

**Supplement to the agenda for**

# **Planning and regulatory committee**

**Wednesday 29 June 2022**

**10.00 am**

**The Conference Room, Herefordshire Council Offices, Plough  
Lane, Hereford, HR4 0LE**

**Schedule of updates**

**Public speakers**

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# **PLANNING COMMITTEE**

**Date: 29 June 2022**

## **Schedule of Committee Updates/Additional Representations**

**Note: The following schedule represents a summary of the additional representations received following the publication of the agenda and received up to midday on the day before the Committee meeting where they raise new and relevant material planning considerations.**

## SCHEDULE OF COMMITTEE UPDATES

**211678 - PROPOSED RESIDENTIAL DEVELOPMENT OF 6 NO. DWELLINGS WITH ASSOCIATED ACCESS, PARKING AND LANDSCAPING. AT LAND SOUTH EAST OF GREYHOUND CLOSE, LONGTOWN, HEREFORD, HEREFORDSHIRE,**

**For: Ms Price per Miss Katherine Dowdall, Office 16 House 1, 2nd Floor, The Maltings, East Tyndall Street, Cardiff, CF24 5EA**

### ADDITIONAL REPRESENTATIONS

Local Ward Member Councillor Peter Jinman has provided the photograph below, together with the following text:

*The reason for sending this picture was as a result of this morning's site visit and the request that I send this as evidence of the lack of functionality of the sewage plant at Longtown to cope even now with the current output. It shows quite clearly the notable overflow from the plant which will be referred to by Parish Councillors as well as by me tomorrow at the hearing. The system is not fit for purpose now and any further building in the village should only occur after the infrastructure has been dealt with to meet any increase in demand.*



**214046 - PROPOSED CHANGE OF USE OF LAND, AS AN AERODROME CONSISTING OF THE CONTINUED USE OF A GRASS AIRSTRIP, RE-USE OF AN EXISTING BARN AS HANGARAGE AND FOR MAINTENANCE AND ASSOCIATED LANDSCAPING. AT LAND AT LYDE COURT, LYDE CROSS, HEREFORD, HEREFORDSHIRE, HR1 3AE**

**For: Mr Waring per Mr Ed Thomas, 13 Langland Drive, Hereford, Herefordshire, HR4 0QG**

#### **ADDITIONAL REPRESENTATIONS**

Further correspondence from the Ministry of Defence (MOD) was received on 22 June and further confirms they have no objections to the proposal.

An additional representation was received from the applicant's agent on 27 June which was sent to all members of this committee, including named substitutes for today's meeting. The representation attempts to respond to a number of frequently raised concerns received through letters of objection.

#### **OFFICER COMMENTS**

The additional representations have been reviewed and are not considered to raise any new planning considerations which are not otherwise considered in the report.

#### **NO CHANGE TO RECOMMENDATION**

**220366 - PROPOSED VARIATION OF CONDITION 2 AND 4 FOLLOWING GRANT OF PLANNING PERMISSION. 183083/F (CHANGE OF USE OF AGRICULTURAL BUILDINGS AND LAND TO RESIDENTIAL DEVELOPMENT (USE CLASS C3). INCLUDING DEMOLITION, CONVERSION AND EXTENSIONS OF AGRICULTURAL BUILDINGS TO FORM 3 NO. DWELLINGS) AT MAGNOLIA FARM, CANON BRIDGE, HEREFORD, HR2 9JF**

**For: Mr Kirk per Mr Jethro Kirk, The Cart House, Canon Bridge Madley, Hereford, Herefordshire HR2 9JF**

## **ADDITIONAL REPRESENTATIONS**

*From Mr & Mrs Fortescue, R Williams & C Jenkins*

### **‘REPRESENTATIONS PLANNING REPORT 220366**

*We ask members of the Committee to consider the following representation from the majority of the residents of Canon Bridge who support the existing plan, 183083, for the development of the Magnolia Farm site. The following refers to the headings and numbering in the Planning Officers Report and the two should be viewed in conjunction.*

#### **1.Site Description and Proposal**

##### **1.2 Condition 4. states that:**

*‘Before work commences on the features identified in this condition, details of the finishes to be used for all external joinery, timber, plaster and masonry surfaces shall be submitted to the local planning authority. The work shall subsequently only be carried out in accordance with details approved in writing by the local planning authority’*

*This condition was discharged on 6<sup>th</sup> Jan 2022 as part of application 212020. As it no longer exists, we assume it cannot be varied. In any event, it would appear to have no bearing on this application for a large extension to unit 2 and fundamental changes to the landscape plan. The latter was a requirement of condition 16: it was in the same application as condition 4, and was discharged on June 6<sup>th</sup> 2021. It is the **existing landscape plan** and is not listed in drawings for this application. The committee therefore has no point of reference for the changes that are being proposed. There are a number of other landscape plans listed in this application, none of which have been approved: but the existing landscape plan can only be found in application 212020. This has led to confusion as evidenced in the comments in 4.2 of the **Consultation Summary in the Planning Report** for this application. In view of this, we would ask the committee to discount any comments made in 4.1, 4.2, and 4.3.in the Report.*

##### **Condition 2. states that:**

*‘The development shall be carried out strictly in accordance with the approved plans (drawing nos. 113765-001B, 11375-013B, 113765-14B and 113765-015C), except where otherwise stipulated by conditions attached to this permission.’*

Drawing 113765, the **'block plan'**, would need to be removed, not varied, in order to approve the landscape plan proposed in this application, otherwise the two would be in conflict. The existing landscape plan, approved and discharged June 6<sup>th</sup> 2021, as noted in the previous paragraph, has been discharged and no longer exists, therefore a new plan would be required. It's difficult for the Committee to assess this as neither the existing block plan nor the existing landscape plan are in the drawings that support this application. Also, a building belonging to the adjacent property is shown in the garden of unit 3 on the site and the location drawings that support the application.

Any variation to drawings 13765-14B (the floor plans) and 113765-15C (the elevations) in **condition 2**. would conflict with **condition 6**. in the existing permission. Condition 6 states that:

*'Notwithstanding the provisions of article 3(1) and Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015, (or any order revoking or re-enacting that Order with or without modification), no development which would otherwise be permitted under Classes A, B, C, D, E and H of Part 1 and of Schedule 2, shall be carried out.'*

The condition prevents further development where the original application was for a change of use. There is an important point to be made here in relation to the **description** in the original permission granted for 183083. The permission states that it's for **'change of use of agricultural buildings to residential development'**. If an application to change or remove **condition 6**. is made, it would be a change to the description of the permission granted, and that would require a new application.

The appropriate sections in the Town and Country Planning Act are as follows:

## SCHEDULE 2

Permitted development rights

### PART 1

Development within the curtilage of a dwellinghouse

Class A – enlargement, improvement or other alteration of a dwellinghouse

#### Permitted Development

A. The enlargement, improvement or other alteration of a dwellinghouse.

#### Development not permitted

A.1 Development is **not permitted by Class A** if—

(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use)

The same applies to sections B and C roofs, D porches and external doors, E enclosures incidental to the enjoyment of the dwelling house, eg car ports. In any event, the extension would not meet the size, height or distance criteria in schedule 2 of the Act.

A.1 Development is not permitted by Class A if—

(f) subject to paragraph (g), the enlarged part of the dwellinghouse would have a single storey and—

(i) extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse, or

(g) until 30th May 2019, for a dwellinghouse not on article 2(3) land nor on a site of special scientific interest, the enlarged part of the dwellinghouse would have a single storey and—

(i) extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a dwellinghouse, or 6 metres in the case of any other dwellinghouse, or

(ii) exceed 4 metres in height;

(h) the enlarged part of the dwellinghouse would have more than a single storey and—

(i) extend beyond the rear wall of the original dwellinghouse by more than 3 metres, or

(ii) be within 7 metres of any boundary of the curtilage of the dwellinghouse opposite the rear wall of the dwellinghouse;

(j) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would—

(i) exceed 4 metres in height,

(ii) have more than a single storey, or

(iii) have a width greater than half the width of the original dwellinghouse.

**Condition 6.** Also requires compliance with Policy RA5 of the Herefordshire Local Plan that states:

*‘Any planning permission granted pursuant to this policy (**Re-use of rural buildings**) will be subject to a condition restricting permitted development rights for future alterations, extensions and other developments.’*

Approval of a variation to **condition 2** also conflicts with **conditions 13 & 14** requiring surface and foul water drainage to be managed through the Scheme proposed in the Flood Report that supported the original Local Authority Application (183083) and, conformity with the council’s policy that

*‘at no point shall any part of any soakaway drainage field be constructed closer than 50 meters to the river bank or boundary of River Wye SSSI’*

The boundary runs along the top of the high bank and includes the riparian zone and area of annual flooding below it.

The conflict with 13 and 14 arises because:

1. the additional roof area created by the proposed extension and indefinite retention of the large freestanding dutchbarn, together with new parking areas and the absence of water butts would increase surface water runoff. As stated in the Flood Risk Assessment for application 183083:

*‘The alteration of natural surface water flows through the development can lead to problems elsewhere, for example the replacement of vegetated areas with roofs and paved areas.’*

2. The drainage pond in the proposed new landscape plan would not be permitted because it’s within the 50 metre SSSI boundary.
3. The substantial reduction in size of the garden of unit 3 to accommodate the new gardens surrounding the dutch barn in the proposed new landscape plan, is not wide enough for a foul drainage system compliant with current regulations and would fail to conform to regulations on the proximity of foul water drainage to dwellings, boundaries and mains water supply to other properties.

The gates to the new parking area for unit 1 are next to the right-angle junction on the single track road, and this conflicts with **condition 7**.

**1.3** *The extension unit referred to has no footprint, it was an overhanging roof without hardstanding or masonry support. The Structural Report in 183083 states 'The support structure to the curved metal roof sheets to the roof of Barn B is limited. It is basically relying on the curvature of the roof and the steel braces to hold its shape. This is sufficient for an agricultural barn but would be inadequate for residential loading.'*

*It would be a new build, and permission for new buildings in rural Herefordshire is restricted. A new build for a single storey garage block adjoining unit 3 was approved in the original plan, in preference to an extension to unit 3. It was stated in point 6.17 of the Consultation Summary that:*

*'The alterations proposed to the buildings, along with the extensions, were considered to tip the scheme over the point that cumulatively impinged on the agricultural character of the site. As a result, the extension to the Dutch barn (of unit 3) has been removed'.*

### **The Drawings**

*The site plan on drawing 1.6 is correct but does not match that on the front page of the website, which is incorrect. Because the application includes fundamental changes to the existing, approved landscape plan the site boundary needs to reflect this and include the area between the proposed dwellings and the boundary of the SSSI.*

*Drawing 1.7, 'Previously approved plans' was not shown in the drawings submitted with the application: A drawing labelled 'Block A Existing Plans and Elevations' is shown, dated 23.01.2022. It is incorrect and not the existing plan but a derivative of a Fisher German drawing from 2017 that can be referenced in application 183083. The original drawing does not have an extension on the first floor of block A, as shown in the drawing for this application.*

### **2. Policies**

**2.1** *It is for the Planning Committee to assess the inconsistencies between this application and the Herefordshire Local Plan. At a glance, policies SS1, RA2, RA3, RA5, MT1, LD4, SD1, SD3 and SD4 would appear to be affected.*

**2.3** *Not relevant as the plan as needs to have been in place for more than two years to influence the decision for this application. As noted in 6.2*

**2.4** *Disagree with the last sentence 'The policies relevant to the determination of this application remain entirely consistent with NPPF and as such can be afforded significant weight.'*

*From a quick review, as this is a weighty document, the following are inconsistent or raise issues of inconsistency:*

**Chapter 2.** *Point 8 (last bullet point), Point 9, Point 11 a, b(i) and b(ii), and for decision taking d(i) and d(ii), Point 12.*

**Chapter 4** *43, 48a, 48b and 48c. 58*

**Chapter 15.** *174a, 174d, 174e, 175, 179b, 180a, 180b, 180d, 181a, 181c, 182, 185a, 185b and 185c.*

*Chapters 5, 9, 12 and 16 relate primarily to new developments and plans and/or urban sites, significant routes and are of little relevance to this application.*

### **3. Planning History**

**3.1** *There is no mention of application 212020 that discharged conditions 3, 4, 5, 10, 11, 12 and 16 attached to planning permission 183083: note the inclusion of 4 and 16.*

*It is of note here that 183083, 153633 and 213345 (also excluded from the list) were largely unopposed, despite taken together they tripled the number of dwellings in Canon Bridge.*

#### **4. Consultation Summary**

*4.1 At this stage Welsh Water have only linked the communal water main to the site, to which the developers attached five links to service for 3 approved dwellings.*

*4.2 See first paragraph under 1.2*

#### **5. Representations**

*5.1 This is misleading as it gives the strong impression that Madley Parish council actively support the application when 'support' is the **default** position rather than 'no comment'. They did not enter into and discussions with developers or residents in the two meetings. They can only comment on issues such as flooding, overlooking, crowding and environmental issues. They would have discovered the errors in information on the website or the existing landscape plan. Also, the drainage plan that accompanies the proposed new landscape plan is contained in a second application in progress for an additional dwelling at the Magnolia Farm development (application 214677). They are therefore unable to make valid comments on **flooding** or **environmental** issues. The **crowding** issue is also contained in the 2<sup>nd</sup> application and **overlooking** is not an issue. We would ask that this point in the Planning Report is not used as evidence of support.*

*5.2 The consultation responses reflect the omissions and inaccuracies in this application. As to members of the public: those who object are aware of the implications of the new proposals as documented in this representation. They are the majority of the community. Those in support are primarily from outside the community and/or have a vested interest.*

#### **6. Officer's Appraisal**

*6.1 The new proposals are material considerations.*

*6.2 Agreed, but they do not support approval of this application. The point on the Madley plan is irrelevant as a plan needs to be in place for more than 2 years before it can influence a planning decision. (NPPF section Chapter 2. 14(a))*

*6.3 See previous comments on conditions.*

*6.4 Disagree strongly with second sentence for the reasons given in this representation.*

*6.5 As changes were not clearly shown on the website because of the omission of the existing elevations, representations from those who are in receipt of the Planning report and papers prior to the Planning Meeting have based their representations on insufficient/ inaccurate information.*

*6.7 Misleading and inaccurate: the Committee should be aware of the whole comment to which this refers.*

*'The existing permission sought the removal of open sided curved roof projection from the north extension of unit 2. This was presumably sought on two grounds, the first being that it is open sided and would require significant works to incorporate into the habitable accommodation of unit 2 that would breach Policy RA5, and secondly to provide a visual gap between unit 2 and the ancillary building proposed between units 2 and 3.'As part of a revised scheme that splits unit 3 into two units, incorporating this element of the existing barn into habitable accommodation for unit 2 would be supportable in the context of the whole proposal and noting the visual benefits that would derive from its retention.'*

*The Historic Buildings Officer did not in any sense advise on the design proposal for any extension. His view was only sought for the proposed conversion of the large freestanding dutch barn that has been retained on the river side of the development, into dwellings. His comments were :*

*'The heritage value of the structure is not as imagined on site, it does not appear to be original and was rebuilt at some point using elements of the original structure. As such the benefit of the scheme is unlikely to outweigh the policy conflict in regards to not being a genuine conversion and inhabiting an open countryside location, making the conversion to a residential use unsupportable.'*

*In the drawings that support the existing permission the barn has been demolished to accommodate the gardens of the three approved dwellings. The new landscape plan in this application retains the barn indefinitely, and this has implications for the drainage plans as noted earlier.*

**6.8 Inaccurate:** *see page 2 regarding effect on conditions 13 and 14 in the existing plan. Also, the significant reduction in size of the garden of unit 3 to accommodate the new gardens surrounding the dutch barn, prevents the installation of a foul drainage system compliant with current regulations and would fail to conform to regulations on the proximity of foul water drainage to dwellings, boundaries and mains water supply to other properties. It would not comply with NPPF 2018, Habitat regulation 2016, NERC Act 2006 and Herefordshire core strategies LL2 and SD3. The proposed split of unit 3 into two units exacerbates the problem as the two units would share this small strip of garden. The drainage system that supports the application for a fourth dwellings (214677) is, for the most part, within the restricted zone 50m from the SSSI boundary that has been positioned incorrectly on the drawings in the drainage report.'*

## **OFFICER COMMENTS**

Unfortunately a number of representations were missed in the initial preparation of the report and these are set out below for Councillors consideration.

A total of 18 objections and 6 supportive representations have been received

### *Objections:*

- *Misinterpretation of plans*
- *Extension to unit 2 being dominant*
- *Additional unit creating traffic to area*
- *New access track for Dutch barn*
- *Retention of Dutch barn having a detrimental impact on community*
- *Potential to increase phosphates in River*
- *Changes harm nearby heritage aspects*
- *Removal of hedgerows*
- *Cramped accommodation*
- *Noisy on site*
- *Use of Dutch barn for holiday let*
- *Intensification of site*
- *Potential of holiday lets on site*
- *Incorrect plans*
- *Drainage issues*
- *Overdevelopment*

### *Support:*

- *No objection to the design, sympathetic and in keeping*
- *Do not agree that it is cramped development*

- *Planting of plants evident*
- *Pond beneficial for environment*
- *Addition of orchards, meadow pond and tree planting enhancement*
- *Brings a derelict site back into positive use improving visual appearance*
- *Does not create overdevelopment*
- *Reintroduction of flora and fauna on site*

Further to the above, the plan numbers references set out in condition 1 are incorrect and should read as in accordance with drawings no's (339.21.LD 01 Rev B, MG-FM-21-01 C, MAG-FM-21-04 Rev B, MAG-FM-21-3 Rev D, MAG-FM-21-02 Rev D, MAG-FM-21-07 Rev E, MAG-FM-21-08 Rev E)

Furthermore following receipt of an updated landscape plan condition 15 should be amended to read as follows:

*'The soft and hard landscaping plan submitted under drawing no (339.21.Ld01 Rev B) shall be carried out as per the approved details, unless otherwise agreed in writing with the local planning authority.'*

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

Overall it is considered that a number of the concerns raised during the consultation process as mentioned above have been addressed by way of amended drawings and documents submitted to the LPA. Councillors are advised that a number of the representations relate directly to a separate application (Reference 214677) which remains undetermined and that consideration of the impacts and acceptability of this application must be limited to those specific variations to the approved plans. This application is simply to vary condition 2 and 4 of the extant planning permission. Concerns related to the freestanding Dutch barn to the rear of the site, drainage matters and the subdivision of unit 3 into 2 units are not material to this application and will be addressed through the determination of the separate application for full planning permission which is currently awaiting determination.

#### **CHANGE TO RECOMMENDATION**

Amend condition 2 as per update to refer to the correct drawing numbers

Amend condition 15 as per update to refer to updated landscaping proposals

# PLANNING and REGULATORY COMMITTEE

29 June 2022

## PUBLIC SPEAKERS

### APPLICATIONS RECEIVED

Ref No.	Applicant	Proposal and Site	Application No.	Page No.
6	Ms Price Per Miss Katherine Dowdall	Proposed residential development of 6 no. dwellings with associated access, parking and landscaping at <b>LAND SOUTH EAST OF GREYHOUND CLOSE, LONGTOWN, HEREFORD, HEREFORDSHIRE</b>	211678	29
		<b>PARISH COUNCIL</b>	<b>MR STEPHEN JONES (Longtown PC)</b>	
		<b>OBJECTOR</b>	<b>MR ROBERT ARTHUR (Local resident)</b>	
		<b>SUPPORTER</b>	<b>MS ANNAMARIA SGUEGLIA (Planning agent)</b>	
7	Mr Waring Per Mr Ed Thomas	Proposed change of use of land, as an aerodrome consisting of the continued use of a grass airstrip, re-use of an existing barn as hangarage and for maintenance and associated landscaping at <b>LAND AT LYDE COURT, LYDE CROSS, HEREFORD, HEREFORDSHIRE, HR1 3AE</b>	214046	75
		<b>PARISH COUNCIL</b>	<b>MR ALAN PASKE (Pipe and Lyde PC)</b>	
			<b>MR DAVID COOPER (Holmer and Shelwick PC)</b>	
			<b>MR SEAN MARRON (Wellington PC)</b>	
		<b>OBJECTOR</b>	<b>DR RICHARD WILLIAMS (Local resident)</b>	
			<b>MR WILL HANKS (Local resident)</b>	
		<b>SUPPORTER</b>	<b>MR GARY WARING (Applicant)</b>	
8	Mr Tucker Per Mr Colin Richards	212673/FH and 212674/L – Proposed repair and renovation of Ladygrove Cottage and attached outbuilding to form an extended residential dwelling at <b>LADYGROVE COTTAGE, MORDIFORD, HEREFORD, HR1 4LT</b>	212673/212674	105
		<b>SUPPORTER</b>	<b>MR COLIN TUCKER (Applicant)</b>	

9	Mr Kirk Per Mr Jethro Kirk	Proposed variation of condition 2 and 4 following grant of planning permission. 183083/f (change of use of agricultural buildings and land to residential development (use class c3). Including demolition, conversion and extensions of agricultural buildings to form 3 no. dwellings) at <b>MAGNOLIA FARM, CANON BRIDGE, HEREFORD, HR2 9JF</b>	220366	117
		<b>OBJECTOR</b>	<b>MRS JENNIE FORTESCUE (Local resident)</b>	
		<b>SUPPORTER</b>	<b>MR ED THOMAS (Planning Agent)</b>	

10	Mr Duggan Per Mr Richard Franklin	Proposed agricultural access off A4112 at <b>BROOK HOUSE BUNGALOW, KIMBOLTON, LEOMINSTER, HR6 0EJ</b>	214297	129
		<b>PARISH COUNCIL</b>	<b>MR ED ROLLINGS (Kimbolton PC)</b>	
		<b>OBJECTOR</b>	<b>MR ALASTAIR FERGUSON (Local resident)</b>	
		<b>SUPPORTER</b>	<b>MR ANDREW DUGGAN (Applicant)</b>	