

# AGENDA

## Planning Committee

Date: **Wednesday 20 February 2013**

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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**

**Chairman**

**Councillor PGH Cutter**

**Vice-Chairman**

**Councillor BA Durkin**

**Councillor PA Andrews**

**Councillor AN Bridges**

**Councillor PJ Edwards**

**Councillor DW Greenow**

**Councillor KS Guthrie**

**Councillor J Hardwick**

**Councillor JW Hope MBE**

**Councillor MAF Hubbard**

**Councillor RC Hunt**

**Councillor Brig P Jones CBE**

**Councillor JG Lester**

**Councillor RI Matthews**

**Councillor FM Norman**

**Councillor AJW Powers**

**Councillor GR Swinford**

**Councillor PJ Watts**

## AGENDA

	Pages
<p><b>1. APOLOGIES FOR ABSENCE</b></p> <p style="padding-left: 20px;">To receive apologies for absence.</p>	
<p><b>2. NAMED SUBSTITUTES (IF ANY)</b></p> <p style="padding-left: 20px;">To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.</p>	
<p><b>3. DECLARATIONS OF INTEREST</b></p> <p style="padding-left: 20px;">To receive any declarations of interest by Members in respect of items on the Agenda.</p>	
<p><b>4. MINUTES</b></p> <p style="padding-left: 20px;">To approve and sign the Minutes of the meeting held on 30 January 2013.</p>	1 - 12
<p><b>5. CHAIRMAN'S ANNOUNCEMENTS</b></p> <p style="padding-left: 20px;">To receive any announcements from the Chairman.</p>	
<p><b>6. APPEALS</b></p> <p style="padding-left: 20px;">To be noted.</p>	13 - 14
<p><b>7. ENFORCEMENT REPORT</b></p> <p style="padding-left: 20px;">To update the Committee in respect of Planning Enforcement Performance for the period 1 April 2012 – 30 September 2012.</p>	15 - 18
<p><b>8. S113607/O - TIDNOR WOOD ORCHARDS, TIDNOR LANE, LUGWARDINE, HEREFORD, HR1 4DF.</b></p> <p style="padding-left: 20px;">Proposed three bedroom detached agricultural dwelling.</p>	19 - 30
<p><b>9. S123313/FH - TALBOTS BARN, THE LINE, LINTON, ROSS ON WYE, ROSS-ON-WYE, HR9 7RU.</b></p> <p style="padding-left: 20px;">Demolition and replacement of 2 no. bay windows to NE elevation with tiled roof and associated terrace, replacement windows to include minor revisions to fenestrations, replacement and additional rooflights, and minor internal alterations. Construction of new detached double garage and a new pitched roof to existing garage.</p>	31 - 36
<p><b>10. DATE OF NEXT MEETING</b></p> <p style="padding-left: 20px;">Date of next site inspection: 12 March 2013</p> <p style="padding-left: 20px;">Date of next meeting: 13 March 2013</p>	



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## HEREFORDSHIRE COUNCIL

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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 30 January 2013 at 10.00 am**

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

Councillors: AN Bridges, PJ Edwards, DW Greenow, KS Guthrie, J Hardwick, JW Hope MBE, MAF Hubbard, RC Hunt, TM James, Brig P Jones CBE, JG Lester, RI Matthews, FM Norman, AJW Powers, P Rone, GR Swinford and PJ Watts

**In attendance:** Councillors AW Johnson and JF Knipe

**131. APOLOGIES FOR ABSENCE**

Apologies were received from Councillor PA Andrews.

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

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillor TM James attended the meeting as a substitute member for Councillor PA Andrews.

Councillor P Rone also attended the meeting and utilised the vacant Conservative Group seat on the Planning Committee.

**133. DECLARATIONS OF INTEREST**

7. N123067/F - LAND AT THE COACH HOUSE, OLD CHURCH ROAD, COLWALL, MALVERN.

Councillor AW Johnson, Non-Pecuniary.

**134. MINUTES**

Councillor PGH Cutter, the Chairman of the Planning Committee, requested that his declaration of interest be amended to remove reference to the St Joseph's Convent which had now closed.

**RESOLVED:** That the Minutes of the meeting held on 9 January 2013 be approved as a correct record and signed by the Chairman.

**135. CHAIRMAN'S ANNOUNCEMENTS**

There were no announcements.

**136. APPEALS**

The Planning Committee requested clarification in respect of the appeal at Porthouse farm where the appeal had been lost yet costs against the Council were awarded. The Development Manager (Northern Localities) confirmed that the appellant had lost the appeal on a legal technicality but that the Council had lost on all of the planning reasons. He added that the costs had not been determined at this stage but that the figure would be a five figure sum.

In respect of the appeal at Chapel Cottage, Wellington, the Development Manager (Northern Localities) confirmed that the costs awarded to the Council would be under £1000.

**137. N123067/F - LAND AT THE COACH HOUSE, OLD CHURCH ROAD, COLWALL, MALVERN**

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 Ashton, representing Colwall Parish Council, spoke in objection to the application and Mr Barry, the applicant's agent, spoke in support.

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

- There were very few objections from local residents.
- The application had been bourn out as a result of the health needs of the applicant.
- The proposed screening would address any concerns.
- There were no windows on the northern elevation of the proposed dwelling.
- One additional dwelling would not have an adverse impact on traffic in the area.
- The proposed dwelling was adjacent to the settlement boundary but would have been inside the settlement boundary had it been a straight line.
- Both local ward members supported the application.

The Committee opened the debate with a Member speaking in support of the application. He did however request that the Committee consider two minor amendments to the recommendation. He was of the opinion that the informative note regarding land drainage consent should be added as a condition and that condition 7 should be amended to require mature planting.

In response to a question regarding the zinc roof, the Principal Planning Officer confirmed that the roof was not corrugated but that it did have seams which added to the aesthetics of the roof. He also confirmed that the roof would initially be a silver grey colour but that it would end up as a more weathered colour. In response to a further question he confirmed that the render would be white or off-white.

Members noted that the proposed dwelling was the second application to meet the 'Passivhaus' standard bought before committee in recent months. They welcomed the sustainable nature of the application.

Concerns were expressed in respect of the Council's lack of a five year housing supply. The Committee felt that this matter needed to be resolved as a matter of urgency to avoid a large number of similar applications being submitted throughout the County. It was noted that Parish Councils were still making their recommendations based on settlement boundaries but that this had changed significantly with the introduction of the National Planning Policy Framework in 2012 and a presumption in favour of sustainable development on sites adjoining the settlement boundary.

In response to a number of issues raised during the debate the Principal Planning Officer confirmed that part of the site had flooded in 2007 but that the proposed dwelling was



not due to be sited on this portion of the site. He also confirmed that planning conditions should not deal with matters that were subject to a separate process. Therefore he advised the Committee against making the informative note requiring land drainage consent into a condition. In response to the request for mature planting he advised the Committee that the Landscape Officer had advised that mature planting resulted in a higher failure rate and that small plants had a far better growth rate, therefore he requested that condition 7 should not be amended.

The Member who moved the motion subject to the two amendments referred to above accepted the guidance of the Principal Planning Officer and removed the two amendments from the motion.

Councillor AW Johnson was given the opportunity to close the debate. He chose to make no additional statement.

## **RESOLVED**

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

- 1. The development hereby permitted shall be begun before 20 February 2014.**

**Reason: To comply with the provisions of Section 91(1) (b) of the Town and Country Planning Act 1990 (as amended) and to reflect the decision of the Local Planning Authority on 4 March 2009 to suspend (effective from 1 April 2009) the requirements of the Local Planning Authority's 'Planning Obligations' Supplementary Planning Document (February 2008) in relation to all employment developments falling within Classes B1, B2, and B8 of the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005, the employment element of any mixed use development and residential developments of five dwellings or less.**

- 2. Prior to commencement of the development hereby permitted the following matters shall be submitted to the Local Planning Authority for their written approval:-**

- A full written schedule (including colour finishes) of all external materials (including doors, rainwater goods and windows).**
- Written details and samples of the surfacing material to the driveway.**
- Full details of all external lighting (if any).**
- Full details of the "green roof".**
- Written details of the colour of the render and paint colour (if any) to the flue.**

**The development shall not commence until the Local Planning Authority has given such written approval. The development shall be carried out in full accordance with the approved details and thereafter maintained as such.**

**Reason To ensure a satisfactory appearance to the development in accordance with Policies DR1, LA1 and HBA6 of the Herefordshire Unitary Development Plan 2007.**

- 3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended, including the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order**

with or without modification) no development normally permitted by Classes A, B, C, D, E, F and G of Part 1 and Classes A and C of Part 2 of Schedule 2 of Article 3 of the General Permitted Development Order 1995 shall be carried out without the express consent of the Local Planning Authority.

Reasons:

a) To safeguard the architectural integrity of the scheme and to safeguard the character and appearance of the area which hereabouts is designated as an Area of Outstanding Natural Beauty and a Conservation Area, in accordance with Policies LA1, HBA6 and DR1 of the Herefordshire Unitary Development Plan 2007.

b) To safeguard the privacy of the occupiers of the dwellinghouse to the north known as 'Whitegates' in accordance with Policy DR2 of the Herefordshire Unitary Development Plan 2007.

4. Prior to commencement of the development hereby permitted all existing trees shown to be retained upon the approved drawings shall be protected by fencing of in accordance with the advice contained within BS5837:2012. Once these protective measures have been erected but prior to commencement of the development a suitably qualified arboricultural consultant appointed by the developer shall inspect the site and write to the Local Planning Authority to confirm that the protective measures are in-situ. Upon confirmation of receipt of that letter by the Local Planning Authority the development may commence but the tree protection measures must remain in-situ until completion of the development.

Reason: To safeguard the trees upon the site that are of amenity value in accordance with Policy LA5 of the Herefordshire Unitary Development Plan 2007.

5. Other than any external lighting permitted pursuant to condition 2 above, no further external shall be installed upon the site, including the external elevations of the building, without the express consent of the Local Planning Authority.

Reason: To safeguard the character of the Malvern Hills Area of Outstanding Natural Beauty in accordance with Policies LA1 and DR14 of the Herefordshire Unitary Development Plan 2007.

6. The car port hereby permitted shall be permanently kept available for the parking of two private motor vehicles.

Reason: In the interests of highway safety and to ensure that the site is dominated by the parking of private motor vehicles thus ensuring that the character and appearance of the Conservation Area and Malvern Hills Area of Outstanding Natural Beauty is not adversely affected, in accordance with Policies T11, LA1 and HBA6 of the Herefordshire Unitary Development Plan 2007.

7. All planting in the approved details of landscaping (i.e. Landscaping Proposals - Drawing number CHC 001 (Scale 1:200) received 10 January 2013) shall be carried out in the first planting and seeding seasons following the first occupation of the dwellinghouse hereby permitted or completion of the development (whichever is the sooner). Any trees or

plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

**Reason:** To ensure that the development is satisfactorily integrated into the landscape and to soften the rear (north) elevation of the dwellinghouse when viewed from the garden of 'Whitegates' to the north, in accordance with Policies LA1 and LA6 of the Herefordshire Unitary Development Plan 2007.

8. **Prior to commencement of works on site, evidence that the proposed dwelling design and specification complies with Passivhaus Certification criteria is to be submitted to the Local Planning Authority by a CEPH (Certified European Passivhaus) designer. Evidence is to include full PHPP (Passivhaus Planning Package) assessment, proposed construction method including specification for all external envelope elements, general arrangement plans, sections and elevations, key junction details and ventilation design information. The works on site shall not commence until the Local Planning Authority have confirmed in writing receipt of the aforementioned evidence and their satisfaction with the submitted documentation.**

**Reason:** The sustainability credentials of the proposed building was given considerable weight in the decision of the Local Planning Authority to grant planning permission for the dwellinghouse and to accord with Policy S1 of the Herefordshire Unitary Development Plan 2007.

9. **Evidence of Passivhaus certification received from the Passivhaus Institute in Darmstadt shall be submitted to the Local Planning Authority by an accredited Passivhaus assessor within six months of the first occupation of the dwellinghouse hereby permitted.**

**Reason:** The sustainability credentials of the proposed building was given considerable weight in the decision of the Local Planning Authority to grant planning permission for the dwellinghouse and to accord with Policy S1 of the Herefordshire Unitary Development Plan 2007.

10. **Prior to commencement of the development hereby permitted, a Construction Environmental Management Plan and Habitat Enhancement scheme shall be submitted to the Local Planning Authority for their written approval. This shall include timing of the works, details of storage of materials to minimise the extent of dust, odour, noise and vibration arising from the construction process. The development shall not commence until the Local Planning Authority has given such written approval. The Construction Environmental Management Plan and Habitat Enhancement scheme shall be carried out in full accordance with the approved details and thereafter maintained as such;**

**Reasons:-**

a) **To ensure that all species and sites are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats Regulations 2010 and policies NC1, NC6 And NC7 of the Herefordshire Unitary Development Plan 2007.**

**b) To comply with policies NC8 and NC9 of the Herefordshire Unitary Development Plan 2007 in relation to Nature Conservation and Bio-diversity and to meet the requirements of the NPPF and the NERC Act 2006.**

**Reasons for Approval.**

**11. Whilst the proposal is contrary to the provisions of the Development Plan in that it would provide a new house outside of the existing settlement boundary, in this instance it was considered that full conditional planning permission should be granted as:**

- a) Herefordshire Council has a shortfall in its 5 year housing land supply plus 5%.**
- b) The site immediately abuts the settlement boundary of Colwall which is a main village and considered to be sustainable.**
- c) The design of the building is outstanding in terms of both its architecture and sustainability credentials.**
- d) The proposal would enhance the Conservation Area.**
- e) The proposal would not harm the landscape which hereabouts is designated as an Area of Outstanding Natural Beauty.**
- f) In all other respects the proposal is considered to be acceptable in planning terms.**

**The decision was also made in the context of the National Planning Policy Framework which advances a presumption in favour of sustainable development.**

**Informatives:**

**1. The Local Planning Authority acted positively and proactively in dealing with this development by providing pre-application advice prior to the submission of the planning application.**

**The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of minor matters of concern with the application (as originally submitted) have resulted in the submission of a detailed landscaping scheme. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**

**2. The applicant/developer are advised that a separate Land drainage consent from the Lead Local Flood authority (Herefordshire Council – Agents Amey) will be required. The relevant contact is [Martin.Jackson@amey.co.uk](mailto:Martin.Jackson@amey.co.uk)**

**3. The documents to which this decision relate are:**

- Planning Application Form received 30 October 2012.**
- Topographical Survey – Drawing number G 7217/1 received 30 October 2012.**
- Site Location Plan – Drawing number 7022 PL001 Revision 1 (Scale 1:1250) received 30 October 2012.**
- Site Plan – Drawing number 7022 PL002 Revision 1 (Scale 1:200) received 30 October 2012.**

- **Floor Plans – Drawing number 7022 PL100 Revision 1 (Scale 1:100) received 30 October 2012.**
- **Elevations – Drawing number 7022 PL600 Revision 1 (Scale 1:100) received 30 October 2012.**
- **Sections – Drawing 7022 PL800 Revision 1 received 30 October 2012.**
- **Perspectives – Drawing 7022 PL810 Revision 1 received 30 October 2012.**
- **Timber Cladding Details – Drawing number 7022 PL910 received 30 October 2012.**
- **Bridge Details – Drawing number 7022 PL900 Revision 1 received 30 October 2012.**
- **Design & Access Statement (October 2012) received 30 October 2012.**
- **Aboricultural Implications Assessment received 30th October 2012.**
- **Landscaping Proposals – Drawing number CHC 001 (Scale 1:200) received 10 January 2013.**

**138. S122604/O - LAND REAR OF WHITE HOUSE DRIVE, KINGSTONE, HEREFORD**

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 Wright, representing Kingstone and Thrupton Parish Council, and Mr Barton, a neighbouring resident, spoke in objection to the application and Mr Reed, the applicant's agent, spoke in support.

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

- That Welsh Water were unable to deliver a piped supply to the reservoir therefore a number of HGV's delivered water via the narrow Kingstone roads.
- The primary bus route from Kingstone picked passengers up approximately a mile away from the proposed site. This route was currently unlit.
- People would have to travel to work as there was little employment in Kingstone itself.
- What would happen if the Welsh Water upgrade required did not take place?
- The Council needed to address the core strategy to avoid a number of similar application outside of the settlement boundaries of villages throughout the County.
- Why was the cycling policy referred to in the list of appropriate policies, the roads around Kingstone were not safe for cyclists.

In response to a number of points made by the local ward member, the Development Manager (Northern Localities) confirmed that:

- If the upgrades were not completed by Welsh Water, the dwellings could not be occupied.
- The Core Strategy was being set out through the LDF process by the Planning Policy team headed up by Andrew Ashcroft.
- The cycling policy was referred to as a number of cycle routes were being extended throughout the county including a route to Madley industrial estate.

The committee opened the debate by voicing their concerns in respect of the application. The first Member who spoke was of the opinion that he could not support the application. He added that there were a number of narrow roads in the area which were used by agricultural vehicles as well as large HGV's. He also noted that the public had made their feelings known in respect of the application with 84% of local residents against it and that this was supported with 69 letters of objection received by the Planning Department. He then went on to address the issue of sustainability and stated that the site was clearly not sustainable as there was no employment available in Kingstone as well as the difficulty in accessing Hereford City due to the traffic issues on the A465 through Belmont. In summing up he felt that the Council had a duty to listen to the residents of Kingstone who had made it clear that they did not want the development as the dwellings were not needed. This had been confirmed as the Parish Council had completed a housing survey which had shown that there was not a need for such a large number of dwellings in Kingstone.

Another Member stated that he was concerned about the reference to H10 in the report. H10 of the Unitary Development Plan listed 7 provisions that needed to be fulfilled in respect of affordable housing. In this instance it appeared that there was some concern as to whether provisions 1, 2 and 6 had actually been fulfilled. These areas addressed issues of a proven, genuine and quantifiable need; evidence that local housing could not fulfil the demand; and that it did not involve a mixed development.

The Committee were concerned that the Council could be subject to a large number of similar applications due to a delay in the introduction of the LDF framework. It was considered that the Council should be taking note of the concerns of the local residents in respect of these issues. The general view of the Committee was that the development was not sustainable and the village of Kingstone was lacking in respect of the required infrastructure.

A Member of the Committee stated that there had been a number of similar applications throughout the County which were clearly not sustainable. He also noted that there was a lack of jobs and infrastructure in the village, a point supported by the local ward member. He was also concerned that there was no proposed play area on the site and felt that it not acceptable to make young children to cross busy roads to access play facilities.

Another Member spoke in objection to the application and stated that the Committee understood that the Council did not have a 5 year housing supply and that they also understood that there was a presumption in favour of sustainable development. However Kingstone did not need to supply the housing shortfall for the whole county. The report made one short reference to sustainability yet the development was being referred to as a sustainable development. The Committee had a duty to ensure that developments were permitted in the most suitable locations through the County however this was not a suitable location and should be refused.

It was noted that Welsh Water had already indicated that the upgrade would not be complete until 2015. The Committee considered that it should ensure the entire required infrastructure was in place prior to granting permission on the site. Another Member noted that the Localism Act required Council's to listen to local residents and that, in this case, the local residents had made it very clear that they were not in support of the application.

One Member of the Committee felt that the applicant needed to address sustainability. Why had a 'wet system' not been investigated after Welsh Water had advised of a lack of drainage capacity. Safe cycling routes throughout the County also had to be provided before the Council could make steps to reduce vehicular movements on the busy routes into the city.

Finally it was stated that there was no analysis contained within the report as to why Kingstone was deemed as sustainable and as to why the site was considered as sustainable. The Committee needed to be persuaded of these facts and there was a clear lack of evidence at present. There was also no play space on the site and no clear sustainable features in the proposed dwellings.

Councillor JF Knipe was given the opportunity to close the debate. He reiterated his opening remarks and requested that the application be refused.

The Development Manager (Northern Localities) addressed the Committee. He advised them that Kingstone was included in the Unitary Development Plan as a main village and therefore development in this area was deemed as sustainable in planning terms. He added that a refusal on the grounds of sustainability would not be defensible at appeal.

In terms of the infrastructure he advised that Welsh Water had identified works required to the network and that these would be completed by 2015.

In terms of cycling he advised that the draft heads of terms appended to the officer's report set out where monies would be spent to improve the cycle network in the area. This included a link to Madley industrial estate.

He also drew Members' attention to the comments from the Transportation Manager who had not objected to the application and added that a refusal based on highway grounds would therefore not be defensible at appeal.

Finally he addressed the issue of design which had been raised during the debate. He noted that the design and layout of the proposed dwellings was similar to other developments in the area and would therefore not be a suitable reason for refusing the application.

The Development Manager advised Members to defer the application in order for an enhanced report to be resubmitted to them clarifying the points raised in the debate. The Committee were not minded to defer the application.

Therefore, in light of the concerns raised above, the Development Manager advised that he would be requesting a Further Information Report in accordance with paragraph 5.12.10.4 of the Planning Code contained within the Council's Constitution as there would be the potential to lose an appeal and also as the applicant would be in a position to claim substantial costs against the Council if any such appeal was lost.

Members noted that the question put to the Principal Planning Officer, in respect of Unitary Development Plan Policy H10, had not been responded to. The Principal Planning Officer advised that there was an identified housing need in Kingstone and that the development would meet this requirement and if homes were available the need would be cascaded to adjoining parishes. In respect to the issue regarding mixed development the lack of a five year housing land supply negated this criterion.

The Regulatory, Environment and Litigation Solicitor, representing the Monitoring Officer, advised the Committee that the reasons for refusal put forward during the debate, including issues regarding sustainability, highway access, density and drainage, would in his opinion be difficult to defend at an appeal. Therefore he concurred with the Development Manager that a further report would be necessary and requested that the Further Information Report procedure be followed accordingly.

The Chairman read out an extract from the Council's Planning Code, namely paragraph 5.12.10.4, which related to the Further Information Report process. He advised Members

that the Committee were now required to defer the determination of the application and could not move to a vote.

**RESOLVED:**

**That consideration of planning application S122604/O be deferred pending a further information report.**

**139. DATE OF NEXT MEETING**

The Planning Committee noted the date of the next meeting.

**APPENDIX 1 - SCHEDULE OF COMMITTEE UPDATES**

The meeting ended at 11.50 am

**CHAIRMAN**



# PLANNING COMMITTEE

30 January 2013

## 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.

**7 N123067/F - ERECTION OF TWO STOREY DWELLINGHOUSE AT LAND AT THE COACH HOUSE, OLD CHURCH ROAD, COLWALL, MALVERN**

**For: Mr Beard per Architype, Upper Twyford, Twyford, Hereford, Herefordshire HR2 8AD**

### ADDITIONAL REPRESENTATIONS

A letter of support has been received from the occupiers of New Winnings, Walwyn Road, Colwall. They welcome the development of such a dwelling with sustainability credentials and consider that it would act as a shining example if Herefordshire could be a pioneering county embracing such developments.

The agent for the applicant has usefully clarified a few precise dimensions which should be regarded as an amendment to the Committee Report:-

- a) The house at ground floor level would be 12.068 metres wide (rather than 11.9 metres);
- b) The depth of the house would range from 13.641 metres to 18.018 metres (rather than 13.3 metres to 17.3 metres); and
- c) The first floor would be set back from the front elevation of the ground floor by some 3.839 metres (rather than 5 metres).

### NO CHANGE TO RECOMMENDATION



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>20 FEBRUARY 2013</b>
<b>TITLE OF REPORT:</b>	<b>APPEALS</b>

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**CLASSIFICATION:** Open

### **Wards Affected**

Countywide

### **Purpose**

To note the progress in respect of the following appeals.

### **Key Decision**

This is not a key decision

### **Recommendation**

That the report be noted

### **APPEALS RECEIVED**

#### **Application No. S121111/F**

- The appeal was received on 23 January 2013
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal is brought by Mr J Parrott
- The site is located at Land off Coxs Meadow, Lea, Ross-on-Wye, Herefordshire
- The development proposed is the construction of a bungalow with parking
- The appeal is to be heard by written representations

**Case Officer: Andrew Prior on 01432 261932**

#### **Application No. N121910/F**

- The appeal was received on 30 January 2013
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal is brought by Mr KW Davis
- The site is located at Alpine Nursery, Lingen, Herefordshire, SY7 0DY
- The development proposed is the removal of condition 2 of planning permission 88/0951 to remove occupancy condition
- The appeal is to be heard by a hearing

**Case Officer: Mr P Mullineux on 01432 261808**

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Further information on the subject of this report is available from the relevant case officer

### **Application No. N122744/FH**

- The appeal was received on 4 February 2013
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal is brought by Mr A Young
- The site is located at Tagfield Cottage, Stoke Prior, Leominster, Herefordshire, HR6 0LG
- The development proposed is a two bay open garage (cart shed) with bike store at rear
- The appeal is to be heard by householder procedure

**Case Officer: Mr M Tompkins on 01432 261795**

## **APPEALS DETERMINED**

### **Application No. N120471/F**

- The appeal was received on 5 September 2012
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by the owner and/or occupier
- The site is located at Winforton Wood, Winforton, Herefordshire, HR3 6EB
- The application dated 9 February 2012 was refused on 9 May 2012
- The development proposed was:
  - A diversification project for woodland pig farm for use of existing infrastructure for accommodation
- The main issues were:
  - Whether the proposed creation of permanent residential accommodation in the woodland was justified; and
  - The effect that the proposed development would have upon highway safety

#### **Decision:**

The application was refused under delegated powers on 9 May 2012

The appeal was dismissed on 24 January 2013

**Case Officer: Mr A Banks on 01432 383085**

### **Application No. S120237/FH**

- The appeal was received on 4 September 2012
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against conditions imposed on a granting of planning permission
- The appeal was brought by Mr & Mrs J Joseph
- The site is located at Trecorras Farm, Llangarron, Ross on Wye, Herefordshire, HR9 6PG
- The application dated 24 January 2012 was approved on 6 June 2012
- The development proposed was Extension to existing farmhouse

#### **Decision:**

The application was approved, contrary to officer recommendation, at Planning Committee on 6 June 2012

The appeal was withdrawn on 31 January 2013

**Case Officer: Mr S Withers on 01432 260612**

If members wish to see the full text of decision letters copies can be provided.



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>20 FEBRUARY 2013</b>
<b>TITLE OF REPORT:</b>	<b>ENFORCEMENT REPORT</b>

**CLASSIFICATION:** Open

### Wards Affected

Countywide

### Purpose

To update the Committee in respect of Planning Enforcement Performance for the period 1 April 2012 – 30 September 2012

### Key Decision

This is not a key decision.

### Recommendation

That the report be noted

### ENFORCEMENT PERFORMANCE – 6-MONTHLY REPORT - 1 April 2012 – 30 September 2012

There are no national Performance Indicators for planning enforcement. The Planning Enforcement Policy includes a requirement for reporting on Enforcement activity to this Committee. The tables below set out the results for the period 1 April 2012 – 30 September 2012, the fourth such report.

Cases opened 1 April 2012 – 30 September 2012

Type	Total
D01 Breach of Planning Condition	45
D03 Development contrary to approved plans	16
D04 Unauthorised operational development	116
D05 Unauthorised material change of use	85
D06 Unauthorised works to Listed Building	15
D07 Unauthorised works to TPO	1
D08 Unauthorised works to trees in a Conservation Area	1
D09 Unauthorised Advertisement	17
D10 Unauthorised demolition in a Conservation Area	1
D11 Untidy land	7
D26 Unauthorised Works to a Hedgerow	2
<b>Total</b>	<b>306</b>

Further information on the subject of this report is available from Mark Tansley, Development Manager (Monitoring and Compliance) - 01432 261815

Closed Cases 1 April 2012 – 30 September 2012

Type	Total
D01 Breach of Planning Condition	63
D03 Development contrary to approved plans	12
D04 Unauthorised operational development	121
D05 Unauthorised material change of use	83
D06 Unauthorised works to Listed Building	14
D07 Unauthorised works to TPO	1
D08 Unauthorised works to trees in a Conservation Area	1
D09 Unauthorised Advertisement	14
D10 Unauthorised demolition in a Conservation Area	1
D11 Untidy land	11
D15 Unauthorised Building	29
D19 Unauthorised Mobile Home	1
D26 Unauthorised Works to a Hedgerow	2
Grand Total	353

Enforcement Outcomes 1 April 2012 – 30 September 2012

Code	Total
C01 No apparent breach (not development)	68
C02 No apparent breach (permitted development)	57
C03 Immune from action (4/10 yr rule)	10
C04 Not expedient to take action	62
C05 Resolved through negotiation or compliance	86
C06 Resolved by planning permission being approved	50
C07 Enforcement action taken - compliance secured	7
C08 Passed onto other service area	8
Grand Total	348

Notices Served 1 April 2012 – 30 September 2012

Count of type	Total
Type	Total
P01 Planning Contravention Notice	10
P02 Breach of Condition Notice	2
P03 Enforcement Notice	2
P05 Section 215 Notice	2
P09 Section 330 Requisition	4
Total	20

Members requested a comparison of cases dealt with since reporting began. The table below sets out performance following re-organisation of the team:

	1/4/10 -30/9/10	1/10/10 – 31/3/11	1/4/11 – 30/9/11	1/10/11 – 31/3/12
Cases Opened	389	357	392	337
Cases Closed	362	400	434	385

In addition approximately 524 notifications of commencement from Building Control have been checked. This involves checking that planning permission has been received, where required, and whether or not any pre-commencement condition requirements have been met. It can result in requests for planning applications or in letters seeking submission of details of conditions.

Applications to vary a premises licence under the Licensing Act 2003 are also checked along with Festival and Show Events. These can also can result in requests for planning applications or in letters seeking submission of details of conditions.

Enforcement performance is now reported monthly on the Planning Enforcement web page,







<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>20 FEBRUARY 2013</b>
<b>TITLE OF REPORT:</b>	<b>S113607/O - PROPOSED THREE BEDROOM DETACHED AGRICULTURAL DWELLING AT TIDNOR WOOD ORCHARDS, TIDNOR LANE, LUGWARDINE, HEREFORD, HR1 4DF.</b>  <b>For: Mr Henry May, Knockmoyle, Strone, Dunoon, Argyll, PA23 8TB.</b>
<b>WEBSITE LINK:</b>	<a href="http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=113607&amp;NoSearch=True">http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=113607&amp;NoSearch=True</a>

**Date Received: 28 December 2011 Ward: Hagley**

**Grid Ref: 356067,239647**

**Expiry Date: 9 April 2012**

Local Members: Councillor DW Greenow

### Introduction

The determination of this application was deferred at the meeting of the Planning Committee on 18 July 2012. The Minutes of that meeting record that the following information was requested to enable further consideration of the application:

- (i) Further clarification of the financial case substantiating the viability of the enterprise
- (ii) Clarification of the measures proposed to safeguard the long term retention of the orchard
- (iii) Further information on the drainage system and discharge levels.

There have been a number of exchanges with the applicant in the intervening period and these are set out in this updated report. Of particular note are the submission of an Agricultural Assessment and Management Plan prepared by the applicant in September 2012 and additional information relating to the installation of an upgraded private package treatment plant incorporating phosphate reduction. These documents are the key additions to the application and where necessary specific reference is made below to the additional information that has been submitted.

### 1. Site Description and Proposal

- 1.1 Tidnor Wood Orchards are located on the north side of Tidnor Lane (C1144) approximately 1.5km from the village of Bartestree. The orchard extends to approximately 10 hectares (25 acres), of which just over 2 hectares (5 acres) is managed as a Museum Orchard. The total collection includes nearly 400 different cider apple varieties.
- 1.2 The main entrance to the site is in the south east corner of the holding close to Longworth Lodge. The access road serves a small collection of buildings that has been developed by the applicant since around 2005. These buildings include a cider making building (Cider House), the stable block which provides facilities for the educational courses and community events that are organised at the site through the Tidnor Wood Orchards Community Interest Company (CIC). This building also appears to provide for a low level of residential use from

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Further information on the subject of this report is available from Mr S Withers on 01432 260612

the first floor (based upon my observations). The remaining buildings provide for the storage requirements of the enterprise.

- 1.3 The site is in open countryside and the land whilst relatively flat adjacent to the road rises in a northerly direction toward Tidnor Wood. The site falls within the Unregistered Park and Garden of Longworth. Longworth Hall itself is a Grade II Listed Building that lies to the east beyond the buildings associated with Longworth Hall Farm, some of which have been converted for residential use.
- 1.4 To the south of the site beyond the C1144 is predominantly agricultural land forming the Flood Plain of the River Lugg, a designated Special Area of Conservation (SAC) and a Site of Special Scientific Interest (SSSI)
- 1.5 The application seeks outline permission for the erection of a dwelling to provide full-time accommodation for the management of the orchard, the small scale production of cider and other products (including honey and sheep rearing) and the various educational and community initiatives that would continue to be organised.
- 1.6 The proposed dwelling would be served by an extension of the existing access road to the west of the existing buildings within part of the established orchard, and would be located to the north of the stable block. A three bedroom traditional cottage design utilising reclaimed bricks, timber cladding and slate is proposed. Accommodation extending up to 100 sq. metres (200 sq. m gross) floor area is identified in the supporting documentation. All matters are reserved and as such this proposal essentially seeks approval for the principle of establishing a permanent residential presence at the site.
- 1.7 The application is accompanied by a Design and Access Statement, an Ecological Appraisal and indicative plans identifying the location and layout of the proposed dwelling and the additional information identified above.

## **2. Policies**

### **2.1 National Planning Policy Framework (NPPF)**

Paragraphs 28 (Supporting a prosperous rural economy), 55 (Delivering a wide choice of high quality homes), 56-68 (Requiring good design) and Sections 11 (Conserving and enhancing the natural environment) and 12 (Conserving and enhancing the historic environment) are considered to be of particular relevance to this application.

### **2.2 Herefordshire Unitary Development Plan (HUDP)**

- S1 - Sustainable development
- S2 - Development requirements
- S7 - Natural and historic heritage
- DR1 - Design
- DR3 - Movement
- DR4 - Environment
- H7 - Housing in the open countryside outside settlements
- H8 - Agricultural and forestry dwellings and dwellings associated with rural Businesses
- T8 - Road hierarchy
- LA2 - Landscape character
- LA4 - Protection of historic parks and gardens
- LA5 - Protection of trees, parks and gardens
- LA6 - Landscaping schemes
- NC1 - Biodiversity and development

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Further information on the subject of this report is available from Mr S Withers on 01432 260612

- NC2 - Sites of international importance
- NC3 - Sites of national importance
- NC5 - European and nationally protected species
- NC6 - Biodiversity Action Plan priority habitats and species
- NC7 - Compensation for loss of biodiversity
- NC8 - Habitat creation, restoration and enhancement
- NC9 - Management of features of the landscape important for fauna and flora
- HBA4 - Setting of listed buildings

## 2.3 Supplementary Planning Documents

Landscape Character Assessment 2004

## 2.4 The Unitary Development Plan policies together with any relevant supplementary planning documentation can be viewed on the Councils website by using the following link:-

<http://www.herefordshire.gov.uk/housing/planning/29815.aspp>

## 3. Planning History

- 3.1 S102609/S Steel clad shed. Prior Approval Not Required 19 October 2010
- 3.2 DCCE2008/1831/F New stable block type complex for agriculture, re - submission of DCCE2008/0099/F Approved - 5 September 2008
- 3.3 DCCE2008/0099/F Stable block to include toilet, store, stable, office/crew room with hay loft above - for agriculture Refused 11 March 2008
- 3.4 DCCE2006/3753/F Siting of a mobile home for a maximum period of 2 years - associated with building work. Approved 16 January 2007
- 3.5 DCCE2006/1654/F Cider house/store/packing shed Approved 26 July 2006
- 3.6 DCCE2005/2054/S Open store Prior Approval Not Required 7 July 2005
- 3.7 DCCE2005/0444/S Proposed secure store Prior Approval Not Required 4 March 2005

## 4. Consultation Summary

### 4.1 The following section contains an updated summary that includes previous responses and those provided since the deferral of the application in July 2012

Statutory Consultees

### 4.2 Welsh Water – no comments received

### 4.3 Natural England previously agreed with Herefordshire Councils negative Habitats Regulation Assessment (HRA) screening. A response to the revised “No Likely Significant Effects” screening is awaited

Internal Council Advice

### 4.4 Traffic Manager raises no objections on the grounds that traffic generation is unlikely to increase as a result of an orchard worker residing at the site. A condition requiring details of parking arrangements is recommended

### 4.5 County Land Agent advises that there is no functional need for a worker to be on site throughout the year. The area involved is 25 acres of orchard and although it generates an

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Further information on the subject of this report is available from Mr S Withers on 01432 260612

average gross income of approximately £15K per annum, the financial test requires a profit of £20K per annum. The project should be self-financing but it is very unlikely that the profitability after costs will be sufficient to cover a full-time worker, even were it considered that there was a functional need. No such functional need exists based upon the 25 acres of orchard.

(NB. The additional information provided by the applicant which is summarised in the Appraisal section establishes that annual net profits are low and there have been losses recorded in 2011 and projected for 2012.

#### 4.6 Conservation Manager (Senior Landscape Officer)

##### Landscape Character

The landscape character type is Principal Settled Farmlands, although the main character of the site is as an orchard. Tidnor Wood is a designated Ancient Replanted Woodland and, being located on rising ground, it is an important landscape feature in the wider setting. The orchard has been established on lower slopes to the south of the woodland. The site falls within the Unregistered Park and Garden of Longworth, which is of local historic interest. Longworth Hall is a Grade II listed building and the lodge building on the southern entrance corner is associated with the historic estate. There are some small buildings existing on the site, which are of functional appearance and small scale.

##### Landscape Impact

A proposed residential building on this site would represent development in open countryside. The proposed compact, three-bedroom dormer style cottage would be significantly larger than the existing buildings. The associated residential garden boundary, together with other domestic paraphernalia (such as refuse collection, patio, washing line), has not been addressed at this outline stage, but would have an impact on altering the landscape character of the site.

The application is for a site to the north of the existing buildings. The aim of grouping buildings is that they will have a relationship to each other, their infrastructure should work together and reduce the spread of development. The alternative site, close to the entrance, would not do this. It would not be appropriate as it would detract from the importance of the neighbouring historic lodge building.

The proposal would significantly alter the character of the site, if either location is chosen. Both sites result in the loss of orchard trees and associated habitat, changing the character to domestic.

##### CONCLUSION

This change is not acceptable in landscape terms as it will adversely affect the orchard character of the site, contrary to Herefordshire Unitary Development Plan Policy LA2. The proposed development will also affect the historic structure and setting of the protected historic park of Longworth, contrary to Herefordshire Unitary Development Plan Policy LA4.

If the need for a dwelling on this site is established, then further detail should be provided to demonstrate that the development could be achieved without a negative landscape impact. Consideration should be given to any opportunities to offset or compensate for, the loss of orchard trees and the change in character. A more detailed site survey and landscape impact assessment would be required, including a historic landscape appraisal. The design details, particularly ground levels and proposed boundary treatments, would need to be carefully considered, if the development is to be appropriately integrated into the landscape.

- 4.7 Conservation Manager (Senior Ecologist): Thank you for consulting me on the above application. I visited the site in March 2012 and note that it is currently a traditional, commercial orchard. I have received the ecological report by Wildways dated 7 February 2012 detailing an ecological assessment of the site that was undertaken in late January 2012. This is not a suitable time of year for surveys to assess grassland vegetation, but I agree that the grass sward did not appear to be particularly diverse outside the wildflower area.

Traditional orchards are listed as a Habitat of Principal Importance in England in Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006. The Local Authority also has a duty to have regard for biodiversity under this Act. Herefordshire's Unitary Development Plan Policy NC6 also seeks to protect Herefordshire's priority habitats, including orchards.

There are two proposed locations for the new dwelling; one just inside the existing access and the other to the rear of the existing buildings. Therefore, both proposals will result in a loss of area of traditional orchard. There is also no indication of garden or domestic curtilage with the proposals which could result in further loss of orchard habitat. A permanent dwelling would also increase disturbance at the site, such as through external lighting at night. No compensation or mitigation measures for loss of habitat have been submitted as part of the application. I would expect this to include at least a long-term management plan to secure the future of the remaining orchard.

I note that the development proposals include the use of the existing access gate but that there is an additional access track proposed across the orchard and wildflower area. It is not clear whether more trees are to be removed to accommodate this; frequent vehicle movements through the orchard could also have a negative impact on the orchard trees.

#### Conclusion

I am unable to support this application due to the loss of Herefordshire Biodiversity Action Plan Priority Habitat. It is not clear why a new dwelling on the site is required for the management of the orchard. In addition, no compensation or mitigation measures have been submitted as part of the application.

#### Reasons:

The proposal does not comply with Circular 06/2005 and Policies NC1, NC4, NC6 and NC7 within Herefordshire's Unitary Development Plan. The proposal also does not comply with Policies NC8 and NC9 within Herefordshire's Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006.

- 4.8 Conservation Manager (Water Quality) – in response to the additional information provided, the proposal has been re-screened under the HRA regime. This has led to a recommendation that with the installation of an upgraded package treatment plant, there would be No Likely Significant Effects upon the River Lugg SAC.

The recommendation is subject to consideration by Natural England, the outcome of which will be reported verbally

- 4.9 Acting Parks, Countryside and Leisure Development Manager (in response to an approach from the applicant inviting interest in the adoption and future maintenance of the orchard) has advised that Herefordshire Council is not in a position to take on responsibility of new land and commenting on the potential for a local group of orchard enthusiasts to take on the long term maintenance of the older and orchard and new collection such as has been the case in Colwall.

## 5. Representations

5.1 Since the deferral of the application, there has been further re-consultation upon the Agricultural Assessment and Management Plan and the summary set out below incorporates the updated comments from other interested parties

5.2 Bartestree and Lugwardine Parish Council agreed to support the application with their comments including a summary of objections from 2 members of the public

5.3 A total 7 letters of objection have been received from JE Smith, Parkwest, Longworth, Lugwardine, Hereford, HR1 4DF, E Price, Longworth Mill, Lugwardine, Hereford, HR1 4DF, M Dowling, Tidnor Mill, Lugwardine, Hereford, HR1 4AS and MJ Hurcombe and G Godsall, Hares Hatch, Lugwardine, HR1 4DF and Ms Hall and Houlton of Stile Cottage, Cattery, Larport Lane, Dormington, HR1 4EW. The objections can be summarised as follows:

- agricultural activity is unlikely to have sufficient turnover and profits to cover the wages and costs of a full time employee
- no livestock in need of constant care and attention
- there is a vacant farmhouse within 100metres of the orchard that could be available for letting
- applicant already has one person living on the site in a caravan
- entrance to the site has poor visibility
- existing septic tank installed without permission
- proposed development is in a sensitive wildlife and rural area close to an important SSSI
- new development will aggravate existing water pollution and flooding issues
- development is a stepping stone to retail activity that is totally unsuitable in this rural location
- increased activity and greater public access will generate more traffic (coach parties) which is not suitable on this lane

5.4 A petition of 33 signatories objecting to the application to erect a domestic dwelling in the greenfield site known as Tidnor Wood Orchard, Tidnor Lane, Lugwardine, Hereford, HR1 4DF and supporting the Planning Officers recommendation to the Committee held on 18 July 2012. The petition also asks for the Planning Committee and Parish Council to respect our views.

5.5 Since the deferral of the application, there have been a number of exchanges with the applicant. These have ranged from the submission of additional information such as the Agricultural Assessment and Management Plan and the details of a new package treatment plant, to procedural matters.

5.6 The applicant has specifically sought to respond to a number of objections confirming the following:

- Coaches would not visit Tidnor nor would significant numbers of other vehicles
- Visitors are not encouraged and visits are by invitation only
- Cider maker will not be opening a shop

5.7 The applicant has also made a written approach to Herefordshire Council to offer the orchard for adoption (see response above from the Acting Parks, Countryside and Leisure Development Manager)

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

<http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=113607&NoSearch=True>

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

### Functional and financial case/the principle

6.1 The NPPF is broadly supportive of proposals that promote sustainable development, which is seen as a "golden thread running through plan making and decision taking" and encompasses the need to support a prosperous rural economy (Para. 28) and good quality design (paras 56-68) whilst maintaining strict control over the circumstances in which new isolated homes in the countryside will be permitted (para.55). Since the Committee decision to defer the determination of the application, the applicant has submitted an additional supporting statement (Tidnor Wood Orchards Agricultural Assessment and Management Plan) which sets out in more detail the financial position of the enterprise, the nature of the activities that operate at Tidnor Wood Orchards and those that might be developed further as well as proposals for the retention and management of the orchard into the future. In general terms, it is accepted that there has been a record of investment and expansion at the site, which is evidenced by the steady growth of buildings from which the enterprise operates. The applicant has developed a nationally renowned collection of older apple varieties (Museum Orchard) which is supported by the cider apple crop produced on the remainder of the site. Around this, a small scale cider production business has been established together with other educational and community orientated activities.

6.2 In particular the applicant has provided Profit and Loss Accounts (M E Townsend) as follows:

	Gross Sales	Net Profit/Loss
2006	£21989	£2157
2007	£16996	£2479
2008	£10983	£1308
2009	£33309	£3319
2010	£7648	-£11,212
2011	£42564	£16817
2012	Estimated projected loss of over £10000	

6.3 The supporting information indicates that the annual net profit when averaged out over this period is £2000 and that profit levels have been reduced by expenses that have been incurred by sourcing and replacing trees and pruning as a result of poor management in the past. The additional information clarifies that the main sources of income at present are through a Tree Sponsorship Scheme (£80 per tree with 60 current sponsors), the sale of scions (cuttings)(£5 per stick) and in the last year an annual rent of £4000 has been received from the cider maker. A small scale range of souvenirs is also produced and it is suggested that this could be developed further along with the sponsorship scheme. The applicant submits that these established activities could be further developed by enabling an orchard worker to reside permanently on site. It is suggested that this too would provide security and enable better maintenance of the orchards into the future.

6.4 The NPPF expressly advises that local planning authorities should avoid new isolated houses in the countryside unless there are special circumstances such as an essential need for a rural worker to live permanently at or near to their place of work. Policy H8 of the HUDP is also relevant and requires there to be evidence of a long term genuine need as an essential part of a financially viable business. The policy also suggests that use should be made of existing buildings where possible and that new dwellings should be carefully sited, be of an appropriate scale and design and be commensurate in size with any established functional need. It is considered that in the event that a functional need is accepted, there are alternative

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Further information on the subject of this report is available from Mr S Withers on 01432 260612

opportunities for providing such accommodation within existing buildings at Tidnor Wood Orchard.

#### Orchard management and maintenance

- 6.5 The applicant has sought to clarify his intentions with regard to the long term maintenance of the orchard. In essence he would be willing to gift the land and trees to an appropriate recipient and has made unsuccessful approaches to the National Trust, the National Association of Cider Makers, Hereford Cider Museum and Herefordshire Council. Furthermore, the applicant has set up the Tidnor Wood Orchards Community Interest Company (CIC), the continued and proper regulation of which would provide a degree of protection since in the event that the Tidnor Wood CIC was liquidated it is understood that the land would have to be transferred to another CIC or similar charity. The applicant advises that the presence of a dwelling could attract an individual who would take on the responsibility of managing the CIC in addition to other work on the site and thereby provide greater certainty as to the retention of the orchards
- 6.6 In this case, whilst the intentions of the applicant to maintain and protect both the Museum and working orchards and develop the educational/community based initiatives are acknowledged, it is not considered that there is any functional requirement associated with the activities on the site that would warrant a full-time residential presence. The day-to-day management of the orchards does not require a level of supervision that would require any one to reside permanently and whilst mention is made of security benefits, no convincing evidence of theft or damage to property is provided and in any event, this is not in and of itself a reason for allowing a new dwelling.
- 6.7 The supporting information advises that the existing activities are financially “self sufficient” and advice provided by the County Land Agent confirms that the project should be self financing but is very unlikely that it would be sufficiently profitable to cover a full-time worker.
- 6.8 Furthermore, whilst putting the management of the orchard into a CIC, is acknowledged, it remains the case that the applicant has not provided a legal mechanism that would provide complete certainty that the house and orchards would be retained together, in perpetuity and it is not considered that there would be no realistic planning mechanism to achieve this aim
- 6.9 Accordingly, it is not considered that this proposal demonstrates a sufficiently robust functional need and the financial model, whilst potentially self sustaining, suggests that there would be serious concerns about the long term viability of the enterprise. In both these respects, the conclusion is that a dwelling on site may well be convenient in terms of developing the enterprise, it is not an essential requirement and your officers are not convinced that there is a mechanism that would safeguard the orchard in perpetuity. As such a new dwelling in this isolated and otherwise unsustainable location would be contrary to Policies H7 and H8 of the HUDP and para 55 of the NPPF.

#### Impact on character and appearance of the locality

- 6.10 The site is within an attractive area of countryside on the edge of the floodplain of the River Lugg with the landscape character type identified as “Principal Settled Farmlands”. The existing buildings and indeed the proposed site for the dwelling are on a relatively flat part of the site, which then rises up towards Tidnor Wood. The site also falls within the Unregistered Park and Garden of Longworth Hall.
- 6.11 The chosen location for the dwelling is well related to the existing and established range of buildings at the site but the introduction of a residential use would in my view be at odds with the low key agricultural nature of these buildings. The dwelling would be taller than the existing



buildings and would necessitate the removal of a number of orchard trees as well as introducing additional hardstandings and domestic paraphernalia.

- 6.12 It is acknowledged that the proposed location would have a limited impact in the wider landscape by reason of its relatively inconspicuous position in relation to public vantage points. There would however be a change in the character of the site, and in the absence of any overriding justification for a dwelling, it is considered that such development should be resisted in order to protect the character of the site and surrounding area from unwarranted and unjustified development. In this context, it is considered that the application would be contrary to Policies LA2 and LA4 of the HUDP

#### Impact on Biodiversity

- 6.13 In common with the assessment set out above, the lack of any overriding justification for the dwelling must be given significant weight in the decision-making process. In the absence of such a need, the loss of even a small number of orchard trees and the associated loss of, and impacts upon the associated habitats should be accorded more weight in my opinion. In this respect it is considered that the proposal would fail to satisfy Policies NC1, NC6, NC7 and NC8 of the HUDP.
- 6.14 In addition to the direct impacts of the construction of the proposed dwelling, it is also of significant importance to establish the likely impacts of foul drainage discharges from the site in order to properly assess the impacts of such discharges upon the biodiversity of the local watercourses. This has become of particular significance in the light of the recognition that further discharges into the River Lugg are likely to have significant effects on its biodiversity value as a designated Special Area of Conservation. At the time of writing, and in response to additional technical information provided by the applicant (upgraded package treatment plant incorporating phosphate reduction), The Councils consultant Ecologist has carried out a further screening of the proposal concluding that with the upgraded treatment plant, there would be “No Likely Significant Effects” upon the integrity of the River Lugg/Wye Special Area of Conservation.
- 6.15 Natural England are currently scrutinising the revised HRA Screening and subject to confirming acceptance this would remove one of the previous refusal reasons.

#### Conclusion

- 6.16 Whilst the applicant has invested significant time and resources in establishing and maintaining the orchards and developed a self financing enterprise offering small scale apple and cider production alongside the provision of educational and community based activities, it is not considered that the aspiration to further develop these activities would amount to an essential need for a dwelling and as such it is maintained that in this isolated rural location the proposal is unacceptable as a matter of principle. In reaching this conclusion it follows that the unwarranted residential development would have an impact on the site and surrounding locality as well as the biodiversity value of the site. Whilst the implications for foul discharge is awaiting clarification from Natural England, it would appear likely that this technical matter has been resolved, subject to the installation of the upgraded treatment plant.
- 6.17 Therefore, notwithstanding the additional information provided by the applicant, the application is recommended for refusal.

**RECOMMENDATION**

That subject to the advice from Natural England corroborating the Councils HRA Screening, that planning permission be refused for the following reasons:

1. In the absence of any exceptional circumstances demonstrating that there is an essential need for a full time and permanent residential presence on the site, the erection of a dwelling in this isolated rural location would represent unwarranted and unsustainable development that would be contrary to Policies S1, H7 and H8 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.
2. In the absence of any exceptional circumstances justifying the introduction of a dwelling in this location, its siting, design and layout would result in harm to the character and appearance of the site and the surrounding locality. The unwarranted erosion of this attractive landscape which also forms part of an Unregistered Park and Garden would be contrary to Policies LA2 and LA4 of the Herefordshire Unitary Development Plan.
3. In the absence of any exceptional circumstances justifying the introduction of a dwelling in this location, its siting would result in harm to the biodiversity value of the site through the loss of trees and associated habitat. The unwarranted and unmitigated loss of orchard habitat would be contrary to Policies NC1, NC6, NC7 and NC8 of the Herefordshire Unitary Development Plan.

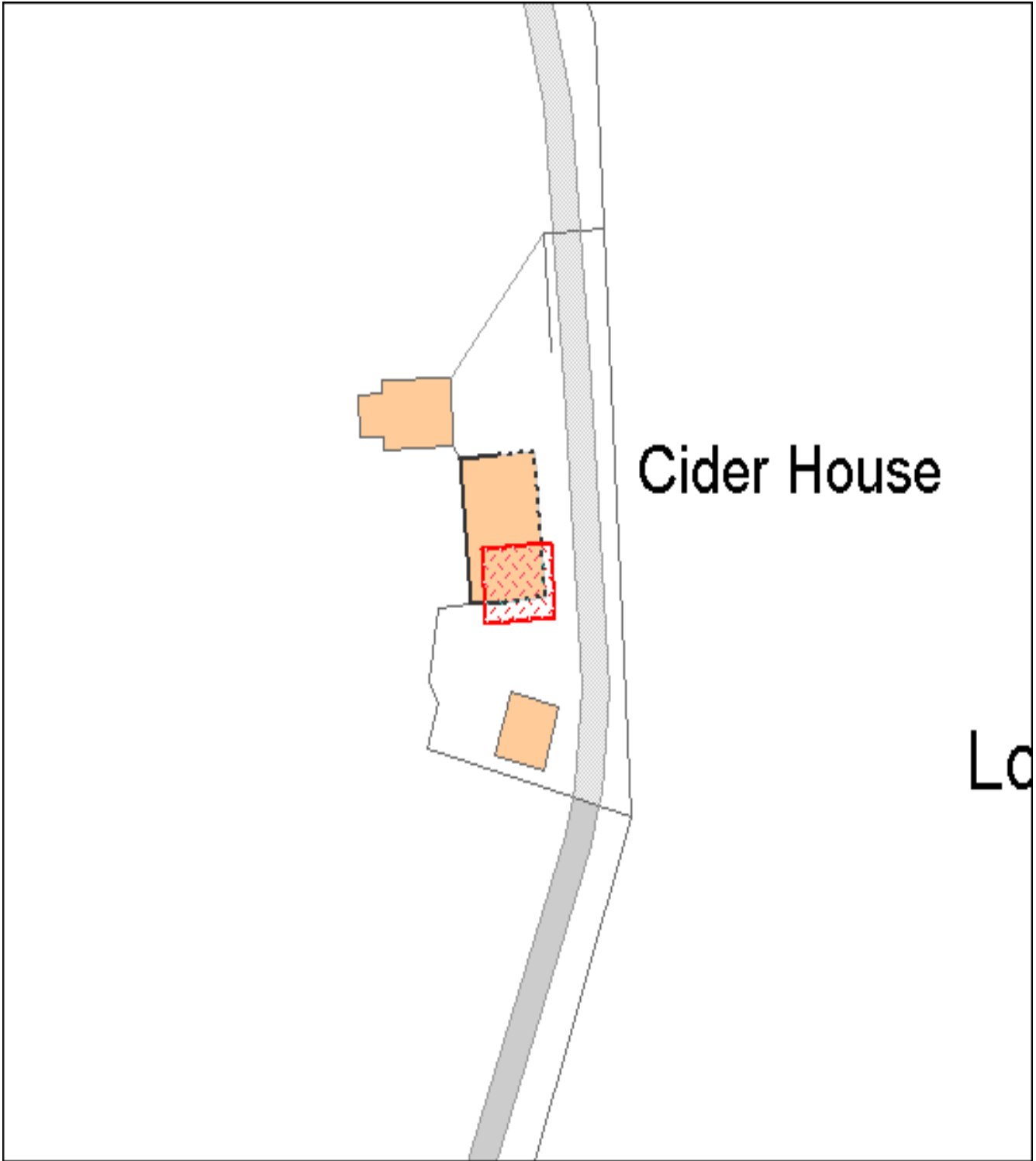
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** S/113607/O

**SITE ADDRESS :** TIDNOR WOOD ORCHARDS, TIDNOR LANE, LUGWARDINE, HEREFORD, HR1 4DF

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Further information on the subject of this report is available from Mr S Withers on 01432 260612





<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>20 February 2013</b>
<b>TITLE OF REPORT:</b>	<p><b>S123313/FH - DEMOLITION AND REPLACEMENT OF 2 NO BAY WINDOWS TO NE ELEVATION WITH TILED ROOF AND ASSOCIATED TERRACE, REPLACEMENT WINDOWS TO INCLUDE MINOR REVISIONS TO FENESTRATIONS, REPLACEMENT AND ADDITIONAL ROOFLIGHTS, AND MINOR INTERNAL ALTERATIONS. CONSTRUCTION OF NEW DETACHED DOUBLE GARAGE AND A NEW PITCHED ROOF TO EXISTING GARAGE TO AT TALBOTS BARN, THE LINE, LINTON, ROSS ON WYE, ROSS-ON-WYE, HR9 7RU.</b></p> <p><b>For: Mr &amp; Mrs Reeves per Mr Stephen Turner, 5 Barbourne Road, Worcester, Worcestershire, WR1 1RS.</b></p>
<b>WEBSITE LINK:</b>	<a href="http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=123313&amp;NoSearch=True">http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=123313&amp;NoSearch=True</a>

**Date Received: 22 November 2012** Ward: Penyard

**Grid Ref: 366621,224725**

**Expiry Date: 6 February 2013**

Local Members: Councillor H Bramer

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

- 1.1 The application site is located in an open countryside location outside of any designated settlement identified in the local plan and comprises a dwelling formed from the conversion of an unlisted barn, its associated curtilage and detached double garage. The resultant dwelling is one of numerous properties set around Linton Hill, where ribbon development has infilled between two unclassified roads on the hill side. The application site comprises the only dwelling on the North East side of the road from which access is gained. The building comprises the main two storey section which dominates the setting, with a single storey 'wing' projecting North West at a right angle to the main section.
- 1.2 The original character of the barn has been somewhat diluted by the original conversion scheme through inappropriate or unsympathetic detailing. This application seeks to reverse some of the 'damage' and upgrade the property.
- 1.3 The proposal is for the replacement of two number bay windows, replacement and upgraded windows and fenestration details, replacement and additional rooflights and minor internal alterations. A new detached garage and new pitched roof over the existing garage to form a playroom is also proposed.

## **2. Policies**

### **2.1 National Planning Policy Framework (NPPF)**

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Further information on the subject of this report is available from Mr C Brace on 01432 261947

Core planning principles – Design quality – para 17  
Requiring good design – quality, context and local character and distinctiveness – Chapter 7  
Conserving and enhancing the historic environment – Chapter 12  
Determining applications – determination in accordance with the approved plan unless material conditions indicate otherwise – para 196

**Herefordshire Unitary Development Plan (HUDP):**

S1	-	Sustainable Development
S2	-	Development Requirements
DR1	-	Design
DR2	-	Land Use and Activity
H18	-	Alterations and Extensions
HBA13	-	Re-Use and Adaptation of Rural Buildings for Residential Purposes

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

<http://www.herefordshire.gov.uk/housing/planning/29815.aspx>

**3. Planning History**

- 3.1 SH95/0026/PF – Erection of garage/ store – Approved with conditions
- 3.2 SH86/0692/PF – Living room extension and erection of three number garages – Approved with conditions
- 3.3 SH81/0488/PF – Change of use from barn to dwelling – Approved with conditions

**4. Consultation Summary**

Internal Council Advice

- 4.1 The Transportation Manager has no objection.

**5. Representations**

- 5.1 Linton Parish Council has no objection.
- 5.2 The consultation responses can be viewed on the Council's website by using the following link:-

<http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=123313&NoSearch=True>

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 unlisted barn makes an important contribution to this rural locality, both in terms of its appearance and history. The value of the barn is reflected in the fact that it has been deemed worthy of retention through its conversion to a residential use.
- 6.2 Notwithstanding the above, the resultant conversion and further alterations have diluted the character and appearance of the barn. This application seeks to remedy this harm by replacing many of the existing inappropriate uPVC windows with timber windows, raising the

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Further information on the subject of this report is available from Mr C Brace on 01432 261947

cill height on two windows, thus reducing the domestication of the building, as well as removing and replacing the existing rooflight with a conservation roof light. These works on their own provide an enhancement to the building.

- 6.3 The removal of one bay window on the North East elevation in its entirety and the upgrading and redesigning of the remaining bay window on this elevation significantly improve the property in terms of its appearance and form, creating a more appropriately balanced and proportioned elevation. The terrace, faced with natural stone paving, running 14.0 metres across the front of this elevation at a depth of 3.0 metres from the external wall, is also considered acceptable and a more coherent approach to the landscaping and a further enhancement over the existing situation.
- 6.4 The addition of two number conservation roof lights on the South East roof plane are acceptable, as is the remodelling of the first floor window arrangements on the North East elevation at first floor level. These works have no impact upon adjoining land uses or amenity.
- 6.5 The new garage is detached from the North West elevation of the existing single storey wing of the dwelling and comprises a single storey structure featuring stone walls with tile covered pitched roof. The garage measures 6.1 x 6.0 metres in plan with a height to ridge of 5.4 metres.
- 6.6 The design, scale and siting are all acceptable and appropriate to the context and subservient to the original dwelling and preserves the setting of the converted barn and the wider rural scene.
- 6.7 The extension over the existing garage to provide a playroom is similarly acceptable regarding design, scale and impact on the area. The existing flat roofed structure is increased in height from 2.5 metres to 6.0 metres and has a pitched roof with feature dormer window in the North East elevation which overlooks the main dwelling.
- 6.8 Along with satisfying the design and heritage requirements of the National Planning Policy Framework, the proposal satisfies local plan policies S1, S2, DR1, DR2, H18, LA2 and HBA13 of the Herefordshire Unitary Development Plan.

## **RECOMMENDATION**

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

- 1. A01 Time limit for commencement (full permission)**
- 2. B02 Development in accordance with approved plans and materials**
- 3. F07 Domestic use only of garage**
- 4. F08 No conversion of garage to habitable accommodation**
- 5. F13 Restriction on separate sale**

## **Reason for Approval**

- 1. The application represents an extension and alterations of acceptable size, scale and form which are in keeping with and subservient to the original dwelling and its character as a converted agricultural building, resulting in no adverse impact upon adjoining residential amenity or the character and appearance of this open countryside location. Furthermore the proposal is considered to satisfy Herefordshire Unitary Development Plan policies S1, S2, DR1, DR2, H18 and HBA13 and the requirements of the National Planning Policy Framework.**

**INFORMATIVES:**

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Decision: .....

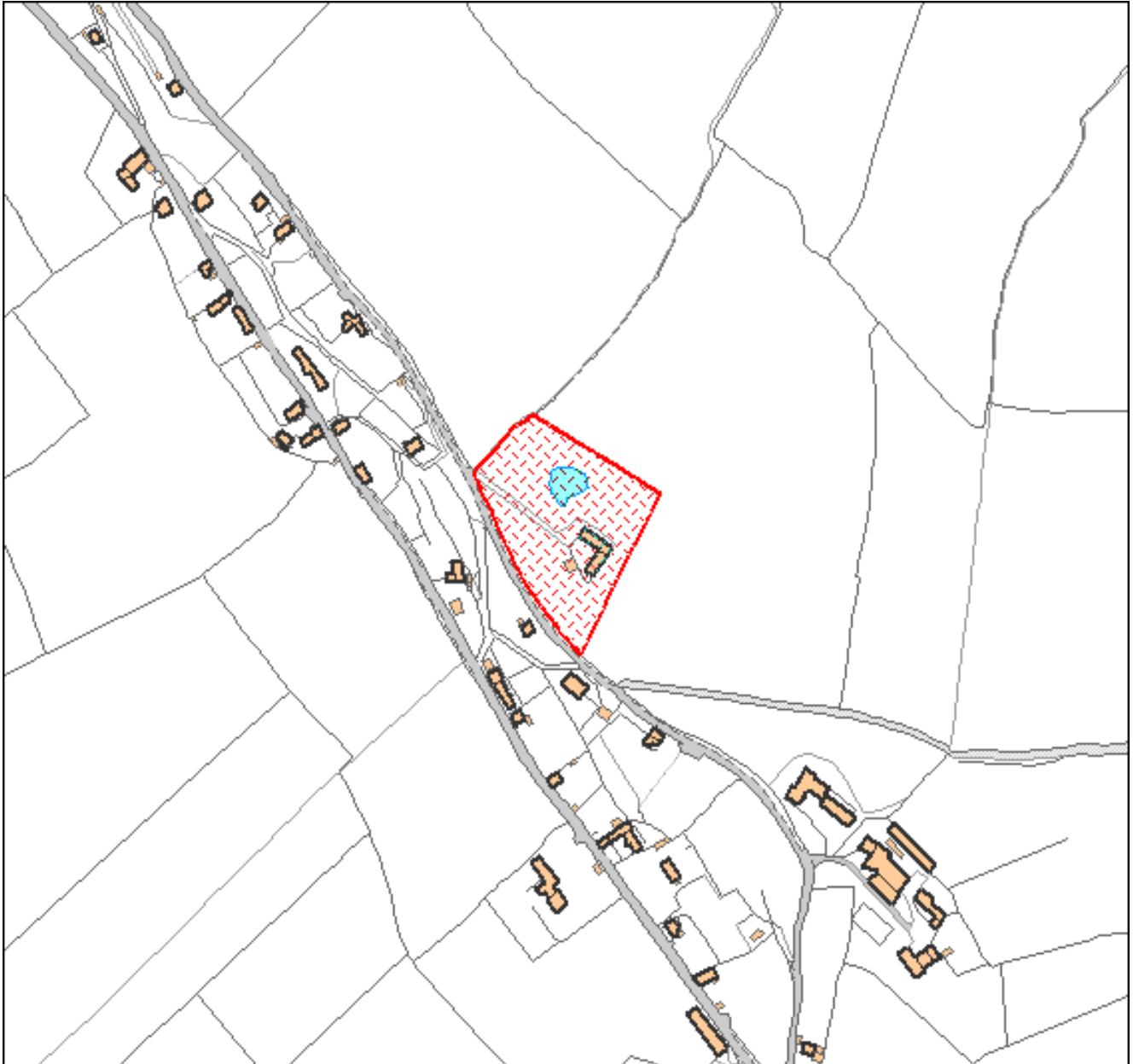
Notes: .....

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**Background Papers**

Internal departmental consultation replies.





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**APPLICATION NO:** S/123313/FH

**SITE ADDRESS :** TALBOTS BARN, THE LINE, LINTON ROSS ON WYE, ROSS-ON-WYE,  
HEREFORDSHIRE, HR9 7RU

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