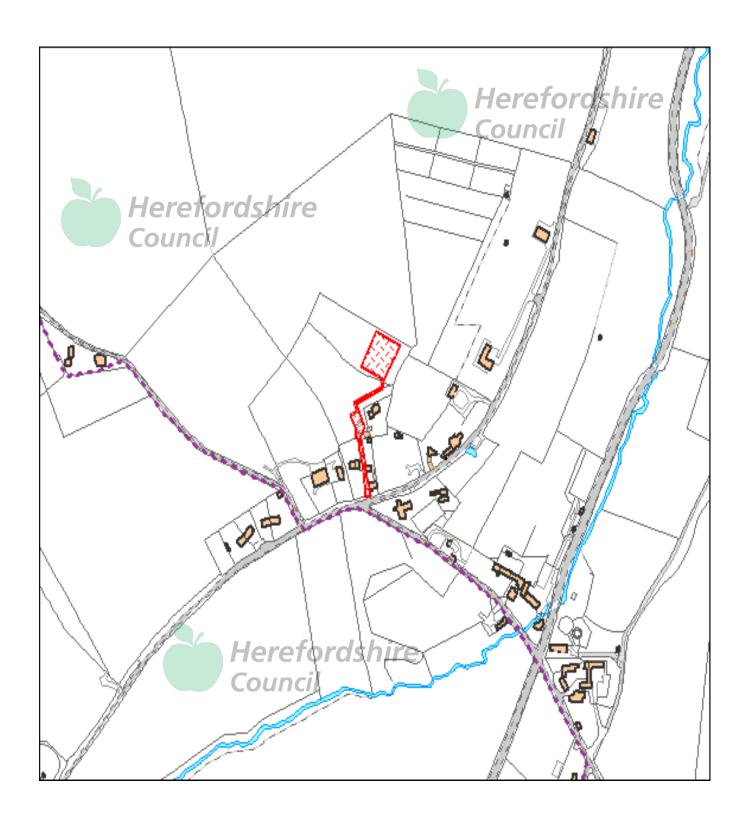
Reason: To ensure implementation of the landscape scheme approved by local planning authority in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework

INFORMATIVES:

- The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 2. The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended), with enhanced protection for special "protected species" such as Great Crested Newts, all Bat species, Otters, Dormice, Crayfish and reptile species that are present and widespread across the County. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it advised that advice from a local professional ecology consultant is obtained.

Decision:	
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Notes:		 	
Background Papers	5		
None identified			



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APPLICATION NO: 233688

SITE ADDRESS: LAND AT UPPER HOUSE, LYNE DOWN, HEREFORDSHIRE

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