

7 DCNC2008/0155/F - PROPOSED USE OF LAND FOR THE SITING OF SEASONAL AGRICULTURAL WORKERS ACCOMMODATION (CARAVANS AND PODS), CONSTRUCTION OF AMENITY BUILDING AND ASSOCIATED WORKS. THE FISHERIES, ELM GREEN, BRIERLEY COURT FARM, BRIERLEY, LEOMINSTER HEREFORDSHIRE, HR6 0NT.

**For: S&A Property Ltd per White Young Green,
Ropemaker Court, 12 Lower Park Row, Bristol, BS1
5BN**

Date Received: 18 January 2008 **Ward:** **Grid Ref:**
Expiry Date: 18 April 2008 **Leominster South** **49752, 56618**
Local Member: CouncillorS RBA Burke and RC Hunt

1. Site Description and Proposal

- 1.1 The application relates to the former Arrow Fisheries site at Brierley. It lies approximately one kilometre to the south of Leominster, and 500 metres to the north of Brierley. The site amounts to 10.1 hectares and is surrounded by man-made earth bunds which have become inhabited with native species trees and scrub. Within the bunds are contained a series of water bodies that were formerly used as a fishery.
- 1.2 The site is accessed from a private road to the south-western corner of the proposal site that was established to serve the agricultural operation at Brierley Court Farm. This private road allows direct access to and from the B4361 Hereford Road. The routes of public rights of way ZC84 and ZC85 run adjacent to the eastern boundary and across the western edge of the site respectively. Immediately to the north and west of the site is an area of plantation.
- 1.3 The area to the north of the site is an open meadow and forms part of the floodplain associated with the Arrow and Little Arrow rivers. A relief channel for the Little Arrow runs directly along the northern boundary and rejoins the Arrow further to the east. This watercourse is known locally as Brierley Cut.
- 1.4 Most of the land within the site of the former fishery, together with the fields that lie between the fishery site and the River Arrow, fall within the landscape type Riverside Meadows, as described in Herefordshire Council's Landscape Character Assessment. The fields to the south of the former fishery, together with a small section of the southern part of the former fishery, fall within the landscape type Principal Settled Farmlands.
- 1.5 The proposal is for the use of the land for the siting of seasonal workers' accommodation comprising caravans and pods, the construction of an amenity building and associated works.
- 1.6 The proposed development is similar to facilities that were recently removed from land to the west of the site. Internal infrastructure, such as access tracks, hardstandings,

parking and turning areas, foul water drainage, workers' recreation facilities, landscaping and tree planting are all shown contained within the bunded area. Workers' accommodation is shown as a combination of 192 static caravans and 313 accommodation pods, which are metal containers. The combination of these accommodation types makes provision for up to 2100 workers. A number of support facilities will be distributed around the site in similar pod accommodation. These are in the form of 17 individual kitchen pods and 54 toilet and shower pods in groups of three.

- 1.7 The proposed amenity building is shown as a single storey structure of a height of 4 metres to its ridge. The plans demonstrate a building with a shallow pitched roof and an L-shaped footprint. The building is simple in appearance and of a utilitarian design. Both its roof and walls are clad in profiled coated steel cladding, over a steel frame, of a construction similar to that of a modern agricultural building.
- 1.8 The plans submitted with the application also show a series of sports pitches and an area set aside for nature conservation on the meadows to the north of the fishery site. However, this is not included within the red line and therefore does not form part of the proposal.
- 1.9 The application is supported by a series of documents including a design and access statement, planning statement, flood risk assessment and landscape assessment. Also included is a layout plan showing the position of the amenity building central to the site with caravans and pods arranged to the east and west. Vehicular access is gained via the road constructed under an earlier planning permission by the applicants. An area of car parking is provided to the fore of the amenity building for visitors to the site. Workers are not permitted to bring their own vehicles to the site and therefore no other parking provision is made.
- 1.10 A detailed survey of existing site levels has also been completed, and plans indicating proposed levels submitted. The latter show that the water bodies contained within the site will be filled to create a level surface for the siting of the caravans and pods. The material for this infilling is to be sourced from the applicant's own land.
- 1.11 In addition an interim ecological report has also been submitted and was completed in January 2008. This acknowledges that the site may provide habitats that are suitable for protected species, particularly reptiles and bats, but the time of year which the study was undertaken was not optimum for finding them. It concludes that further survey work is necessary.

2. Policies

2.1 National Planning Guidance

PPS1 - Delivering Sustainable Development
PPS7 - Sustainable Development in Rural Areas
PPS9 - Biodiversity and Geological Conservation
PPS11 - Regional Spatial Strategies
PPS25 - Development and Flood Risk

2.2 Herefordshire Unitary Development Plan

S1 - Sustainable development
S2 - Development requirements
DR1 - Design
DR2 - Land use and activity
DR3 - Movement

DR4 - Environment
DR7 - Flood risk
H8 - Agricultural and forestry dwellings and dwellings associated with rural businesses
E13 - Agricultural and forestry development
LA2 - Landscape character and areas least resilient to change
LA3 - Setting of settlements
NC1 - Biodiversity and development
NC8 - Habitat creation, restoration and enhancement
CF2 - Foul drainage

3. Planning History

3.1 The following applications are all relevant to this particular site either in part or in their entirety:

- NC1999/3179/F - Change of use to allow the siting of 12 caravans for temporary accommodation and creation of a reed bed sewage system - Withdrawn.
- NC2000/3153/F - Retrospective application for ancillary storage and wc buildings for use in connection with fisheries operation - Refused 09/01/2001
- NC2001/0289/F - Retrospective application for ancillary storage and wc buildings for use in connection with fisheries operation - Approved 19/06/2001
- NC2004/0224/S - Construction of new access roads - Prior approval not required - 06/02/2004
- NC2004/2725/F - Variation of conditions 2 and 3 of approval under NC2001/0289/F to allow temporary buildings to remain on site for a further three years - Refused 25/10/2004
- NC2007/1801/S - Proposed general purpose storage building for the housing of irrigation equipment - Prior approval required - 06/07/2007

3.2 The following application is also directly relevant to this application although it relates to another part of the applicant's land:

- NC2004/0321/F - Construction of amenity building, toilet buildings and site works for 300 unit caravan standing (change of use) for farm workers accommodation - Refused 12/05/2004 and dismissed on appeal.

3.3 The same site was also the subject of a dismissed enforcement appeal. At the time of writing this report work is almost complete to remove the caravans and all of the associated site works from the land and to return the land to its original condition. The caravans and pods are currently sited on an adjacent field are being tolerated pending the determination of the current applications. The developer claims that the caravans are permitted development by virtue of Part 5 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, by reference to Paragraph 7 of Schedule 1 of the Caravan Sites and Control of Development Act 1960 which permits the use of land as a caravan site for the,

"accommodation during a particular season of a person or persons employed in farming operations on land in the same occupation"

- 3.4 However, in the appeal decisions in respect of Brierley Court the Secretary of State set out four tests to establish whether permitted development rights were being correctly applied. It is clear that, in the current case, those tests are not all satisfied and, therefore, the current caravan site is unauthorised. The decision on further enforcement proceedings has been postponed until the outcome of the current applications is known.

4. Consultation Summary

Statutory Consultations

- 4.1 Environment Agency - comment as follows:

Flood Risk

- 4.2 Although the site is shown to lie within the 1 in 100 year floodplain of the River Arrow, Brierley Cut and Little Arrow, based on the current Flood Zone Map, the FRA has demonstrated that the existing site (fishery) is contained within a substantial earth embankment, which excludes floodwater for events up to and including the 1 in 1000 year flood. Section 6 of the FRA states that 'these bund top elevations offer between 0.03m and 4.26m freeboard above the 1 in 100 year plus 20% flood level.'
- 4.3 We also note the comments in section 11 of the FRA regarding the Sequential test and that the accommodation units would be sited within flood zone 1 on the basis of the above.

Proposed Development

- 4.4 The proposals for the caravan site include the filling in of the fishing lakes (within the perimeter bunding) and raising of the internal level of the site to 67.98mAOD, which is 30mm above the 1 in 100 year plus 20% flood level. This will ensure that the site lies above the 1 in 100 year plus 20% flood level of 67.95mAOD. The FRA also states that the 'infill material will provide the bund with enhanced stability at the internal toe'. Sourcing of infill material, as proposed, from within the floodplain area (associated wildlife enhancement works) would also increase local flood storage and act as betterment in the flood risk regime, which meets the 'policy aims' of PPS25 (Table D1).
- 4.5 As a result of the existing earth embankment we consider that this area has been removed from the floodplain and therefore potential loss of floodplain storage volume as a result of this aspect of the proposal would not be an issue.
- 4.6 If the local planning authority are minded to approve this application the Environment Agency recommends the imposition of a number of conditions relating to site levels and floor levels within the accommodation units.

Internal Council Consultations

- 4.7 Transportation Manager - First, I wish to acknowledge and express thanks for S & A Group's approach to transport matters generally. Their approach has been good, and the effort is appreciated and acknowledged.
- 4.8 The fact remains that the proposed development is very significant in its effect on the transport network in the vicinity and surrounding area. It is our duty to ensure that these effects are not detrimental to highway safety or the free flow of traffic. Given that the population of the proposed camp is greater than many main villages in

- Herefordshire, there will undoubtedly be some effect on the Highway, both in increased risks and traffic generation.
- 4.9 I acknowledge that measures are in place to provide workplace transport, travel at the start and end of employment, and some travel to tourist and entertainment venues, as well as shopping shuttle bus provision.
- 4.10 I remain concerned about the residents who wish to travel independently between the site and Leominster, and further afield. It is likely that residents will wish to visit entertainment providers (pubs and clubs particularly) outside the hours that the shuttle bus operates. They will also wish to visit Hereford, and to meet workers housed on other sites around the County. They will travel by bus, or walk, or cycle. There is evidence of significant pedestrian traffic into Leominster in the evenings, and a fatal collision history between the site and Leominster involving a pedestrian.
- 4.11 Following the collision, informal temporary improvements were made to the western verge of the B4361. These improvements have partially improved the verge for pedestrian use. Unfortunately, there remain areas with slip and trip hazards, pinch points at bridges, no dropped kerbs, and the width is well below accepted standards. I would wish to see the western verge converted to a 2.0m wide footway, with kerbs, for the full length between the site and the existing footway north of Broadward.
- 4.12 However, I acknowledge that the work required to provide a footway meeting current standards is significant and expensive, because of the embankment that carries the road over the flood plain would need widening, and several bridges would need widening (or extra footbridges provided adjacent). I acknowledge that the residents of the camp are likely to be young and fit, by the very nature of the work they are employed to perform. This reduces the significance of full width footway provision with dropped kerbs. However, tripping hazards remain, and the surface will require on-going maintenance. There is also a slipping risk at the muddy/grassed verge outside "Broadward". Because of this, I would consider that it is reasonable to require the existing temporary improvements to be further improved by asphalt surfacing, and a new footway built linking the existing footway to the verge south of Broadward.
- 4.13 I also consider that bus shelters and improved bus stops should be provided at the junction of the private road and the B4361. This will accommodate those wishing to use the service bus towards Leominster and Hereford.
- 4.14 I would be grateful for details of cycle provision, and details of how cycle use is promoted."

Conservation Manager

Landscape

- 4.15 The majority of the site of the former fishery falls within the Landscape Type Riverside Meadows. This landscape type is described as 'linear, riverine landscapes associated with a flat, generally well-defined, alluvial floodplain, in places framed by steeply rising ground'. With regards to settlement pattern, it is stated that 'These are essentially unsettled landscapes with occasional mills or other buildings directly associated with the river'. The conservation aims include: 'Discourage further drainage of waterside meadows', 'Discourage built development' and 'Discourage construction works that would interrupt the linear unity of the landscape'.

- 4.16 While the site is in the form of a fishery at present, it is evident that it was previously a level, floodplain meadow, part of a managed water meadow system associated with Broadward Hall, which lies on the northern bank of the River Arrow. Brierley Cut (also called Arrow Cut) a drainage channel that runs along the northern boundary of the fishery site is part of the historic system of drainage channels that ran through the water meadows.
- 4.17 While the fishery pools are clearly a man-made element, pools are in keeping with the character of Riverside Meadows.
- 4.18 I am concerned that the proposed development would introduce a very large-scale built element into open countryside. In terms of landscape character, this would clearly be inappropriate and uncharacteristic of Riverside Meadows and contrary to the conservation aims for this landscape type.
- 4.19 The adverse impact of the proposed development on the character of the Riverside Meadows is acknowledged in the Landscape Assessment, which states that 'the proposed structures will be a notable landscape element within the immediate area of the Riverside Meadows due to the general absence of built structures within this Landscape Type'.
- 4.20 In my view, this conflict, between the proposed development and the character of Riverside Meadows, cannot be reconciled.

Ecology

- 4.21 At the time of writing this report a full ecological survey has yet to be completed. In the absence of such a report it is not possible to conclude whether the proposals will directly affect any protected species. However, there are concerns about the scale of development proposed.

Archaeology

- 4.22 In relation to archaeological issues this is a good choice of site. It is well away from any monuments with sensitive settings, and by virtue of the previous land use, of almost no potential in terms of below ground archaeology.

- 4.23 Public Rights of Way Manager - The proposed use of land for seasonal agricultural accommodation (191 caravans, 313 accommodation 'pods' and ancillary buildings) will affect the two public rights of way crossing the application site, and the development proposal does not satisfy all the elements contained in UDP Policy T6. Consequently, at least until further information is provided, and because the proposal appears to be in conflict with UDP Policy T6, the PROW Manager recommends refusal of this application.

- 4.24 A number of PROW issues directly relevant to Policy T6 need to be resolved before a determination is made on this application. A meeting is due to take place before the NAPSC meeting to resolve these and the Committee will be updated accordingly.

- 4.25 Environmental Health and Trading Standards Manager - No objection

- 4.26 Emergency Planning Manager - Has had sight of the comments from the Environment Agency and does not wish to add anything further to them.

5. Representations

- 5.1 Leominster Town Council - Recommends approval subject to the results of the additional ecological surveys and its confirmation that there will be no effect on any European protected species.
- 5.2 River Lugg Drainage Board - Objected to the original submission on the basis of a lack of information in relation to the disposal of surface water. No response has been received to further consultation following the submission of a detailed flood risk assessment.
- 5.3 The Ramblers Association - There are rights of way close to the proposed site and the visual impact would mar the ability of the public to enjoy the use of these. Should the work be undertaken, there should be no interference with, or blocking of, the existing rights of way.
- 5.4 CPRE - Object for the following reasons:
1. Out of scale with rural location.
 2. 2,100 people for nine months constitutes settlement with burden on services.
 3. Proximity to previous site and flood plain.
 4. Contrary to policies DR1, P6 and P7 and para 9.4.4.
 5. Biodiversity report compiled wrong time of year for great crested newt, and others.
- 5.5 Leominster Civic Society - Opposes the application for the following reasons:
1. The appearance of the landscape would be altogether altered by the proposal.
 2. It is both unsympathetic and unsustainable.
 3. The scale of the proposal is grossly out of keeping with the historic Herefordshire landscape.
 4. The proposal constitutes a settlement and it will have major ramifications in terms of its social and economic impact on the community.
 5. The proposal is for a period of 10 years and hence is not a short term application but will continue to have significant effects on Leominster.
 6. No decision should be made without the completion of a full biodiversity report.
 7. There is a potential for flooding in the area
 8. The enterprise will damage people's perception of Herefordshire as a tourist destination.
 9. Adequate transport facilities are not provided for workers.
 10. The proposal does not ensure effective protection of the environment or prudent use of natural resources.
- 5.6 Arrow Valley Residents Association - Object to the application for the following reasons:
1. Contrary to the consultant's report, local knowledge suggests that the site is well within the 1 in 100 year flood plain, and is shown by photographs submitted to the Council.
 2. Possibility of pollution of Brierley Cut
 3. The site will house over 2000 people and is far too large for its rural situation.
 4. The site will house pickers for other sites, necessitating convoys of buses along narrow lanes.
 5. The site is close to private houses and will have a negative impact upon them.

6. The development plans to use an unauthorised sewage treatment plant.
 7. The amenity value of public footpaths to either side of the site would be ruined by the development.
- 5.7 Eights letters of objection have been received from the following:
1. Mr A Greene, Ivington Park, Leominster
 2. Ms F Galliers Pratt, Upper Wintercott, Ivington
 3. Mr & Mrs Fereday, 2 New Orchard Cottage, Broadward
 4. Mr & Mrs Biddle, Brierley Lodge, Elms Green
 5. Mr & Mrs Hooper, Upper Court, Aulden
 6. Mr & Mrs Braithwaite, Onslow, Elms Green
 7. Mr & Mrs Ferron, The Paddocks, Elms Green
 8. Mr A Batty, 29 Wegnalls Way, Leominster
- 5.8 As well as making many of the points raised by both Leominster Civic Society and Arrow Valley Residents Association, the letters received from the objectors also raise the following additional points:
1. The polytunnels that the proposal will serve do not benefit from planning permission. Therefore the need for the development is questionable.
 2. The application does not state whether the units will be sited permanently sited or removed off season. If it assumed that they will be permanent, this is considered unnecessary when the applicants can rely on agricultural permitted development rights to accommodate workers.
 3. The previous site caused problems of noise and light pollution, social issues and intimidation of local people by groups of workers carrying alcohol.
 4. Claims that the proposal allows food to be grown locally and reduces food miles are unfounded. Workers travel from Eastern Europe and non EU countries and their carbon footprint should be included in any assessment.
 5. Inappropriate location for 3,000 people.
- 5.9 One letter of support have been received from Ms E Henderson, Pear Tree Cottage, Brierley who considers that this is an excellent location for the proposal as site has easier access to public transport and Leominster for workers.
- 5.10 Two non-committal letters have also been received from Mr J Howe, 59 South Street, Leominster who raises no objection to the proposal but simply queries what will happen to the pair of nesting swans on the site; and Mr J Clark, Brierley Cottage, Brierley who considers the scheme to be well designed but closer to dwellings than the original site and queries why it cannot continue to be used.

The applicant's supporting documents are summarised on the following pages:

Landscape Assessment

Summary

- 5.11 The applicant concludes that the proposed development would not have a significant impact on the wider landscape character for the following reasons:
1. There are very few existing views of the site from the surrounding landscape, due to the local topography and intervening vegetation;
 2. Where views do exist, such as from elevated viewpoints to the south, the new development will sit within the context of existing woodland. They also note

- that the industrial estate south of Leominster is likely to be a more intrusive feature in the landscape than the proposed development; and
3. The more sensitive 'Riverside Meadows' landscape type has greater potential to be significantly affected by the proposals. However, the boundary of this landscape type crosses the proposed site with no apparent justification using physical features (eg. field boundary/road/track/contour) on the ground.
- 5.12 It is their opinion that the boundary should more accurately be redrawn along the 'Arrow cut' just north of the proposed site, and that the site be placed wholly within the 'Principal Settled Farmlands'. Furthermore, the characteristics of the site do not readily fall within the description of the 'Riverside Meadows', including 'extensive areas of seasonally grazed waterside meadows', 'meandering tree lined rivers' and a 'flat generally well defined, alluvial floodplain'.
- 5.13 It is their conclusion that the proposed development would not have a significant visual impact for the following reasons:
1. There are very few existing open views of the site from the surrounding landscape, due to the local topography and intervening vegetation;
 2. Where views do exist, such as from elevated viewpoints to the south, the new development will be partially screened by vegetation along the southern bund, and viewed against existing woodland, and will not break the skyline; and
 3. The significant visual impact from public right of way ZC85 as it passes over the top of the western bund is experienced for only a very short length.
- 5.14 The landscape enhancement and mitigation proposals are shown on the schematic layout plan submitted with the Planning Application. The principal elements of the scheme are:
1. Strengthening of perimeter planting with new tree planting; and
 2. Tree planting in association with retained trees within the site area to better integrate the proposed development into the surrounding landscape.
- 5.15 The proposed planting will consist of native species to reflect the mix of existing tree and scrub both within and adjacent to the site, including willow, ash, alder, hawthorn and blackthorn.
- 5.16 They consider that the principals outlined above are appropriate in terms of the mitigation for the proposed development and provide a suitable basis develop a detailed landscape strategy.
- 5.17 Following recent discussions with the Public Rights of Way Officer, the applicant notes that there is potential for the re-routing of public right of way ZC85 from the top of the bund, to run along the western side of the bund. The views of the proposed development, should the footpath diverted, would be screened by the bund and the existing scrub vegetation.

Conclusions

- 5.18 From the landscape and site assessment, it is apparent that the proposed structures will be a notable landscape element within the immediate area of the 'Riverside Meadows' due to the general absence of built structures within this Landscape Type. However, the impact of these structures within the wider context will be reduced due to the partial screening from existing woodland and scrub vegetation on the bunds.

- 5.19 The effects on public rights of way have been assessed, and one significant visual impact has been identified where public right of way ZC85 crosses the top of the western bund. However, this is a transitory impact, and furthermore we note the potential to re-route this footpath if it is felt necessary.
- 5.20 There will be no adverse visual impacts on the small number of residential receptors at Elms Green, approximately 0.2km south-east of the proposed site.

Flood Risk Assessment

- 5.21 The S&A Group proposes to re-develop the currently unused Brierley Fisheries site into a caravan site and amenity block for their seasonal workers.
- 5.22 Although shown on Environment Agency flood maps to be within the 1 in 100 year and 1 in 1000 year floodplain, recent ground elevation surveys of the site have shown that this is in fact not the case.
- 5.23 The existing perimeter bunding around the site removes the site from the 'actual' 1 in 100 year +20% and 1 in 1000 year flood plain areas.
- 5.24 The interior of the site will be in-filled to a finished level of approximately 67.98mOD; 0.03m above the 1 in 100 year + 20% flood level.
- 5.25 The infilling of the site will act to stabilise the perimeter bund.
- 5.26 An emergency egress route above the level of the 1 in 100 year +20% and 1 in 1000 year flood plain areas will be provided to the south of the site.
- 5.27 The site is contained and therefore surface runoff will be limited to precipitation falling within the site itself. This will not exit the site but will be allowed to infiltrate across the site area.
- 5.28 The proposals will not increase any ground elevations outside the perimeter bunding and as a result do not pose a risk to increasing flooding of areas downstream of the site.
- 5.29 Sourcing of infill material for within the perimeter bunding and wildlife enhancement works associated with this, to the north of the Brierley Cut stands to increase local floodplain storage.

Planning Statement

- 5.30 The subject development is clearly necessary in support of the agricultural operations of the S&A Group for the following reasons:
1. The operations are dependent on a sizeable and reliable seasonal workforce engaged in picking and other related tasks;
 2. Workers need to be located in proximity to the farm to enable picking at short notice when conditions are optimal;
 3. Accommodation for workers needs to be provided by the S&A Group as there is no existing accommodation available in the locality for the required number of workers;

4. Accommodation and supporting facilities need to meet appropriate standards required by SAWS and relevant legislation; and
5. An appropriate range of facilities for seasonal workers is needed to the farm to ensure their day-to-day self sufficiency, welfare, amenity and contentment, particularly given the limited facilities existing in the locality.

5.31 The subject proposals are a direct response to concerns relating to the existing accommodation and facilities provided at Brierley Court Farm. In particular, the facilities are proposed to move off best and most versatile agricultural land to a site that is well screened and where the visual impact of the development will be acceptable.

5.32 Furthermore:

1. The subject development is appropriately sited and designed having regard to the character of the surrounding rural area;
2. The subject development will have no materially adverse effect on the residential amenity of the occupiers of neighbouring dwellings;
3. The subject development is consistent with the transport policies outlined in the UDP;
4. The development is located outside the floodplain; and
5. There are no other material planning reasons why planning permission should be withheld.

5.33 Further targeted ecological survey work has been identified and will be submitted in due course in order to properly consider any impacts arising and the need for mitigation.

5.34 There are bona fide material planning benefits resulting from the subject development in terms of ensuring the successful assimilation of a large seasonal workforce into a rural area, and the promotion of sustainable transport objectives. Such benefits would not be realised if the subject development is refused and the S&A Group cannot properly meet the day to-day needs of its seasonal workforce and ensure their contentment and enjoyment.

5.35 The thrust of planning policy and guidance is to support the needs of agriculture where there are no adverse impacts arising. Subject to the findings of further ecological survey work, the proposed development is consistent with relevant provisions of the development plan and government guidance.

5.36 Following a request for information on the need for the size of the workforce, especially in the context that none of the polytunnels at Brierley, Ivington or Wickton has planning permission, the applicant has produced the following table:

Method	Picking (persons per hectare per day)	Ancillary (persons per hectare per day)	Total (persons per hectare per day)
Table-top Polytunnels	10	5	15
Temporary Polytunnels	18	6	24
Micro-tunnels	27	9	36

5.37 The current total of polytunnel coverage at present is:

Brierley Court Farm	50 ha
Ivington Bury Farm	25 ha

Wickton 112 ha

5.38 By implication the total workforce for the three cultivation methods is:

Table Top	2,815
Polytunnels	4,488
Micro-tunnels	6,732

5.39 The implication of these figures is discussed in the Officer's Appraisal below.

5.40 The full text of these letters can be inspected at Northern Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Sub-Committee meeting.

6. Officer's Appraisal

6.1 As Members are undoubtedly aware an extensive planning history exists, not only in relation to the applicant's holding at Brierley Court Farm, but also in relation to the base for his enterprise at Marden, and also on land at Wickton and Ivington. It is important, that this application is determined on its own merits, taking into account current Unitary Development Plan policies, Government advice and any other material planning considerations including any relevant planning history. The first two of these are set out in detail in the Policies section of this report. .

6.2 The following factors are considered to be key to the determination of this application. Their order is not an indication of their importance, but does attempt to give some logical structure to the assessment of the proposal and how each issue impacts upon others:

6.3 Flooding

Is the site within the flood plain?

Does the alteration of ground levels alter flood capacity elsewhere in the immediate locality?

Does the scheme ensure the safety of the workers in a flood event?

6.4 Need

What need has been demonstrated for workers on the land?

What alternatives exist for housing seasonal workers?

6.5 Landscape Impact

What impact will there be?

Is it justified?

6.6 Once these key issues have been considered, a further assessment will be made of the other matters that have been raised.

Flooding

6.7 The site lies within the 1 in 100 year fluvial flood plain (zone 3) of the Brierley Cut, Little Arrow and River Arrow. With construction of the original fishery site, the flood risk assessment contends that the area within the bunds was in effect removed from the 1 in 100 year, 1 in 100 year +20% and 1 in 1000 year 'actual' flood zone in that it does not flood.

6.8 There can be no doubt that the areas surrounding the application site are prone to flooding and this is evidenced by the photographs that have been submitted by some

of the objectors. Whilst the site does fall within the flood plain as currently defined by the Environment Agency's zoning system, the evidence provided by the flood risk assessment demonstrates that **the site itself** does not flood. This view is endorsed by the comments received from the Environment Agency who acknowledge that as a result of the bunding the site falls outside of the floodplain.

- 6.9 The proposal suggests that the materials required to infill the water bodies will be obtained from the surrounding land controlled by the applicant through land scrapes and through the excavation of wildlife ponds on land immediately to the north of the application site. It should be noted that this does not form part of the proposal and would have to be the subject of a separate planning application if this one were to be approved. However, in light of the fact that the proposal has been shown to be outside of the floodplain and it does not propose to add any landforms within it, the flood risk assessment demonstrates that there will not be any impact on the flood capacity of the area.
- 6.10 The site is totally contained by the perimeter bunding so there is no direct flow route for water in or out. Surface runoff within the site will be generated by storm events above the site alone. This water will remain contained within the perimeter bunding and will be allowed to infiltrate over the site area.
- 6.11 In order to ensure that workers safety is ensured in a flooding event, the provision of an access route, dry during the 1 in 100 year +20% event is necessary.
- 6.12 The flood risk assessment shows a route on the south western edge of the site heading up-slope from the main access road which is at an elevation of 68.35mOD in this vicinity. This level is 0.37m above the 1 in 100 year +20% flood level.
- 6.13 It is proposed to construct a set of steps up the inside of the bund, over the top and down the outside of the bund, to the access road. A bridge will be provided over the ditch that runs parallel to the access road. The route then strikes up the hill to the south of the site. The route will be clearly signed as an emergency egress and is entirely clear of the 1 in 100 year, 1 in 100 year +20% and 1 in 1000 year flood levels.
- 6.14 The interior of the site is to be in-filled to a finished level of 67.98mOD; 0.03m above the 1 in 100 year +20% flood level. However, in the event of flooding, Flood Zones 2 and 3 and the 1 in 100 year +20% flood extent do not surround the site entirely and therefore a dry island is not created.
- 6.15 In these circumstances the safety of the workers in terms of minimizing risk in a flood event is secured.
- 6.16 It is therefore concluded that the scheme meets the requirements set out by policy DR7 of the UDP and the guiding principles of PPS25 in that it ensures dry access and egress to the site, it does not result in a net loss of floodplain storage and it will not impede water flows or increase flood risk elsewhere.

Need

- 6.17 One of the key matters for debate in the earlier appeals at Brierley Court Farm related to the need for workers to be accommodated within a reasonable distance of the farmed areas. Both the Inspector and Secretary of State agreed that the applicant's business relies on a very large temporary workforce and that the business of growing soft fruit is labour intensive at certain times of the year. It was also agreed that there is

a need for temporary accommodation within a reasonable distance of the sites where soft fruit is being grown. However, the appeals failed in part due to a lack of explanation of what might constitute a 'reasonable distance' and the failure to examine alternative sites.

- 6.18 The current proposal addresses this by assessing alternatives in the accompanying planning statement. Three alternatives are considered:
1. The use of residential/hostel facilities within Hereford or Leominster
 2. Previously developed sites
 3. The use of sites allocated for employment uses at Leominster and Moreton on Lugg.
- 6.19 None of these are considered to be realistic or viable alternatives. The use of HMOs or hostels would not be socially acceptable at such a large scale that would be required to house such numbers of workers. It is also highly unlikely that a number of properties either exist or are available to provide accommodation at the level required. Furthermore it would not appear to be economically viable or sustainable as workers housed in outlying towns or villages would then have to be transported to work on a daily basis.
- 6.20 There are no known previously developed sites, other than the site that is the subject of this application, within reasonable proximity to the land at Brierley Court Farm and therefore this option can be readily discounted.
- 6.21 Similarly, the use of land allocated for employment uses can be discounted as it would be fundamentally contrary to policy and would prejudice the economic vitality of those sites referred to.
- 6.22 Other land that is controlled by the applicant is either equally or more visually prominent as the dismissed appeal site and is also positioned on the best and most versatile agricultural land. The current site has been used previously for a non-agricultural use and is afforded a degree of visual screening by virtue of existing vegetation and the bund that surrounds the site. In your Officer's opinion it is the most appropriate site for a development of this nature **if** the need for it can be substantiated.
- 6.23 As the situation currently exists, the applicant has yet to submit a planning application for any of the polytunnels at Brierley, Ivington or Wickton. The planning statement suggests that the Inspector and Secretary of State both concurred that the enterprise relied on a large workforce that needs to be accommodated within a reasonable distance to the farmed area. There is no contention with this. However, it goes on to suggest that there has been no change in circumstance since that time to suggest that the SoS would reach a different conclusion. This is clearly not the case as at that time there was still uncertainty as to whether the polytunnels would require the benefit of planning permission. This has now been resolved by the Tuesley appeal decision and planning permission is indeed required.
- 6.24 In the absence of planning permission for any of the polytunnels it is quite clear that a long term need for workers accommodation at Brierley Court Farm cannot be substantiated. There is no guarantee that permission will be granted at a scale that would warrant the level of accommodation proposed here, and therefore this application is premature. Until the matter is resolved, the applicant does have the ability to house workers by virtue of his agricultural permitted development rights

subject to the test set out by the Secretary of State with regard to those permitted development rights. .

- 6.25 The applicant has sought to address this point by suggesting that the need for a workforce exists with or without polytunnels. The proposal seeks to accommodate a total of 2,100 workers and yet, on the basis of the data submitted by the applicant the need ranges from 2,815 (if production is by table top means), to 4,488 (if production continues under polytunnels) to a maximum of 6,732 (if production is based on micro-tunnels which do not need planning permission). These numbers do not appear to be realistic. In any event no planning application has been lodged for tabletop growing at the three sites, no polytunnels at these sites have planning permission, and neither is soft fruit grown under micro-tunnels at these sites. The alleged need therefore depends on either development which needs permission and hasn't got it, or growing techniques which are not used.
- 6.26 The proposal therefore fails the tests set out by Policy H8 of the UDP as it has not been demonstrated to the satisfaction of the local planning authority that a genuine and long term need exists for accommodation at this scale.

Landscape Impact

- 6.27 The site is within an area identified as "Riverside Meadows" in the County Landscape Character Assessment where the Management Guidelines propose that built development should be actively discouraged. The Management Guidelines are based on the principles of conserving and restoring the undeveloped and open character of the landscape to the benefit of landscape, floodplain and biodiversity interests.
- 6.28 It is accepted that in a wider landscape context there are fairly limited views of the site from the surrounding landscape, due to the local topography, the intervening vegetation, in particular the plantations to the north and west of the fishery site and the presence of the bund around it.
- 6.29 However, some of the short and middle distance views of the site do have more of an adverse impact, particularly from footpath ZC85 which passes over the top of the bund and from footpath ZC84 from rising ground to the south of the site. From both of these viewpoints most of the proposed development would be visible and there would be an adverse impact on the amenity of the users of those footpaths and, critically, on the rural landscape.
- 6.30 As stated by the Conservation Manager, the fishery pools are clearly a man-made element but its pools are considered to be in keeping with the character of Riverside Meadows.
- 6.31 The proposed development would introduce a very large-scale built element into open countryside which, in the absence of an overriding need is unwarranted. The proposal therefore fails under Policies E13 and LA2 of the UDP.

Other Material Considerations

- 6.32 The report will now go on to consider the other issues that have been raised. These are considered to be the economic impact of the proposal (including tourism), the impact of proposal on the residential amenity of nearby dwellings, transport issues and ecology.

Economic Impact

- 6.33 The issue of the impact of polytunnels on the rural economy is an issue that was rehearsed in the recent appeal decision at Pennoxstone Court. On this subject the Inspector concluded as follows:

“...the benefits of the polytunnels in enabling the production of increased quantities and quality of soft fruit; the sustainability benefits of reducing food miles, and the positive contribution made to the rural economy are all matters to which considerable weight should be accorded in the balance of considerations.”

- 6.34 It is quite clear from this that the Inspector considered that there were economic benefits to be derived from that particular development and the same principle can be applied to this proposal.
- 6.35 The suggestion of some of the objectors is that the proposal does nothing to contribute to the local economy of Leominster as facilities and retail opportunities are provided on site for the workers. However, the continuous movement of workers to and from the earlier unauthorised development to Leominster does not bear this out. It is highly unlikely that a retail element contained within the amenity building would be sufficient to cater for 2100 workers and the only realistic alternative is for them to travel to Leominster. It is therefore concluded that there is also some economic benefit in this respect.
- 6.36 A suggestion is also made that the provision of large areas of polytunnels and the associated accommodation for workers will damage local tourism. No evidence has been provided to suggest that this is the case. The proposed development is not immediately adjacent to a major tourist generator such as Croft Castle or Berrington Hall and, with the lack of any evidence, it is difficult to substantiate a suggestion that this development would have any impact upon them, or the enjoyment of the countryside as a tourist attraction for its own sake.

Impact on Residential Amenity

- 6.37 The closest property to the application site is The Paddocks and it lies approximately 200 metres to the south east. Workers entering and leaving the site, either to go to work or to Leominster would not need to pass the property.
- 6.38 The unauthorised site did not give rise to frequent complaints to the Council's Environmental Health department and there is nothing to suggest that this site would be any different. In fact, as submitted, the proposal does not include outdoor recreation areas other than those immediately adjacent to the amenity building, and these are considered to be the most likely noise generators.
- 6.39 Any concerns that might arise in terms of light spill beyond the boundaries of the application site could be addressed by condition. However, the fact that the site is surrounded by bunding would suggest that any low level lighting would be contained within the site and would not give rise to nuisance.

Transport

- 6.40 There has been a commitment from the applicant to enhance a section of verge to provide a better footway. However it is considered inappropriate to site a bus shelter in such a location.

Ecology

6.41 A detailed ecological assessment of the site has yet to be completed and in light of this any potential impact of the development on protected species cannot be determined. As a result the proposal fails to meet the requirements of Policy NC1 of the UDP. The ecological assessment is expected to be received prior to the committee meeting and will be commented upon further in the update to the report.

Conclusion

6.42 The principal concerns in this proposal are:

- (1) the scale and intensity of the development, which brings it into conflict with the development plan in the form of Unitary Development Plan Policy LA2;
- (2) the need for the development, which could be balanced against the conflict with the landscape policy, but depends on methods of cultivation, which are either not used or are without planning permission and subject to enforcement;
- (3) the, as yet, unknown impact on local biodiversity.

Notwithstanding the need to give considerable weight to the economic arguments in favour of this development, it is not considered that a need has been established, which is sufficient to overcome the landscape objection, and the biodiversity issue remained unresolved at the time of drafting this report.

6.43 As a result the proposal is contrary to Unitary Development Plan policies concerned with protecting the landscape and biodiversity of the area. Without an identified need for workers' accommodation, it is also contrary to Policies relating to residential development in rural areas.

6.44 Although the proposal derives some support from policies that encourage economic development, and it has been demonstrated that the site falls beyond the floodplain and will not adversely impact upon the residential amenity of nearby dwellings, these issues are outweighed by the conflict with other Development Plan policies as outlined above. It is therefore recommended that this application is refused.

RECOMMENDATION

That planning permission be refused for the following reasons:

- 1 The need for this development is dependent upon the use of the land at Brierley Court Farm for soft fruit production under polytunnels. At the time at which this application has been determined, no planning permission exists for the siting of polytunnels on the land, and those which are currently on the site are subject to enforcement proceedings. In the absence of any lawfully sited polytunnels, the long term use of the land for the production of soft fruit is not assured and therefore the siting of 576 caravans, accommodation pods, service pods and an amenity building cannot be justified. Accordingly the proposal is contrary to Policy H8 of the Herefordshire Unitary Development Plan.**

- 2 The site lies within an area defined by the Council's Landscape Character Assessment as Riverside Meadow. In the absence of an overriding need for the accommodation, the proposal has an unacceptably adverse visual impact which will detract from the character of this landscape particularly by virtue of the introduction of 576 caravans, accommodation pods and service pods and a large amenity building into a landscape characterised by its open nature and absence of built structures. The proposal is thereby contrary to Policy LA2 of the Herefordshire Unitary Development Plan.

- 3 In the absence of an ecological survey of the site, the local planning authority is unable to assess the impact of the proposal on its ecology, whether it will affect any recognised protected species and if so what mitigation strategies will be employed to ensure its acceptability. As a result the proposal is contrary to Policy NC1 of the Herefordshire Unitary Development Plan.

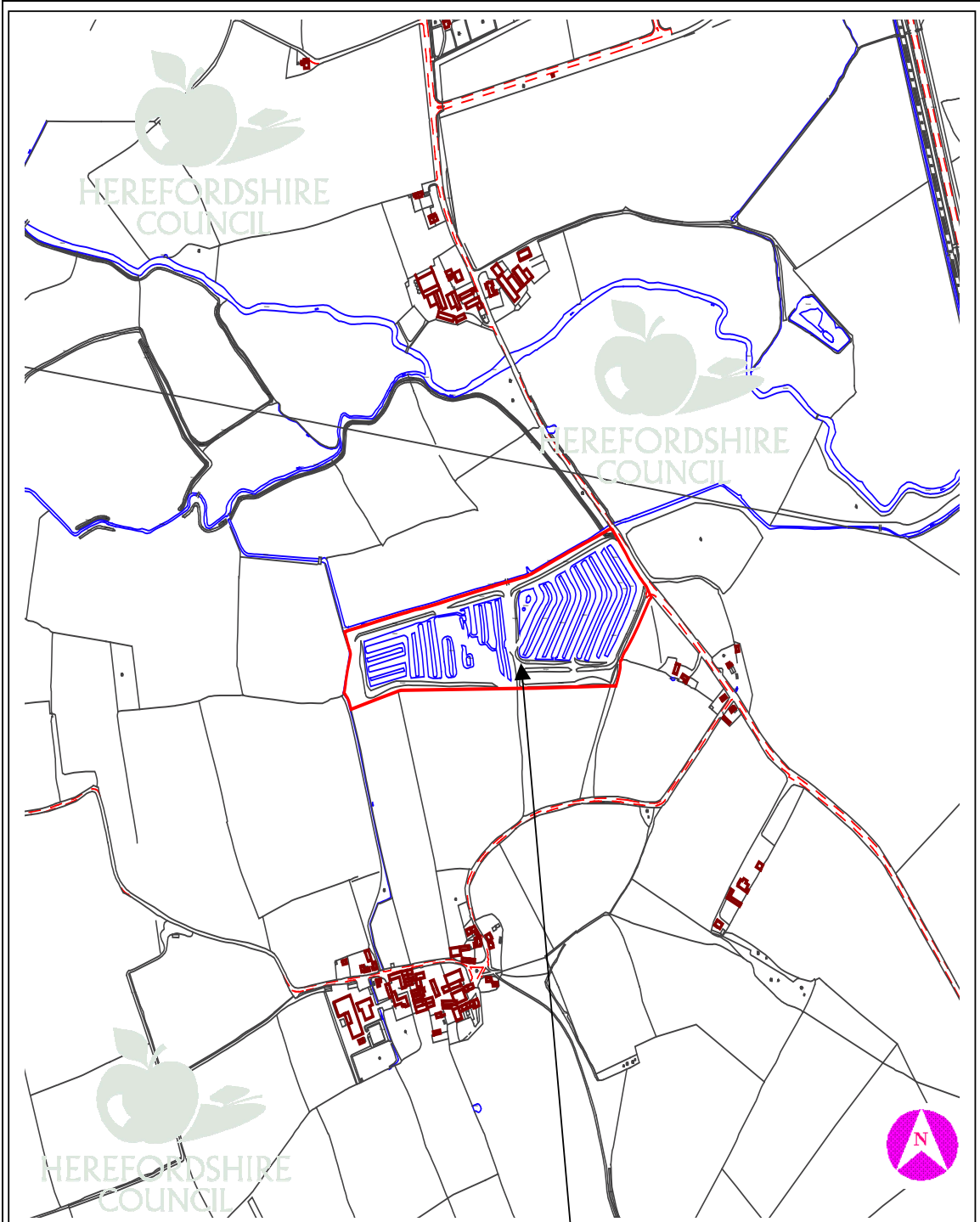
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCNC2008/0155/F

SCALE : 1 : 10000

SITE ADDRESS : The Fisheries, Elm Green, Brierley Court Farm Brierley Leominster Herefordshire HR6 0NT

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