

# AGENDA

## Planning Committee

Date: **Wednesday 25 April 2012**

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Time: **10.00 am**

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Place: **The Council Chamber, Brockington, 35 Hafod Road,  
Hereford**

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Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

**Ricky Clarke, Democratic Services Officer**

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If you would like help to understand this document, or would like it in another format or language, please call Ricky Clarke, Democratic Services Officer on 01432 261885 or e-mail [rclarke@herefordshire.gov.uk](mailto:rclarke@herefordshire.gov.uk) in advance of the meeting.

# Agenda for the Meeting of the Planning Committee

## Membership

<b>Chairman</b>	<b>Councillor PGH Cutter</b>
<b>Vice-Chairman</b>	<b>Councillor BA Durkin</b>
	<b>Councillor PA Andrews</b>
	<b>Councillor AN Bridges</b>
	<b>Councillor PJ Edwards</b>
	<b>Councillor DW Greenow</b>
	<b>Councillor KS Guthrie</b>
	<b>Councillor J Hardwick</b>
	<b>Councillor AJ Hempton-Smith</b>
	<b>Councillor JW Hope MBE</b>
	<b>Councillor RC Hunt</b>
	<b>Councillor Brig P Jones CBE</b>
	<b>Councillor JG Lester</b>
	<b>Councillor MD Lloyd-Hayes</b>
	<b>Councillor G Lucas</b>
	<b>Councillor RI Matthews</b>
	<b>Councillor FM Norman</b>
	<b>Councillor GR Swinford</b>
	<b>Councillor PJ Watts</b>

## GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS

### What is a personal interest?

You have a personal interest in a matter if that matter affects the well-being or financial position of you, your relatives or people with whom you have a close personal association more than it would affect the majority of other people in the ward(s) to which the matter relates.

A personal interest can affect you, your relatives or people with whom you have a close personal association positively or negatively. If you or they would stand to lose by the decision, you should also declare it.

You also have a personal interest in a matter if it relates to any interests, which you must register.

### What do I need to do if I have a personal interest?

You must declare it when you get to the item on the agenda headed "Declarations of Interest" or as soon as it becomes apparent to you. You may still speak and vote unless it is a prejudicial interest.

If a matter affects a body to which you have been appointed by the authority, or a body exercising functions of a public nature, you only need declare the interest if you are going to speak on the matter.

### What is a prejudicial interest?

You have a prejudicial interest in a matter if;

- a) a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgment of the public interest; and
- b) the matter affects your financial interests or relates to a licensing or regulatory matter; and
- c) the interest does not fall within one of the exempt categories at paragraph 10(2)(c) of the Code of Conduct.

### What do I need to do if I have a prejudicial interest?

If you have a prejudicial interest you must withdraw from the meeting. However, under paragraph 12(2) of the Code of Conduct, if members of the public are allowed to make representations, give evidence or answer questions about that matter, you may also make representations as if you were a member of the public. However, you must withdraw from the meeting once you have made your representations and before any debate starts.

**AGENDA**

		Pages
1.	<b>APOLOGIES FOR ABSENCE</b> To receive apologies for absence.	
2.	<b>NAMED SUBSTITUTES (IF ANY)</b> To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.	
3.	<b>DECLARATIONS OF INTEREST</b> To receive any declarations of interest by Members in respect of items on the Agenda.	
4.	<b>MINUTES</b> To approve and sign the Minutes of the meeting held on 4 April 2012.	1 - 26
5.	<b>CHAIRMAN'S ANNOUNCEMENTS</b> To receive any announcements from the Chairman.	
6.	<b>N113363F - KINGSLAND FIRE STATION, ARBOUR LANE, KINGSLAND, HEREFORDSHIRE, HR6 9RZ</b>  Demolition of galvanised drill tower and concrete base, removal of metal fence, erection of new galvanised steel fence, construction of new kerbed area. Construction of training tower consisting of three framed storeys and roof. Construction of new metal clad building to house breathing apparatus facilities accommodation for training cage and for briefing.	27 - 38
7.	<b>S120210F - CASTLE LODGE HOTEL, GREEN COURT, WILTON, HEREFORDSHIRE, HR9 6AD</b>  Removal of Conditions 13 and 16 of Planning Permission DMS/102971/F to remove conditions linking the ancillary use of the restaurant to the hotel	39 - 48
8.	<b>N113558F - THE RHYSE FARM, LYONSHALL, KINGTON, HEREFORDSHIRE, HR5 3LX</b>  Extension to existing poultry building with Environmental Agency approval.	49 - 54
9.	<b>N112348F - MOONFIELDS, ADJACENT TO WOODBINE COTTAGE, OCLE PYCHARD, HEREFORD HR1 3RE</b>  Change of use of land from agricultural to a one family traveller site with siting of 2 mobile homes and 2 touring caravans, shed and redesigned access.	55 - 66
10.	<b>S113542F - WESTHIDE, HEREFORDSHIRE, HR1 3RQ</b>  Construction of farm access road (part retrospective).	67 - 72
11.	<b>DATE OF NEXT MEETING</b> Date of next site inspection - 15 May 2012 Date of next meeting - 16 May 2012	



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- Attend all Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public Register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
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## HEREFORDSHIRE COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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HEREFORDSHIRE COUNCIL

**MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 4 April 2012 at 10.00 am**

**Present:** Councillor PGH Cutter (Chairman)  
Councillor BA Durkin (Vice Chairman)

Councillors: PA Andrews, CNH Attwood, AN Bridges, PJ Edwards, DW Greenow, KS Guthrie, J Hardwick, AJ Hempton-Smith, JW Hope MBE, RC Hunt, Brig P Jones CBE, JF Knipe, JG Lester, MD Lloyd-Hayes, G Lucas, FM Norman and PJ Watts

**In attendance:** Councillors WLS Bowen and A Seldon

**157. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors RI Matthews and GR Swinford.

**158. NAMED SUBSTITUTES (IF ANY)**

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillors JF Knipe and CNH Attwood attended the meeting as substitute members for Councillors RI Matthews and GR Swinford.

**159. DECLARATIONS OF INTEREST**

**7. N111899/O - PORTHOUSE FARM, TENBURY ROAD, BROMYARD, HEREFORDSHIRE.**

Councillor JG Lester, Personal, The Councillor is Chair of Governors for Queen Elizabeth Humanities College.

Councillor PJ Edwards, Personal, The Councillor was Cabinet Member during the UDP consultation process.

**10. N120045/F - 54-56 NEW ROAD, BROMYARD, HEREFORDSHIRE, HR7 4AJ.**

Councillor JG Lester, Prejudicial, The site in question is next door to the Councillor's home and will provide him with two parking spaces.

**11. N113363/F - KINGSLAND FIRE STATION, ARBOUR LANE, KINGSLAND, HEREFORDSHIRE, HR6 9RZ.**

Councillor BA Durkin, Prejudicial, The Councillor has carried out work for the fire authority.

Councillor Brig P Jones CBE, Prejudicial, The Councillor is a member of the Fire Authority.

Councillor DW Greenow, Prejudicial, The Councillor is a member of the Fire Authority.

Councillor MD Lloyd-Hayes, Prejudicial, The Councillor is a member of the Fire Authority.

Councillor PJ Watts, Prejudicial, The Councillor is a member of the Fire Authority.

**160. MINUTES**

**RESOLVED: That the Minutes of the meeting held on 14 March be approved as a correct record and signed by the Chairman.**

**161. CHAIRMAN'S ANNOUNCEMENTS**

The Democratic Services Officer advised Members that they should discard any correspondence that may have been handed to them from the public gallery prior to the meeting. He added that all correspondence from the public had to be received by midday on the day prior to the meeting to be considered.

The Assistant Director gave Members a brief presentation in respect of the recently announced National Planning Policy Framework in advance of the seminar scheduled to take place on 24 April 2012. He advised members that the NPPF applied from its date of publication and drew their attention to paragraphs 210, 211 and 214 which stressed that the current development plan, the UDP, remained the key policy and should not be considered as 'out of date' during the transitional period.

**162. APPEALS**

The Planning Committee noted the report.

**163. N111899/O - PORTHOUSE FARM, TENBURY ROAD, BROMYARD, HEREFORDSHIRE**

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet. Members were advised that the update sheet contained details of minor amendments to some of the conditions as well as confirmation that the request for a larger contribution towards CCTV as part of the Section 106 Agreement had been agreed with the applicant.

He advised Members that since the application was deferred in February 2012 a noise report had been requested and that this had been completed by RPS and was attached to the committee report as an appendix. He summarised the findings of the report and advised Members that RPS had found the application to be acceptable subject to the provision of an acoustic fence.

Finally the Principal Planning Officer advised Members of the recently introduced National Planning Policy Framework and its impact on the proposed application. He confirmed that the NPPF had made no change to the Unitary Development Plan but stressed the importance of it in determining planning applications.

In accordance with the criteria for public speaking, Mr Davis, representing Bromyard & Winslow Town Council, and Mr Whittaker, speaking on behalf of some of the local businesses who had objected to the application, both spoke in objection to the application and Mr Woolton, representing the applicant, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor JG Lester, one of the local ward members, commented on a number of issues, including:

- The previous debate prior to the deferral focused on noise, the number of dwellings, and the loss of employment land.



- The noise survey vindicated the concerns raised as further measures had now been recommended. The previous recommendation was obviously therefore not acceptable.
- The application still posed an economic threat to the future of Bromyard.
- The proposed application was still contrary to UDP policies S1, S2, DR1, DR2, DR13 and LA2.
- 58 events over the short assessment period exceeded 60db.
- The acoustic fence stood at 6m high, 1.5 times higher than a double decker bus.
- A structure of this size could not be mitigated into the landscape.
- How will the fence look in several years time, who will maintain it?
- The closest dwellings to the industrial units will still need their windows shut at night to avoid sleep disturbance due to noise.
- A letter had been received from a Senior Planning Officer stating that the employment land at Linton could not be delivered.
- The inspector's decision at the time of the land allocation was flawed as he did not know then that the employment land at Linton was undeliverable.
- If the application is approved there will be no employment land in Bromyard.
- Members should look to the emerging LDF and Localism Act in making their decision.

Councillor A Seldon, the other local ward member, also commented on a number of issues, including:

- In 2006-2007 in the draft stages of the UDP the site at Porthouse Farm was still allocated for employment.
- After the first draft the employment land was switched to Linton and the parcel of land being debated was allocated for housing.
- This change was made in a period of approximately 6 weeks.
- It had now been proved that the employment land at Linton could not be delivered, leaving Porthouse Farm as the only suitable employment land in Bromyard.
- Would the Committee build housing adjacent to the employment land at Rotherwas?
- The Leader of the Council had previously stated that the viability of businesses would not be jeopardized through the planning and regulatory processes.
- The acoustic wall would be seen from miles around due to its height.
- The application was contrary to Policy DR14 of the UDP as light would emanate from both the industrial unit and the rugby club, this would cause a nuisance to residents of the proposed houses.

The Committee opened the debate with a Member speaking in objection to the application. He raised a number of points, including:

- The application had been deferred previously due to further information being required in respect of noise on the site.
- There was a need to encourage businesses to grow and that therefore industrial land was needed in Bromyard, this would be jeopardised by the proposed application.
- There were limited representations from the public but noted that the elected members and town council were representing the views of the local residents.

- A letter from a Planning Officer had been received by Members recently which had described the employment land allocation at Linton as undeliverable, he stated that the letter was a concern and had an impact on the application being determined today.
- The allocation of 127 houses on this site was not in the right place. The required homes for Bromyard could however be delivered through a number of parcels of land throughout the town.
- The proposed acoustic fence was too visually intrusive at 6 metres high. It was noted that a fence this high could be damaged through high winds and concern was expressed in respect of who would be responsible for its upkeep once the development was completed.
- The concerns raised by the local ward members in respect of light pollution were echoed. It was considered that the application failed to address the issue as to the impact of the existing external lighting from both the Polytec site and the Bromyard Rugby Club upon the amenities of the occupiers of the proposed dwellings.
- There would be problems with noise and the mitigation measures proposed were not adequate.

In summing up he was of the opinion that the application should be refused as it was contrary to UDP policies DR13 in terms of noise, DR14 in terms of light pollution, and DR2 in terms of the land use allocation. A motion was moved and seconded to reflect this.

In response to a question from a Member of the Committee, the Locum Lawyer (Planning and Regulatory) advised that the site in question was allocated for housing in the Unitary Development Plan and that the issues raised in respect of the employment land at Linton had no impact on the lawfulness of the allocation in the UDP of the site in question.

A member of the Committee noted the difficulties with housing being allocated near to employment land, she added that she had two large industrial facilities in her ward and that there had been a need to set up resident liaison groups due to the disturbances caused.

In response to the comments in respect of the allocated site for employment land at Linton the Assistant Director (Economic, Environment & Cultural Services) advised that Committee that a planning application for industrial development at Linton was withdrawn in 2008. At present no further application had been submitted at the site. Discussions were ongoing with a consortium of land owners in Linton in respect of the possibility of alternative land being put forward for industrial use.

Another Member addressed the Committee in support of the application. He noted that the RPS report was the third report addressing noise concerns and that all of the noise concerns had now been addressed through the additional noise attenuation scheme. He noted that the acoustic fence would have to be kept in a good state of repair but noted that this was addressed in the proposed conditions. Finally he requested that the landscaping condition be amended to require the planting of mature trees and plants to assist with the immediate screening.

In relation to the previous point raised, a Member of the Committee noted that the maintenance of the acoustic fence was addressed under condition 28. It was noted that Councillor Knipe had briefly left the room during the previous statement. The comments in respect of the acoustic fence were repeated in order to ensure that Councillor Knipe

had not missed any points in the debate and was still entitled to vote in respect of the item.

In response to points raised by the Committee, the Assistant Director advised that:

- At the meeting of 1 February 2012 the Committee had deferred the application for further information, this had now been received and with some amendments to the proposal it was now deemed acceptable in terms of noise.
- The primary change to the application was the inclusion of a 6m high boundary fence to reduce noise. Whether the height and build of the fence was acceptable was a matter of judgment for the Committee to make.
- The application site and the site allocated for employment at Linton were two separate sites and were not dependent on each other. This had been confirmed by the Locum Lawyer in her earlier statement.
- The formal submission in respect of the LDF from Bromyard and Winslow Town Council which had been submitted on 28 November 2011 was welcomed. This submission suggested a change to the land allocation in respect of Porthouse Farm, although it was noted that this submission had not yet been tested and had not been before Cabinet.
- The Committee were required to make a decision based on existing facts and policy and could therefore not make a decision based on the emerging Local Development Framework.
- If in due course, the Town Council submission in respect of future land allocation at Porthouse Farm was accepted the land owners would still have the opportunity to object.

The Committee noted that the application would result in an allocation of 35% for affordable housing. This was welcomed and clarification was requested that this percentage would remain even if the final number of dwellings was reduced at the reserved matters stage.

It was noted that the concerns raised appeared to relate to economic development, noise, and the views of the local representatives. It was felt that the developer should have worked closely with the Town Council and Local Ward Members to bring forward a proposal that was acceptable to all.

In response to a number of questions from the Committee, the Principal Planning Officer advised that:

- The proposed application was for outline permission with all matters reserved so the attached plans were solely indicative, however these plans indicated that the first row of houses would be 37 metres away from the acoustic fence, with the bund in between.
- Conditions 27 and 28 of the recommendation were enforceable as they were deemed to be precise and clear and meet the legal requirements in respect of conditions.
- The future maintenance of the fence was addressed in the conditions. The responsibility for the maintenance of the fence lay with the land owners. Any failure to maintain the fence would result in a breach of condition notice being served by the Council. It was further noted that there was no right of appeal to a breach of condition notice.

- There was not a condition regarding light pollution. After visiting the site this was not seen as an issue. There was a field between the rugby club and the proposed houses so light emanating from the floodlights should not cause a concern to residents in the proposed dwellings.
- The 35% figure proposed for affordable housing would remain even if the number of dwellings on the site was reduced as part of the reserved matters application.
- There was a landscape impact as a result of the acoustic fence, however the fence would not be seen from the highway as the proposed dwellings would be allocated between the road and the fence. There would also be screening offered by the bund and the planting as referred to in the recommended conditions.
- The condition could be amended to ensure mature planting on the site.

In response to the points raised in respect of light pollution, one Member of the Committee noted that the lighting on the industrial unit would be at a higher level than the six metre high acoustic fence and therefore it should be addressed appropriately through an appropriate condition.

Councillors A Seldon and JG Lester were given the opportunity to close the debate. They reiterated their opening remarks and made additional comments, including:

- It was noted that night time was deemed as 11pm – 7am but young children would need to be asleep before then.
- The Committee should listen to the local people and the Town Council in light of the Localism Act.
- Housing in Bromyard was not opposed but it could be delivered on more appropriate sites.
- The UDP allocated Porthouse Farm for housing for 87 dwellings, the application requested in excess of 100.
- Bromyard Town was in a state of transition, the proposed application would jeopardise all of the future plans for the town.
- The proposed acoustic fence was an ugly structure and flew in the face of good design.
- Would people really want to live in such close proximity to an industrial site?

The Locum Lawyer (Planning and Regulatory) addressed the Committee in respect of the proposed motion, she requested that the Democratic Services Officer remind Members of the three reasons for refusal that had been proposed and seconded at the outset of the debate.

The Democratic Services Officer advised Members that the three reasons quoted in the motion to refuse the application were that the application was contrary to UDP policies DR13 in terms of noise, DR14 in terms of light pollution, and DR2 in terms of the land use allocation.

The Assistant Director (Economic, Environment & Cultural Services) reminded the Committee that they had to determine the application in accordance with the Unitary Development Plan. He advised that a refusal based on Policy DR13 would be difficult to defend as the technical evidence stated that with the mitigation measures recommended noise on the site was of a satisfactory nature and that noise emanating from the site would meet the appropriate criteria. He added that the issue of light pollution could be addressed through a suitable condition at the reserved matters stage, however he stressed that no issues in respect of light pollution had been raised during the consultation stage. Finally he addressed the issues in respect of Policy DR2, he advised the Committee that the application was for housing and the land allocation was for

housing, therefore it would be very difficult to defend a decision based on non compliance of Policy DR2.

The Member of the Committee who moved the original motion for refusal based on the three grounds was given the opportunity to reply, he stated that he stood by the three reasons for refusal and did not make any amendments to the motion.

The Locum Lawyer (Planning and Regulatory) advised the Committee that they had been given guidance in respect of the reasons for refusal and it was her duty to advise them that if the application was refused for the reasons stated it would be a difficult decision to successfully defend at Appeal. She added that although the starting point for costs was that each party bore their own costs, if the Council lost the Appeal and the Inspector was not satisfied that sufficient evidence was available to support the refusal, and a costs application was made, the Council could be required to pay the applicants costs.

**RESOLVED:**

**THAT planning permission be refused for the following reasons:**

- 1. Despite the noise mitigation measures that form part of the application, the occupiers of some of the proposed houses would suffer night-time noise from stillages within the open yard of the Polytec site contrary to policy DR13 of the Herefordshire Unitary Development Plan 2007.**
- 2. The occupiers of the proposed dwellinghouses would not enjoy a satisfactory level of amenity due to excessive light pollution from existing external lighting sited / installed on both the Polytec site and the Bromyard Rugby Club contrary to policy DR14 of the Herefordshire Unitary Development Plan 2007.**
- 3. Given reasons for refusal 1 and 2 above the location of the proposed residential development adjacent to the general industrial use of the Polytec site is considered to represent an incompatible land-use contrary to policy DR2 of the Herefordshire Unitary Development Plan 2007.**

**164. N111900/N - PORTHOUSE FARM, TENBURY ROAD, BROMYARD, HEREFORDSHIRE**

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet. She advised the Committee that the application was linked to, but not dependant on, the previous agenda item.

In accordance with the criteria for public speaking, Mr Davis, representing Bromyard & Winslow Town Council, spoke in objection to the application.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor A Seldon, one of the local ward members, commented on a number of issues, including:

- The Town Council had regularly requested updates in respect of enforcement action since the first communication in April 2006.
- Would the bund actually now be required as the housing on the site had been refused?

- The bund was actually a spoil heap of construction waste and should be treated accordingly.
- The bund should be processed on site to ensure that the material used for it is not contaminated or unsafe.

Councillor JG Lester, the other local ward member, also commented on a number of issues, including:

- The Town Council had raised an objection as soon as the bund had been erected.
- The structure did not have planning permission and should therefore be classed as unlawful.
- Should be treated in the same manner as fly tipping.
- The makeup of the bund was unknown, with no confirmation as to where the soil had come from.
- The soil should be processed and distributed evenly on the site.

The Committee discussed the application and noted that it did not conflict with the National Planning Policy Framework recently outlined by the government. It was further considered that the approval of the application would result in a better regulation of the bund.

In response to a number of issues raised, the Development Manager (Northern Localities) advised that if the soil was processed on the site and distributed evenly it would just need to be removed again at a later date. He added that the bund had not been designed as an acoustic buffer but was a landscape buffer. He also stated that the Council's enforcement team had been monitoring the site which had resulted in the submission of the application the Committee had before them. Finally he stated that it was impossible to trace where the soil had initially come from and that any cost of maintaining the bund would be met by the landowner.

The Principal Planning Officer added that the remodelling of the bund would identify any contaminated waste within the bund. She added that the contamination report submitted with the application was acceptable.

Councillors A Seldon and JG Lester, the local ward members, were given the opportunity to close the debate. They reiterated their opening remarks and requested that the application be refused.

#### **RESOLVED:**

**That planning permission be granted subject to the following conditions:**

- 1. B01 Development in accordance with the approved plans**
- 2. Within 9 months of the date of this permission, and in any case before the bund remodelling and landscaping development hereby permitted begins, a final Remediation Method Statement for handling the soils and other materials in order to improve the form of the bund shall be submitted to and approved in writing by the local planning authority. The Method Statement shall include the following in particular:**
  - a) Estimated timescales for the start and completion of the work, including any phased working;**

- b) That all the recommendations made by Pam Brown Associates Ltd in the submitted reports reference 'Phase 1 and Phase 2 Environmental Investigation ..... Porthouse Farm - Landscape Bund 776-06 (May 2011)', and 'PBA.SH.776-06 Additional SI to the bund (3 January 2012)' will be observed in full;
- c) That observation of the work in progress shall be made available to the Council's Environmental Health Officer on request;
- d) A site diary to be established and retained by the applicant, to be made available for inspection by the local planning authority at reasonable times, in which plastic, metal, cement, wire and all other deleterious materials encountered will be recorded along with details of their removal and responsible disposal;
- e) Provision for specialist advice to be made available and promptly sought, should any unexpected contamination be encountered during the works, and contingency plans for dealing with any such unsuspected contamination encountered at the site but not previously identified;
- f) That, in the absence of historic evidence being available, any further sampling deemed to be required should be undertaken to a specified appropriate testing suite, to include heavy metals, pH, speciated TPH, PAH and asbestos screen, plus any other suspected substances, to the written satisfaction of the Council's Environmental Health Officer ;
- g) An estimation of the likely volume and type of any additional soils that will be required to complete the remodelling as approved, and where that additional material will be obtained from;
- h) That any further soil to be imported shall be tested for fitness for purpose and its source thoroughly investigated and analysed with regard to its composition and any likely contamination; the results to be recorded and retained;
- i) A scheme of reporting to ensure any imported material is the same as that tested at source;
- j) Provision for validated documentation to be submitted in writing to the local planning authority within two months following completion of the works, to verify that completion including final soil depths and the source/s of any imported soils used in the bund remodelling;
- k) Provision for tool-box talks with contractors, and review of the above Method Statement as necessary, and the means of reporting any revision to the local planning authority.

The remodelling and remedial work hereby permitted shall be undertaken in accordance with the approved details and within the timescales specified unless otherwise agreed in writing in advance by the local planning authority.

Reason: To prevent pollution, to secure the function of the bund as a noise and spatial barrier and to ensure a satisfactory form of development in compliance with policies S1, S10, DR2, DR4, DR10, DR11, DR13, W2 and W8 of the Herefordshire Unitary Development Plan.

3. Within 9 months of the date of this permission, and in any case before the bund remodelling and landscaping development hereby permitted begins, a final Working Method Statement, and a plan, shall be submitted to and approved in writing by the local planning authority. The details and plan shall include the following, having regard to the submitted 'Soil Management Strategy' (Illman Young, May 2011) and the Remediation Method Statement as approved under condition 2:

- a) **Soil handling methodology to recommended quality standards including soil stripping and separation;**
- b) **Arrangements and a location plan for the temporary storage or stockpiling of bund material during the remodelling work;**
- c) **The means of providing for and storing any additional material including final topsoil for finishing the bund;**
- d) **Location plan, area and enclosure arrangements for any temporary compound for storage, materials, equipment, facilities and/or vehicles;**
- e) **Arrangements and timetabling for removal of temporary storage, equipment, compound, enclosure, facilities and any other paraphernalia associated with the work hereby permitted, on completion of the scheme.**

**The details shall be implemented as approved unless otherwise agreed in writing in advance by the local planning authority.**

**Reason: To protect local amenity, to secure the function of the bund as a noise and spatial barrier and to ensure site safety, proper soil handling and storage and site tidiness during the works, in accordance with policies S1, S2, S10, DR2, DR4, DR10, DR11, DR13, W2 and W8 of the Herefordshire Unitary Development Plan.**

- 4. Within 9 months of the date of this permission, and in any case before the bund remodelling and landscaping development hereby permitted begins, a finalised Landscaping and Ecology Scheme shall be submitted to and approved in writing by the local planning authority having regard to the recommendations made on page 15 of the submitted Ecological Appraisal (Richard Tofts Ecology, March 2010). The following shall be included in particular:**

- a) **The appointment of a named suitably qualified and experienced ecologist to oversee the scheme, and to advise in particular on how to deal with any Japanese Knotweed rhizomes that may be encountered;**
- b) **Provision and timetabling for supplementary ecological surveys immediately prior to starting the remodelling work, notably to establish the presence or absence of nesting birds or any European Protected Species such as badgers, bats, reptiles or flora, and mitigation measures as a contingency for any such protected species being found to be present;**
- c) **Adequate protection measures for all trees and hedges identified for retention, in accordance with BS 5837:2005 Trees in Relation to Construction;**
- d) **Illustrative details of the type, specification, extent, design, height, and colour of all fencing and/or boundary treatments, including access gates and any acoustic fencing.**

**The scheme shall be implemented in accordance with the approved details in conjunction with the approved landscape masterplan unless otherwise agreed in writing in advance by the local planning authority.**

**Reason: To improve the visual and ecological amenity of the area, to contribute to noise mitigation and separation of the site from existing industrial premises, to protect wildlife, and to comply with PPS9, the NERC Act and policies S2, DR1, DR13, LA5, LA6, NC1, of the Herefordshire**



**Unitary Development Plan, having regard to the Wildlife and Countryside Act 1981 (as amended).**

- 5. In the first available planting season following completion of the bund remodelling in accordance with the approved plans, schemes, timescales and details, the final landscaping, seeding and planting of the remodelled bund shall be undertaken in accordance with the following submitted documents unless otherwise agreed in writing in advance by the local planning authority:**
- a) Annotated plan reference 2912/10 Rev B, Feb11 ‘Landscape Masterplan’ received 5 December 2011;**
  - b) Annotated plan reference 2912/16 Rev A Mar11 ‘Detailed planting of bund’ received 5 December 2011;**
  - c) Annotated plan reference 2912/18 Rev A, May11 ‘Landscape management strategy’ received 5 December 2011;**

**The planting shall include a proportion of mature specimens, the details of which have first been submitted to and approved in writing by the local planning authority. All plants shall be maintained for a period of 5 years from the planting date. During this time, any plants 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 its written consent to any variation. If any trees fail more than once they shall continue to be replaced on an annual basis until the end of the 5-year maintenance period.**

**Reason: To maintain and enhance the visual amenity of the area and to comply with policies S2 and LA6 of the Herefordshire Unitary Development Plan.**

- 6. No stores or temporary stockpiles of soils or other materials shall be to a height exceeding 3 metres above the previously existing ground level.**

**Reason: To protect amenity and ensure safety during the construction period and to comply with policies S2, S10, DR4 and W8 of the Herefordshire Unitary Development Plan.**

- 7. I16 Restriction of hours during construction**

- 8. No deleterious or contaminated material, or any other wastes, shall be removed from the application site unless it is transported in sealed or securely covered vehicles and taken to an approved premises licensed for the handling of such material.**

**Reason: In the interests of road safety, to prevent pollution, and to ensure the responsible disposal of unsuitable materials that may be encountered during the course of the remodelling work to the bund, in accordance with policies S2, S10, DR1, DR4, DR11, T8 and W3 of the Herefordshire Unitary Development Plan.**

- 9. I43 No burning of material/substances**

- 10. F14 Removal of Permitted Development Rights**

## **INFORMATIVES:**

- 1. Due to the site's known former uses, there is a possibility of unforeseen contamination at the site. In the event of unexpected contamination being discovered, the applicant is advised to seek specialist professional advice in such circumstances. This should be reflected in the required Method Statement outlined above.**
- 2. Any waste produced as part of this development must be disposed of in accordance with all relevant waste management legislation. All waste volumes should be minimised and excavated materials should be kept within the site for re-use/recycling.**
- 3. HN01 Mud on highway**
- 4. Developers should incorporate pollution prevention measures to protect ground and surface waters. Guidance is available from the Environment Agency at [www.environment-agency.gov.uk/business](http://www.environment-agency.gov.uk/business).**
- 5. N11C General**
- 6. The proposal is to retain an earth bund which has been constructed from waste soils without the benefit of planning permission and to remodel it to a more acceptable landform. The development is considered to be a use of land for the deposit of inert waste material. The bund has been in place for some years, certainly since 2006, and was constructed with a uniform hard-engineered profile to a steep gradient of approximately 40%. As such it was considered to be contrary in particular to policies W2 and W8 of the Herefordshire Unitary Development Plan (UDP). According to the applicant, the main purpose of the bund was to provide a landscape buffer and noise barrier between the allocated housing site at Porthouse Farm and existing industrial premises to the south. This accord with the text of UDP policy H2.**

**During the course of considering this proposal, comprehensive investigations into the exact nature of the bund material were undertaken, to ensure its fitness for purpose. Recommendations were made to remove two small areas of 5 cubic metres each, where some ash-related contamination was identified. These measures, along with revised landscaping proposals resulting from detailed negotiation, have addressed the key issues of soil quality and land-form which apply in this case. Soft landscaping and extensive planting would result in a satisfactory form of development to fulfil the buffer function and comply with UDP policies DR110, DR11 and LA6. Furthermore, the additional noise assessment commissioned by the Council, in response to Members' concerns about possible adverse effects on new housing by existing factories, concludes that amenity criteria can be met. This would be achieved by a combination of the remodelled bund and additional acoustic fencing along its southern edge. The bund would also serve as a screen to the high fence and help to deter crime. It would not cause any additional overshadowing and would contribute to wildlife habitat.**

**The site is not in any designated sensitive area and comprises a buffer zone between an existing industrial estate and (currently) derelict vacant farmland allocated for housing. Adopted policy takes account of this function, and the need to accommodate surplus soils and excavated material within the county. The aim is to avoid or reduce such material**

going to landfill in the interests of sustainable development. Where adequate justification for disposing of soils on a particular site or project can be provided, and a demonstration that no harm would occur; there is no reason why approval should not be granted. In this case there is the added factor that the bund is in situ and therefore there would be no traffic implications arising from its approval. On this basis the proposal to retain the bund is regarded as the Best Practical Environmental Option (BPEO) as outlined in UDP policies S10 and W2. It does not conflict with the National Planning Policy Framework or the principles of PPS10.

For all of the above reasons and factors the proposal is recommended for approval. Detailed conditions are proposed to take account of the need for careful management of soils and landscaping schemes. The proposals as finally negotiated, in conjunction with these conditions, are therefore considered to be acceptable development which is compliant or capable of compliance with the NPPF and policies S1, S2, S7, S10, DR2, DR4, DR10, DR11, DR13, H2, LA6, W2, W8 and W9 of the Herefordshire Unitary Development Plan.

**165. N113363/F - KINGSLAND FIRE STATION, ARBOUR LANE, KINGSLAND, HEREFORDSHIRE, HR6 9RZ**

Prior to the presentation and debate on the item, the Locum Lawyer (Planning and Regulatory) advised that after seeking clarification in respect of their declarations of interest, Councillors Lloyd-Hayes, Greenow and Watts had all now declared prejudicial interests as Members of the Fire Authority, and Councillor Durkin as he carried out work for the Fire Authority. It was noted that they had all left the Council Chamber for the duration of the item.

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

In accordance with the criteria for public speaking, Mr Jamieson, representing Mr and Mrs Sharp-Smith who had objected to the application, spoke in objection and Mr Price, on behalf of the applicants, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor WLS Bowen, the local ward member, commented on a number of issues, including:

- The fire service presence was greatly appreciated and valued in Kingsland.
- Consideration needed to be given to the conservation area and the proximity of the two listed buildings.
- A site visit would be beneficial.

Members discussed the application and agreed with the local ward member that a site visit would assist them in determining the application.

**RESOLVED**

**THAT the determination of the application be adjourned pending a site inspection on the following ground:**

- 1. The setting and surroundings are fundamental to the determination or to the conditions being considered, and cannot reasonably be made without visiting the site in question.**

**166. S120530/FH - MIDHURST, KINGSTONE, HEREFORDSHIRE, HR2 9HD**

The Senior Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor JF Knipe, the local ward member, advised the Committee that the application had not raised any local concerns and should be approved.

The Development Manager (Northern Localities) advised the Committee that paragraph 4.2 of the report stated that comments were awaited from the Transportation Manager, these comments had now been received and no objection to the application was raised.

**RESOLVED**

**That planning permission be granted subject to the following conditions:**

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans**
- 3. CBK Restriction of hours during construction**

**Informative:**

- 1. N15 Reason(s) for the Grant of PP/LBC/CAC**

**167. N120045/F - 54-56 NEW ROAD, BROMYARD, HEREFORDSHIRE, HR7 4AJ**

The Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor A Seldon, one of the local ward members, advised the Committee that the only concern he had was a minor issue regarding traffic congestion in Clover Terrace. However he was happy to support the application.

In response to a question, the Planning Officer confirmed that none of the trees on the site were subject of a tree preservation order and that the landscaping scheme addressed the issue of replacement trees.

**RESOLVED**

**That planning permission be granted subject to the following conditions:**

- 1. A01 Time limit for commencement (full permission) (one year)**
- 2. B01 Development in accordance with the approved plans**
- 3. C01 Samples of external materials**
- 4. F08 No conversion of garage to habitable accommodation**

5. **F14 Removal of permitted development rights**
6. **G10 Landscaping scheme**
7. **G11 Landscaping scheme - implementation**
8. **G09 Details of Boundary treatments**
9. **H13 Access, turning area and parking**
10. **I17 Scheme of foul drainage disposal**
11. **I18 Scheme of foul drainage disposal**
12. **I22 No surface water to public sewer**
13. **I16 Restriction of hours during construction**

**Informative:**

1. **The proposal has been considered against the site's location and the character of the surrounding area. As the site is within an established residential area of Bromyard the principle of development is acceptable. The development proposed is identical to that previously approved under application N/103066/F and with no change in Local policy the layout, scale and design of the proposed development is not considered to have a detrimental impact on the character of the surrounding area or on the amenities of nearby residents.**

**168. DATE OF NEXT MEETING**

The Planning Committee noted the date of the next meeting.

**APPENDIX 1 - SCHEDULE OF COMMITTEE UPDATES**

The meeting ended at 1.30 pm

**CHAIRMAN**



# PLANNING COMMITTEE

4 April 2012

## 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.**

**N111899/O - AN OUTLINE APPLICATION FOR THE ERECTION OF UP TO 127 DWELLINGS (35% TO BE AFFORDABLE) WITH ALL MATTERS EXCEPT ACCESS TO BE RESERVED FOR FUTURE CONSIDERATION AT PORTHOUSE FARM, TENBURY ROAD, BROMYARD, HEREFORDSHIRE**

**For: Ms Harrison per Mr John Cornwell, Oakview House, Station Road, Hook, Hampshire, RG27 9TP**

### ADDITIONAL REPRESENTATIONS

A letter of SUPPORT has been received from the occupier of 'Rosebank', 52 New Road, Bromyard. In summary the following points are made:-

- The current Council's policies of directing housing to Porthouse Farm and employment to the east at Linton would benefit Bromyard and its future wealth creation potential;
- The Porthouse Farm site would not be attractive to any modern, efficient company due to the poor highway network that serves it which is unsuitable for lorries;
- There are no current plans by Herefordshire council for a relief road and finance would not be forthcoming;
- Bromyard requires employment land but it must be in the correct place at Linton. Interestingly after the current industrial buildings were completed, although aggressively marketed they remained empty for approximately four years;
- The issues of noise and odour are satisfactorily addressed;
- Congestion in town is caused by lorries finding their way to Porthouse through the Town Centre. A plan for employment use of the Porthouse Farm site would make this intolerable;
- Housing would be more visually acceptable than industrial development;
- Linton is a suitable location for industrial development. There is an additional three acres of level land available.
- Polytec support the proposal; and
- Bromyard desperately needs affordable housing for young people. The proposed development would deliver some 44 affordable houses. During the last 12 months only 52 such affordable houses were delivered in the whole of Herefordshire; and
- The proposal is policy compliant.

A letter has been received from the Micron Group who state that they intend expanding their operations and state that they need to retain the ability to utilise their existing Porthouse Farm facility.

It has come to Officers attention that at an Extraordinary Meeting of the Bromyard & Winslow Town Council on 28<sup>th</sup> March 2012 a resolution was passed to send a report to Members of the Planning Committee with

respect this application. In summary that report urges Members to refuse the planning application. The following summarised planning arguments are made:-

- The decision by the Planning Inspector reporting into objections to the Unitary Development Plan endorsing the residential allocation of the land at Porthouse site was unsound;
- Building houses next to the Porthouse Industrial Estate will jeopardise the operation of successful companies on the estate, which employ hundreds of people and will damage the residential amenity of new households – with regard the amenity issue it is stated that some houses will have to be designed to allow for ventilation without opening windows and the report fails to address the issue of outdoor amenity for residents;
- Porthouse Farm is the only area of land available in Bromyard for employment. If it is lost to housing Bromyard will be left with no employment land, in perpetuity;
- Housing on Porthouse farm would deprive Bromyard of the ability to build a very much needed relief road; and
- The planning application is contrary to UDP policies and PPS4.

## OFFICER COMMENTS

No comment upon the support representation received.

With regard the report of the Bromyard & Winslow Town Council, the following summarised points are made:-

- The site is allocated for residential development within the adopted Herefordshire Unitary Development Plan 2007. The allocation of the land for housing purposes was the subject of objections at the time by twelve persons or organisations (although two of those objections were withdrawn). One objector was the Bromyard & Winslow Town Council who advanced their objections to the Inspector appointed by the Secretary of state to consider the objections that had been lodged to the Herefordshire Unitary Development Plan Revised deposit Draft. After considering the objections and examining all of the evidence the Inspector accepted the suitability of the land for housing purposes and supported the allocation. The Inspector did not recommend any change to the policy. The Council were not obliged to accept the Inspector's recommendations but did so and effectively retained the allocation in accordance with his recommendation and adopted the Herefordshire Unitary Development Plan 2007. In the event that the Town Council or any other group considered this allocation to still be "unsound" they could have legally challenged the adopted Plan within 90 days of its adoption (as was done with regard the Bullinghope allocation with an approximate yield of 300 dwellings). No such challenge was lodged by the Bromyard & Winslow Town Council or any other group.
- There is no reason to believe that the proposed development would jeopardise existing businesses in the area. Concern has been expressed as to whether the provision of a residential development will in some way inhibit existing business premises in the immediate vicinity and any future plans they may have for expansion. It is interesting that paragraph 123 of NPPF states that:-

"Planning policies and decisions should aim to:-

Recognise development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established."

It is considered that it is worth clarifying a few issues with regard the noise issue. With respect the garden areas Members attention is drawn to paragraph 3.4 of the Committee Report. With regards to outdoor amenity areas, such as gardens, the RPS report draws upon the noise contours provided in the TSA report, indicating that outdoor levels will fall below 50/55 dB LAeq during the day, the BS8233 recommended limits for external amenity areas. With the increased barrier specification, external noise levels across amenity areas would further reduce.



It must be noted that the metrics used to determine 'appropriate internal night-time maximum noise levels required for sleep' and 'external daytime levels for amenity use' are very different, and not comparable. The requirement for ventilation does not indicate that amenity areas are unsatisfactory.

It appears that there may be an impression that the housing development would only be acceptable if windows are kept permanently shut with the benefit of ventilation. That is not the case. Satisfactory internal levels will be achieved during daytime with windows open. The proposed timber acoustic barrier design is such as to bring the majority of night-time noise events below 45 dB LAmax internally with windows open. However, some individual night-time noise events may still exceed 45 dB LAmax ; which could adversely affect more noise-sensitive individuals. The proposed scheme allows these individuals to close windows and sleep in a noise environment surpassing the mandated levels whilst also experiencing appropriate ventilation.

- The issue at the supply of employment land is dealt with in paragraphs 5.34 – 5.37 (inclusive) of the report to Planning Committee on 1<sup>st</sup> February 2012 attached as Annex 1; and
- It remains Officers views that the proposal is UDP compliant and it must be recognised that the Central Government advice contained within PPS4 was cancelled on 27<sup>th</sup> March 2012 prior to the meeting of the Bromyard & Winslow Town Council meeting on the Wednesday.

Last week new Central Government advice with respect Planning was published and came into force in the form of the 'National Planning Policy Framework' (NPPF). This replaced much existing Central Government advice including Planning Policy Statements 1, 3, 9, 12, 13, 23, 24 and 25 and Circular 05/05 mentioned in the Committee Report. The existing report has been reviewed in the light of the new Central Government advice. The NPPF makes it clear (para. 12) that there is no change to the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved unless other material considerations indicate otherwise. Indeed the NPPF states (para. 14) that in terms of decision making development proposals that accord with the plan should be approved without delay. The NPPF stresses the importance of delivering an adequate supply of housing and the provision of affordable housing to meet local need. The recommendation to grant conditional outline planning permission subject to the prior completion of a legal agreement remains unchanged.

## **CHANGE TO RECOMMENDATION**

For the purposes of precision substitute the words in conditions 7, 17 and 28 "...to the satisfaction of the Local Planning Authority" with the words "...in accordance with the approved details".

Amend reason for condition 10 to read:-

To ensure that there is a satisfactory landscape buffer between the residential development hereby permitted and the Porthouse Industrial Estate including the acoustic fence required to be erected by way of condition 28 below in accordance with policy LA2 of the Herefordshire Unitary Development Plan 2007 paragraph 5.4.27 of the explanatory text to the Herefordshire Unitary Development Plan 2007;

Change recommended informative 5 to read:-

The reasons for granting planning permission in respect of the development are:-

The proposal is in outline form with all matters except access reserved for future consideration. The proposal is for residential development upon a site allocated for residential development by virtue of policy H2 of the adopted Herefordshire Unitary Development Plan 2007. The proposed means of access is considered to be acceptable in all respects including highway safety. It is considered that the density of development being a maximum of 32.63 dwellings to the hectare (or some 37.35 dwellings to the hectare excluding the bund) would be acceptable in terms of the context of this site. The development would deliver affordable housing in compliance with policy H2 of the Herefordshire Unitary Development Plan 2007. There are no environmental reasons (i.e. sewage capacity, flooding, noise, odour, residential amenity, landscape & ecology) to justify refusal of the application. The matter of noise impact from the adjoining general industrial use has been fully assessed and it is considered that a mitigation strategy secured by

way of conditions 7, 27, 28 and 29 will ensure a satisfactory level of residential amenity for the occupiers of the dwellinghouses hereby permitted. In conclusion the proposal complies with the provisions of the Herefordshire Unitary Development Plan 2007 together with the Central Government advice contained within the National Planning Policy Framework and there are no other material planning considerations that justify refusal of the application.

**N111900/N - RETROSPECTIVE PLANNING APPLICATION FOR THE RETENTION OF AN EXISTING BUND AND ITS REMODELLING WITH APPROPRIATE ENGINEERING WORKS AND LANDSCAPING OF THE REMODELLED BUND AT PORTHOUSE FARM, TENBURY ROAD, BROMYARD, HEREFORDSHIRE, HR7 4NS**

**For: Ms Harrison per Mr John Cornwell, Oakview House, Station Road, Hook, Hampshire, RG27 9TP**

### **ADDITIONAL REPRESENTATIONS**

Officers have been made aware that Bromyard & Winslow Town Council convened an Extraordinary Meeting on 28<sup>th</sup> March 2012 to consider a report, all parties to which are stated to be opposed to the proposed development at Porthouse Farm. The meeting is understood to have passed a resolution to send a report to Members of the Planning Committee with respect to this application and the partner outline housing application. Regarding the bund, the report contains a short paragraph which questions a perceived lack of enforcement action by Herefordshire Council against 'an unlawful spoil heap of hundreds of tons of material which was dumped .... in 2007'. It goes on to state that 'no permissions were sought .... and the spoil heap is therefore in contravention of a host of UDP policies'. This claim is repeated towards the end of that report, along with a reliance on PPS4.

### **OFFICER COMMENTS**

To update Members, further investigation of historic files shows that the existence of 'soil mounds' was first investigated by Enforcement officers in April 2006, who discussed the matter with the then local Development Control officers and senior management. At the time, the Porthouse site was being advertised as land for industrial units and offices. The UDP was in the process of preparation and adoption. Senior officers took the view in August 2008 that it would not be expedient to take action, noting that the case could be re-opened at any time should the need arise. Accordingly the case was re-opened in 2009, when the current housing project came forward as a preliminary proposal. Photographs from 2006 show a clearly engineered bund, not a spoil heap. This may be described as an unauthorised use of land, but is not 'unlawful'.

Since publication of the planning report, the National Planning Policy Framework (NPPF) has been issued and brought into force. Annex 3 of the document lists the raft of Policy Guidance and Statements (PPG, MPG and PPS) which are now superseded. As a consequence, the content of paragraph 2.1 of the planning report must be deleted with the exception of PPS10, (Sustainable Waste Management) which has not been replaced and remains in force. The NPPF should be added into this paragraph. It should be noted that PPS4 is amongst those documents now cancelled.

The planning report has been reviewed in the light of the NPPF, which clarifies in paragraph 12 that decisions should continue to be made on the basis of an up-to-date local plan and should be approved unless other material considerations indicate otherwise. Annex 1 of the NPPF explains (Paragraph 214) that the government has allowed a transitional period of 12 months for local authorities to ensure an up-to-date adopted local plan is in place. During this period, the adopted policies in the Unitary Development Plan (UDP) remain in force and carry weight, even where they do not entirely correspond with the NPPF.

The planning report was written before publication of the NPPF. It may need some minor refinement but it does not rely heavily on any of the superseded national guidance. The UDP has adequate policies relating to the use of surplus soils for land-raising, and for implementing landscaping schemes. Officers have examined the NPPF in detail and can find nothing which would compromise the report as presented or necessitate any major changes. The NPPF stresses the presumption in favour of sustainable development (paragraph 14) as a 'golden thread' running through all plan-making and decision-taking'. The NPPF supports development generally, offering fewer restrictions and precautions than existed under the previous national policy regime.

## **CHANGE TO RECOMMENDATION**

Change to informative 6, as follows:-

The proposal is to retain an earth bund which has been constructed from waste soils without the benefit of planning permission and to remodel it to a more acceptable landform. The development is considered to be a use of land for the deposit of inert waste material. The bund has been in place for some years, certainly since 2006, and was constructed with a uniform hard-engineered profile to a steep gradient of approximately 40%. As such it was considered to be contrary in particular to policies W2 and W8 of the Herefordshire Unitary Development Plan (UDP). According to the applicant, the main purpose of the bund was to provide a landscape buffer and noise barrier between the allocated housing site at Porthouse Farm and existing industrial premises to the south. This accord with the text of UDP policy H2.

During the course of considering this proposal, comprehensive investigations into the exact nature of the bund material were undertaken, to ensure its fitness for purpose. Recommendations were made to remove two small areas of 5 cubic metres each, where some ash-related contamination was identified. These measures, along with revised landscaping proposals resulting from detailed negotiation, have addressed the key issues of soil quality and land-form which apply in this case. Soft landscaping and extensive planting would result in a satisfactory form of development to fulfil the buffer function and comply with UDP policies DR110, DR11 and LA6. Furthermore, the additional noise assessment commissioned by the Council, in response to Members' concerns about possible adverse effects on new housing by existing factories, concludes that amenity criteria can be met. This would be achieved by a combination of the remodelled bund and additional acoustic fencing along its southern edge. The bund would also serve as a screen to the high fence and help to deter crime. It would not cause any additional overshadowing and would contribute to wildlife habitat.

The site is not in any designated sensitive area and comprises a buffer zone between an existing industrial estate and (currently) derelict vacant farmland allocated for housing. Adopted policy takes account of this function, and the need to accommodate surplus soils and excavated material within the county. The aim is to avoid or reduce such material going to landfill in the interests of sustainable development. Where adequate justification for disposing of soils on a particular site or project can be provided, and a demonstration that no harm would occur; there is no reason why approval should not be granted. In this case there is the added factor that the bund is in situ and therefore there would be no traffic implications arising from its approval. On this basis the proposal to retain the bund is regarded as the Best Practical Environmental Option (BPEO) as outlined in UDP policies S10 and W2. It does not conflict with the National Planning Policy Framework or the principles of PPS10.

For all of the above reasons and factors the proposal is recommended for approval. Detailed conditions are proposed to take account of the need for careful management of soils and landscaping schemes. The proposals as finally negotiated, in conjunction with these conditions, are therefore considered to be acceptable development which is compliant or capable of compliance with the NPPF and policies S1, S2, S7, S10, DR2, DR4, DR10, DR11, DR13, H2, LA6, W2, W8 and W9 of the Herefordshire Unitary Development Plan.

**S120530/FH - ERECTION OF FIRST FLOOR EXTENSION TO PROVIDE ADDITIONAL BEDROOM AND SHOWER ROOM, ERECTION OF SINGLE STOREY EXTENSION TO PROVIDE NEW ENTRANCE LOBBY AND WC AND CONSTRUCTION OF 2 BAY CAR PORT AT MIDHURST, KINGSTONE, HEREFORDSHIRE, HR2 9HD**

**For: Mr & Mrs Lewis per Mr Bernard Eacock, 1 Fine Street, Peterchurch, Herefordshire, HR2 0SN**

#### **OFFICER COMMENTS**

Since publication of the report, the National Planning Policy Framework (NPPF) has been issued and brought into force. Annex 3 of the document lists the raft of Policy Guidance and Statements (PPG, MPG and PPS) which are now superseded. As a consequence, the content of paragraph 2.1 of the report must be deleted and replaced with NPPF.

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

**N120045/F - PROPOSED REPLACEMENT OF PLANNING PERMISSION DMN/103066/F FOR A NEW FOUR BEDROOM DETACHED PROPERTY WITH ATTACHED GARAGE AT 54-56 NEW ROAD, BROMYARD, HEREFORDSHIRE, HR7 4AJ**

**For: Mr Litherland per Mr Andy Rose, 2 St. Oswald's Road, Worcester, Worcestershire, WR1 1HZ**

#### **OFFICER COMMENTS**

Since publication of the report, the National Planning Policy Framework (NPPF) has been issued and brought into force. Annex 3 of the document lists the raft of Policy Guidance and Statements (PPG, MPG and PPS) which are now superseded. As a consequence, the content of paragraph 2.1 of the report must be deleted and replaced with NPPF.

Annex 1 of the NPPF explains (Paragraph 214) that the government has allowed a transitional period of 12 months for local authorities to ensure an up-to-date adopted local plan is in place. During this period, the adopted policies in the Unitary Development Plan (UDP) remain in force and carry weight, even where they do not entirely correspond with the NPPF.

The report does not rely on any of the superseded national guidance, as it is considered that the UDP has adequate policies relating to the proposed development and its impacts on the surrounding environment. Officers have examined the NPPF in detail and can find nothing which would compromise the report as presented. The proposed development is for a detached residential property within an established residential area of Bromyard close to the town centre. The development is considered to be in a sustainable location and the NPPF stresses the presumption in favour of sustainable development (paragraph 14).

## Summary reasons for the granting of planning permission

The proposal has been considered against the site's location and the character of the surrounding area. As the site is within an established residential area of Bromyard the principle of development is acceptable. The development proposed is identical to that previously approved under application N/103066/F and with no change in Local policy the layout, scale and design of the proposed development is not considered to have a detrimental impact on the character of the surrounding area or on the amenities of nearby residents.

### NO CHANGE TO RECOMMENDATION

**N113363/F - DEMOLITION OF GALVANISED DRILL TOWER & CONCRETE BASE, REMOVAL OF METAL FENCE, ERECTION OF NEW GALVANISED STEEL FENCE, CONSTRUCTION OF NEW KERBED AREA. CONSTRUCTION OF TRAINING TOWER CONSISTING OF THREE FRAMED STOREYS AND ROOF. CONSTRUCTION OF NEW METAL CLAD BUILDING TO HOUSE BREATHING APPARATUS FACILITIES ACCOMMODATION FOR TRAINING CAGE AND FOR BRIEFING AT KINGSLAND FIRE STATION, ARBOUR LANE, KINGSLAND, HEREFORDSHIRE, HR6 9RZ**

**For: Mr Malcolm Hay, Headquarters, 2 Kings Court, Charles Hastings Way, Worcester, WR5 1JR**

### ADDITIONAL REPRESENTATIONS

The Landscape Manager has made a further response to an amended plan submitted by the applicants in support of their application that indicates additional landscaping in the form of tree planting alongside the eastern boundary with retention of the proposed native hedgerow.

The response from the Landscape Manager indicates that this small copse is preferable to the row of trees as previously proposed. The response recommends conditions with regards to protection of existing trees and hedgerow during on site construction and further detail with regards to the landscaping scheme.

### OFFICER COMMENTS

The additional landscaping in the form of a small tree plantation is welcomed, as it will help provide further mitigation in the area, which is a designated Conservation Area, in accordance with Policy HBA6 of the Herefordshire Unitary Development Plan. It is recommended that an additional condition with regards to protection of an existing tree and hedgerow is attached to any approval notice issued.

### ADDITIONAL REPRESENTATIONS

One further letter of comment has been received from a member of the public who resides in Kingsland, querying if land is available on Leominster Enterprise Park. The letters suggests that the Fire Service hold a public meeting in Kingsland, as the existing fire station is considered to be a community asset that should be retained and that further discussions with the Community would result in a better understanding of the need for the training venue and its use.

### OFFICER COMMENTS

It has been established that no adequate land is available for the proposed training facilities at Leominster Enterprise Park and that the existing Kingsland Fire Station will provide much needed facilities to

complement the proposed development, which would require additional costs to implement should the proposed development be located to the Enterprise Park.

Information in support of the application indicates that the Fire Station did engage in pre-application discussions with the Parish Council.

It is noted that whilst the Parish Council objected to the proposed development, only one letter of objection was received from a local resident of Kingsland.

### **ADDITIONAL REPRESENTATIONS**

An email has been received from the applicants referring to an offer to purchase a section of a site at Leominster Enterprise Park by a third party.

### **OFFICER COMMENTS**

This is not a material planning issue in relationship to this application. Further still the applicants have indicated that there is no economic viable solution to enable the proposed development to be constructed at Leominster Enterprise Park in accordance with the offer as suggested by the third party.

Since publication of the report, the National Planning Policy Framework (NPPF) has been issued and brought into force. Annex 3 of the document lists the raft of Policy Guidance and Statements (PPG, MPG and PPS) which are now superseded. As a consequence, the content of paragraph 2.1 of the report must be deleted and replaced with NPPF.

Annex 1 of the NPPF explains (Paragraph 214) that the government has allowed a transitional period of 12 months for local authorities to ensure an up-to-date adopted local plan is in place. During this period, the adopted policies in the Unitary Development Plan (UDP) remain in force and carry weight, even where they do not entirely correspond with the NPPF.

The report does not rely on any of the superseded national guidance, as it is considered that the UDP has adequate policies relating to the proposed development and its impacts on the surrounding environment. Officers have examined the NPPF in detail and can find nothing which would compromise the report as presented. The proposed development is required to provide training facilities for Fire and Rescue Workers, adjacent to an existing Fire Station in what is considered a sustainable location and the NPPF stresses the presumption in favour of sustainable development (paragraph 14).

### **Reasons for granting of planning permission.**

The proposal is for improved fire and accident training facilities for fire and rescue workers who cover the North Herefordshire Area in accordance with the Hereford and Worcester Fire Service proximity of strategic training buildings data map supplied by the applicants

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The sequential test in relationship to site selection is considered satisfactory, the applicants having adequately demonstrated why the development should be located adjacent to the existing Kingsland Fire Station.

Whilst it is acknowledged that the applicants have submitted amended plans indicating improved landscaping mitigation and with suitably worded conditions attached to any approval notice issued on balance the proposed development is considered acceptable in consideration of landscape/biodiversity impact.

However the site is located within the Kingsland Conservation Area, to which it is considered that the development will have a negative impact upon and therefore not considered to be in accordance with Policy HBA6: Development within Conservation Areas, of the Herefordshire Unitary Development Plan.

Within close proximity to the site are two listed buildings, (One Grade II\* and the other Grade II), in consideration of the separation distance from the site and additional landscape mitigation the proposed development is considered acceptable in consideration of the setting of these listed buildings. The

proposed development is also considered acceptable in relationship to the setting of other listed buildings within the vicinity of the site and this includes the setting of Kingsland Castle.

The proposed development in consideration of residential amenity and privacy is considered acceptable, as well as public highway issues in consideration of the Fire Station's location.

In consideration of the need to provide adequate training facilities for Fire and Rescue workers within the North Herefordshire area and the sequential test in relationship to the site selection and overall impact on the surrounding landscape, historic environment, and consideration to environmental health issues, on balance the proposed development is considered acceptable. Whilst explicitly not considered to be in accordance with Policy HBA6 of the Herefordshire Unitary Development Plan, it is considered that material considerations identified above outweigh the requirements of the historic environment in relationship to the Conservation Area, the proposal therefore is considered to be in accordance with other policies of the said Plan and the National Planning Policy Framework.

Key Herefordshire Unitary Development Plan Policies are considered to be Policies S1, S11, DR1, DR2, DR3, DR4, DR13, E10, HBA4, HBA6, LA2, NC1 and CF1.

### **CHANGE TO RECOMMENDATION**

Additional condition with regards to protection of an existing tree and hedgerow (C90).

Also add to condition number 12 detail with regards to a timescale for implementation of the scheme.







<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>25 APRIL 2012</b>
<b>TITLE OF REPORT:</b>	<p><b>N113363/F- DEMOLITION OF GALVANISED DRILL TOWER &amp; CONCRETE BASE, REMOVAL OF METAL FENCE, ERECTION OF NEW GALVANISED STEEL FENCE, CONSTRUCTION OF NEW KERBED AREA. CONSTRUCTION OF TRAINING TOWER CONSISTING OF THREE FRAMED STOREYS AND ROOF. CONSTRUCTION OF NEW METAL CLAD BUILDING TO HOUSE BREATHING APPARATUS FACILITIES ACCOMMODATION FOR TRAINING CAGE AND FOR AT KINGSLAND FIRE STATION, ARBOUR LANE, KINGSLAND, HEREFORDSHIRE, HR6 9RZ</b></p> <p><b>For: Mr Hay per Mr Malcolm Hay, Headquarters, 2 Kings Court, Charles Hastings Way, Worcester, WR5 1JR</b></p>
<b>WEBSITE LINK:</b>	<a href="http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=113363&amp;NoSearch=True">http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=113363&amp;NoSearch=True</a>

**Date Received: 29 November 2011 Ward: Bircher**

**Grid Ref: 344231,261224**

**Expiry Date: 29 February 2012**

Local Members: Councillor WLS Bowen

### Introduction.

The following report has been updated to include the update of additional representations received following publication of the previous report, presented to Committee on 4 April 2012. The application was deferred to enable members to make a visit to the site.

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

- 1.1 The site consists of agricultural land located to the side and rear of the existing fire station, from which it is separated by a low hedgerow. The station is located alongside the C1036 public highway known as 'Arbour Lane', Kingsland. The existing fire station is occupied by one fire engine and is externally constructed of brick under a tiled roof.
- 1.2 Within the surrounding area, which forms part of the Kingsland Conservation Area, are dwellings of various scale and character. 130 metres distance from the fire station's eastern elevation is a dwelling known as Kingsland House, this is grade II\* listed. Within a similar distance from the western elevation of the fire station is The Arbour, this is grade two listed.
- 1.3 Within the yard to the rear of the fire station is an existing galvanised drill tower which sits on a concrete base, and is approx. 12 metres in height.

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

- 1.4 Information in support of the application indicates pre-application consultation did take place with the Local Parish Council.
- 1.5 The application proposes new strategic training facilities, (alongside the existing fire station), in order to provide improved fire fighter and accident training for fireman covering the northern area of Herefordshire. The proposal includes the demolition of the existing on site drill tower and removal of its base and removal of part of the existing boundary hedgerow.
- 1.6 New development on site consists of :
- Construction of a new 12 metre high galvanised steel training tower.
  - Two-storey training building approx. 7 metres in height in order to provide hot fire training facilities.
  - A metal clad building in order to house breathing apparatus compressor and cylinder store and other equipment as well as shelter provision for new trainees during briefing sessions.
  - Provision of a concrete formed training trench in order to provide practice facilities for the recovery of cars and large animals from ditches and watercourses.
  - A brick training wall in order to provide training facilities for temporary propping and cutting.
  - A new 2.4 metre high galvanised security fence alongside the inner boundary and native hedgerow on the fence's outer boundary and stock proof fence adjacent to the field boundary.

## 2. Policies

### 2.1 Central Government advice:

- Planning Policy Statement 1: Delivering Sustainable Development.
- Supplement to Planning Policy Statement 1: Planning and Climate Change
- Planning Policy Statement 4: Planning for Sustainable Economic Growth.
- Planning Policy Statement 5: Planning for the Historic Environment.
- Planning Policy Statement 9: Biodiversity and Geological Conservation.
- Planning Policy Guidance Note 24: Planning and Noise.

### 2.2 Herefordshire Unitary Development Plan

- |      |   |  |
|------|---|--|
| S1   | - | Sustainable Development                                  |
| S2   | - | Development Requirements                                 |
| S11  | - | Community Facilities and Services                        |
| DR1  | - | Design   |
| DR2  | - | Land Use and Activity                                    |
| DR3  | - | Movement   |
| DR4  | - | Environment  |
| DR13 | - | Noise  |
| E10  | - | Employment Proposals Within or Adjacent to Main Villages |
| E15  | - | Protection of Greenfield Land                            |
| HBA4 | - | Setting of Listed Buildings                              |
| HBA6 | - | New Development Within Conservation Areas                |
| LA2  | - | Landscape Character and Areas Least Resilient to Change  |
| NC1  | - | Biodiversity and Development                             |
| CF1  | - | Utility Services and Infrastructure                      |
| CF5  | - | New Community Facilities                                 |

### **3. Planning History**

- 3.1 79/105/N – Proposed fire station with drill tower. Approved 6 November 1979.
- 3.2 DCNW2004/0245/F – Single-storey extension. Approved 15 March 2004.

### **4. Consultation Summary**

- 4.1 Welsh Water recommend conditions with regards to discharge of surface and foul water from the site should the application be approved.
- 4.2 English Heritage recommend refusal to the application stating that they consider the proposal will cause substantial harm to the setting of the grade II\* listed Kingsland House, and Kingsland Castle, a scheduled ancient monument. Comment is also made that the proposal will also affect the settings of the grade II listed farmhouse known as The Arbour and its attached barn and Showers Cottage which is also grade II listed as well as the character of the surrounding Conservation Area. Their response further states that the applicants should be encouraged to find another site, in an industrial area with good road connections. Comment is also made that if the Council is minded to grant planning permission, then the adverse impact could be mitigated to a limited extent by planting indigenous and well managed woodland in the fields around the application site.
- 4.2.1 The Transportation Manager raises no objections.
- 4.2.2 The Public Rights of Way Manager raises no objections.
- 4.2.3 The Conservation Manager comments that the proposed development will have an impact which on the whole will be damaging to the character of the area and the setting of the listed buildings. (Grade II\* Kingsland House and Grade II The Arbour), which presently occupy a more or less unspoilt rural context and that this must be weighed against the justification and wider benefits of the proposal. The response recommends that the likely damage to the Conservation Area and the settings of the listed buildings be given full weight against the likely benefits of the proposal and if the application is approved consideration be given to reserve by means of conditions with regards painting the tower, external materials, boundary treatment and planting.
- 4.6 The Landscape Manager initially responded to the application concluding that the proposed development is not considered to meet the requirements of UDP Policy LA2 as an identifiable significant change in the character of the landscape and visual amenity will occur as a result of the proposal. Evidently, this loss of character and negative impact on the edge of the village will have to be weighed against the needs of the Fire and Rescue Service. The response further stated that if the application is to be approved that a landscape condition is attached to any approval notice in consideration of visual amenities.

A further response dated 28 March 2012 to an amended plan indicating additional landscaping in the form of a small tree plantation alongside the eastern side of the application site is welcomed as it will provide improved mitigation for the surrounding area. A condition with regards to protection of an existing tree and hedgerow is recommended to be attached to any approval notice issued.

- 4.7 The Planning Ecologist comments that the grassland on the application site is improved grassland and that the hedgerow proposed for removal is predominantly hawthorn and a hedgerow that appears to have been planted around the time period of the fire station's construction. The response welcomes the planting of a native mixed species hedgerow outside the proposed boundary security fence and that any hedgerow removed must take

place outside of the bird nesting season. A condition with regards to habitat protection and enhancement is recommended to be attached to any approval notice issued as well as the attachment of informative notes, with regards to protection of birds and protected species as referred to in the Wildlife and Countryside Act 1981.

- 4.8 The Environmental Health Manager raises no objections indicating proposed external lighting detail provided as part of the application appears to adequately address issues in respect of overspill/light nuisance and that smoke generated on site from the proposed hotbox/smokeroom should not have any noticeable effect beyond the boundaries of the application site. Potential noise generated on site is not considered to be an issue of undue concern. An additional response concludes that the proposed development is not a sufficient intensification to be likely to cause nuisance.
- 4.9 The Economic Development Manager has responded to the application in consideration of a suggestion that the proposed development would be better situated at Leominster Enterprise Park. The response states that all of the remaining land at the Enterprise Park is currently under offer to one large occupier and as a consequence no land is available at the Enterprise Park for the proposed development. The response further states that within North Herefordshire there appears to be a distinct lack of opportunity for the development subject to this application to be located onto recognised employment allocated land or commercial buildings.
- 4.10 The Archaeology Manager raises no objections, indicating that the site for the proposed development is 200 metres west of the scheduled ancient site of Kingsland Castle, and as such does not consider the proposed development will have an adverse effect on the setting of the castle. The response recommends that a condition with regards to site recording in relationship to any possible undiscovered heritage assets that could be affected as a result of the proposed development is attached to any approval notice issued.

## 5. Representations

- 5.1 Kingsland Parish Council comments as follows:

*'The Parish Council is opposed to the proposed development of the fire station at Kingsland. The proposal to develop within the Conservation Area of a rural village adjacent to a grade II\* listed property is inappropriate. The Parish Council believes the training site should be located near the major A roads and not in Kingsland.'*

- 5.2 Two letters of objection have been received from Mrs. Sarah Sharp-Smith, Kingsland House, Kingsland and K. A. Hughes, 8a, Ford Street, Wigmore. Issues raised are summarised as follows:

- The proposed development falls outside the village envelope.
- The proposed development would form an intrusion into the open countryside and would have an impact on the character of the Conservation Area in this area of the village.
- The proposed development would have a detrimental impact on the character of the adjacent Grade II\* former Rectory known as Kingsland House.
- The proposed development has an industrial outlook which is at odds with the nature of adjacent properties.
- Little attempt at minimising the impact of the proposed development and consideration should be given to lowering the proposed development into the landscape and using the resulting excavated material to form a bank around the proposed development.
- Insufficient consultation with regards to the proposed development.
- Consideration should be given to locating the proposed development at Leominster Enterprise Park, a location considered more suitable for access from fire stations at Tenbury Wells, Bromyard and other fire stations in North Herefordshire.

- The site will be used outside of normal working hours including Sundays.
- Other development proposals within the surrounding vicinity have been considered unsuitable, such as a proposal for affordable housing.
- The proposed development will mean the loss of farmland and will have an impact on livestock that graze the adjacent field.

5.3 One further letter of comment has been received from a member of the public who resides in Kingsland, querying if land is available on Leominster Enterprise Park. The letters suggests that the Fire Service hold a public meeting in Kingsland, as the existing fire station is considered to be a community asset that should be retained and that further discussions with the Community would result in a better understanding of the need for the training venue and its use.

5.4 An email has been received from the applicants referring to an offer to purchase a section of a site on the Leominster Enterprise Park by a third party in order that the applicants can constructed the proposed development at a location considered more suitable by the third party.

5.5 The Ramblers Association comments that there is a footpath within close proximity to the application site and that there must remain unhindered access to this footpath.

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

[www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx](http://www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx)

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

[www.herefordshire.gov.uk/community\\_and\\_living/consumer\\_advice/41840.asp](http://www.herefordshire.gov.uk/community_and_living/consumer_advice/41840.asp)

## 6. Officer's Appraisal

6.1 This is a finely balanced application. It is acknowledged that the proposed development will have an impact on the character and appearance of the surrounding area and this will need to be assessed against the requirements of the Hereford and Worcester Fire and Rescue Service to provide improved training facilities for the part time fire and rescue workers that operate in the northern area of Herefordshire, which is one of the two western areas of the Hereford and Worcester Fire and Rescue Service.

6.2 The key Herefordshire Unitary Development Plan policy is Policy CF1: Utility Services and infrastructure. This policy emphasises how proposals should not adversely affect the amenities of nearby residents or other sensitive uses or significantly impact upon the landscape character and that where necessary proposals should include measures to mitigate any environmental impact.

6.3 The key issues in consideration of this application are:

- Need for the facilities as proposed and sequential test in relationship to site selection.
- Impact of the proposed development on surrounding Conservation Area and setting of listed buildings.
- Landscape impact and biodiversity issues.
- Environmental health issues.

### **Need for the facilities as proposed and sequential test in relationship to site selection**

6.4 Information in support of the application indicates that Hereford and Worcester Fire and Rescue Service have identified a number of areas of initial and continuing training for fire-fighters that are required, in order to support improvements to its service delivery. It has been

established to consolidate fire training facilities at four strategic locations across the service. Present training facilities are based at Kidderminster, Evesham and Malvern. Within the Herefordshire area it is proposed to provide training facilities at Kingsland in order to serve North Herefordshire and at an additional location in the southern area of Herefordshire at a location yet to be decided.

- 6.5 Kingsland Fire Station falls into the north Herefordshire area, which also includes fire stations at Leintwardine, Kington, Tenbury Wells, (Worcestershire) and Leominster. Kingsland has been selected as the venue for the training facilities due to its central location in relation to other fire stations within its group, (all are manned by firemen on a part time basis), and also because there is land adjacent to the fire station that the Fire Service consider is suitable and available for development. It is also considered that Kingsland Fire Station is easily accessible, (30 minutes travelling distance from other fire stations within the same Fire Service area), and within very easy reach of the A4110 public highway.
- 6.6 The applicants' statement that Kingsland Fire Station is the most appropriate fire station at which to locate the proposed development is considered reasonable strategically, as it is the most centrally located station in the Fire Service's northern area, with easy access to the A4110 public highway. The other stations, except Leominster, are not only located on the boundary of the northern area, but of the County itself, except for the one in Tenbury, which is in Worcestershire. It has been suggested that such facilities would be better provided at Leominster. A site visit to Leominster Fire Station has revealed that this station houses three fire appliances and that there is no land available for construction of training facilities as required, being adjacent to a public car park that serves Leominster town centre and within closer proximity to residential areas, than Kingsland Fire Station.
- 6.7 Land adjacent to Leominster Police Station on the Enterprise Park, has also been suggested as a suitable location for the proposed development. The applicants have indicated that available land at this location is insufficient and the training facilities as proposed would conflict with the adjacent helicopter landing pad. Further still existing police welfare facilities at this site are also considered insufficient for use by users of the facilities due to the dirty nature of the proposed training operations. Kingsland Fire Station has adequate facilities, which are required by health and safety legislation and hence a separate site unrelated to a fire station is not considered feasible. Enquires to the Police have confirmed that insufficient land is available at the Leominster Police Station for the required fire and rescue service training facilities.

**Impact of the proposed development on surrounding Conservation Area and setting of listed buildings.**

- 6.8 The site is adjacent to the Kingsland Fire Station, which is located on the eastern fringe of the village outside of the recognised development boundary for the settlement, and within the designated Conservation Area. The development represents a community service facility, and as such the principle of the proposal at a location outside of the recognised development boundary is acceptable in consideration of local plan policies.
- 6.9 The Kingsland Conservation Area covers the majority of the built up area of the village as well as a considerable swath of farmland and more scattered built environment along the southern side of the settlement in which area the fire station is situated.
- 6.10 Located approximately 130 metres from the application site in an easterly direction is Kingsland House, (former Rectory), this is a Queen Ann style dwelling which is Grade II\* listed. Located approximately 110 metres in a westerly direction from the application site is the property known as The Arbour, a Grade II listed timber framed farmhouse. Both of these properties and their curtilages are separated from the existing fire station by a grassland field.

Kingsland Castle, a scheduled ancient monument is located on the opposite eastern side of Kingsland House, to the application site.

- 6.11 The proposal is for development no higher than the existing steel training tower on site proposed for removal, however the proposed fire and rescue training facilities will have greater visual impact as they are far more bulky in scale and form, covering wider area than that presently in situ. The application also includes provision for a boundary security mesh fence measuring approx. 2.2 metres in height with an outer planted hedgerow of mixed natives species with an outer livestock proof fence.
- 6.12 There can be no doubt that the proposed development, which is industrial in character, and although of no greater height than the existing steel tower, will have a greater visual impact than the tower currently on site. Thus there will be an impact on the character of the surrounding Conservation Area, which includes the setting of the two nearest listed buildings. However both listed buildings are separated from the application site by the field, the distance of which will moderate the impact. The grade II\* listed building is surrounded by mature vegetation and the applicants' proposal to plant a native boundary hedgerow and trees alongside the site's boundary will help mitigate the visual impact of the development. It is not considered that there will be any significant impact on the setting of Kingsland Castle, or Showers Cottage, due to the separation distances. Therefore the impact will be greatest on the Conservation Area itself.

#### **Landscape impact and biodiversity issues.**

- 6.13 The application site is located in a landscape character type of Principal Settled Farmlands as defined by the Council's Landscape Character Assessment, the key characteristics of which are hedgerows used for field boundaries and mix farming land use. The existing fire station is a relatively small building enclosed with a fence and hedgerow with an existing steel tower that is not typical of the surrounding landscape.
- 6.14 The proposal will double the amount of the fire station ground area with increased development and structures on site, representing an industrial form of development, albeit on a level site, it represents development which will have a greater impact on the character of the surrounding Conservation Area.
- 6.15 The hedgerow proposed for removal appears to be a hedgerow of mainly hawthorn species that was planted at some time during or after construction of the fire station. The adjacent land is currently used for farm livestock grazing and is considered to be of low importance with regards to the existing grass sward.
- 6.16 The planting of a new native mixed species hedgerow and a buffer planting of trees adjacent to the eastern boundary of the application site is welcomed and will help mitigate the impact of the proposed development on the surrounding landscape and the setting of the nearby Grade II\* listed building.
- 6.17 Whilst it is acknowledged that the proposed development will have an impact on the character of the surrounding landscape, additional landscaping in the form of the boundary hedgerow and tree planting will help mitigate this form of industrial development and contribute towards integrating the development into the surrounding landscape.

#### **Environmental Health issues**

- 6.18 It is noted that the Environmental Health Manager raises no objections to the proposed development, indicating that smoke generated on site is not considered sufficient enough to cause sufficient nuisance to surrounding dwellings in consideration of the location. Proposed

external lighting is also considered acceptable. Use of the training facilities considered acceptable in consideration of the location for the development and intensity of use.

- 6.19 Therefore concerns as raised about environmental issues, such as escape of smoke from the site, noise and external lighting cannot be sustained in the event of a refusal of the application.

### **Other outstanding issues.**

- 6.20 The issue with regards to the offer to purchase a section of a site at the Leominster Enterprise Park for construction of the proposed development is not considered a material planning issue in relationship to this application. Further still the applicants have indicated that there is no economic viable solution to enable the proposed development to be constructed at Leominster Enterprise Park in accordance with the offer as suggested by the third party.

## **7. Conclusions**

- 7.1 The application proposes much needed improved training facilities for retained fire and rescue workers covering the North Herefordshire Area.
- 7.2 It has been established that strategically Kingsland Fire Station is the most suitable and convenient location at which to construct the facilities. Land is available immediately adjacent to the existing station. Other fire stations within the North Herefordshire area are located on the area's boundaries. It has also been established that no other fire stations have suitable land available adjacent to their station structures, whilst other land options for training facility construction have also proved unviable. Therefore the sequential test in relationship to site selection is considered to be satisfied.
- 7.3 There is no doubt that the training facilities will have an impact on the quality of the surrounding landscape and Conservation Area. The proposal to plant a native boundary hedgerow and trees, will help mitigate the proposal into the surrounding landscape to an extent, but will not entirely ameliorate its impact. The impact on the listed buildings in close proximity to the site will be limited, as Kingsland House is surrounded by mature vegetation and separated from the site by a field. Arbour House is positioned at a different angle in relationship to the existing fire station than Kingsland House, and also has a significant separation distance from the fire station, by means of the said field and landscaping and planting within its curtilage. Landscaping as proposed will help mitigate the development and conditions attached to any approval notice issued will ensure landscaping of the site.
- 7.4 It is noted the Environmental Health Manager raises no objections in consideration of residential amenity issues.
- 7.5 Whilst it is acknowledged that the proposal will have an impact on the Conservation Area the need for the facility is considered to be a material consideration of sufficient weight to justify approval.

## **RECOMMENDATION**

**That planning permission be granted subject to the following conditions:**

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans**
- 3. C01 Samples of external materials**
- 4. G09 Details of Boundary treatments**

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



5. **G10 Landscaping scheme**
6. **G11 Landscaping scheme - implementation**
7. **I33 External lighting**
8. **E01 Site investigation - archaeology**
9. **L01 Foul/surface water drainage**
10. **L02 No surface water to connect to public system**
11. **L03 No drainage run-off to public system**
12. **Prior to commencement of the development, a habitat protection and enhancement scheme must be submitted to and approved in writing by the local planning authority, and the scheme shall be implemented as approved.**

**Reason: To comply with policies NC7, NC8 and NC9 within Herefordshire's Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of PPS9 Biodiversity and Geological Conservation and the NERC Act 2006**

#### **INFORMATIVES:**

1. **N11A Wildlife and Countryside Act 1981 (as amended) - Birds**
2. **N11C General**
- 3 **Reasons for granting of planning permission.**

**The proposal is for improved fire and accident training facilities for fire and rescue workers who cover the North Herefordshire Area in accordance with the Hereford and Worcester Fire Service proximity of strategic training buildings data map supplied by the applicants**

**The sequential test in relationship to site selection is considered satisfactory, the applicants having adequately demonstrated why the development should be located adjacent to the existing Kingsland Fire Station.**

**Whilst it is acknowledged that the applicants have submitted amended plans indicating improved landscaping mitigation and with suitably worded conditions attached to any approval notice issued on balance the proposed development is considered acceptable in consideration of landscape/biodiversity impact.**

**However the site is located within the Kingsland Conservation Area, to which it is considered that the development will have a negative impact upon and therefore not considered to be in accordance with Policy HBA6: Development within Conservation Areas, of the Herefordshire Unitary Development Plan.**

**Within close proximity to the site are two listed buildings, (One Grade II\* and the other Grade II), in consideration of the separation distance from the site and additional landscape mitigation the proposed development is considered acceptable in consideration of the setting of these listed buildings. The proposed development is also considered acceptable in relationship to the setting of other**

listed buildings within the vicinity of the site and this includes the setting of Kingsland Castle.

The proposed development in consideration of residential amenity and privacy is considered acceptable, as well as public highway issues in consideration of the Fire Station's location.

In consideration of the need to provide adequate training facilities for Fire and Rescue workers within the North Herefordshire area and the sequential test in relationship to the site selection and overall impact on the surrounding landscape, historic environment, and consideration to environmental health issues, on balance the proposed development is considered acceptable. Whilst explicitly not considered to be in accordance with Policy HBA6 of the Herefordshire Unitary Development Plan, it is considered that material considerations identified above outweigh the requirements of the historic environment in relationship to the Conservation Area, the proposal therefore is considered to be in accordance with other policies of the said Plan and the National Planning Policy Framework.

Key Herefordshire Unitary Development Plan Policies are considered to be Policies S1, S11, DR1, DR2, DR3, DR4, DR13, E10, HBA4, HBA6, LA2, NC1 and CF1.

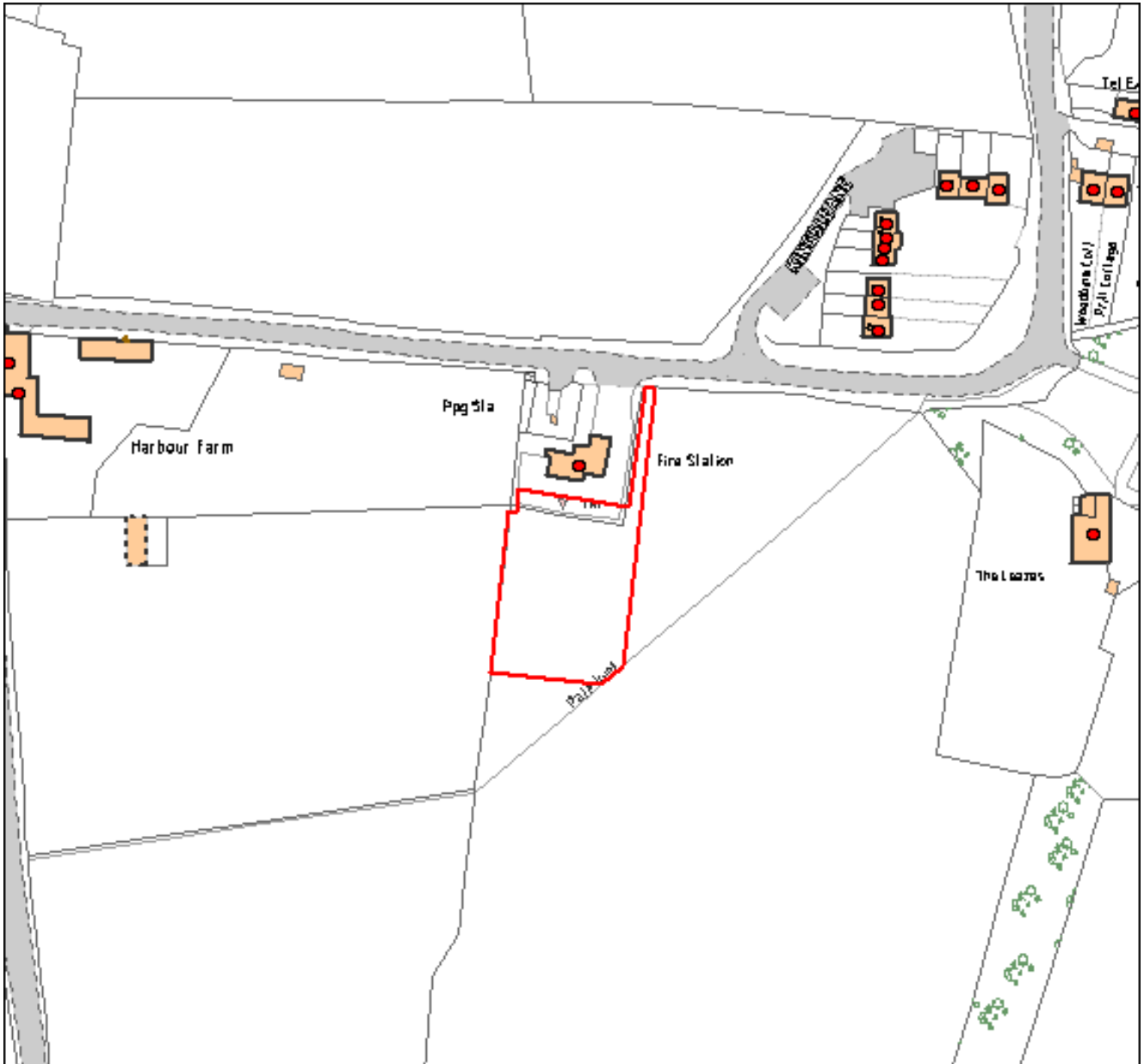
Decision: .....

Notes: .....

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### **Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** N/113363/F

**SITE ADDRESS :** KINGSLAND FIRE STATION, ARBOUR LANE, KINGSLAND, HEREFORDSHIRE, HR6 9RZ

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<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>25 APRIL 2012</b>
<b>TITLE OF REPORT:</b>	<p><b>S120210/F- REMOVAL OF CONDITIONS 13 AND 16 OF PLANNING PERMISSION DMS/102971/F. TO REMOVE CONDITIONS LINKING THE ANCILLARY USE OF THE RESTAURANT TO THE HOTEL AT CASTLE LODGE HOTEL, GREEN COURT, WILTON, HEREFORDSHIRE, HR9 6AD</b></p> <p><b>For: Mr C Felices per Mr Bernard Eacock, 1 Fine Street, Peterchurch, Herefordshire, HR2 0SN</b></p>
<b>WEBSITE LINK:</b>	<a href="http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=120210&amp;NoSearch=True">http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=120210&amp;NoSearch=True</a>

Date Received: 20 January 2012 Ward: Llangarron

Grid Ref: 358876,224387

Expiry Date: 16 March 2012

Local Member: Councillor JA Hyde

## 1. Site Description and Proposal

- 1.1 The application site comprises a substantial stone barn and adjoining land situated in the angle between the A40 trunk road, the B4260 leading to Ross-on-Wye and the unclassified road leading to Wilton Castle. The site is a short distance away from the Castle Lodge Hotel, which was in the same ownership. The site is within the Wilton Conservation Area and the Wye Valley Area of Outstanding Beauty (AONB).
- 1.2 Planning permission was granted for the conversion of the aforementioned barn to a restaurant and formation of associated car-parking on 17 March 2006 (SE2005/2343/F). This planning permission was the subject of a number of planning conditions. The planning permission was due to expire on 17 March 2011, but was extended on 10 January 2011 (S/102971/F). This planning permission was subject to the same conditions, as attached to the original planning permission.
- 1.3 This application is made under the provisions of Section 73 of the Town and Country Planning Act 1990 (as amended) and proposes the removal of conditions 13 and 16 attached to the extant planning permission. A similar application was refused by the Planning Committee on 6 April 2011 (S102972/F) and previously by the Southern Area Planning Sub-Committee on 25 November 2009 (DCSE0009/1859/F). The reasons for refusal were as follows:

*The local planning authority considers that conditions 13 and 16 of planning permission SE/102971/F (10 January 2011) continue to serve a useful planning purpose. The removal of these conditions would allow the operation of two separate businesses, with a concomitant increase in traffic upon the adjoining lane and an increased risk of indiscriminate parking upon it. Given the proximity of the site to the strategic road network and the inadequacy of the junction onto the B4260, the local planning authority considers the conditions essential in maintaining both highway safety and the residential amenity of local residents. The application*

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Further information on the subject of this report is available from Andrew Prior on 01432 261932

is thus contrary to Policies DR2, DR3 and T11 of the Herefordshire Unitary Development Plan 2007.

1.4 The conditions are as follows:

Condition 13

*The restaurant hereby approved shall only be used for purposes ancillary to the hotel known as Castle Lodge Hotel and within Class C1 of the Town and Country Planning (Use Classes) Order 1987(or any order revoking and re-enacting that order with or without amendment) and shall not be used as a separate restaurant for any other purpose within Class A3 of that order.*

*Reason: In the interests of highway safety, to ensure the free flow of traffic using the adjoining highway and protect the amenity of residents in the vicinity of the site and to conform to Policies T11 and DR2 of Herefordshire Unitary Development Plan.*

Condition 16

*The restaurant and car-park hereby approved and the Castle Lodge Hotel shall not be sold, let or leased separately from each other, and the car-parking shall be permanently available for use by both the restaurant and Castle Lodge Hotel.*

*Reason: To ensure that car-parking facilities are available for both premises and protect the amenity of residents in the vicinity of the site and to comply with Policy DR2 of Herefordshire Unitary Development Plan.*

1.5 The application is supported by a draft legal agreement providing for a contribution towards the making of a Traffic Regulation Order (TRO) to provide for parking restrictions on the unclassified lane that serves the site. The application in its most recently revised form also makes provision for the dedication of 16 parking spaces within the curtilage of the barn restaurant which would be for the sole use of patrons of the Castle Lodge Hotel.

1.6 The most recent refusal referred to above, (S102972/F) was the subject of an appeal to the Secretary of State. It was dismissed on Appeal on 6 October 2011. The appointed Inspector was satisfied with parking provision proposed for both Castle Lodge Hotel and the new barn restaurant and did not consider that there would be an adverse impact on residential amenity associated with a distinct restaurant use. However, it was considered that the visibility onto the B4260, should be comparable at least to that being provided by the extant planning approval onto the unclassified lane. It was further stated by the Inspector that no up-to-date figures for traffic generation were provided and that trip generation figures dated from 2005 were out of date. This current application is accompanied by a Transport Statement, in order to provide an up-to-date assessment of trip generation and use of the site

## **2. Policies**

2.1 National Planning Policy Framework

2.2 Herefordshire Unitary Development Plan

S1	-	Sustainable Development
S2	-	Development Requirements
S7	-	Natural and Historic Heritage
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
T11	-	Parking Provision

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- LA1 - Areas of Outstanding Natural Beauty
- HBA6 - New Development within Conservation Areas
- NC1 - Biodiversity and Development
- HBA12 - Re-use of Rural Buildings
- E11 - Employment in the Smaller Settlements and Open Countryside

## 2.3 Government Circular 11/95: The Use of Conditions in Planning Permissions

### 3. Planning History

3.1	SH910820PF	Conversion of barn to a dwelling	-	Approved 07.01.92
	SH951204PF	Change of use of land and barn (with extension) to vehicle hire centre with offices with valleting room.	-	Refused 05.02.96
	SH960935PF	Change of use of land and barn (with extension) to vehicle hire centre with offices with valleting room.	-	Refused 05.02.96
	SH961463PF	Conversion of existing barn to dwelling.	-	Approved 02.06.97
	SE2002/1765/F	Change of use to redundant barn into conference centre and construction of new car park.	-	Approved 25.09.02
	SE2003/2164/F	Relocation of restaurant to barn and construction of new car park and alterations to existing car park.	-	Approved 15.10.03
	SE2004/3888/F	Refurbishment and conversion of existing derelict barn to restaurant and creation of new car parking facilities serving existing hotel and new restaurant, together with associated junction improvement works.	-	Withdrawn 28.02.05
	SE2005/2343/F	Refurbishment and conversion of existing derelict barn to restaurant and creation of car parking facilities serving existing hotel and new restaurant, together with associated junction improvement works.	-	Approved 17.03.06
	SE0009/1859/F	Refurbishment and conversion of existing derelict barn to restaurant, together with associated junction improvement works (removal of conditions 13 and 16 on Planning Permission DCSE2005/2343/F).	-	Refused 25.11.09
	SE/100914/F	Refurbishment and conversion of existing derelict barn to restaurant, together with associated junction improvements (removal of conditions 13 and 16 on application DCSE2005/2343/F).		Withdrawn 10.06.10
	SE/101074/F	Proposed extension of time limit on application DCSE2005/2343/F – to restaurant and creation of new car parking facilities servicing existing hotel and new restaurant together with associated junction improvements.	-	Withdrawn 16.07.10
	SE/102971/F	Replacement of extant planning permission	-	Approved

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	SE2005/2343/F for refurbishment and conversion of existing derelict barn to restaurant and creation of new car parking facilities serving existing hotel and new restaurant, together with associated junction improvement works.	10.01.11
SE/102972/F	Removal of conditions 13 and 16 of Planning Permission S/102971/F. Refurbishment and conversion of existing derelict barn to restaurant and create new car parking facilities and associated junction improvement works – to Remove conditions linking the ancillary use of the restaurant to the hotel.	- Refused 06.04.11 Dismissed on Appeal 06.10.11

#### 4. Consultation Summary

##### Statutory Consultations

- 4.1 Highways Agency: The Highways Agency recognises that it is intended to allow the barn restaurant and hotel to operate independently and that this is still the case with the current proposal. The Highways Agency states that the previous interest related to car parking provision. It is considered that the Council is best placed in accordance with recent Government guidance to determine appropriate minimum car parking numbers. Therefore, the Highways Agency does not wish to offer any objection to the application.

##### Internal Council Advice

- 4.2 Traffic Manager: Having regard to the appeal, it is acknowledged that the findings of the Inspector state that the removal of conditions 13 and 16 need not lead to inadequate parking provision. A parking plan is required for both sites to demonstrate a combined total of 75 spaces. How will the shared parking on both sites be secured?
- 4.3 Public Rights of Way Manager has no objections

#### 5. Representations

- 5.1 Bridstow Parish Council objects to the removal of Conditions 13 and 16.
- 5.2 Eleven letters of objection have been received from residents in the locality. The following main issues are raised:
- Removal of two conditions would result in two separate businesses operating, with an associated increase in the volume of traffic using the junction of the lane and B4260 road, which is in close proximity to A40/A49 Wilton roundabout and to junction with BP service centre.
  - Transport Statement (TS) changes nothing still 386 trips as compared to Highways Agency's figure of 412 trips.
  - Comparison data in TS to sites in Scotland and Republic of Ireland not comparable.
  - Car –parking provision at Castle Lodge Hotel not enforceable
  - It will become a 'turn around restaurant' operating between 7 am and 11 pm
  - Conditions imposed to safeguard amenity and safety of local residents. No justification for removing the conditions.
  - Wilton Castle needs parking facilities for open days and functions.
  - Double yellow lines proposed will not prevent parking problems. HGV's already park at entrance of lane which is lined.
  - Important local building in AONB and Conservation Area has been allowed to deteriorate



- 5.3 The consultation responses can be viewed on the Council's website by using the following link:-  
[www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx](http://www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx)

Internet access is available at the Council's Customer Service Centres:-  
[www.herefordshire.gov.uk/community\\_and\\_living/consumer\\_advice/41840.asp](http://www.herefordshire.gov.uk/community_and_living/consumer_advice/41840.asp)

## 6. Officer's Appraisal

- 6.1 The application proposes the removal of two conditions attached to planning permission S/102971/F. The effect would be to allow for the operation of the hotel and restaurant as two separate businesses. It should be borne in mind that this application does not affect any of the other conditions attached to the extant permission. As such, it would still be a requirement that no more than 60 seats be laid out for dining within the barn restaurant and that there should be no takeaway service. As such, measures would continue to exist that control the end use of the building. Likewise the developer would still have to comply with condition 26 of the extant planning permission, which requires works of mitigation to the lane and the junction with the B4269, including carriageway widening and the provision of a footpath along the site frontage. In addition, this application proposes to contribute towards the making of a TRO to provide for parking restrictions along the lane. This latest application also now needs to be assessed with reference to a dismissed appeal in respect of car parking provision, impact on residential amenity and use of the junction with the B4260 road.
- 6.2 As such the key issues in the determination of this application are as follows:
- The impact of the removal of the conditions upon the safety and free flow of traffic upon the strategic and local highway network.
  - An assessment of the parking arrangements for the existing hotel and the proposed restaurant.
  - An assessment of the impact of the removal of the conditions upon the living conditions of nearby residents.
- 6.3 The Highways Agency has previously confirmed that the removal of conditions 13 and 16 would not result in any intensification of use of the Wilton Roundabout and the junction of the B4260 than previously tested and agreed. The original Highways Agency assessment of the 2005 application was made on the basis that the barn restaurant and hotel would operate as independent businesses as it was on that basis that the application was originally made. The control imposed by conditions 13 and 16 was not put in place at the recommendation of the Highways Agency and the prospect of removing the conditions has, in the Agency's view, no material impact over and above what has already been tested and approved. It should also be noted that the Highways Agency response is made in the light of current levels of traffic on the A40 and A49, following the re-design on the Wilton Roundabout and having regard to the recently dismissed appeal. One of the key issues raised by the appointed Inspector related to the visibility achievable on the B4260 road, as compared to that available when leaving the site and joining the unclassified lane. The Inspector referred to a shortfall, in particular to visibility towards Ross-on-Wye. The Council's Traffic Manager has though whilst acknowledging the restriction in visibility on the nearside by a stone wall stated that this is more than compensated for by the visibility achievable for traffic heading uphill towards the Wilton roundabout from the junction. This is important given that most traffic leaving the lane would be likely to be turning right. This issue is not one that has been previously raised by the Council's Traffic Manager and notwithstanding the reference made by the Inspector it is considered that satisfactory visibility is achieved in both directions with no significant uplift in traffic generation resulting from the independent operation of a restaurant.
- 6.4 In relation to parking provision the Highways Agency do not object and neither does the Traffic Manager subject to appropriate provision of dedicated parking for both uses. The originally

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Further information on the subject of this report is available from Andrew Prior on 01432 261932

approved scheme made provision across the two sites for a total of 64 spaces, with 55 provided upon the barn site and 9 at the hotel. Condition 16 requires that the car parking should be permanently available for use by both the restaurant and the Castle Lodge Hotel. This arrangement was workable whilst a condition was in place restricting the separate disposal of the barn restaurant and hotel. Now that it is proposed to remove this condition, it is essential that each business has adequate on-site provision to prevent indiscriminate parking on the lane and the concomitant effect that congestion could have upon the junction of the lane and the flow of traffic on the B4260 and the Wilton Roundabout.

- 6.5 Notwithstanding the historically approved parking layout, the outcome of the appeal decision suggests that a provision of 71 or 75 spaces (depending upon what floor space figure is used for the existing hotel) would be needed to serve both sites. As proposed, the barn site currently has 55 allocated spaces, which is in line with adopted Highways Design Guidance. The hotel provides for a theoretical minimum of 9 spaces, albeit 13 vehicles have been observed parking on the forecourt of the hotel at the weekend. Accordingly, this represents a potential total of 68 spaces across the two sites. In order to address ongoing concerns about the provision of parking space, a revised parking layout has been provided, which is the subject of further consultation at the time of writing. The revised plan shows an increased provision of 59 spaces on the barn site (a total provision of 72 spaces across both sites). Of these 59 spaces, 16 spaces would be retained for the sole use of patrons of the Castle Lodge Hotel giving it an achievable provision of 29 spaces which can be secured by planning condition. This allocated car parking is supported on the basis that it secures sufficient parking provision for the hotel. Again, it is reiterated that the existing permission does not allow for any takeaway from the site and also imposes an upper limit on the number of seats for dining.
- 6.6 The Traffic Manager had previously expressed concern with regard to the proposed level of parking at the hotel. This concern was based upon the fact that the provision at the hotel would fall below design guide standards and so increase the propensity for on-street parking on the unclassified lane. However, in determining the appropriate level of parking for the hotel it is pertinent to consider the existing parking arrangements and those approved under the extant planning permission. As discussed above, the revised proposal would secure 16 additional spaces in perpetuity for the hotel together with the existing minimum provision on the hotel site of 9 spaces, which is considered to be sufficient and in line with the extant planning permission. Furthermore, the potential 29 spaces for an 11 bedroom hotel would seem a reasonable provision in an edge of town location, notwithstanding the fact that the hotel restaurant is open to the public. In the light of the further uplift in total parking provision to 72 spaces, it is considered that the application has satisfied the need identified by the Inspector and as such any residual concerns about the parking layout have been addressed in the light of the appeal decision.
- 6.7 As referred to above, this application has no implications for the remaining conditions attached to the extant permission. Accordingly, the developer will have to fulfill the requirements of the outstanding conditions which include local highway improvements, restricted opening hours, no takeaway service and a limitation on the number of seats available for dining. It should be noted that in the representations received reference is made to a 'turn around restaurant', which can only be concluded is a takeaway facility and therefore controlled by the extant planning condition. Likewise, any external lighting must be agreed prior to the first use of the restaurant as would lighting for the car park. As such, it is considered that measures remain in place to ensure that the residential amenity of nearby properties would be preserved against the existing scenario.
- 6.8 One of the issues considered by the Inspector when determining the recently dismissed appeal was that of residential amenity. Reference is made in representations received that the amenity of residents could no longer be safeguarded. It is considered that the use of the restaurant barn i.e. times of opening and use together with the control of parking for not only the restaurant barn but also for the existing hotel will, as the Inspector stated, safeguard the

amenity of local residents. It is not considered that the removal of these conditions will have an adverse impact on local residents.

### Summary and conclusions

- 6.9 The concerns expressed by local residents focus principally upon the implications for highway safety. Whereas the barn restaurant is currently tied to the hotel, the application, if approved, would effectively create a separate business utilising a junction opposite the service station entrance and in close proximity to the Wilton Roundabout. The Highways Agency has no objection to the removal of conditions 13 and 16 on the grounds that their assessment of the 2005 application was always based upon the barn restaurant operating separately from the hotel. Furthermore, the Traffic Manager still has no objections on highways safety grounds to the removal of conditions as proposed, this includes the visibility onto the B4260, an issue raised by the Inspector. The submitted Transport Statement also establishes that fewer trips will be undertaken as compared to 2005 figures and the therefore the issue of traffic generation has been appropriately addressed. It is considered on balance given technical advice currently provided, an assessment of visibility and parking provision made by the Traffic Manager together with that of the Highways Agency that two independent businesses can operate without undue implications for highway safety or upon the amenity of local residents. Accordingly, subject to the completion of a Section 106 Agreement to secure the contribution to making the Traffic Regulation Order and the conditions set out below, the application to remove Conditions 13 and 16 is recommended for approval.

### **RECOMMENDATION**

- 1. Subject to no further objections raising additional planning considerations being raised by the end of the consultation period, the Head of Legal and Democratic Services be authorised to complete a planning obligation under Section 106 of the Town and Country Planning Act 1990 in regard to the making a contribution towards the making of a Traffic Regulation Order and the subsequent provision of parking restrictions on the unclassified lane.**
- 2. Upon completion of the above mentioned Officers named in the Scheme of Delegation be authorized to issue planning permission subject to the following conditions:-**

**That planning permission be granted subject to the following conditions:**

- 1. B04 Amendment to existing permission**
- 2. C06 Development in accordance with the approved plan**
- 3. Prior to the first use of the restaurant approved under reference S/102971/F details for the dedication and demarcation of 16 parking spaces for the sole use by patrons of Castle Lodge Hotel in accordance with a scheme to be submitted to and approved in writing by the local planning authority These spaces shall thereafter be retained and kept available for use by patrons of Castle Lodge Hotel at all times.**

**Reason: To minimise the likelihood of indiscriminate parking in the interests of highway safety and to conform with the requirements of Policy T11 of Herefordshire Unitary Development Plan.**

### **INFORMATIVE:**

- 1. Having regard to the proposed removal of condition 13 and 16 of Application No.**

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Further information on the subject of this report is available from Andrew Prior on 01432 261932

**S/102971/F, the local planning authority considered that the traffic generated by two separate businesses together with the total parking provision and associated improvements and proposed parking restrictions on the unclassified lane would ensure that no adverse impact upon highway safety or the residential amenity of local residents would result. Accordingly the local planning authority considers that the proposed removal of the conditions accords with Policies DR2, DR3 and T11 of the Herefordshire Unitary Development Plan**

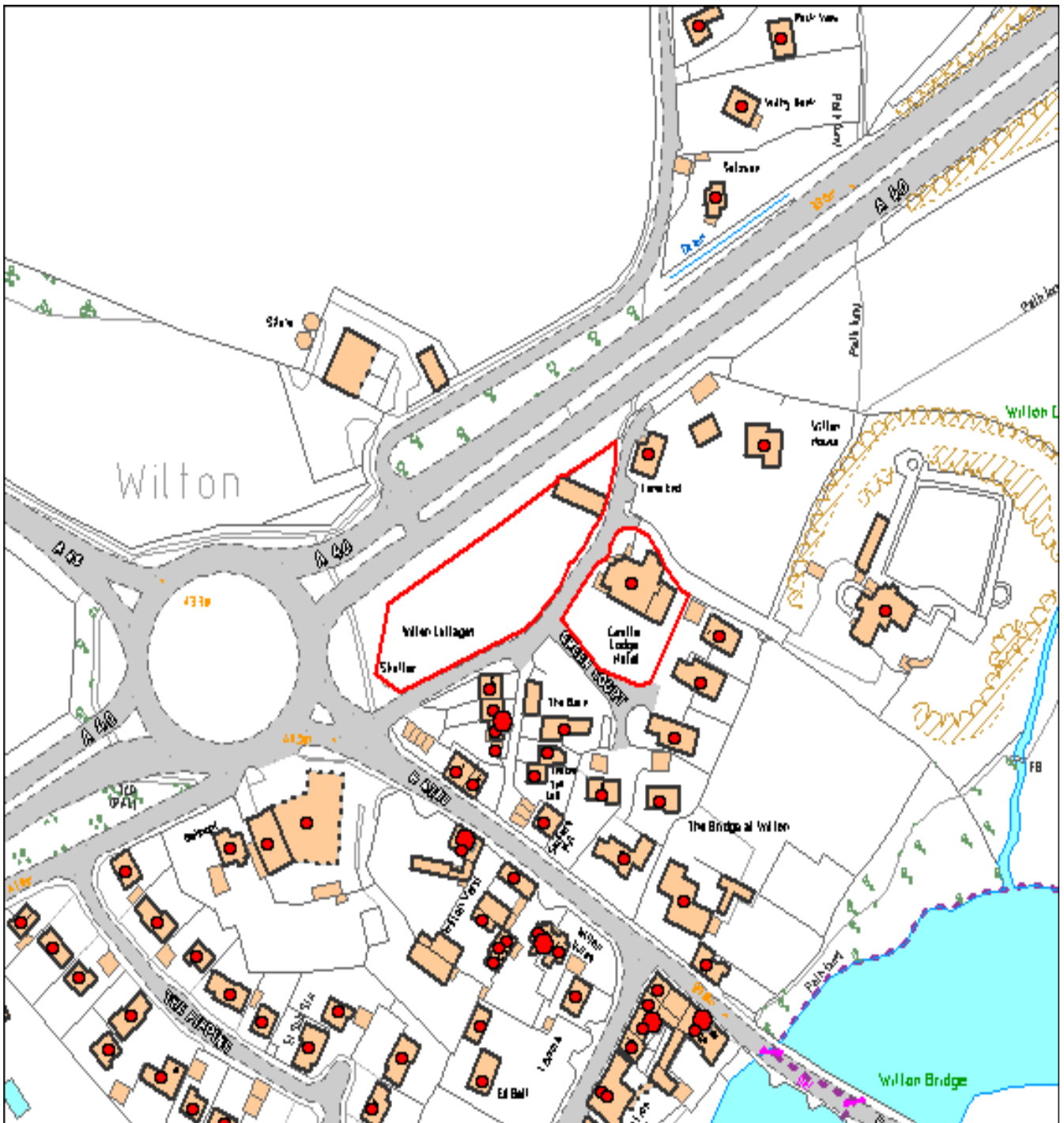
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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** S/120210/F

**SITE ADDRESS :** CASTLE LODGE HOTEL, GREEN COURT, WILTON, HEREFORDSHIRE, HR9 6AD

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<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>25 APRIL 2012</b>
<b>TITLE OF REPORT:</b>	<b>N113558/F - EXTENSION TO EXISTING POULTRY BUILDING WITH ENVIRONMENTAL AGENCY APPROVAL AT THE RHYSE FARM, LYONSHALL, KINGTON, HEREFORDSHIRE, HR5 3LX</b>  <b>For: Mr Davies per Mr Gareth Wall, 54 High Street, Kington, Herefordshire, HR5 3BJ</b>
<b>WEBSITE LINK:</b>	<a href="http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=113558&amp;NoSearch=True">http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=113558&amp;NoSearch=True</a>

**Date Received: 20 December 2011**

**Ward: Pembridge and  
Lyonsall with Titley**

**Grid Ref: 335168,257247**

**Expiry Date: 22 March 2012**

Local Member: Councillor RJ Phillips

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

- 1.1 The site is located to the eastern side of an active farmstead, adjacent to the eastern gable end of an existing intensive poultry shed that forms one of five at the location for the proposed development. Two of the original five sheds on site have recently been increased in size, in a similar scale and size to that of the proposal subject to this application.
- 1.2 The proposal is to increase the floor area by 542.50 square metres, in order to house 5,000 additional birds on site. The existing shed has floor space of 1350 square metres. The existing site has capacity for up to 135,000 birds but with an Environmental Permit of 157,500 birds.
- 1.3 A screening opinion carried out under the Town and Country Planning (Environmental Impact Assessment), Regulations 1999 dated March 5<sup>th</sup> 2012 concluded that the proposed development falls below the threshold of DETR Circular 02/99 (A4) and therefore an Environmental Statement is not required to accompany any formal application for the proposed development.

## **2. Policies**

### **2.1 Herefordshire Unitary Development Plan:**

S1	-	Sustainable Development
S2	-	Development Requirements
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR4	-	Environment
E13	-	Agricultural and Forestry Development

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

- E16 - Intensive Livestock Units
- LA2 - Landscape Character and Areas Least Resilient to Change
- NC1 - Biodiversity and Development
- NC8 - Habitat Creation, Restoration and Enhancement

## 2.2 National Planning Policy:

National Planning Policy Framework

### 3. Planning History

- 3.1 DMN/110788 – Extension to existing poultry unit. Approved subject to conditions 27 July 2011.
- 3.2 N/103356/F – Extension to existing poultry shed. Approved subject to conditions 21 February 2011.
- 3.3 96/0287/N – Proposed additional poultry house. Approved 21 May 1996.
- 3.4 91/0583 – Erection of poultry houses. Approved 19 November 1991.
- 3.5 81/0026/O – Erection of broiler house. Approved 19 February 1981.

### 4. Consultation Summary

#### Statutory Consultees

- 4.1 Natural England raise no objections.
- 4.2 The Environment Agency raises no objections indicating an Environmental Permit variation was issued in August 2010 to allow up to 157,500 birds to be retained on site. The original permit allowed 117,600 birds. Their response indicates that they have no record of complaints relating to amenity issues such as odour or dust from the site, and that the principal of an increase to the area of shed 3 that is subject to this application was agreed between the applicants and the Environment Agency in October 2011.

#### Internal Consultation Response

- 4.3 Landscape Manager: Raises no objections subject to conditions attached to any approval notice requiring additional tree and hedgerow planting.
- 4.4 Planning Ecologist: Raises no objections, indicating support to the Landscape Officer's comments in consideration of a landscape scheme. The response also recommends a condition to be attached to any approval notice with regards to a habitat protection and enhancement scheme for the adjacent stream corridor.
- 4.5 Environmental Health Manager: Raises no objections to the proposed development.
- 4.6 Transportation Manager: Raises no objections.

### 5. Representations

- 5.1 Lyonshall Parish Council object to the proposed development indicating there is insufficient information submitted in support of the application on which basis to recommend approval.

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



Concerns are raised about the plans submitted in support of the application with regards to amount of poultry units on site as a whole, confusion over amount of birds on site and amount of increase in birds as a result of this application, concerns are also raised about unofficial complaints about noise and smell generated on site and proximity of site to protected receptors. The response indicates that the fact that the site has a permit issued from the Environment Agency allowing an increase in bird numbers on site is of no relevance in relationship to planning considerations. Concerns are also raised about the amount of HGV's along the adjacent public highways as a result of development on site and visual intrusion of development on site in consideration of the surrounding countryside. The response also states that an odour impact assessment is required in support of the application at the very minimum along with an Environmental Statement. The response also states that the proposed development is not in accordance with the Parish Council's policy on poultry development.

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

[www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx](http://www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx)

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

[www.herefordshire.gov.uk/community\\_and\\_living/consumer\\_advice/41840.asp](http://www.herefordshire.gov.uk/community_and_living/consumer_advice/41840.asp)

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

- 6.1 The site consists of five separate poultry sheds to which the original Environment Permit issued by the Environment Agency allowed up to 117,600 birds to be retained on site.
- 6.2 In August 2010 the Environment Agency issued a permit variation, this allowed an increase in bird numbers to 157,500. The Environment Agency's response to this application dated 28<sup>th</sup> February 2012 states that the variation decision to increase 'broiler' numbers was based on evidence that a lower ammonia emissions factor is appropriate for broilers than was used in the original modelling of the impacts of this installation on nearby sensitive receptors, meaning that the number of birds can be increased with no greater impact than was originally predicted.
- 6.3 Of the original five sheds on site, two have recently had extensions added to them in a similar scale to the one subject to this application. Each one allowing 5,000 additional birds to be housed in each building.
- 6.4 This proposal is for an extension covering the same amount of floor area measuring 542.50 square metres, in order to house 5,000 additional 'broiler' chickens on site. The proposal would increase capacity on site to 140,000 birds. As noted earlier the Environmental Permit issued by the Environment Agency in August 2010 allows 157,500 birds to be retained on site. Clearly this would be subject to satisfactory bird accommodation being provided on site.
- 6.5 The proposed development is of a scale and size considered acceptable in relationship to the existing poultry unit and surrounding landscape with conditions attached to any approval notice issued requiring additional landscaping in the form of hedgerow and tree planting and habitat enhancement, (the poultry site itself being located within close proximity to its southern side by a natural stream corridor). It is noted that the Landscape Manager and Planning Ecologist raise no objections.
- 6.6 The Transportation Manager in his response to the application raises no objections indicating that he has re-assessed the increase in vehicular use, as a result of the proposed development and considers the access from the adjacent public highway into the site has adequate capacity, as does the surrounding local highway network.
- 6.7 It is further noted that neither the Environmental Health Manager or the Environment Agency raise any objections in consideration of amenity and odour issues.

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

- 6.8 As well as raising concerns about issues as considered above, the Lyonshall Parish Council in their response to the application indicated that they believe a full environmental impact assessment/odour assessment, is required to accompany the application in consideration of the scale of the overall plan and proximity to protected receptors.
- 6.9 The proposal has been subject to a screening opinion under Environmental Impact Assessment Regulations, as referred to in paragraph 1.3 of this report. The screening opinion dated 5 March 2012 concluded that an Environmental Statement was not required to accompany the application, as the proposal to house an additional 5,000 birds on site on an increased floor area of approx. 542 square metres is not considered to have any adverse cumulative impact on the surrounding environment when assessed against the existing business operated on site, falling below the recognised thresholds of both schedule 1 on bird numbers, and schedule 2 in consideration of the proposed floor area and bird numbers, in consideration to the surrounding environment, when assessed in relationship to Circular 02/099, of Environmental Impact Assessment Regulations.
- 6.10 The Environment Agency, Natural England and the Council's Environmental Health, Landscape and Ecology Managers were consulted with regards to consideration for an Environmental Statement as part of the screening process and none requested an Environmental Statement to accompany any formal application for the proposed development.
- 6.11 It is acknowledged that the Lyonshall Parish Council has adopted a broiler chicken policy dated 7 July 2011 for use when assessing planning applications of this nature. However this Parish policy presently can be give little weight, having not been formally adopted by the Council as 'supplementary planning policy'.

## 7.0 Conclusions

- 7.1 Whilst it is acknowledged that the Parish Council has concerns about the amount of applications for development at this specific site, and whilst multiple separate applications for development on the same site are not to be encouraged, each separate application has been given full planning consideration, and assessed on its own merits, equal to if one single application for an increase in bird numbers and development on site had been submitted for planning consideration.
- 7.2 It is considered that the application under consideration raises no issues of concern in relationship to cumulative impact or other planning issues of concern and therefore the recommendation is one of approval subject to conditions.
- 7.3 With the above taken into consideration including objections received, the proposed development, with no adverse responses from any of the statutory consultees, is considered to be in accordance with policies of the Herefordshire Unitary Development Plan, the key policies of which were Policies S1, DR1, DR2, DR3, DR4, E16, LA2 and NC1. The proposal also considered to be in accordance with the recently introduced National Planning Policy Framework.

## RECOMMENDATION

**That planning permission be granted subject to the following conditions:**

1. **A01 Time limit for commencement (full permission)**
2. **B01 Development in accordance with the approved plans**
3. **C02 Matching external materials (extension)**

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

- 4. G02 Retention of trees and hedgerows
- 5. G10 Landscaping scheme
- 6. G11 Landscaping scheme - implementation
- 7. Prior to any development on site full details will be submitted and approved in writing by the local planning authority with regards to a habitat protection and enhancement scheme for the adjacent stream corridor. Detail will include a timetable for the approved works.

**Reason: In consideration of biodiversity and to comply with Policies NC1 and NC8 of the Herefordshire Unitary Development Plan.**

**Reasons for Granting Planning Permission:**

- 1. The proposed development refers to an increase in overall floor space to one of five intensive poultry sheds and a consequential increase in bird numbers that is considered acceptable in consideration of the cumulative impact of the proposed development in relationship to the existing intensive poultry business on site and the surrounding landscape and environment, with suitable worded conditions attached to any approval notice issued with regards to landscape and biodiversity enhancement. The proposed development is considered acceptable in relationship to public highway issues and residential amenity and privacy. A screening opinion under Environmental Impact Regulations dated March 5<sup>th</sup> 2012 established that an Environmental Statement was not required to accompany any formal application for the proposed development.

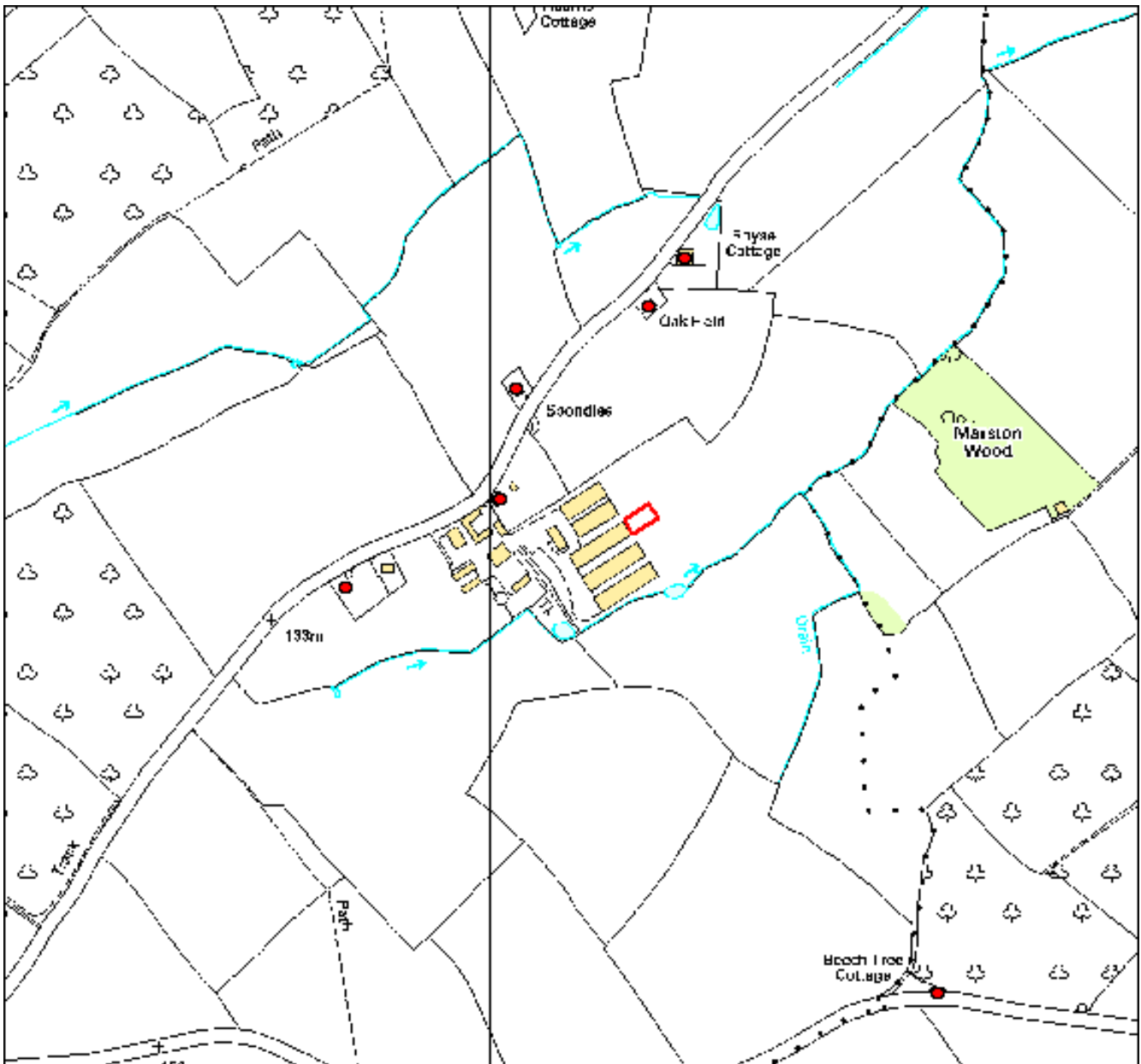
With the above taken into consideration including objections received, the proposed development, with no adverse responses from any of the statutory consultees, is considered to be in accordance with policies of the Herefordshire Unitary Development Plan, the key policies of which were Policies S1, DR1, DR2, DR3, DR4, E16, LA2 and NC1. The proposal also considered to be in accordance with the recently introduced National Planning Policy Framework.

Decision: .....

Notes: .....

**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** N/113558/F

**SITE ADDRESS :** THE RHYSE FARM, LYONSHALL, KINGTON, HEREFORDSHIRE, HR5 3LX

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



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>25 APRIL 2012</b>
<b>TITLE OF REPORT:</b>	<p><b>N112348/F- CHANGE OF USE OF LAND FROM AGRICULTURAL TO A ONE FAMILY TRAVELLER SITE WITH SITING OF 2 MOBILE HOMES AND 2 TOURING CARAVANS, SHED, AND REDESIGNED ACCESS AT MOONFIELDS, ADJACENT TO WOODBINE COTTAGE, OCLE PYCHARD, HEREFORD HR1 3RE</b></p> <p><b>For: Mr Johns per Mr David &amp; Michael Johns, 19 Withies Close, Withington, Hereford, HR1 3PS</b></p>
<b>WEBSITE LINK:</b>	<a href="http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=112348&amp;NoSearch=True">http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=112348&amp;NoSearch=True</a>

**Date Received: 23 August 2011      Ward: Bromyard      Grid Ref: 359011,246462**

**Expiry Date: 18 October 2011**

Local Members: Cllr A Seldon and Cllr JG Lester

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

- 1.1 The site is an L-shaped parcel of land located on the western side of the C1131 road which is the main route through Ocle Pychard. Ocle Pychard is a small hamlet of scattered ribbon development lying to the south of the Burley Gate roundabout between the A465 and A417 roads. This part of Ocle Pychard comprises the small housing development of Holme Oaks and some detached houses. The southerly house is Woodbine Cottage which is surrounded by the application site to the west and south. The application site is bounded to the south by a small wood and to the west by land on which the sewerage treatment plant serving Holme Oaks is located. It is bounded to the east by the C1131 road. The application site measures approximately 0.38 hectares, and is generally flat with a slight slope down to the south-west corner where there is a small pond. There is a protected copper beech tree near the northern boundary and the site is well screened from public view by mature trees and hedges. It was last used for the stabling and grazing of horses before becoming vacant.
- 1.2 The application is to change the use of the land to a one family traveller site with two mobile homes, two touring caravans, a shed, and a redesigned access. The application is part retrospective, with the mobile homes already in situ and occupied. The site is owned by the applicants and is not an agricultural holding. Some pheasant rearing sheds have been placed on the land but whilst they are shown on the submitted layout plan they do not require planning permission due to their temporary nature as they are not attached to the ground and are capable of being moved around the site.
- 1.3 The proposed layout shows the two static caravans where they are already located, immediately south of the garden to Woodbine Cottage, with one touring caravan adjacent to Static 2 (the western one). The location of the second touring caravan is not shown. The shed is to be located to the eastern side of the southern boundary of the site, fairly close to the

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Further information on the subject of this report is available from Sandy Kinnersley on 01432 261933

road. The pheasant rearing pens are shown positioned close to the pond. The area between the two static caravans has been laid to stone to provide a parking area for two vehicles.

## 2. Policies

### 2.1 National Policy and Guidance

ODPM Local Authorities and Gypsies and Travellers Guide to Responsibilities and Powers February 2006

DCLG Designing Gypsy and Traveller Sites Good Practice Guide May 2008

DCLG Planning Policy for Traveller Sites effective 27 March 2012

DCLG National Planning Policy Framework effective 27 March 2012

### 2.2 Herefordshire Unitary Development Plan (adopted March 2007)

S1	-	Sustainable development
S2	-	Development requirements
DR1	-	Design
DR2	-	Land use and activity
DR3	-	Movement
DR4	-	Environment
H7	-	Housing in the countryside outside settlements
H12	-	Gypsies and other travellers
H13	-	Sustainable residential design
T8	-	Road hierarchy
LA2	-	Landscape character and areas least resilient to change
LA3	-	Setting of settlements
LA6	-	Landscaping schemes

## 3. Planning History

3.1	MH88/2736	Erection of 2 dwellings	-	Withdrawn
	MH89/1672	Erection of 8 dwellings	-	Outline planning permission refused Appeal dismissed 9.4.90
	MH96/1214	Erection of 2 dwellings	-	Refused 10.6.97
	MH99/3015	Erection of 5 dwellings	-	Outline planning permission granted 16.1.90, but lapsed 16.1.95
	DCNC2003/3569/F	Stable block (retrospective)	-	Approved 20.1.04
	DCNC2004/3258/O	Single dwelling and garage	-	Refused 10.11.04 Appeal dismissed 6.3.06

## 4. Consultation Summary

### Internal Consultees

- 4.1 Senior Landscape Officer – no objection.
- 4.2 Transportation Manager – proposed alterations to the access will provide sufficient visibility to allow the access to be used safely – planning conditions recommended.

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Further information on the subject of this report is available from Sandy Kinnersley on 01432 261933

4.3 County Land Agent – no comments.

4.4 Environmental Protection Manager – the parents are known to be of Ethnic (Romany) Gypsy Status as are their children regardless of how they live and work. Their language, culture and traditions will not have changed a great deal because they have lived in bricks and mortar during their childhood.

## 5. Representations

5.1 Ocle Pychard Group Parish Council – In recent years there have been a number of applications for development of this site. All have been turned down, quite justifiably, on the grounds that the land is liable to flood and that there are serious on-going problems with sewerage and drainage. The current application is from two single young men who do not necessarily need to have their own caravans on this specific piece of land.

Mr Johns Senior, who owns the land, has been in direct contact with the Parish Council over the last 12 months, asking for advice as to what he could use it for. He was fully aware of the previous planning history of the site, and knew that development had been refused on several occasions. He was advised to get in touch with the Planning Department as they had the final word when it came to projects like this. It is doubtful whether he was advised to use the land for a Traveller's site.

A planning application by Mr Johns in 2004 was refused, and other applications have been turned down since then. Since those refusals the characteristics of the site have not changed.

As already mentioned, drainage is a serious cause for concern and there is correspondence from Welsh Water to this effect dated 1971. There is also a letter on file from Welsh Water in 1989 listing continuing problems with the sewerage and drainage at Holme Oaks.

Properties in Holme Oaks are occupied by a wide variety of people including families with young children who are restricted as to where they can play due to the lack of local facilities. Excess traffic has become an issue, particularly with two businesses being run from the site, and the entrance to the site is regarded as an avoidable hazard by residents.

It is stated that 'It is thought that only the tops of the mobile homes may be visible from Woodbine Cottage'. This suggests that the view from Woodbine Cottage will be adversely affected in some way.

Although unfortunate, and despite encouragement to the contrary, many local residents are reluctant to object in writing as they fear there could be reprisals. They have given their views verbally to the Parish Council and wish us to convey the concerns that they have. The number of objections on file will not, therefore, provide an accurate guide to local opinions.

Holme Oaks is outside the village planning envelope, as laid down in the Herefordshire Development Plan. Many people in the area have had planning refused for just this reason. If this application is allowed it would be seen as grossly unfair.

This is a small and closely knit community, so the right decision needs to be made for correct and un-biased reasons and needs to be seen to be fair for the rest of the community. There are unused pitches available elsewhere in the County, complete with hard-standing and all the usual utilities. There is no reason why new development should be allowed on a site that is likely to flood on a regular basis.

It has been suggested that the opinions of local people in this matter are of only minor importance. Following a meeting on the 24<sup>th</sup> of September Bill Wiggin, MP, referred to the

Localism Bill currently going through Parliament and said 'The Bill will increase the powers of local people and local councils rather than simply maintain them'. He went on to confirm that residents and parish councils will still be able to have an impact on planning decisions.

In this case both the Parish Council and the local residents have said 'No' to this application. You are strongly urged to refuse it.

5.2 5 letters of objection have been received which raise the following concerns:

- the plans are not to scale, unclear, and may not show the road accurately
- residential development in the countryside contrary to the earlier Inspector's decision
- development commenced without planning permission
- risk to highway safety due to poor access arrangements and increased traffic movements
- adequacy of the septic tank
- number of vehicles on the site
- a brick built structure on site which is not included in the application
- pheasant rearing will be a source of noise and may attract vermin
- potential for flooding
- possible further development of the site in the future
- business use of the site
- possible future loss of bus service and local shop
- suitability of the site to bring up children
- empty plots on established traveller sites

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

[www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx](http://www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx)

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

[www.herefordshire.gov.uk/community\\_and\\_living/consumer\\_advice/41840.asp](http://www.herefordshire.gov.uk/community_and_living/consumer_advice/41840.asp)

## 6. Officer's Appraisal

6.1 The Herefordshire Unitary Development Plan (UDP) sets out a settlement hierarchy for housing allocation purposes for Hereford, the market towns, main villages and smaller settlements. Residential development outside these settlements and therefore in open countryside falls to be considered under Policy H7. Policy H7 provides that residential development must be strictly controlled to protect the landscape and the wider environment and will therefore not be permitted unless it is clearly necessary in connection with agriculture or forestry or falls in one of six other categories. Category 6 of Policy H7 is a site providing for the needs of gypsies or other travellers in accordance with Policy H12. This application is not related to agriculture or forestry and so the first issue for consideration is whether the applicants meet the definition of gypsies and travellers provided in the DCLG Planning Policy for Traveller Sites.

6.2 The applicants are brothers from an established traveller family which for many generations lived a nomadic life making a living through farm work but which became more settled due to the increasing difficulty in finding stopping places and work, and the increasing costs of moving around. Evidence of their traveller status was provided in the form of a cutting from a magazine detailing family members in a photograph taken in a hop yard.

6.3 The Council's Traveller Liaison Officer has confirmed that the family is of Ethnic Gypsy Status, and that the applicants will have been brought up in the traditional culture and way of life despite living in a house through their childhood. Four years ago they decided to live a more traditional nomadic lifestyle and have since then lived in caravans on farms where they have provided casual labour. They have both now established their own businesses, one in Burley

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Further information on the subject of this report is available from Sandy Kinnersley on 01432 261933



Gate and the other working on properties in the local area. They no longer need to travel for work but wish to continue living in caravans and to provide a more settled lifestyle to raise their families. The DCLG Planning Policy for Traveller Sites recognises that some gypsies and travellers will cease travelling either temporarily or permanently and includes such people within its definition.

- 6.4 The site will be occupied by the two brothers and their partners, who wish to be treated as a single group as they feel it is vital that they stay together in view of their very close relationship and in order to provide mutual support. They have chosen this application site because it is their own land, it is secure and private which they consider makes it a suitable place to bring up children, they have work in the area, and they have a wider support network of family and friends in the locality. They have not sought alternative sites for these reasons and because they feel pitches on other sites should be available for travellers who do not own land. None of the occupiers has any stated medical or educational need.
- 6.5 The application is for two static caravans and two touring caravans, enabling each applicant to travel in the future. No permanent buildings are proposed although the application does include a shed and the submitted site layout drawing shows some pheasant rearing sheds. Both applicants and one of the partners have work in the area and the DCLG Planning Policy for Traveller Sites encourages Local Planning Authorities to provide a settled base that reduces the need for long distance travelling and possible environmental damage caused by unauthorised encampment. The application does not propose any business activity taking place on the land.
- 6.6 On the circumstances as stated above it is accepted that the applicants are travellers under the definition in DCLG Planning Policy for Travellers and the application must therefore be assessed under Policies H7 and H12.

6.7 Need

Policy H7(6) makes site for gypsies and travellers an exception where there is a need for additional pitches. The Gypsy and Traveller Accommodation Assessment (July 2008) identified a need for 109 pitches by 2017 of which 83 are to be delivered by 2012. Herefordshire Council's Annual Monitoring Report 2009 – 2010 (published February 2011) identifies that 27 pitches had been delivered. Since March 2010 further pitches have been delivered reducing the need to 44. There is accordingly a demonstrable need for more pitches to be provided.

6.8 Guidance

The DCLG Planning Policy for Traveller Sites aims to facilitate the traditional and nomadic way of life of travellers whilst respecting the interests of the settled community. It promotes more private traveller site provision in appropriate locations but having due regard to access to services and the protection of the local amenity and environment. When assessing the

suitability of sites in rural or semi-rural settings Local Planning Authorities should ensure that the scale of such sites does not dominate the nearest settled community and does not place an undue pressure on local infrastructure. Sites should be well-planned with adequate landscaping and play areas, and avoid creating an enclosed site which could appear to isolate the occupants from the rest of the community.

- 6.9 Para 14 of the National Planning Policy Framework provides that there will be a presumption in favour of sustainable development. This means that planning permission should be granted unless there are significant and demonstrable adverse impacts.

## 6.10 Material Considerations

Policy H12 sets out four criteria which are the main issues for consideration – distance from local services and facilities; size and design; impact on the character and amenity of the landscape; and appropriate levels of residential amenity. This approach is consistent with guidance in the DCLG Planning Policy for Travellers, but other material considerations should also be taken into consideration. Other material considerations in this case are flood risk and highway safety.

## 6.11 Distance from Local Services

The requirement to be within reasonable distance of local services and facilities accords with UDP Policy S1 which seeks to reduce the need to travel, or to enable people to move safely by modes other than the private car. Furthermore Policy DR2 encourages development to be located to provide a choice of travel modes, and Policy DR4 supports good links to public transport. The application site is located only 380 metres from the A465 where there is a bus stop for the Hereford-Bromyard route providing good access to both towns which are approximately 10 km away. Burley Gate, a smaller settlement with a village Post Office/shop, village hall, and a primary school, is approximately 1.4km from the site, and other shops can be found at Withington, a main village (4.5km). Main villages have been so designated to reflect their potential for providing reasonable public transport links, locations for employment and other services, and a significant level of community facilities. The site is therefore within a reasonable distance of local services and facilities and offers alternative forms of travel to the car, and is therefore considered to meet the requirements of Policy H12(1).

## 6.12 Size and Design

The Designing Gypsy and Traveller Sites Good Practice Guide states that as a general guide an average family pitch should be capable of accommodating a static caravan and touring caravan, an amenity building, parking spaces for two vehicles, and a small garden area.

6.13 The application site measures approximately 0.38 hectares and the proposal is that it should accommodate two family pitches but although it falls short of the standards set out in the Good Practice Guide it could accommodate more parking spaces and a second shed. The proposed layout of the site seems to offer a balance between open amenity space and areas for caravans and vehicles to be located. Positioning the two static caravans close to the southern boundary of Woodbine Cottage means that they are not overlooked by any other properties, and due to their orientation only the roofs will be seen from the first floor windows of Woodbine Cottage. The caravans are only visible from the road through a mature hedge, with the limited views into the site being predominantly that of a small field. The number of caravans on the site and their location can be controlled by a planning condition.

6.14 The site is an adequate size for two pitches and the associated touring caravans and shed, and therefore meets the requirements of Policy H12(2).

## 6.15 Impact on the Character and Amenity of the Landscape

The designated landscape character of the area is Principal Settled Farmlands, with scattered farms, relic commons, and small villages and hamlets with a notably domestic character alongside hop fields, orchards, grazed pastures, and arable fields. The application site is on the edge of existing residential development and whilst its southern boundary adjoins a small woodland and there are mature hedges to the west and east, its character is closely associated with the domestic setting of the adjoining properties. There are no long distance public views into the site which is well-screened from the adjoining highway. Although the application includes a proposal to alter the existing access, a hedge will be retained along the road frontage to maintain the rural appearance of the site and to provide some privacy and its

retention should be required by a planning condition. The residential occupation of the site does change its character but it still accords with the general theme of Principal Settled Farmlands and has no demonstrable landscape impact. The Council's Senior Landscape Officer has raised no objection and the application therefore meets the requirements of Policy H12(3).

#### 6.16 Residential Amenity

The existing boundary hedges and new fencing provides the site with an acceptable level of privacy and security necessary for a residential use. There is sufficient space to provide play areas when required without compromising the open character of the land. There is an existing storage facility in the previously approved stable building, but an additional shed is proposed in the south-east corner, an area which is barely visible from outside the site. The size, design, precise position and use of this building has not been specified but can be controlled by a planning condition and the site can therefore accommodate the required storage facilities without compromising the overall character.

6.17 In general terms, locating small residential gypsy sites near to conventional housing is encouraged as a way of promoting integration with the settled community. However visual and acoustic amenity must be safeguarded for all, including overlooking considerations.

6.18 Most properties in Holme Oaks are a short distance away from the application site and have no views into the site. The flats adjoin the land to the north, but have no windows overlooking the site. The caravans are located in the southern part of the site and are screened from the flats by trees, hedges, fencing and part of the garden to Woodbine Cottage. The caravans face away from Woodbine Cottage and any movements will be screened from view. The other close dwelling, Holme Copse House, is located the other side of the road and overlooks the northern section of the site but that will remain undeveloped.

6.19 Residents have raised concerns about the possibility of noise, odour and vermin from the pheasant rearing sheds which are shown on the layout plan. The structures do not require planning permission and are outside the control of this application, and the rearing of pheasants is an agricultural activity for which no planning permission would be required. Any resultant impact in terms of noise, odour, or vermin can be controlled by environmental pollution legislation. This is accordingly not a consideration in determining this application.

6.20 Residents have also raised concerns regarding the potential use of the site for business purposes. No business activity is included in this application, but the number of vehicles to be parked on the land can be controlled by a planning condition.

6.21 There is accordingly not considered to be any significant impact on residential amenity and the proposal meets the requirements of Policy H12(4).

#### 6.22 Flood Risk

Flood risk is a serious consideration for caravan dwellers. Caravans by their nature are not permanently secured to the ground and are accordingly more susceptible to flood damage. Residents have provided photographic evidence of adjoining land flooding. The application site lies outside any defined Flood Zone and the risk of flooding is therefore minimal and not sufficient to justify refusing to grant planning permission. Concern has been expressed regarding run-off from concrete surfaces, but the application details a stone area for parking which will be porous and not result in any additional drainage requirement.

## 6.23 Highway Safety

Highway safety concerns relate to the access and additional vehicular movements. There are two existing accesses into the site. The existing southern access is sub-standard as visibility is poor. The existing northern access will not be changed but the application proposes to improve the visibility splay of the southern access by setting back the gates 5 metres from the edge of the carriageway, widening the access to 5 metres at the gates, and planting a new hedge along the southern boundary set back 2.5 metres. The road at this point is narrow and serves a low volume of traffic which has to travel at a relatively low speed. The Council's Transportation Manager considers that the proposed improvements will allow the safe operation of the access subject to the details being controlled by planning conditions.

6.24 The additional vehicular movements as a result of two families occupying the site will not have any significant detrimental impact on highway safety. There is concern that higher levels will result from business uses of the site this application is for the residential use only and no evidence of any material business use has been identified. This would be considered separately should that situation arise.

## 6.25 Other Issues

The two static caravans are linked into an existing septic tank on the site which also serves Woodbine Cottage. Concerns have been raised regarding its capacity and its ability to cope with increased use at time of heavy rain. If planning permission is granted the applicants will need to apply for a site licence and this issue will be addressed by the Environmental Health Officer as part of the licensing process. It is accordingly not a material consideration for this application.

6.26 Objections have also been received regarding a small brick-built structure in the northern part of the site which is not specified in this application. That structure is believed to be an electricity meter cupboard which was erected as development which is permitted without the need for formal planning permission.

## 6.27 **Conclusion**

Therefore having regard to the applicable national and local planning policies, and having taken all material considerations into account, it is considered that planning permission should be granted subject to conditions relating to the number and location of caravans, details of the proposed shed, limiting the number and parking of vehicles to defined parking areas with a porous surface, and details of the proposed alterations to the access including retention of the proposed relocated front boundary hedge.

## **RECOMMENDATION**

**That planning permission be granted subject to the following conditions:**

- 1. The site shall not be occupied by any person other than gypsies and travellers as defined in DCLG Planning Policy for Travellers.**

**Reason: To accord with the requirements of Policy H7(6) of the Herefordshire Unitary Development Plan.**

- 2. The occupation of the pitches hereby permitted shall be restricted to the owner or tenant of the pitches, their partner, and immediate family defined as children and parents.**

**Reason: To accord with the requirements of Policy H7(6) of the Herefordshire**

**Unitary Development Plan.**

3. The permission hereby approved is for no more than two pitches on the site for the permanent siting of no more than two static caravans and two touring caravans on the land. There shall be no more than 1 additional touring caravan on the site at any one time and for no longer than 14 consecutive days and no more than a maximum of 28 days in any calendar year.

**Reason:** In order to define the terms of the permission and safeguard the amenity of neighbouring residents and the landscape character of the area in accordance with the requirements of Para 26(b) of the DCLG Planning Policy for Travellers.

4. The caravans shall be located as shown on Drawing 1 received 23 August 2011. The position of the second touring caravan and any visiting caravan must be in accordance with a plan which has previously been submitted to and approved in writing by the Local Planning Authority.

**Reason:** In order to define the terms of the permission and safeguard the amenity of neighbouring residents and the landscape character of the area in accordance with the requirements of Policies H13 and LA3 of the Herefordshire Unitary Development Plan.

5. No shed shall be brought onto the site until details of its size, design, and location have been submitted to and agreed in writing with the Local Planning Authority. The shed shall be erected in accordance with the approved details and shall only be used for purposes ancillary to the occupation of the static caravans and for no other purpose.

**Reason:** In order to define the terms of the permission and safeguard the amenity of neighbouring residents and the landscape character of the area in accordance with the requirements of Policies H13 and LA2 of the Herefordshire Unitary Development Plan.

6. There shall be no more than six vehicles parked on the land at any one time.

**Reason:** To safeguard the amenity of neighbouring residents and the landscape character of the area in accordance with the requirements of Policies H13 and LA2 of the Herefordshire Unitary Development Plan.

7. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed from the site within 28 days of the date of failure to meet any of the requirements set out in (i) to (iii) below:

(i) Within one calendar month of the date of this permission details shall be submitted in writing of the size, position, and construction of the access, a turning area, the parking area shown on Drawing 1 received on 23 August 2011, and of the creation of a second porous hardstanding in the south-east corner of the site which is to be used for the parking of additional vehicles. The works shall be carried out in accordance with the approved details within 2 calendar months of the details being approved in writing by the Local Planning Authority. No vehicles shall be parked other than in accordance with these approved details.

(ii) Notwithstanding the submitted details the access into the site shall be constructed so that there is clear visibility from a point 0.6 metres above the level of the adjoining carriageway at the centre of the access 2.5 metres from and parallel to

the nearest edge of the adjoining carriageway over the entire length of the site frontage. Nothing shall be planted, erected, and/or allowed to grow on the area of the land so formed which would obstruct the visibility described above.

(iii) Within one calendar month details of the species and specification for a hedge along the road frontage shall be submitted in writing to the Local Planning Authority. The hedge shall be planted in accordance with the approved details in the planting season following the date of this permission and shall be retained in perpetuity.

**Reason:** In the interests of highway safety, and to ensure the hedge is ecologically and environmentally rich and to ensure its permanent retention in the landscape, and to conform with the requirements of Policies DR3 and LA6 of the Herefordshire Unitary Development Plan.

**INFORMATIVES:**

1. In making this decision, and noting that the development has been implemented, the Local Planning Authority concluded that there is a need for additional private traveller pitches within Herefordshire and that the site does not dominate the nearest settled community or put undue pressure on the infrastructure. It considered that the development is suitably located to access local services and does not have any significant detrimental impact on residential amenity or the amenity of the surrounding area. The Local Planning Authority therefore concludes that the development is in accordance with the following policies of the Herefordshire Unitary Development Plan 2007:-

- S1 Sustainable development
- S2 Development requirements
- DR1 Design
- DR2 Land use and activity
- DR3 Movement
- DR4 Environment
- H7 Housing in the countryside outside settlements
- H12 Gypsies and other travellers
- H13 Sustainable residential design
- T8 Road hierarchy
- LA2 Landscape character and areas resilient to change
- LA3 Settling of settlements
- LA6 Landscaping schemes

2. I38 (N19) Drawing 1 Block Plan Scale 1:500 received 23 August 2011; Drawing 2 Redesigned Access Scale 1:100 received 23 August 2011

3. I05 (HN10)

Decision: .....

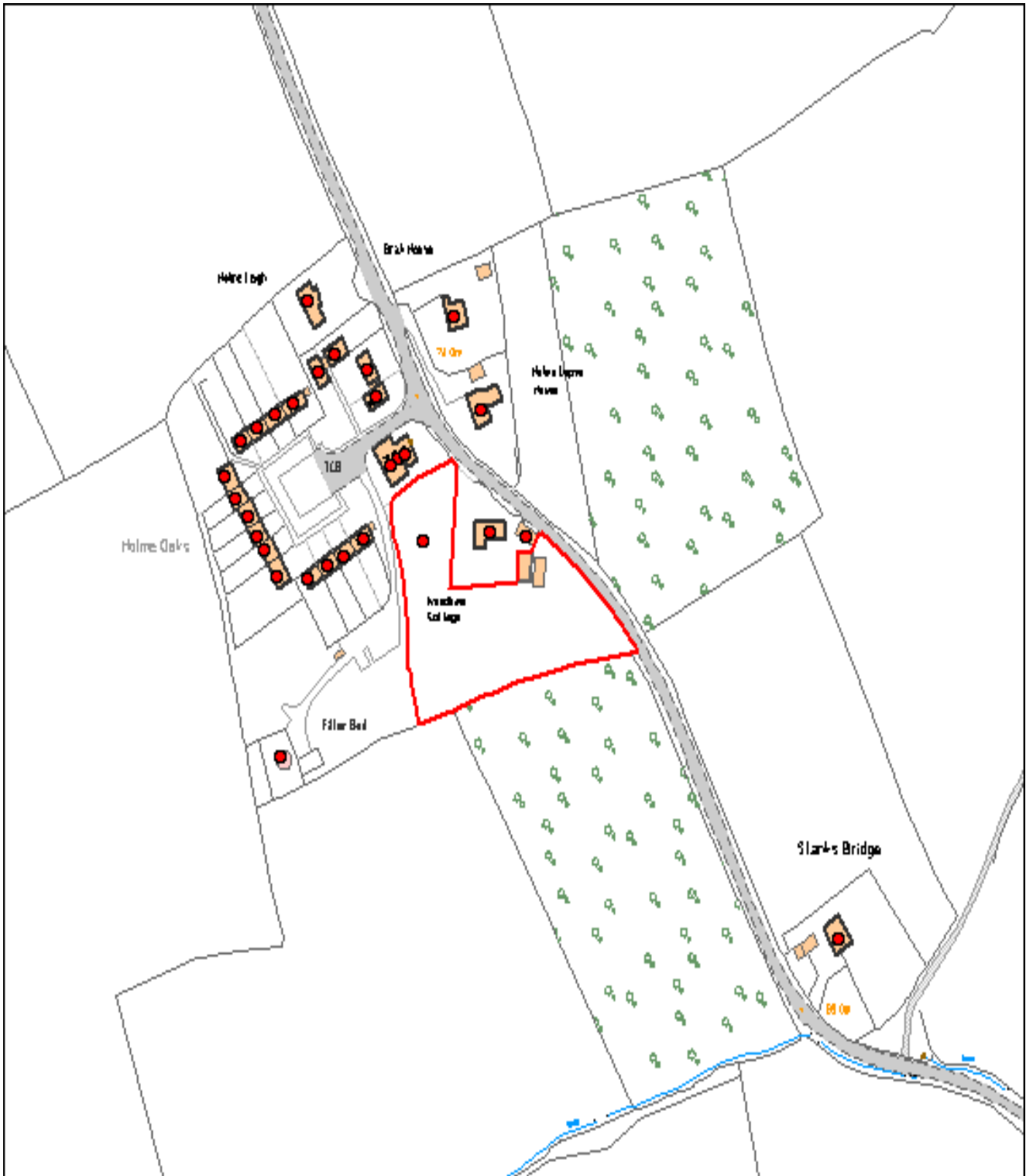
Notes: .....

**Background Papers**

Internal departmental consultation replies.

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Further information on the subject of this report is available from Sandy Kinnersley on 01432 261933



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**APPLICATION NO:** N/112348/F

**SITE ADDRESS :** MOONFIELDS, ADJACENT TO WOODBINE COTTAGE, OCLE PYCHARD, HEREFORD, HR1 3RE

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Further information on the subject of this report is available from Sandy Kinnersley on 01432 261933







<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>25 April 2012</b>
<b>TITLE OF REPORT:</b>	<p><b>S113542/F- CONSTRUCTION OF FARM ACCESS ROAD (PART RETROSPECTIVE) AT WESTHIDE, HEREFORDSHIRE, HR1 3RQ</b></p> <p><b>For: Mr Thompson-Coon per Mr Bryan Thomas, The Malthouse, Shobdon, Leominster, Herefordshire, HR6 9NL</b></p>

**Date Received: 16 December 2011**    **Ward: Hagley**

**Grid Ref: 358704,244267**

**Expiry Date: 1 March 2012**

Local Member: Councillor DW Greenow

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

- 1.1 The site is a parcel of agricultural land of 1.04 Ha to the North of farm buildings associated with the Westhide Court Farm Estate. It is bordered by the C1131 to the north, The Old School House and St Bartholomew's church to the west, the bridleway WS2 and Poolhead Cottage to the east.
- 1.2 The proposal is for the retention of a new farm access track across the agricultural land to service agricultural buildings on the estate. Initial construction works were commenced on 15 October 2011 without prior approval being sort therefore planning permission is required to retain the development.
- 1.3 The applicant was not aware of the prior approval process; they had carried out their own research into the planning requirements for the track. The outcome of which, they concluded, was that the work would be permitted development.

## **2. Policies**

### **2.1 National Policy**

NPPF        -    National Planning Policy Framework

### **2.2 Herefordshire Unitary Development Plan**

DR1            -    Design  
 DR2            -    Land Use and Activity  
 DR3            -    Movement  
 ARCH 1       -    Archaeological Assessments & Field Studies

## **3. Planning History**

- 3.1 No relevant planning history

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Further information on the subject of this report is available from Mark Lane on 01432 260 474

## **4. Consultation Summary**

- 4.1 Transportation: No objection
- 4.2 Conservation (Landscape & Habitat): The track does not have significant negative impact on the wider landscape character. Due to the track's raised position, in relation to the public highway and bridleway, it has minimal visual impact in the locality other than from adjoining properties.
- 4.3 Conservation (Historic Buildings): No objection
- 4.4 Archaeology: The evaluation has indicated that there are no remains of archaeological interest directly within the scope of the track works.
- 4.5 Public Rights of Way: No objection, but recommends that a condition regarding a 40 metre section of the bridleway WS2 between the proposed track and the road (C1131) is made suitable for the intended use.

## **5. Representations**

- 5.1 Withington Group Parish Council:

“Object to the application on the basis of the following:

1. There is no explanation given for the need for another farm access. The whole (re)development of Westhide Court Farm appears to be being undertaken on a piecemeal basis with no overall plan having been submitted. This is potentially leading to a cumulative impact on surrounding highways by increased traffic generation and noise and disturbance to properties and residents in the village. This has been exacerbated by the (hopefully temporary) closure of the main farm access.
2. There is clearly very little agricultural usage of the farm buildings with stabling appearing to be the main remaining agricultural activity.
3. The access proposed is from a Bridleway and public right of way. There is no indication of the vehicular usage of the proposed access and the likely impact on the users of the bridleway/prow.
4. The existing main farm access from Westhide between Westhide Court and Porch House is adequate for the level of vehicular usage of the farm.
5. A recently converted hop barn is being used for business use. If change of use has been granted, as stated to the Chairman of the Parish Council by the planning officer, what were the agreed access and parking arrangements? Planning application No. SH970188PF for this change of use was recorded as “not determined” according to the file, originally having been recommended for refusal. Any continued use for B1 – Office, is therefore unauthorised, and enforcement action should be pursued.
6. As there are now a significant number of private cars and other vehicles using the bridleway to gain access to this unauthorised use (up to 25 vehicles have been reported as being ‘parked’), where a car park has also been provided, this use of the access is also unauthorised, as is the car park. It is understood that the bridleway was a cul-de-sac until 2011 and not a farm access. It is considered that a planning application should have been submitted for the development of this additional access to the premises. This also brings into doubt as to whether the bridleway can be lawfully used as an access to an unauthorised use.
7. The majority of the additional traffic entering the site is now driving right through the village.

8. The proposed new access runs across the former curtilage of Poolhead Cottage. The status of this land is unknown – for example, was it the subject of change of use to residential curtilage in the past?
9. The positioning of the access will result in vehicles entering and exiting the site having a significant impact on the quiet enjoyment of the dwelling, Upper House, and on other village properties, including Poolhead (notwithstanding its ownership by the applicant). As the access is at a higher level than the dwellings, this will be particularly disturbing through the shining of their lights directly into the living accommodation (Upper House) and through the additional engine noises as vehicles negotiate the turn from the bridleway. Poolhead is also a listed building on which the proposed development will have a negative impact.
10. The route of the proposed access divides a field into two. What is the proposed use of these two smaller fields? There is also a possible archaeological impact on the field as seen from an aerial photograph.
11. Without prejudice to the objection, if planning permission is granted it is considered that the use of the proposed access should be restricted solely for agricultural vehicles linked only to agricultural use of Westhide Court Farm and for no other vehicles generated by non-agricultural vehicles operating on land owned by the applicant but not directly farmed by the applicant.
12. It is requested that the application be referred to the Planning Committee for determination, as there are serious doubts as to the legal status of the present use of the farm and to the status of the bridleway.

5.2 The Ramblers Association have submitted the following comments:

There is local concern regarding the surface of the bridleway and the increase in traffic to the farm entrance beyond Pool Head cottage.

5.3 Seven letters of objection have been received, in summary:

- The proposal should respect the amenity of existing neighbourhood uses. It would result in a new road that would be above neighbouring gardens effecting amenity.
- The new road would increase traffic in the village.
- The proposed track would affect users of the bridleway.
- The track is unnecessary as there is an existing access to the agricultural buildings via another part of the estate.
- The proposal is retrospective and should be seen in the context of the stealthy development of the site.
- The buildings the track will service have not been used for 18 years it seems unlikely there is any intention to use the buildings for farm use now.
- The land forms part of an unregistered park and garden and should be afforded protection.

5.4 The full text of these letters can be inspected at Hereford Customer Services, Franklin House, 4 Commercial Road, Hereford, HR1 2BB, prior to the Committee meeting and on line.

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

6.1 The main considerations in this application are:

- The intended use of the access and its impact on the surrounding dwellings.
- The impact of the proposal on the use of the bridleway the development is accessed from.
- The impact of the proposal on the heritage assets identified within the site.

The application is part-retrospective, as the track has been partly constructed.

- 6.2 Had the prior notification procedure been followed the track would ordinarily be permitted development under class A, Part 6, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995. However as the track is now in place the development cannot be considered under the agricultural notification procedure and therefore full planning permission is required.
- 6.3 There is local concern regarding the intended use of the track not being solely for agricultural vehicles and will be used to access other areas of the estate. In pre application discussion on site the estate manager indicated that the track would only be used by agricultural vehicles that would service a group of agricultural buildings. Additional comments received from the applicant confirm this.
- 6.4 The majority of objections focus upon the use of the estate, the bridleway, an alternative access and the development of the estate without planning permission. These are separate issues not connected with this application for the development of a farm track.
- 6.5 The use of the bridleway WS2 by vehicular traffic has been raised with Public Rights of Way, they have confirmed that if the landowner has granted permission for this use it is not a breach of the highways act and is therefore permitted.
- 6.6 Policy DR2 requires that development does not affect the amenity or continued use of land or buildings. The nearest dwelling to the proposed track is Poolhead cottage which is a holiday let in the ownership of the estate, the track is 35m from the property and 5m from its garden curtilage. The property Upper House referred to in the parish council comments is 38m from the track; its garden is 10m away.
- 6.7 It is considered that the use of the track by agricultural vehicles would not give rise to any significant additional noise or disturbance that would affect the amenity of the local area to the extent that planning permission could reasonably be withheld.
- 6.8 Poolhead Cottage is a listed building which the proposed track passes; the Senior Building Conservation Officer has been consulted and has confirmed no objection to the proposal.
- 6.9 The land in question forms part of the unregistered park and garden at Westhide Court; the Senior Landscape Officer has commented that the track does not have a negative impact in the landscape and a minimal visual impact in the locality.
- 6.10 The Archaeology Officer had identified that there are heritage assets within the site. The application did not provide any detail on the effect the development would have on the archaeological significance and sensitivity of the site. An archaeological field evaluation was carried out, which included trial trenches that would provide the required information. That evaluation has now been undertaken and as a consequence there are no archaeological objections to the application.
- 6.11 The use of the field will remain as agriculture or for the grazing of horses; there was no indication of future intensification of the use of the land or buildings during the pre-application discussion.
- 6.12 The Parish Council has suggested, if approved, a condition should be attached to the permission. The intention of the condition would be to restrict the use of the track to agricultural vehicles used by the applicant on land farmed by the estate. This condition would not be enforceable.

**RECOMMENDATION**

That planning permission be granted without planning conditions.

**INFORMATIVE:**

- 1 In making this decision and noting that the development had been commenced the local planning authority concluded that the development would not harm the visual or *residential* amenity of the area, would not have an adverse impact on the listed building in the vicinity and does not affect any archaeological interest in the area.

The local planning authority concludes that the development is in accordance with the following policies of the Herefordshire Unitary Development Plan 2007.

- DR1 – Design
- DR2 – Land Use and Activity
- DR3 – Movement
- ARCH1 – Archaeological Assessments and Field Studies

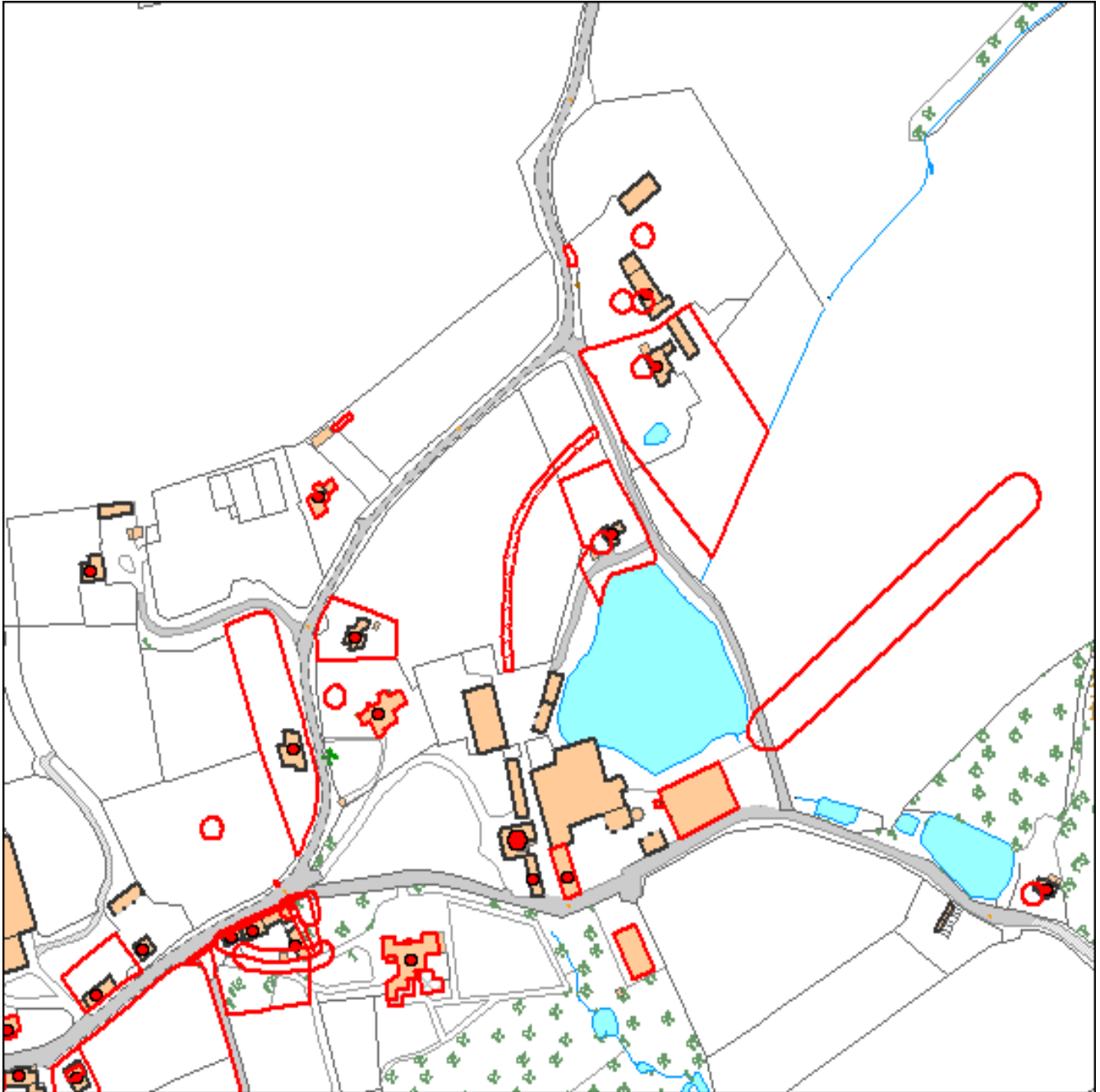
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** DMS/113542/F

**SITE ADDRESS :** WESTHIDE, HEREFORDSHIRE, HR1 3RQ

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Further information on the subject of this report is available from Mark Lane on 01432 260 474