

**6 DCSE2009/0800/F - PROVISION OF A MOBILE LOG CABIN FOR USE AS AN AGRICULTURAL DWELLING DURING THE LIFETIME OF THE APPLICANT, TAN HOUSE FARM, UPTON BISHOP, ROSS-ON-WYE, HEREFORDSHIRE, HR9 7UP.**

**For: Miss M Rigby, Tan House Farm, Little Puckmoor, Upton Bishop, Ross-on-Wye, Herefordshire, HR9 7UP.**

Date Received: 21 April 2009

Ward: Old Gore

Grid Ref: 66282, 27020

Expiry Date: 16 June 2009

Local Member: Councillor BA Durkin

## 1. Site Description and Proposal

- 1.1 The site, which is known as Tan House Farm, Little Puckmoor, lies in open countryside to the east of Upton Bishop, approximately 6 kilometres to the north-east of Ross-on-Wye. The applicant's holding comprises 25 acres (10 hectares) of agricultural land. On the land there are two modern agricultural buildings and a mobile home. Within the site the levels slope down from the north-west to the south/south-east.
- 1.2 It is proposed to provide a temporary log cabin dwelling for an agricultural worker (the applicant). Access would be gained via an existing farm access off an unclassified road. The log cabin would be sited to the south-east of the existing agricultural buildings on the site and some 7 metres from the roadside hedgerow. It would be orientated so that the gable end of the cabin would be facing the hedgerow. The log cabin, which would be some 13.8 metres by 6.8 metres and 4 metres in height, incorporating a dual pitched roof, would be transported to the site in two parts and bolted together on site.
- 1.3 At present the applicant has 18 hens, 1 sow/gilt, 14 ewes and lambs, 4 cows, 1 steer, 3 in calf heifers and 1 Shetland bull. The two timber buildings have three bays, used for housing stock, straw and fodder, stabling/calving box, lock up feed and tool area and a garage for a quad bike etc.

## 2. Policies

### 2.1 Department of the Environment

PPS1	-	Delivering Sustainable Development
PPS7	-	Sustainable Development in Rural Areas

### 2.2 Herefordshire Unitary Development Plan

#### Part 1

Policy S1	-	Sustainable Development
Policy S3	-	Housing

#### Part 2

Policy DR1	-	Design
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Policy DR2	-	Land Use and Activity
Policy DR4	-	Environment
Policy H7	-	Housing in the Countryside Outside Settlements
Policy H8	-	Agricultural and Forestry Dwellings and Dwellings Associated with Rural Businesses
Policy LA2	-	Landscape Character and Areas Least Resilient to Change

### 3. Planning History

- 3.1 DCSE2007/2473/S Farm storage (fodder/equipment) - Prior Approval 03.09.07
- DCSE2008/0791/F 1. Use of permitted barn to house extensively farmed livestock on periodic basis, 2. Barn B - part use of permitted barn for use as a stable, 3. drainage provision of a grey water soakaway to serve existing office (retrospective application) - Approved 23.07.08
- DCSE2008/0870/F Erection of an agricultural workers dwelling - Withdrawn 16.05.08

### 4. Consultation Summary

#### Statutory Consultations

- 4.1 No statutory or non-statutory consultations required.

#### Internal Council Advice

- 4.2 County Land Agent: The number of stock do not justify a need to live on site. Lambing, calving and farrowing could be covered by a temporary home for a maximum period of 4 months. The holding is very small, with a subsistence output on an organic sustainable basis. It is not capable of producing a profit to cover the standard agricultural wage per annum, nor does the standard man days amount to a full time worker, even if 75% of time is added on for the farm being organic (50% is the normal amount) and 10 days for work in the woods, it does not amount to a third of the hours required for a full time agricultural worker.

### 5. Representations

- 5.1 Upton Bishop Parish Council comment:

"The unanimous view of Upton Bishop Parish Council is that this planning application should be refused.

An Extraordinary General Meeting was held on Monday the 18th May, 2009 at 19.30 hours, with a site meeting by the Parish Councillors earlier the same evening.

A number of Parishioners and the local Councillor attended the meeting, and following an outline of the application by the Chairman of the meeting, the parishioners were invited to give their opinions.

Only one person spoke in favour of granting approval.

The Parishioners' objections in summary were that the Applicant had made herself homeless, that solar panels will not supply sufficient electricity and therefore there will be continued use of

the generator which is very noisy causing unnecessary disturbance. There have not been any details of the power required for the underwater harvesting and a pump will be needed. There is no mention of the part time help which will be required, and thus in the financial plan no provision for employees wages and other associated cost. There is no proven need to actually live on the site, and the Application is requesting a retirement home for a former farmer. The plan to heat the mobile log cabin with charcoal is not sustainable as the wood would not yield sufficient timber for this purpose. There is no guarantee that the mobile log cabin will be removed in the future and is an attempt to obtain permanent residence by default. Furthermore it was stated that the site entrance is inadequate for the volume of traffic which can be anticipated and the road leading past the site is inadequate. It was also stated that by granting permission a precedent would be set to convert other existing green field sites to small holdings.

It was the unanimous opinion of the Parish Council that the Application should not be granted, and they objected on the grounds that:

1. A precedent would be set for the owners of other farms to sell the farm house, retain the land, and at a later date apply for permission to erect a semi permanent dwelling on the site which in time could become permanent.
2. Concern for the future when the Applicant either does not want or cannot live there any longer as previous planning with consent for life time use have proved difficult to resolve.
3. The financial sustainability is questionable.
4. All of these points notwithstanding, the unassailable fact is that the applicant is applying to erect a dwelling on a green field site, which until very recently, was an empty field.”

5.2 A Design and Access Statement was submitted, along with other information, by the applicant. In summary these state:

- Log cabin would form a courtyard with the barns, typical of old Herefordshire farm complexes.
- Existing caravan would be removed if permission is granted for the cabin.
- Cabin conforms to the definition of a caravan for planning purposes.
- Tan House Farm is a permanent pasture mixed livestock holding, farmed biodynamically - cattle and sheep for meat production, sheep for wool, laying hens, seasonal pig production for bacon and pork, grassland management and haymaking.
- Sales are direct to the consumer.
- Holding is certified for organic production.
- South facing building for energy gathering. Farm and dwelling would be powered by the sun's energy gathered through photovoltaic cells and stored in batteries. System is in place and serves the farm and office. Woodland provides fuel for hot water, cooking and heating.
- Sewer arrangements would be non-mains, hopefully taking the form of a wetland drainage system.
- Existing farmyard can cater for parking and the proposal would result in less traffic if I live on site.
- A dwelling is required permanently on the site to enable the management of the integrated, biodynamic farming activities, many of which take place at unsocial hours.
- The care and handling of the livestock alone require a permanent presence on the site.
- Two instances where a young beast would have been dead if I had not returned to the site late at night.
- Low key timber buildings blend into the site, my executors would / can be instructed to dispose of the log cabin prior to the land being sold off.

- Number of successful appeals supporting holistic management and lifestyles, whilst living on small farms.
- Tan House Farm, a stone built farmhouse, was sold for a number of reasons. I have no dependants and the house was too large for the holistic lifestyle being developed. It was too extravagant and expensive to run for one person.
- The County Land Agent has no facility for accounting for time spent in preparing, packing, marketing, retailing and delivering to customers, neither do the man day calculations take account of the nature of the whole enterprise or concept of subsistence living.
- Nothing in PPS7 about earning a minimum agricultural wage.
- Proposal is about the future - sustainable and subsistence living, Local Food and produce for Local People, all performed in a manner to encourage wildlife on the holding and keep the carbon footprint low.

5.3 Thirteen letters of support and seven letters of objection have been received. The main points raised are:

Support:

- Proposal is for a sustainable lifestyle, with low carbon footprint, which we should all be striving for and it should be encouraged. Good example for our children.
- Proposal is in keeping with the rural location.
- Only proposed for applicant's lifetime.
- Environmental impact would be virtually nil.
- Applicant's work is useful, she's an innovative farmer who has inspired the community.
- The Pennington-Mellor-Munthe Charity Trust would hope to work with the applicant on projects for environmental programmes.
- Biodynamic farmers are required to apply specialist natural field sprays to enhance soil biology and photosynthesis, outside of normal working hours, early morning and late afternoon.
- Need to be on site for animal husbandry, regular checking of livestock and land management.
- Farmhouse is essential for organic and biodynamic livestock farming, at calving and lambing times regular checks must be made. At other times someone must be near in case of injury, illness or escape of livestock. Requirements are enshrined in the Demeter Standards and there must be compliance to be certified for organic and biodynamic farming by the Biodynamic Agricultural Association.
- Proposal would be eco-friendly and highlight the technologies that will enable us to all leave a smaller footprint, a wonderful advert for Herefordshire.
- Lifetime period proposed for the cabin is an elegant solution to the situation and has substantial merit, in the event of the applicant's death the executors would be instructed to dispose of the log cabin, before selling the land.
- Weight should be given to the need to support the local agricultural industry.
- There's no separation between "job" and "play" for a good farmer, farming is their life. The applicant is in tune with her animals and land and needs to live on site to practice this, rather than visit the site like an 'office'.
- The produce is superior to any other.

Objection:

- Applicant sold Tan House Farm (house, outbuildings and 6 acres) raising just over half a million pounds and intentionally severed the farm house and land. She has now installed a caravan on the application site.
- There are barns at Tan House Farm that could have been converted for residential use, if the farmhouse was too big. The sales particulars etc even stated this possibility. Applicant could have reused the barns to provide an eco-friendly, single storey property, thus allowing the land to be retained and farmed, with a dwelling on site.

- When Tan House Farm was sold by the applicant a bungalow, known as Fairfields, which is closer to the application site than the original farm, was sold subject to an agricultural occupancy condition.
- Applicant has intended to occupy the site for some time, making herself deliberately and unnecessarily homeless.
- Financially the business would not sustain the applicant and the new home, rather the applicant would rely on savings.
- The log cabin would be sizeable and appears rather permanent.
- Lack of detail regarding the proposed underground rain water harvesting and drainage, however the wet system would be permanent, for a dwelling that is proposed to be temporary.
- Applicant's land drains into a pond that is not in her ownership.
- Previous application was withdrawn. Parish Council, County Land Agent and the Senior Planning Officer did not support the application, a functional need had not been demonstrated and there was the issue of severance of the farm house and land.
- This application has been made a whole year after the withdrawal of the previous application, this does not demonstrate any urgency or functional requirement to be on site.
- Life time proposal, is actually a permanent basis, unlike the usual three year period granted for mobile homes. Could result in the cabin being on site for 20 years, making it difficult to be removed. Also applicant would not have to provide the additional justification that is usually required for mobile homes after the three year period.
- Application is contrary to national and local planning policies and the recommendations of the Parish Plan.
- The proposal is effectively for a dwelling for 'hobby' farming and ultimately a retirement home, this is contrary to the requirements of PPS7 - Annex A.
- To allow permission for this proposal would set a dangerous precedent, permitting farmers to sell off the farmhouses and some land and move into small properties that can be more easily managed. The resultant effect on the countryside would be disastrous.
- There is no justification for a dwelling on the site.
- Proposal would detract from the openness of the area.
- The open field resembles a tip, the applicant has been initially successful in achieving her objective by stealth.
- Applicant moved into the mobile home used for an office, until forced to move out.
- Contrary to information on the application form, the applicant has not discussed her proposals with neighbours and local community and does on occasion employ a part time worker.
- Proposal proclaims a biodynamic and eco-friendly operation, however there is a diesel generator that runs for hours, both during the day and night, because the photovoltaic cells and storage system are inadequate. Even during May it is still operating. The generator produces an interminable drone, which is particularly intrusive at nighttime.
- Concerns regarding the safety of the vehicular access.

The notification period does not elapse until 27 May 2009. Any additional representations received, after this report was produced will be summarised in the update sheet.

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

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

- 6.1 The main considerations in the determination of this application are whether there is a functional requirement for a dwelling; whether the enterprise meets the financial tests; if the siting, size and design of the log cabin are acceptable in general planning terms and if a 'life-time' planning condition would be acceptable.

- 6.2 The application site is in open countryside where normally planning permission would not be granted for a new dwelling. Policy H7 of the Unitary Development Plan sets out the exceptions to the normal strict general presumption against new residential development in the open countryside. One of these exceptions is a dwelling required for an agricultural worker. In this case it is stated that the dwelling is required for the applicant who works in agriculture.
- 6.3 In accordance with policy H8 of the Unitary Development Plan and PPS7 – Annex A functional and financial tests must be met for planning permission to be granted for an agricultural dwelling. PPS7, Annex A states that when assessing the functional need a new dwelling must be essential to support the farming activity and for the first three years should be provided in a temporary home. There should be clear evidence of a firm intention and ability to develop the enterprise, a functional need to be there, clear evidence that the enterprise has been planned on a sound financial basis, that the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area and other normal planning considerations are satisfied.
- 6.4 It would appear that there has been a firm intention to commence and develop the site for agriculture, as shown through the erection of buildings and investment in livestock. In terms of the functional test it is necessary to demonstrate that it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times. It is the needs of the enterprise that are important and not the personal preferences of the applicant. At PPS7, Annex A, 5, it states that where there is concern about possible abuse, of the exception against the normal presumption to allow a dwelling in the open countryside, an investigation should be carried out into the holding's history, to establish whether any dwellings or buildings suitable for conversion have been sold separately to the farmland concerned. Such a sale could constitute evidence of a lack of agricultural need. Furthermore, Policy H8 of the Unitary Development Plan states that dwellings should, wherever possible, make use of existing buildings in preference to new development. With respect to this application, as recently as 2007, the farmhouse (Tan House Farm) together with a range of buildings with potential for conversion were sold separately by the applicant, from the land now subject to this proposal. Development of new agricultural buildings on the application site commenced in the same year. Whilst the reasons given by the applicant for this sale are noted, it is clear that severance of the farmhouse and potentially convertible buildings has been carried out, which could reasonably have provided a dwelling for the applicant, whilst carrying out the agricultural activities. As stipulated in PPS7, Annex A, it is the needs of the holding and not the applicant's preferences that are relevant.
- 6.5 With regards the functional need to have a temporary dwelling on the site it is stated that this is to care for the livestock and farm holistically. The lambing and calving requirements would not take place all year and as advised by the County Land Agent could be satisfied by occupation of a temporary caravan, as has indeed been the case on the holding to date. Furthermore, the number of livestock is relatively low and would not justify a need to be on site. The applicant has stated that the time spent in preparing, packing, marketing, retailing and delivering to customers has not been taken into account. However, as stated in PPS7, Annex A, section 6, 'Requirements arising from food processing, as opposed to agriculture, cannot be used to justify an agricultural dwelling.' Turning to the biodynamic nature of the farming on the site it is stated, by the applicant, that this entails farming activity during unsociable hours. No details have been given about the number of times that this is required, per day/week/year or indeed what time of day or night the activities take place. In the absence of such information a functional need has not been demonstrated in respect of this. Therefore, a functional need has not been demonstrated in respect of either the livestock or the biodynamic farming.
- 6.6 Policy H8 of the Unitary Development Plan states that where evidence of a long term need for a dwelling is inconclusive a maximum period of three years may be given. Successive extensions to this three year period will not normally be granted. The applicant is effectively seeking a

personal permission, which would exceed the usual 3 year period. In the absence of a demonstrated functional need this is unjustified. Notwithstanding the above, the applicant could have met any perceived need or desire to be on site through either the occupation of the farmhouse, or conversion of a building on the site. In addition, local objectors have also stated that at the time of the sale of the farmhouse and the erection of buildings at the application site, a property, known as Fairfields, was for sale some 365 metres away from the site.

- 6.7 Turning to the financial position of the enterprise, as set out in Annex A of the PPS7, in respect of an application for a temporary dwelling it is required that the enterprise has been planned on a sound financial basis. The enterprise does not, nor is it planned to, produce a large income. It appears, on the basis of the financial information provided, to be based on a combination of self-sufficiency and limited sales. The business would not provide an agricultural wage and it is not clearly demonstrated that it would cover all of the applicant's outgoings. In light of this, it is speculated that the business would be subsidised by the applicant's capital and therefore the financing of the proposed dwelling would not be from the agricultural need it purports to be necessary for. Unusually the proposal is for the lifetime of the applicant, and therefore could exceed the 3 year temporary permission usually considered to be appropriate for new and establishing enterprises. For permanent dwellings, i.e. not a three year temporary period, the financial test is much more stringent, requiring the unit and agricultural activity to be profitable for at least one of the three years that it has been established for and a clear prospect of remaining so. In this case this has not been demonstrated. If it is to be accepted that the enterprise is based on a self-sufficiency basis, then the financial test would never be satisfied. PPS7, Annex A takes account of this, stating that such enterprises may provide wider benefits. However, it still remains essential for compliance with the PPS7 requirement, as set out in case law, that the functional need to be on site is demonstrated.
- 6.8 On the basis of the information submitted the requirements of the functional and financial tests have not been met and as such the proposal is contrary to the relevant Development Plan policies and PPS7, Annex A. Consequently, the unjustified log cabin would be harmful to the open countryside. It would be contrary to the well established policies that seek to restrict new development in the open countryside and could be repeated too often, to the detriment of the countryside.

## RECOMMENDATION

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

- 1. On the basis of the submitted information the Local Planning Authority is not satisfied that either a functional need or the financial requirements for a dwelling in this location has been demonstrated to warrant a departure from national and local planning policies to control residential development in the open countryside. As such, the need for an agricultural worker's dwelling has not been established as required by Annex A of Planning Policy Statement 7 (Sustainable Development in Rural Areas) and Policies H7 and H8 of the Herefordshire Unitary Development Plan.**
- 2. In the absence of a demonstrated functional need for an agricultural worker's dwelling on the site, the unjustified log cabin would, in principle, be harmful to the open countryside and the policies which seek to protect it from unjustified residential development. As such, the proposal is contrary to Policies H7 and LA2 of the Herefordshire Unitary Development Plan and the principles of PPS7 (Sustainable Development in Rural Areas).**

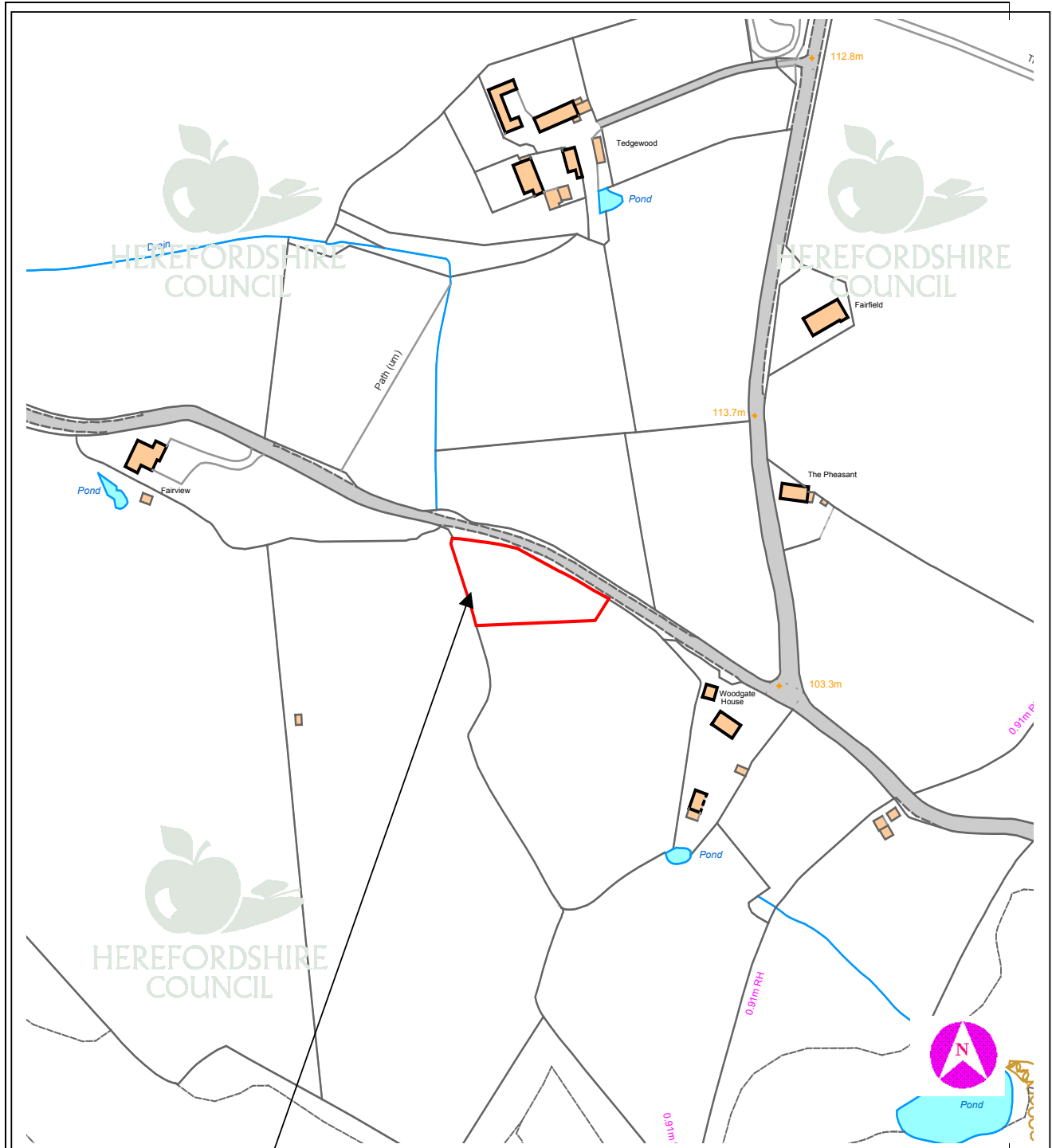
Decision: .....

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**Background Papers**

Internal departmental consultation replies.





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**APPLICATION NO:** DCSE2009/0800/F

**SCALE :** 1 : 2500

**SITE ADDRESS :** Tan House Farm, Upton Bishop, Ross-on-Wye, Herefordshire, HR9 7UP

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