

DCNC2009/0167/F - APPLICATION (PART RETROSPECTIVE) TO ERECT FIXED (NON ROTATING) SPANISH POLYTUNNELS OVER ARABLE (SOFT FRUIT) CROPS GROWN ON TABLE TOPS AT BRIERLEY COURT FARM, BRIERLEY, LEOMINSTER, HEREFORDSHIRE, HR6 0NU

For: S & A Produce (UK) Limited per Antony Aspbury Associates 20 Park Lane Business Centre Park Lane Basford Nottingham NG6 0DW

Date Received: 28th January 2009 Ward: Leominster South Grid Ref: 49238, 56182

Expiry Date: 29th April 2009

Local Member: Councillor RC Hunt, Councillor PJ McCaull

Introduction

This application was deferred on Counsel's advice at the previous meeting in order to allow time to consider the additional representations received. The report has been updated to take account of these.

1. Site Description and Proposal

- 1.1 The application as originally submitted related to an area of land to the west of the village of Brierley, amounting to 67 hectares of Grade 1 and 2 agricultural land. On 14th August, 2009 the application was amended to the extent that the proposed area of fixed permanent polytunnels was reduced to 35 hectares. The land lies to the north and south side of the unclassified 93600 road and is largely flat, although it does begin to rise at its most southerly fringes towards Brierley Wood.
- 1.2 The site is within the open countryside. It does not benefit from any special landscape designation and the Landscape Character Assessment defines the site as lying within an area of Principal Settled Farmlands, a landscape that is resilient to change.
- 1.3 The scheduled Ancient Monument, Ivington Camp Hillfort, lies approximately 1 Km to the south-west. The rivers Arrow and Little Arrow are approximately 1 Km and 0.5 Km to the north. A number of public rights of way cross the site land and also bound it to the east and west from which the site would be visible. The town of Leominster lies approximately 2 kilometres to the north of the application site. A large Poplar plantation lies at the northern edge of the site, between it and the town. Beyond this the land begins to rise from the floor of the river valley by approximately 30 metres to a high point on the southern fringe of Leominster known as Cock Croft Hill.
- 1.4 The proposal is to erect 35 hectares of Spanish polytunnels on the land described above. The tunnels would be 7.5 metres wide with a maximum height of 4.5 metres. They are proposed to be constructed of galvanised steel and covered with a clear plastic membrane. Suspended beds are to be hung from the frame, within which strawberries and other soft fruits are grown.

- 1.5 The premise of the application is that the tunnels are to be fixed permanently in one position rather than rotated as has previously occurred. The planning statement supporting the application advises that there is a willingness to accept a condition precluding the siting of polytunnels on any other field parcels other than those included in the current application.
- 1.6 The application (as now amended) is accompanied by a range of supporting documents and these are listed as follows:
- Design and Access Statement
 - Town Planning Statement
 - Statement of Community Engagement
 - Economic Appraisal of the S&A soft fruit business at Brook Farm, Marden and Brierley Court Farm, Brierley
 - Landscape and Visual Appraisal
 - Ecological Impact Assessment
 - Outline Landscape and Ecological Management Plan
 - Flood Risk Assessment
 - Water Resources Evaluation
- 1.7 Detailed amendments have been made to some of these reports to reflect the amendments that have been made to the applications. A Unilateral Undertaking has also been submitted by the applicant in relation to a woodland management plan relating to the area that is currently a Poplar plantation. The plan seeks to ensure the retention of a belt of woodland that will continue to screen the proposal whilst increasing the bio-diversity of the area. A plan is appended to this report to indicate where the Poplar plantation is in relation to the application site.
- 1.8 The Council has also issued a Screening Opinion as to whether the proposal constitutes EIA (Environmental Impact Assessment) development. The Screening Opinion concludes that the proposal does not constitute EIA Development and therefore an Environmental Statement has not been requested. Nonetheless the various reports listed at 1.6 above provide the Council with the type of information that would have been included in an Environmental Statement if one had been required.

2. Policies

National Guidance

PPG4 – Industrial and Commercial Development and Small Firms
PPS7 - Sustainable Development in Rural Areas
PPS9 – Biodiversity and Geological Conservation
PPG11 – Regional Planning
PPG16 – Archaeology and Planning
PPS25 – Development and Flood Risk
Emerging Draft PPS4 – Planning for Sustainable Economic Development

Regional Guidance

Rural Spatial Strategy (RSS)

- PA14 – Economic Development and Rural Economy
- PA15 – Agricultural and Farm Diversification

Herefordshire Unitary Development Plan 2007

S1	-	Sustainable development
S4	-	Employment
S7	-	Natural and historic heritage
DR2	-	Land use and activity
DR3	-	Movement
DR4	-	Environment
DR6	-	Water resources
DR7	-	Flood risk
DR11	-	Soil quality
DR13	-	Noise
E6	-	Expansion of existing businesses
E8	-	Design standards for employment sites
E10	-	Employment proposals within or adjacent to main villages
E13	-	Agricultural and forestry development
T6	-	Walking
LA2	-	Landscape character and areas least resilient to change
LA3	-	Setting of settlements
LA5	-	Protection of trees, woodlands and hedgerows
LA6	-	Landscape schemes
NC1	-	Biodiversity and development
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

Supplementary Planning DocumentsPolytunnels – Adopted 5th December 2008

The SPD was adopted after a long period of consultation which started in July 2007. The adopted SPD is a material planning consideration in the determination of application for polytunnel-related development. The SPD replaces a previous voluntary code of practice, and is designed to assist in clarifying which polytunnel developments will require planning permission and highlight the planning policy issues and requirements such proposals will need to address.

The SPD sets out a series of Supplementary Guidelines to assist in the determination of future applications.

3. Planning History

- 3.1 This is one of three applications currently being considered. The other two are for the retention of a sewage treatment plant (DCNC2009/0166/F) and for the provision of seasonal workers accommodation (DCNC2009/0168/F). Members will need to assess the cumulative impact of the proposals and the relationship between them.

- 3.2 The following applications are all considered to be relevant to the determination of this application as they show the planning history in relation to the entirety of the applicant's land in relation to the development of their soft fruit growing business:

NC2004/0224/S - Construction of new access roads - Prior approval not required - 06/02/2004

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 In dismissing the appeal the Inspector concluded that the proposal would have an unacceptably damaging impact on the quality of the landscape, particularly in that its regimented layout would result in a harsh, imposing and alien form of development, and that the increased level of noise and activity of the inhabitants of the site would intrude upon the peaceful nature of the location, harming the tranquillity of the countryside. The site is identified as Plan 3 on the plan appended to this report.

- 3.4 Furthermore, whilst the Inspector concluded that there was a need to accommodate a temporary workforce within a reasonable distance of the site used for strawberry growing, she was not convinced that the proposal was fully justified due to the fact that the appellant had failed to consider whether there were any other alternative solutions. Without any such special justification, the Inspector concluded that a development that would seriously damage the character and appearance of the countryside was unacceptable.

NC2004/0902/F - Proposed sewage treatment plant and pumping station – Refused 12/05/2004 and dismissed on appeal.

NC2007/1801/S - Proposed general purpose storage building for the housing of irrigation equipment at Arrow Fisheries site - Prior approval required - 06/07/2007. Concerns were expressed that the site was within the flood plain. Further information was required but not received and so this application is deemed to have lapsed.

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 at The Fisheries, Elm Green, Brierley Court Farm – Refused 07/05/2008

- 3.5 The application was refused for the following reasons:

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.

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.

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.

3.6 DCNC2008/0167/F – Retention of sewage treatment plant – Refused 14/05/08

3.7 An enforcement notice has been served to secure removal of polytunnels at Brierley Court Farm by 31st December 2008. This was necessary to prevent the polytunnels becoming lawful and is due to the inappropriate siting of some of the polytunnels and lack of mitigation for others.

The notice was not been appealed. All of the polytunnels were removed from the land and to date this remains so. The area to which the notice relates is identified on plan 3 appended to this report.

A separate enforcement notice for the removal of polytunnels on land controlled by the applicant lying to the north-west of the application site also exists. The notice requires that polytunnels are removed from land at Ivingtonbury Farm by 31st December, 2009. This notice has also been fully complied with and the polytunnels have been removed from the land.

Following the commencement of unauthorised works to construct an amenity building and site works for a permanent seasonal worker caravan site in March 2004 and refusal of planning applications in respect of these works on 12th May 2004, the Council was granted an interim injunction at Hereford County Court to prohibit further works commencing on the site. On the 21st May 2004 the High Court granted the continuance of this injunction.

Following this injunctive action, three enforcement notice were served in respect of the unauthorised development. These notices and the refused planning application were later to be the subject of an appeal, which after a number of determinations were dismissed by the Secretary of State.

Whilst the planning appeal process was ongoing, S & A Property Ltd sought leave to appeal the High Court Injunction on three occasions in the later half of 2004, at all hearings their leave to appeal was refused. Furthermore on 23rd June 2005 the company were successfully prosecuted for breaching the terms of the injunction by installing windows in the amenity building. The Judge ordered the windows to be removed and the defendant to pay a fine of £25,000 and the company director £40,000, plus costs of £11,000.

With their appeals against the enforcement notices and planning refusals dismissed, S & A returned to the Court of Appeal in February 2008 to seek an injunction prohibiting the Council enforcing the enforcement notices on the grounds that such actions would be contrary to human rights. This application was dismissed.

4. Consultation Summary

Statutory Consultations

Natural England

4.1 Consider that significant effects on the SAC to be unlikely. However, given the unfavourable condition of the River Lugg and the sites hydrological connections to it, recommend the production of a Habitat Regulations Assessment screening report to formally assess the likelihood of any significant effects on the SAC.

4.2 A Habitat Regulation Assessment has been completed. It has found that there will be no significant effect on the SAC as a result of this proposal.

English Heritage

4.3 Has commented both in its capacity in relation to the historic built environment and that of archaeology. Their comments in relation to each are as follows:

Historic Buildings Inspector

Raises no objection to the proposal and advises that the application should be determined in accordance with national and local policy guidance, and on the basis of specialist conservation advice.

Inspector of Ancient Monuments

Considers that the proposal will affect the landscape setting of Ivington Camp and that it would have a dominant effect upon the landscape setting of Ivington Camp. English Heritage recommends that if the local planning authority is minded to approve the application that mitigation to remove a very high proportion of the visual impact of the scheme is carefully designed.

Comments on amended proposal – Maintain original comments and consider that the amendments do not appear likely to reduce significantly the impact upon the setting of the monument.

Environment Agency

4.4 Raise no objection to the proposal. The Agency is satisfied that the sewage treatment plant has sufficient capacity to deal with the proposed occupancy levels and the site has a 'consent to discharge' which was granted in May 2005. A condition is recommended to ensure that surface water run-off shall be limited to the relevant Greenfield run-off rate in accordance with the submitted Flood Risk Assessment. This is included at condition 6 of the recommendation of this report.

Comments on amended proposal – No further comments (subject to minor changes to condition wording)

River Lugg Drainage Board

4.5 Raise no objection to the proposal as it will have no direct effect on its interests or operations, nor will it affect watercourses under the Board's operational control. A condition relating to the management of surface water drainage is recommended.

Internal Council ConsultationsTransportation Manager

- 4.6 On the basis of the amended information raises no objection to the proposal.

Conservation Manager

- 4.7 Historic Buildings – Listed buildings are sufficiently remote and there will be no visual harm to their immediate setting. No objection.
- 4.8 Ecology – No objection to the proposal subject to the imposition of conditions.
- 4.9 Landscape – The landscape and Visual Impact Assessment submitted with the application is fair and accurate and is carried out in accordance with recognised guidance and good practice. The assessment identifies an impact on the character of the landscape and it is therefore reasonable to secure some form of mitigation.
- 4.10 It is not considered that the impact of the development is sufficient reason to refuse the application. However, the visibility of the site from the west is an area that needs a degree of attention but is not fully resolved by the landscaping proposals. Reinforcement of existing hedgerow boundaries and the planting of additional standard trees will be required.

Concerns regarding the future of the Poplar plantation to the north of the site have been addressed through the submission of a Woodland Management Plan. This is important as it currently provides an adequate screen between the site and the southern edge of Leominster.

The omission of polytunnels from the upper slopes of the rising ground to the south of the site - to Brierley Wood and Ivington Camp – is welcomed, reflects the change in landscape character between Principal Wooded Hills and Principal Settled Farmlands landscape types and reduces the visual impact of the proposed development.

Public Rights of Way Manager

- 4.11 The proposal represents a significant improvement over the previous management of the site. No objections are raised on the basis of the submitted plans, which include plans and cross sections of the treatment of areas around the footpath, subject to condition.

Land Drainage Engineer

- 4.12 The surface water runoff for a range of storm events is proven to be no worse between this proposal and a scenario where the land is left as a meadow, hence the erection of polytunnels will have no effect on existing surface water drainage. This is reflective of the advice given by the Environment Agency and an assurance that run-off rates remain acceptable is covered by condition 6 proposed in the recommendation.

5. Representations

- 5.1 Leominster Town Council – Recommends approval and welcomes the proposals in so far that the area of polytunnels is to be reduced from its present extent, subject to

conditions that their covering is translucent green, that permission is temporary for a three year period and that consideration is given to flooding.

Comments on amended proposal – Pleased to note the landscape proposals and the proposed further reduction in polytunnel numbers. The response remains unchanged.

5.2 Arrow Valley Residents Association (AVRA) via its agent (DPDS Consulting) – Object to the application on the following grounds:

- The application is flawed and incomplete
- Lack of an Environmental Impact Assessment
- Adverse landscape impact
- Consider that the original report to the 3 July Committee contained errors and irrational conclusions
- They wish to point out the importance of consistency in decision making and the need to conform with the development plan unless material considerations indicate otherwise.
- To illustrate the point they refer to the Counsel's opening statement in relation to the appeal against the refusal for the caravan site in July 2005, which they consider to be in stark contrast to the current reports.
- They are also critical of the economic impact assessment, and have included a critique from the originator of the LM3 method. Concern also relates to the lack of comparison with alternate uses of the site.

The objection submitted by AVRA also includes a 170 signatory petition.

Comments on the amended proposal – The enforceability of conditions and the Unilateral Undertaking are questioned given the applicant's expressed intention to sell Brierley Court Farm and lease parts back. Correspondence continues to doubt the economic benefits of the proposal and highlights the lack of an updated economic appraisal at the time of writing. The comments remain unchanged from the original submission.

5.3 Leominster Civic Society – Object to the application on the following grounds:

- That it will adversely affect the landscape
- The proposed land use would waste large areas of agricultural land
- The proposal is unsustainable
- The development does not provide suitable employment opportunities for the County's teenagers
- It will damage small businesses dependent upon tourism
- Highway safety issues both in terms of high volumes of traffic and as a hazard for site workers walking along the road
- The LM3 method of economic assessment has been applied using inaccurate figures and methodology.

Comments on amended proposal – Requests that the applications are withdrawn and re-submitted. Raise issues over the clarity of documentation and query the validity of the economic impacts.

5.4 CPRE – Object to the application. Concern is expressed about the scale of the proposal and that it will be out of character with the nature of the agricultural rural scene. They also comment that the proposal is likely to give rise to traffic problems.

5.5 Campaign for Polytunnel Control – Object to the application. The proposal will be detrimental to the residential amenities of residents of Brierley and that residential development on this scale would not normally be permitted.

5.6 Ramblers' Association – Express concern over the visual impact in the environment. Consider that this would detract from the enjoyment of footpaths in the area, and that access to Ivington Hill Fort could be hindered.

Comments on the amended proposal – Remain concerned about visual impacts. The response remains unchanged.

5.7 39 letters of objection have been received in response to the public consultation process. In summary the points raised are as follows:

- Adverse landscape impact
- Unnecessary use of high quality agricultural land
- The business could quite readily take place on brownfield or industrial land
- Concerns about highway safety
- Increased pressure on local services
- The proposal will not have the significant economic benefits suggested by the applicant
- The scale of the accommodation required does not equate to the need demonstrated on other sites in the county.
- The proposal will damage the local tourism economy
- Lack of an Environmental Impact Assessment

5.8 Eight letters of support have been received. In summary the points raised are as follows:

- The applicant has made every effort to consult with neighbours and stakeholders
- The plans include landscape mitigation, which requires significant investment
- Labour requirements must be accommodated on site due to a lack of low cost housing in the locality
- The company makes a significant contribution to the local economy and uses local businesses

5.9 One non-committal letter has also been received. It asks that if the committee is minded to grant permission, that it thinks carefully about the conditions that it imposes and ensures that they are monitored and robustly enforced.

5.10 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 There are a variety of planning policy issues at stake in the determination of this application. The key principles and objectives of PPS7 are particularly important. These can be summarised as follows:

- i) decisions should be based on sustainable development principles.

- ii) good quality, carefully sited accessible development within existing towns and villages should be allowed where it benefits the local economy and/or community.
 - iii) accessibility should be a key consideration in all development decisions. Development generating large numbers of trips should be located in or next to towns or other service centres. Decisions on the location of other developments in rural areas should give the greatest opportunity to access them by public transport, walking and cycling, consistent with achieving the primary purpose of the development.
 - iv) new building in the open countryside should be strictly controlled. The Government's aim is to protect the countryside for the sake of its character and beauty, the diversity of its landscapes, heritage and wildlife so that it can be enjoyed by all.
 - v) priority to be given to the re-use of Brownfield sites in preference to the development of Greenfield sites.
 - vi) all development in rural areas to be well designed, in keeping and in scale with its location and sensitive to the character of the countryside and local distinctiveness.
- 6.2 It is in the context of these key principles, together with other national and local policy that the planning application will be considered against the following key matters:

- 1) The impact of the proposal on the character of the area and Visual Impact
- 2) Vehicular Movements and Capacity of Local Highway Network
- 3) Local Jobs and Economic Development
- 4) Ecological Interest and Habitat Regulations
- 5) Hydrological and Flooding Issues
- 6) Footpaths and Bridleways
- 7) Tourism
- 8) Residential Amenity

Visual Impact

- 6.3 Polytunnels are an emotive issue. Almost without exception the letters of objection received express concern that the placing polytunnels on 35 hectares of land will be detrimental to its appearance and views across the landscape for some distance. However from a grower's perspective they prolong the growing season and harvest potential of a crop. As with all planning applications a balance has to be made of all of the material considerations.
- 6.4 The Landscape Officer has fully considered the Landscape and Visual Impact Assessment submitted with the application and carried out in accordance with adopted guidelines. He acknowledges that the proposal will have some visual impact, as indeed does the submitted Landscape Assessment, but also highlights the fact that the area does not have any national landscape designation. He is satisfied that the mitigation measures proposed are sufficient to mitigate the impact subject to appropriately worded conditions. As submitted the proposal seeks to accord with Supplementary Guidelines 3 to 5 (incl) of the Polytunnels SPD. The application responds positively to Guideline 3 in proposing limits as to the total area of an agricultural holding that may accommodate polytunnels. It responds positively to Guideline 4 in setting the polytunnels in the area of least impact as part of a wider landscape assessment, and it responds positively to Guideline 5 by proposing landscaping as a mitigation against the visual impact.
- 6.5 There are two aspects to the proposed landscape mitigation schemes incorporated in the Landscape and Visual Appraisal. The first of these relates specifically to the areas of land where the polytunnels are located (as amended). The appraisal indicates that

existing hedgerows will be retained and maintained at a height of 4 metres. In areas where hedgerows are in need of replanting or reinforcement, this will be undertaken with a mix of native species including Field Maple, Hazel, Hawthorn, Common Ash and Blackthorn at densities of three rows (0.45 metres apart) at 0.3 metre centres.

- 6.6 Also incorporated within the areas where the polytunnels are located are areas of new woodland planting. The most substantive of these is an area lying immediately to the north of the sewage treatment works on the opposite side of the unclassified road. This amounts to approximately 0.8ha of land to be planted with tree species including Birch, Hornbeam, Ash and Oak, together with understorey planting as described in the previous paragraph. Other pockets of planting are also proposed across the site with the expressed purpose of breaking up the massing of the polytunnels when the site is viewed from distance. In particular new planting is proposed on the (western and south-western boundary of the application site). The creation of these new areas, together with the improvement of existing hedgerows will also be of significance in terms of enhancing biodiversity.
- 6.7 As well as areas of proposed planting within the fields where the polytunnels are to be located, the second part of the mitigation strategy relates to the long-term management over a 30 year period of the Poplar plantation to the north, with its expressed intentions being to;
- create a wet and broadleaved woodland
 - diversify tree species and encourage the creation of new habitats
 - to filter views of the site from elevated positions on the southern fringes of Leominster
 - enhance the setting and ecological value of the river corridors
 - enhance the visual and landscape quality of the woodland, particularly where the public have access through or near it.

The Management Plan has three phases. The first of these sees a central core of the Poplar plantation being retained, with areas to its north and south being replanted with a combination of broadleaf and wetland tree species as appropriate, shrub planting and the creation of some grassland areas. The first phase covers 15 years, giving new planting time to become established, and providing continuing screening of the site over the course of the 10 year temporary permission. The area of Poplars is further reduced in Phase 2 and eventually they are completely replaced by Phase 3, taking the Plan to its 30 year conclusion.

- 6.8 The plantation is in itself a rather alien feature in the landscape. A detailed plan that secures its replanting with native species and its active management over a 30 year period is considered to represent a positive enhancement of the landscape and the biodiversity of the local area. The resulting woodland would exist as a feature in the landscape well beyond the lifespan of the polytunnels, particularly as it is anticipated that any planning permission would be granted for a limited period. Much work has been undertaken on this matter through a co-ordinated Management Plan. Given that the plantation is to the immediate north of the site its retention/management will principally impact on screening of the proposed development from the north of the site.
- 6.9 The applicant has now been able to confirm that there is no longer a requirement for the plantation to be felled by 2018 as he is not bound by a Forestry Commission Grant Scheme as was first thought, therefore he has decided to actively promote the active management of the area through the submission of a Unilateral Undertaking. At the time of writing the report the undertaking is being scrutinised by the Council's Legal

Services Department. Assuming that its contents are in order, it would have to be signed and sealed prior to the issue of any planning permission if the committee is minded to approve this application. Members will be updated on this matter at the meeting.

- 6.10 The existence of the Scheduled Ancient Monument at Ivington Camp and the impact upon it is also assessed. The proposal sees the slopes of the land rising to Brierley Wood and Ivington Camp free from polytunnels. These areas were covered prior to compliance with the enforcement notice. Polytunnels will be over 200 metres away from the boundaries of Brierley Wood and Ivington Camp and when viewed from distance the relief that this gives is quite marked, and as the Landscape Officer states, reflects the change in landscape character between Principal Wooded Hills and Principal Settled Farmlands. Combined with the proposed landscape mitigation and maintenance of existing hedgerows it is considered that this represents the carefully designed strategy that the Inspector of Ancient Monuments for English Heritage considers to be necessary to protect the landscape setting of Ivington Camp as a Scheduled Ancient Monument.
- 6.11 The planning statement originally submitted with the application advised that the intention was to retain the polythene on the tunnels permanently. The applicant's agent was advised that this did not accord with the Council's Supplementary Planning Document and it has now been agreed that the polythene will be removed for four months in any one calendar year. This will occur in the winter months when the screening afforded to the site through hedges and trees are at their least effective due to lack of foliage. Precise details of this can be secured by condition. This accords with Guideline 6 of the SPD (Polythene Removal).

Vehicular Movements

- 6.12 The retention of permanent polytunnels on this site will reduce the need for farm vehicles on the adjoining public highways as all of this site can be serviced from internal farm tracks. Indeed, pressure on the unclassified road through Brierley village has been eased significantly by the access track that was approved under the agricultural notification procedure in 2004. This gives access onto the B4361 and is used by all traffic visiting the site. These arrangements accord with Guideline 15 (Highway Safety) of the SPD.
- 6.13 In light of the additional information received regarding traffic movements, the Transportation Manager raises no objection to the application and, primarily for the reason described above, is considered to be acceptable in this respect.

Local Jobs and Economic Development

- 6.14 The application is accompanied by an economic appraisal of the applicant's business and an economic model – Local Multiplier 3 (LM3) – has been applied. Some of the letters of objection have levelled considerable criticism at the way in which it has been applied, suggesting that the financial benefits that the report concludes will be derived are vastly over-inflated. In response to these comments the applicant's agent has submitted a further statement defending the application of the model. This has been open to further public consultation. In particular a detailed objection has been submitted by a private individual on behalf of AVRA who is described by them as being the originator of the LM3 method. A supplementary statement has also been submitted based on the amendments to the current application. Consultation is taking

place on this supplementary statement and any comments received will be reported to the Committee.

- 6.15 Planning policies at national, regional and local levels recognise the importance of the agricultural sector. Planning Policy Statement 7 advises authorities to support development proposals that enable farming to become more competitive, sustainable and environmentally friendly and to adapt to changing markets. Herefordshire is part of a Rural Renaissance Zone defined in the Regional Spatial Strategy for the West Midlands. Policy PA15 seeks to promote agriculture and farm diversification, including new and innovative crops, on-farm processing and local marketing.
- 6.16 Policy E13 of the Unitary Development Plan deals with agricultural development and the supporting text refers to the need to balance landscape impact against the operational needs of agriculture, recognising that necessary developments are often prominent in the rural landscape. The policy also makes reference to the need to avoid adverse impact on residential amenity and the environment.
- 6.17 Poly tunnels have two main benefits to British growers:-
- They protect developing fruit from rain damage, thereby greatly reducing losses from rot and fungus whilst allowing continual picking at harvest-time, unconstrained by the weather; and
 - They extend the growing season without the need for additional heating or lighting
- 6.18 According to the national soft fruit trade association British strawberry and raspberry production has increased more than five-fold since 1996; most of that growth being attributed to the use of poly tunnels. Ninety per cent of strawberries and 98% of raspberries are now grown under poly tunnels, compared with no raspberries and 4% of strawberries just over ten years ago. The use of poly tunnels has allowed the applicant to supply a growing demand for fresh fruit.
- 6.19 A further indication of the transformation that has taken place in British soft fruit growing is that in 1996, 60% of UK sales were supplied by domestic growers, whereas in 2007, 95% of all berries sold in the UK were grown in the UK. The substitution of local fruit for imported fruit has therefore resulted in significant sustainability benefits of reducing the international transportation of fruit by air and road (the food miles issue). Nationally, it is calculated that import substitution in 2007 is valued at £110 million. Undoubtedly the applicant's business has contributed to this national figure.
- 6.20 Soft fruit picking and packing is a labour intensive activity and this was accepted by the Inspector in 2005. Notwithstanding the difference in opinion between the applicant's economic appraisal and the views expressed by some objectors, the applicant's business at Brierley Court and Brook Farm, Marden has made a positive contribution to the rural economy. The business employs 100 permanent staff and relies on large influxes of seasonal workers. Seasonal labour is recruited mostly from Eastern European Countries under the Home Office approved Seasonal Agricultural Workers Scheme. The applicant recently undertook a recruiting campaign in the local area with advertisements in local newspapers and job centres. It is understood that this resulted in just 20 enquires. It is proposed to accommodate seasonal workers in 'pods' on the applicant's land and the application for this runs parallel to this proposal. Clearly the seasonal workers spend a proportion of their wages locally, making a positive contribution to the local economy.

- 6.21 In addition it is clear that the business at Brierley Court purchases goods and services from local businesses. This is evidenced in the planning application by letters of support from local agricultural suppliers that benefit directly from the success of the business.
- 6.22 Notwithstanding the criticism the application of the LM3 economic model, it is concluded that there will be some considerable economic benefit from this proposal. This related directly to Supplementary Guidance 1 – Economic Benefits of the Poly tunnels SPD. This comments that the benefits of poly tunnels in enabling the production of increased quantities and qualities of soft fruit, the sustainability benefits of reducing food miles and the positive contribution to the rural economy are all matters to which considerable weight will be accorded on the balance of consideration.

Ecological Issues

- 6.23 The ecological interests of the site have been fully assessed by the Council's Ecologist and Natural England. The application has also been subject to a Habitat Regulations Assessment Screening Report.
- 6.24 Many of the issues relating to the ecology of the site are inter-linked with the landscape improvements proposed through the woodland management plan referred to above. Its implementation and completion will represent a long term improvement to the biodiversity of the area and is something that would be unlikely to be achieved in isolation. Its inclusion is therefore considered to represent significant mitigation in terms of ecological enhancement as well as landscape improvement.
- 6.25 The Habitats Regulations Assessment (HRA) Screening Report has been completed and it concludes that there will be no impact in terms of pollution from surface water run-off on the River Lugg or River Wye SAC due to their distance away from the application site and as a result of the proposed surface water management measures.
- 6.26 The existence of a badger sett on the applicant's land has also been identified and is addressed by a confidential report that accompanies the application. The Council's Ecologist also recommends the imposition of a full method statement during the construction of the poly tunnels to comply with relevant legislation and to ensure that the sett is not disrupted. Your officers consider that the proposal accords with Guidelines 19 and 20 of the Poly tunnels SPD.

Hydrological and Flooding Issues

- 6.27 The Environment Agency, River Lugg Drainage Board and the Council's own Land Drainage Engineer have assessed the water regime for the development and are both satisfied that, subject to active management of surface water drainage, the proposal is acceptable. This can be imposed by means of an appropriately worded condition to ensure any surface water run-off is discharged at greenfield run-off rates, also taking into account climate change and storm events.

Footpaths

- 6.28 The proposal will affect the use and enjoyment of public footpaths ZC85, ZC86, ZC87 and ZC89, which cross the application site. There will also be views across the site from other rights of way in the area.

- 6.29 The Rights of Way Service have worked closely with the applicant to resolve problems that have previously arisen, and in formulating the detail of the treatment of footpaths in this application.
- 6.30 Plans submitted with the application detail the treatment of areas around footpaths, both in section and plan. There is clear separation of footpaths from vehicle movements and polytunnel structures, and a minimum path width of 3 metres has been provided, much greater than the minimum width of 1.5 metres for a field edge path, and minimum 1 metre width for a cross field path. This accords with Guideline 16 (Public Rights of Way) in the SPD.
- 6.31 Whilst the immediate visual impact of the polytunnels will remain, this will be mitigated to a degree by greater separation of the tunnels themselves from each of the paths, and the proposed planting regime to soften visual perspectives, compared to the current situation.

Tourism

- 6.32 The concerns relating to tourism have previously been set out in paragraphs 5.3 and 5.6 of this report. However, a precedent would not be set if permission is granted for this site. It occupies a low lying area and, as this report has already investigated, is not visually prominent from Leominster as the nearest town to the site. There is no evidence to support the view that the town will lose any tourist trade as a result of this proposal.

Residential Amenity

- 6.33 The proposal follows the supplementary guidelines in the Polytunnel SPD (Guidelines 9 and 10). No polytunnels or associated development is proposed to be sited within a minimum distance of 30m of the boundary of any residential curtilage or within 50m of any dwelling. At their closest, the polytunnels are approximately 100 metres from the nearest dwelling that being Pear Tree Cottage. Consequently it is not considered that there would be unreasonable loss of residential amenity to local residents.

Summary

- 6.34 The application raises many issues, and has divided opinion. The positioning of polytunnels in the open countryside has predictable and well-documented impacts, many of which have been raised in this report. In determining the application Members will need to balance up several conflicting issues. The balance to be struck between the needs and aspirations of the applicant, and the associated economic benefits of allowing the development proposed and the impact of the polytunnels on the character of the wider countryside and the associated visual impact represent the biggest issue to address.
- 6.35 Earlier sections of this report have set out the nature of national planning policy, regional planning policy and local/UDP policies and these will not be repeated save to emphasise that the Supplementary Planning Document on polytunnels has sought to produce detailed guidance to assist in the determination of applications of this type. It has been applied in other applications that have been determined in the County in recent months, and the applicant has sought to bring forward the application within the context of this important document. The recent amendments to the application have sought to address residential issues of concern from local residents and interest groups.

- 6.36 The application is well supported with technical documentation to allow a reasoned decision to be reached.
- 6.37 As members will be aware, and as the report sets out the site has a long a complicated planning history. That history is characterised by a series of refusals of planning permission, for accommodation and associated sewage treatment works, decisions which have been supported by the Planning Inspectorate and the Secretary of State. Significant weight has been given to the impact of the proposed developments on the character and appearance of the countryside. Enforcement Notices have been served where appropriate and necessary, and decisions have been delayed on other matters pending the determination of this application (and the others also submitted by the applicant).
- 6.38 Planning applications are to be determined in accordance with the development plan unless there are other material considerations. For the purposes of clarity, Section 38-(6) of the Town and Country Planning Act 1990 reads as follows:

'If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise'.

This application is different to those that have previously been determined on this site. In particular the current application:

- (a) proposes 35 hectares of fixed tunnels (as amended) erected over table tops, located principally on the flat/gently sloping and low-lying floor of the valley of the River Arrow, on the south bank of the River, to the west of Brierley. The applicant's Landscape and Visual Appraisal has identified this area as having limited visual intrusion and harmful landscape impact and the greatest capacity for successful mitigation. This conclusion is generally supported by the Council's own specialist officers and consultees.
 - (b) proposes the balance of the Brierley Court Farm (approximately 127 hectares) (other than the land included within the site boundaries of the other two applications) to be retained as areas unsuitable for arable cultivation including the Arrow Fisheries and the adjoining Poplar plantation, and areas that would be unsuitable for polytunnels by virtue of their prominence.
 - (c) Is supported by a raft of technical documentation that sets all the various impacts and proposed mitigation strategies for the technical areas covered. Again in general these studies are supported by the consultees, in some cases subject to the imposition of appropriate conditions.
 - (d) Is submitted within a wider context of the company's evolving business strategy.
- 6.39 The erection of polytunnels will inevitably impact on the character of the wider agricultural landscape and has attracted a significant degree of local opposition. Nonetheless your officers conclude that the site has been well-chosen to accommodate the type of development proposed. In particular your officers conclude that the applicant has sought to address the conflicts with Policy LA2 that resulted in the refusal of previous proposals on this wider site. The applicant's Landscape and Visual Appraisal has followed the principle in the second part of this policy in that it has demonstrated, by reference to accepted standards, that landscape character has influenced the design, scale and nature of the proposal, and indeed the detailed site

selection itself. The reduction in the proposed site area to 35 hectares has re-inforced the attempts that have been made by the applicant to incorporate polytunnels within this local landscape.

- 6.40 The application is supported by details that identify that the impact of polytunnels in the wider landscape has been mitigated to some extent by the detailed site selected within the holding, and that details in relation to technical issues (such as ecological, hydrological, flooding, footpath and traffic) have been found acceptable by the relevant consultees.
- 6.41 Notwithstanding the concerns that have been expressed about the accuracy of the applicant's survey of the wider economic impacts by local residents and interest groups, the adopted SPD indicates that significant weight will be attached to this matter. The applicant's economic appraisal has identified its particular contribution to the local rural economy. The report identifies the extent to which purchases, subcontracting and repairs contribute both in total, and in relation to local spend in particular. The application when submitted was accompanied by a wide-ranging schedule of letters from commercial partners setting out (either generally or specifically) the extent to which the applicant company has contributed to their ongoing business operations.
- 6.42 On balance the proposal is considered to be acceptable by your officers and to comply with the development plan in accordance with Section 38-(6) of the Town and Country Planning Act 1990. In particular the application has been prepared against the advice set out in the adopted SPD and against which it performs well.
- 6.43 A series of conditions have been referred to throughout the appraisal of the proposal and it is recommended that these are included should planning permission be forthcoming. Due to the changing nature of agricultural development, and particularly that of soft fruits growing as evidenced in paragraph 6.18 of this report, and to enable effective control to be exercised over the site, it is also suggested that a condition is imposed limiting the permission to a period of ten years.

RECOMMENDATION

Subject to the completion of the Unilateral Undertaking as submitted by the applicant in accordance with the provisions of Section 106 of the Town & Country Planning Act 1990 in relation to the provision of a Woodland Management Plan, an undertaking not to develop any Raised Crop Protection Structure or Polytunnel on any other land in their ownership at Brierley other than that applied for and appropriate linkages between the use of land for polytunnels and the use of land for worker's accommodation the officers named in the Scheme of Delegation to Officers be authorised to approve the application subject to the following conditions and any further conditions considered necessary by officers.

1 F20 (Temporary permission and reinstatement of land) (10 years)

Reason: In order to clarify the terms under which this permission is granted and in accordance with Policies DR1, LA2 and E13 of the Herefordshire Unitary Development Plan.

- 2 The polythene shall be removed by 31st October each year and not replaced until or after 1st March in the following year unless otherwise agreed in writing by the local planning authority.**

Reason: In order to protect the visual amenity of the area in accordance with Policy LA2 of the Herefordshire Unitary Development Plan.

- 3** Within three months of the date of this decision, a full habitat management and enhancement scheme (based upon the Outline Landscape and Ecological Management Plan dated December 2008) shall be submitted to the local planning authority for written approval. This shall include mitigation and protection measures for protected species. The scheme shall be implemented as approved and continued thereafter unless otherwise agreed in writing with the local planning authority.

Reason: To ensure the protection of European and nationally designated sites and to comply with Herefordshire Council's Unitary Development Plan Policies NC2 and NC3. To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, & C) Regulations 1994 (as amended) and Policies NC1, NC5, NC6 and NC7 of Herefordshire Council's Unitary Development Plan. To comply with Herefordshire Council's Policies NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of PPS9 Biodiversity and Geological Conservation and the NERC Act 2006.

- 4** No polytunnels shall be erected within 2 metres of the centre line of a public right of way or 3 metres in the case of a bridleway.

Reason: In order to protect the Public Right of Way in accordance with Policy T6 of the Herefordshire Unitary Development Plan.

- 5** The Public Right of Way shall be maintained strictly in accordance with the submitted drawings L09, L10A, L10B, L11A and L11B unless otherwise agreed in writing by the local planning authority.

Reason: In order to protect the Public Right of Way in accordance with Policy T6 of the Herefordshire Unitary Development Plan.

- 6** All surface water shall be limited to the relevant Greenfield run-off rate, with attenuation for the 1% plus climate change storm event, in accordance with the Flood Risk Assessment dated July 2009, unless otherwise agreed in writing by the local planning authority.

Reason: To prevent flood risk and ensure sustainable disposal of surface water run-off and to conform with Policy DR7 of the Herefordshire Unitary Development Plan.

- 7** H30 (Travel plans)

Reason: In order to ensure that the development is carried out in combination with a scheme aimed at promoting the use of a range of sustainable transport initiatives and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan.

- 8** G10 (Landscaping scheme)

Reason: In order to maintain the visual amenities of the area and to comply with Policy LA6 of Herefordshire Unitary Development Plan.

9 G11 (Landscaping Scheme – implementation)

Reason: In order to maintain the visual amenities of the area and to comply with Policy LA6 of Herefordshire Unitary Development Plan.

10 Amended Plans 14th August, 2009.

INFORMATIVES

1 N19 - Avoidance of doubt - Approved Plans

2 N15 - Reason(s) for the Grant of Planning Permission

3 HN25 - Travel Plans

4 HN26 - Travel Plans

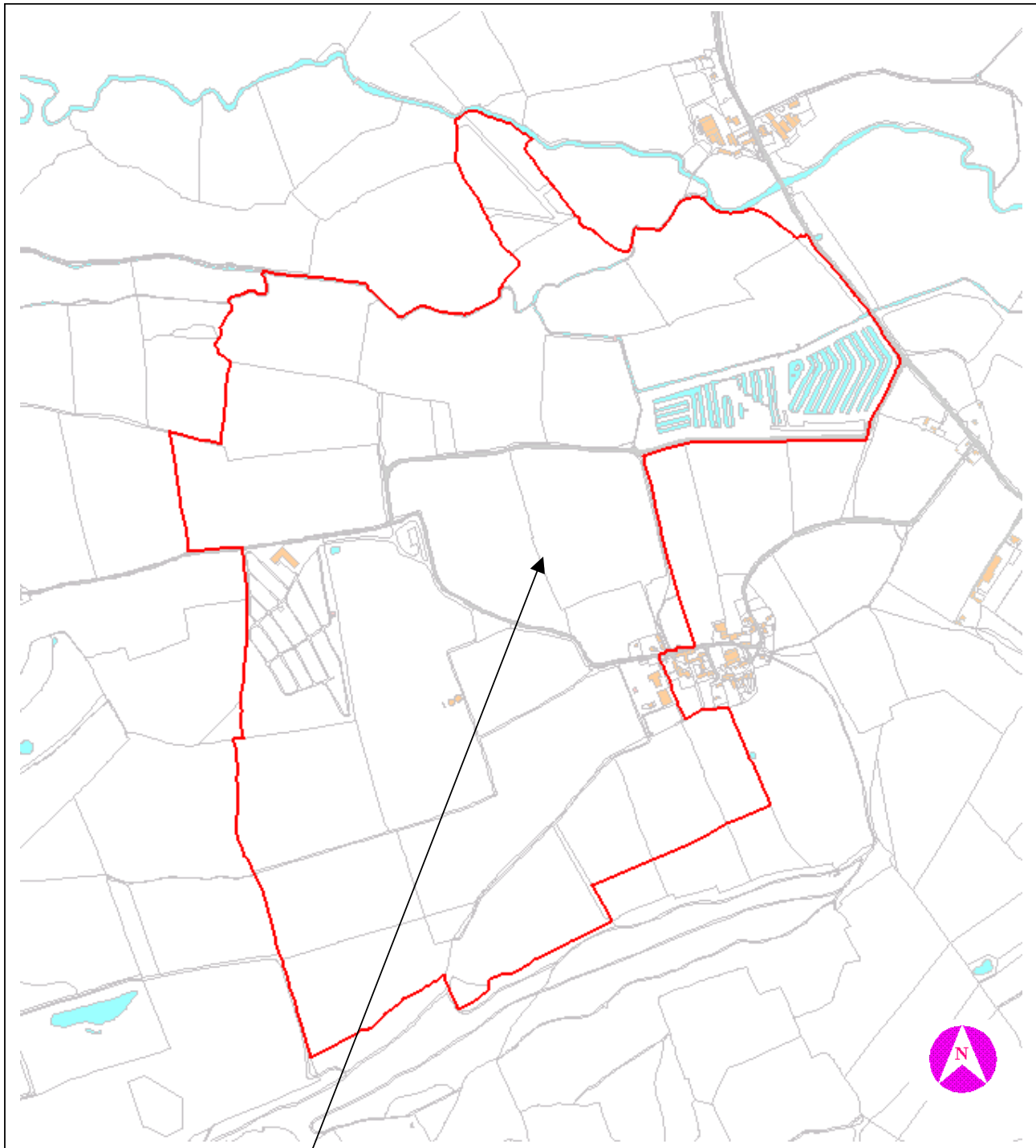
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCNC2009/0167/F

SCALE : 1 : 12498

SITE ADDRESS : Brierley Court Farm, -, Brierley, Leominster, Herefordshire, HR6 0NU

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