

MEETING:	PLANNING COMMITTEE
DATE:	17 MARCH 2010
TITLE OF REPORT:	<p>DMCW/092985/F - CHANGE OF USE OF LAND FROM AGRICULTURE TO A SITE FOR THE ACCOMMODATION OF SEASONAL AGRICULTURAL WORKERS IN CARAVANS/MOBILE HOMES STATIONED CONTINUOUSLY ON THE SITE. RETENTION OF DEMOUNTABLE PORTABLE BUILDINGS USED IN CONNECTION WITH AND STRICTLY ANCILLARY ACCOMMODATION USED RESPECTIVELY AS A DORMITORY BLOCK, STAFF OPERATIONS CENTRE, HEALTH AND FITNESS RECREATIONAL CENTRE, STAFF SHOP, KITCHEN UNITS, SOCIAL UNITS (SERVICES) SHOWER AND TOILET UNITS (RETROSPECTIVE) AT BROOK FARM, MARDEN, HEREFORD, HR1 3ET</p> <p>For: S & A PRODUCE LIMITED per MR ANTONY ASPBURY, UNIT 20, PARK LANE BUSINESS CENTRE, BASFORD, NOTTINGHAM, NG6 0DW</p>

Date Received: 20 November 2009 Ward: Sutton Walls Grid Ref: 352164,247999

Expiry Date: 18 March 2010

Local Member: Councillor KS Guthrie

1. Site Description and Proposal

- 1.1 The application site is comprised of approximately 3 hectares of land, which forms part of a large agricultural complex known as Brook Farm, located on the northern periphery of the settlement of Marden.
- 1.2 The applicant runs a significant agricultural business from Brook Farm focused predominantly around soft fruit production. In order to achieve the required quality standards the crop needs to be harvested at the optimum time followed by prompt processing, which requires large number of workers readily available, often at short notice.
- 1.3 The crop is grown in Spanish polytunnels which were granted planning permission (DCCW2009/0161/F) in May 2009. The polytunnels cover some 36 hectares of land that abuts the application site to the north and east. Once ready, the crop is harvested and taken into the packhouse where it is made ready for distribution to customers.
- 1.4 The company have not been able to recruit sufficient staff from within the settled labour market to meet its operational needs, and therefore in common with other labour intensive agricultural

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operations has relied on seasonal migrant workers, which gives rise to the need to provide on-site accommodation.

- 1.5 The General Permitted Development Order defines as 'permitted development' the use of land as a caravan site, in certain circumstances (as listed in the Caravan Sites and Control of Development Act 1960). One of these circumstances is:- "use as a caravan site of agricultural land for the accommodation during a particular season of a person or persons employed in farming operations on land in the same occupation."
- 1.6 The General Permitted Development Order does however require that to constitute permitted development the use be discontinued and the caravans be removed as soon as reasonably practicable when the circumstances cease to exist (i.e. when the particular season is over).
- 1.7 The background to this application is based on the provisions of the General Permitted Development Order, but proposes a permanent siting of the caravans, with not all being occupied during a particular season, but with all occupied at some time. To retain the site as a permanent facility means that the provisions of the General Permitted Development Order do not apply and planning permission is required.
- 1.8 Essentially therefore the applicant's case is that the caravans are required to meet the accommodation demands for seasonal workers throughout the year, and whilst at times, primarily during the winter period, the majority of them would not be occupied it would be preferable if they were retained on site rather than removed.
- 1.9 The applicant's production season is March through to November and it is during this period when the accommodation would be at its highest level of occupancy. During the period from December to March there remains a requirement for a small work force, which is engaged in the preparation and maintenance duties ahead of the forthcoming growing season.
- 1.10 Following on from the previous refusal and helped by the economic certainty brought about by the approval for the Spanish polytunnels, the applicant has managed to reduce the number of seasonal works to 850 at peak times, this represents a reduction of 250 from the previously refused application.
- 1.11 In response to that reduced labour force, the current application seeks permission for the permanent siting of 185 static caravans which will accommodate 740 workers, and a dormitory complex which will house the remaining 110 workers. To provide for the needs of the people living on site, the application also proposes the provision of ancillary accommodation comprising recreation, catering and sanitation facilities, more specifically it seeks to retain two permanent buildings which have been erected for those purposes.
- 1.12 To facilitate the reorganised layout of accommodation site, the application seeks to relocate an existing staff car-park, rationalise the operational parking area, and relocate bunded fuel tanks from adjoining the accommodation site to within the operation areas.

2. Policies

2.1 National Planning Guidance:

PPG11	-	Regional Planning
PPS1	-	Delivering Sustainable Development
PPS4	-	Planning for Sustainable Economic Growth
PPS7	-	Sustainable Development in Rural Areas
PPS9	-	Biodiversity and Geological Conservation
PPG13	-	Transport
PPS25	-	Development and Flood Risk

2.2 Region Regional Guidance:

Rural Spatial Strategy (RSS)

PA14 - Economic Development and Rural Economy

PA15 - Agricultural and Farm Diversification

2.3 Herefordshire Unitary Development Plan 2007:

- S1 - Sustainable Development
- S2 - Development Requirements
- DR2 - Land Use and Activity
- DR3 - Movement
- DR7 - Flood Risk
- DR13 - Noise
- H7 - Housing in the Countryside Outside Settlements
- H8 - Agriculture and Forestry Dwellings and Dwellings Associated with Rural Businesses
- H11 - Residential Caravans
- E10 - Employment Proposals Within or Adjacent to Main Villages
- E13 - Agricultural and Forestry Development
- HBA4 - Setting of Listed Buildings
- LA3 - Setting of Settlements
- CF2 - Foul Drainage

3. Planning History

- 3.1 SH87/0589PF Erection of an agricultural storage building. Approved 06/07/87.
- 3.2 SH89/1354/PF Erection of an agricultural storage building. Approved 31/08/89.
- 3.3 SH91/1156/PF Permanent farm office accommodation. Approved 25/09/91.
- 3.4 SH92/0621/PF Erection of an extension to existing potato store. Approved 09/07/92.
- 3.5 SH94/0684/PF Erection of extension to general purpose potato storage and grading buildings. Refused 18/01/95.
- 3.6 SH94/0736/PF Dismantling of general purpose agricultural building and conversion of remainder into farm office. Construction of weighbridge. Refused 18/01/95.
- 3.7 SH95/0404/PF Change of use from agricultural to new potato grading and packing station with associated storage and services. Refused 26/07/95.
- 3.8 EN950014ZZ Unauthorised change of use from agricultural to potato storage, processing and distribution plant. Enforcement Notice served 12/06/96 - Enforcement appeal allowed 26 July 1997, at which time the Planning Inspector held that the change of use did not constitute a breach of planning control as the use had been in operation for a period exceeding 10 years prior to the Enforcement Notice being issued, and was therefore immune from enforcement action.

- 3.9 SH97/1145/PF Covered rear yard and dispatch area, demolition of existing buildings and erect new farm office and associated utilities. Approved 03/12/97.
- 3.10 CW1999/2613/F Use of land for the siting of caravans. Refused 21/06/00.
- 3.11 CW1999/3332/O Site for the erection of a controlled environmental store. Approved 19/09/00.
- 3.12 CW2000/2826/F Use of land for the siting of caravans. Approved 17/10/02.
- 3.13 CW2003/0130/F Extension to caravan site. Approved 16/04/03.
- 3.14 CW2003/0290/F Accommodation block. Approved 16/04/03.
- 3.15 DCCW2003/3749/F Permanent toilet facilities to replace existing portacabins. Approved 30/04/04.
- 3.16 DCCW2007/2806/F Continued use of land as a caravan site and retention of accommodation block for seasonal agricultural workers. Refused 21/11/07. Appeal withdrawn.
- 3.17 DCCW2009/0160/F Continued use of land as a caravan site and retention of accommodation block for seasonal agricultural workers. Refused 27/05/09.
- 3.18 DCCW2009/0161/F Application (part retrospective) to erect fixed (non rotating) Spanish polytunnels over arable (soft fruit) crops grown on table tops. Approved 27/05/09.

4. Consultation Summary

- 4.1 Dwr Cymru Welsh Water: Raise no objection subject to conditions to ensure separate discharge of surface water and foul water in a regulated manner.
- 4.2 Environment Agency: No objection, but suggest consultation with the Council's Land Drainage Engineer.
- 4.3 Natural England: No objection, subject to the development complying with the Flood Risk Assessment dated October 2009 which was prepared by JDIH Envireau.
- 4.4 River Lugg Internal Drainage Board: No objection subject to the development complying with the Flood Risk Assessment dated October 2009 which was prepared by JDIH Envireau.

Internal Council Advice

- 4.5 Traffic Manager - No objection, but comments that the potential to provide a pedestrian route into the village would be desirable, and suggests that the recycling facilities be redesigned to allow more manoeuvring room for vehicles.
- 4.6 Environmental Health & Trading Standards Manager - No objection, I am not aware of any ongoing problems as regards to noise, light or other nuisance from this development. Should complaints arise in the future as regards statutory nuisance, The Environmental Protection Act 1990 provides the Council with adequate powers to satisfactorily address any problems.
- 4.7 Public Rights of Way Manager – No objection.

4.8 Land Drainage Engineer - The run-off needs to be harnessed and controlled within the site prior to discharge into the watercourses. The capacity of the receiving watercourses needs to be assessed, and maintenance issues identified accordingly.

5. Representations

5.1 The application is accompanied by a range of supporting documents and these are listed as follows:

- Landscape and Visual Appraisal
- Ecological Impact Assessment
- Outline Landscape and Ecological Management Plan
- Flood Risk Assessment

5.2 In addition to the above documents a covering letter setting out the appellant's case was submitted by their agent, Antony Aspbury Associates, which is summarised as; *The application is for the retention of seasonal agricultural workers accommodation at Marden, and constitutes a change of use. Most of the units of accommodation comprise caravan/mobile homes and demountable buildings which are capable of being moved, and the local planning authority are invited to determine the application on that basis. This is however a hybrid application as it also seeks the retention of two permanent buildings (fitness room and recreation centre) which exist solely to serve the site. Three previous planning applications are pertinent to the present application, CW2003/2826/F granted permission for the stationing of caravans and accommodation blocks, this expired in October 2007. In November 2007 the local planning authority refused planning permission for their continued retention under application CW2007/2806/F. And most recently application CW09/0160/F was refused in May 2009. These refusals were based upon a perception by the Committee that the scale of the development was excessive, which coupled with an unsatisfactory form and character, resulted in a detrimental impact on the surrounds and Marden in particular. Following those refusals, and in light of the extant planning permission to 'permanently erect polytunnels at Brook Farm, the applicant has undertaken a comprehensive review of its requirements for seasonal agricultural workers. The outcome of which has been a reduction from 1000 works as previously sought by CW2007/2806/F, to 850. This reduction has been made possible by the stability and certainty generated by the planning permission for the polytunnels, and also the applicants commitment to the use of 'table-top' growing, which combined with better management produces better year-on-year returns. The size of the labour force required is calculated on 16 workers per hectare (600), with the remaining 250 being variously employed in the packhouse or secondary crop production such as asparagus. Of that 250, some staff will be employed to service the accommodation site (warden/ security, catering staff etc). To offer a more attractive environment for the workers, accommodation levels are based on 4 people per caravan, with the remaining accommodation being provided in purpose built accommodation blocks. Having consideration for the disruption, risk of damage during movement, and limited time span between growing seasons, the applicant requests that the local planning authority considers allowing a period of two years from the grant of planning permission, within which to achieve the transfer from the current mix of caravans, temporary buildings and 'pods' to the arrangement shown on the submitted plans. Overall, we commend this carefully reformulated and well founded application.*

5.3 Marden Parish Council - Support the application, subject to no more than 850 people being accommodated on the site, a Site management Plan being agreed, the revised layout being achieved by 31 March 2011, any permission being limited to a period of 5 years, visual impact being mitigated by suitable landscaping. To assist in integrating the development into the wider community, the Parish Council would also like to see a contribution being made towards the cost of providing a Parish Officer being secured through a Sec106 agreement.

5.4 CPRE - Objection, this is intensive residential development which is in terms of location is contrary to the UDP, the impact of which adversely impacts on the settlement of Marden. The

accommodation is sub-standard. The business generates heavy and frequent traffic movements. Should permission be granted it should be controlled by condition, strictly supervised and limited to not more than 5 years.

5.5 18 letters of objection have been received, which are summarised as follows:-

- Marden is a small village, and it does not have the infrastructure for another 850 people, which almost doubles the total population for some 8 months a year.
- This is in effect the same as the other applications which were refused, and it should be refused again.
- The application is for a permanent accommodation, workers are employed year round, they are not 'seasonal' .
- How will the number of people living on the site be regulated.
- How can we be sure the people will only work on Brook Farm. How do we know that the people living on site will not be hired out to other agricultural businesses by Gangmasters.
- They laid off workers last season so why do they need so much accommodation.
- The workers in the packhouse are not employed in agriculture, particularly as food is imported; including from abroad, to be processed there throughout the year.
- The application fails to demonstrate the need to provide accommodation, particular as the area covered by polytunnels is being reduced.
- The proposed accommodation is substandard
- The site should not be allowed to have its own shop.
- There are better sites for S&A produce Ltd to operate from.
- The packhouse should be moved away from Marden
- Too much traffic is generated by S&A Produce, the local roads can't cope.
- The use of the sports pitch/swimming pool will disturb neighbours.
- S&A Produce Ltd are not concerned about the impact of their business on the residents of Marden.
- S&A Produce Ltd have not complied with conditions on previous permissions, how do we know they will this time.
- The caravan site is intrusive visually within the landscape.
- If permission is granted it should only be on a temporary basis.
- Noise from the site should be controlled, to prevent any nuisance to neighbours.
- The local community should have a voice in the Site Management Plan.

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

6. Officer's Appraisal

6.1 The site has been used to provide seasonal workers accommodation in one form or another for a significant number of years, however the last planning permission expired in 2007, since which time two further planning applications have been made resulting in either withdrawal or refusal. Therefore this application is retrospective in so far as it seeks to regularise the continued use, albeit in a reduced and reordered form.

6.2 The seasonal workers are an integral part of the agricultural enterprise and the need for the accommodation has been demonstrated in respect of the temporary permissions previously granted, as well as through the on-going developments including the recent approval for Spanish polytunnels in May 2009.

6.3 The accommodation of the seasonal workers on the site means that they are readily available and also it reduces the potential traffic flows to and from the site. It also seems that the workforce available through the local job market is not sufficient to meet the needs of the business.

- 6.4 Whilst the workers in the packhouse are not strictly involved in direct agricultural employment, they are nonetheless an indivisible part of the overall processing and despatch of the agriculture crop which is grown at Brook Farm.
- 6.5 Furthermore it is also acknowledged that food products are imported for processing through the packhouse, outside of the growing season, as part of a diversification scheme which ensures that capital equipment is not left idle. However, in terms of total volume of throughput, the imported produce is subordinate to the primary purpose of the packhouse, which is directed towards processing the crops grown on Brook Farm.
- 6.6 Accordingly it is considered that the applicant has presented a practical case to justify the development, therefore the principle question is where the accommodation is best located.
- 6.7 For the purposes of the development plan the site is outside the recognised settlement boundary of Marden, and is therefore in policy terms, located in the open countryside. The development plan seeks to protect the countryside from development, save for exceptions where the proposal would benefit both economic activity and maintain or enhance the environment.
- 6.8 Residential development in the countryside is only permitted in a limited number of exceptional circumstances, one of which being where it is manifestly required for agricultural workers. In terms of economic development, there are policies which seek to promote and encourage the development and expansion of suitable employment generating uses, but these are limited to small scale proposals which are essential for the operation of agriculture in the wider locality.
- 6.9 However there are no policies in the development plan which specifically or directly relate to the provision of accommodation for seasonal agricultural workers.
- 6.10 Therefore a strict interpretation of the relevant planning policies would suggest that planning permission should not be granted. However such a stance would unacceptably fail to recognise that this application reflects the special circumstances that the applicant faces in sourcing and accommodating the number of seasonal workers required to sustain an established and economically productive agricultural business
- 6.11 For 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'.
- 6.12 In practical terms the workforce needs to be located close to the area farmed, and furthermore any such location should be within reasonable distance of the infrastructure and facilities offered by a village or town in the interests of achieving sustainability.
- 6.13 In this case the application site lies adjacent to Marden which is identified as a main village, containing a post office, general store and providing access to public transport. Therefore it represents a highly sustainable location having regard to balancing the need for workers to be housed close to their point of employment and the services available within the village.
- 6.14 Whilst it is acknowledged that the potential for Marden's population to be swelled by up to 850 people has given rise to grounds for concern as evidenced by the letters of representation, the level of proposed accommodation is less than previously experienced, and furthermore consideration has to be had for the fall back position offered by permitted development rights to house seasonal workers. Therefore whilst the concerns are noted they are not considered to give rise to defensible grounds for refusal, when proper regard is had for the fall back

position, albeit that it would require removal of the units of accommodation when they were not occupied.

- 6.15 To alleviate the burden on the facilities existing within the village, the applicants have provided recreation and leisure opportunities within the site. A number of the letters of representation refer to the potential for noise and disturbance arising from the general occupation of the accommodation, and more particularly these leisure and recreational facilities. However, whereas occupants of a dwelling are normally answerable for their behaviour to no one save themselves (within the confines of civil and criminal law) in this case all the occupants of the proposed accommodation are subject to the management and control of their employer. Consequently it is considered that the impact in terms of noise or other disturbance can be appropriately controlled through a 'Site Management Plan' and an appropriate condition is duly recommended to secure the submission of such a plan for approval of the local planning authority.
- 6.16 The 'Site Management Plan' also offers a vehicle through which the transformation of the site from its current layout and mix of accommodation can be considered, which will address the comments from the applicants agent's whereby they seek flexibility in terms of the time required to undertake the necessary works.
- 6.17 Turning to the visual impact, the presence of the extant planning permission to erect Spanish polytunnels over the adjoining land is a material consideration, as they will act to screen against views of the accommodation site, and where visible it will be read within the landscape against the backdrop of those polytunnels, as well as the farm complex to the north and east and the village of Marden to the south.
- 6.18 Therefore it is not considered that based on a consideration of visual impact alone there are sufficient grounds to give rise to a defensible reason for refusal.
- 6.19 However whilst it is not considered that the accommodation site is demonstrably harmful in visual terms, there are nevertheless opportunities for the impact to be minimised as evidenced in the Landscape and Visual Appraisal which supported the application, therefore conditions to secure a landscaping scheme are recommended. As well as dealing with any necessary planting the proposed conditions will also secure details of the hard landscaping and boundary treatments.
- 6.20 The comments from the Environment Agency and the Council's own Land Drainage Engineer are noted and an appropriate condition is recommended to secure details of the attenuation measures, further to the Flood Risk Assessment.
- 6.21 Although the comments of the Traffic Manager are noted in regards to the desirability of securing improved pedestrian links into Marden, having consideration for the rural character of the locality, and the transient nature of the workforce, it is considered that the visual harm caused by the creation of a footpath outweighs any benefits. As to the comment about the recycling area, this can be dealt with under the landscaping condition.

Conclusion

- 6.22 Whilst the development proposed represents significant development in the countryside it reflects the particular circumstances that the applicant faces in sourcing and accommodating the number of seasonal workers required to economically sustain the agricultural enterprise.
- 6.23 The applicants have through both the nature and scale of the agricultural enterprise and the previous planning permissions demonstrated a need for a large temporary workforce. Therefore your officers are satisfied that the need for a development of this scale has been justified, as it is considered unlikely that a workforce of the size required could be recruited

from the settled community, and the impact of accommodating a migrant workforce on the site has less impact than if they were required to be accommodated elsewhere.

- 6.24 However this application is recommended in terms of a temporary permission, to allow for the periodic review of the ongoing needs of the agricultural enterprise.
- 6.25 On balance, and having regard for the economic benefits which arise, the proposal is considered to be acceptable and approval is recommended.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

1 B01 Development in accordance with the approved plans.

2 F21 Temporary permission (mobile home/caravan) - 5 years.

Reason: To enable the local planning authority to retain effective control over the site and to re-assess the need for on-site workers accommodation and to conform with Policy H7 of the Herefordshire Unitary Development Plan.

3 The occupation of the accommodation hereby permitted shall be limited solely to persons employed by S&A Produce Ltd to work on Brook Farm, and shall be limited to providing accommodation for no more than 850 workers at any one time, and subject to a maximum number of 185 static caravans, supported by an accommodation block housing 110 persons being stationed on the land at any one time. For the avoidance of doubt the development hereby permitted shall not at any time be occupied as a sole or principal residency by any individual or group of individuals.

Reason: Planning permission has only been granted having consideration for the needs of the agricultural enterprise operating at Brook Farm, and to maintain control over the scale of accommodation provided in order to clarify the terms of this planning permission to conform with Policy H7 of the Herefordshire Unitary Development Plan.

4 In the event that the polytunnel development previously approved by planning permission (DCCW2009/0161/F) in the opinion of the local planning authority ceases to be functionally used, the use hereby approved shall cease. Subsequent to this and within 12 months of the local planning authority indicating to the applicant that the polytunnels have ceased to be operational all units of accommodation including ancillary buildings or structures on the site shall be removed and the land restored to its former condition.

Reason: The local planning authority would not have granted planning permission for this use unless it was required in support of the lawful polytunnel development.

5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any order revoking and re-enacting that order with or without modification, no caravans nor any other form of habitable accommodation shall at any time be placed on the land which is under the control and/or ownership of the applicant as defined by drawing no. 1252/45C.

Reason: In order to clarify the terms of this planning permission and to maintain control over the scale of accommodation provided in the interests of visual and residential amenity to conform with the Herefordshire Unitary Development Plan.

6 All surface water shall be dealt with in accordance with the Flood Risk Assessment (Ref: P\SAD multi (5540)\Marden Accommod.FRA/FRA v0.3.doc), dated October 2009. Details of the methods to be introduced for attenuation storage shall be submitted to and approved in writing by the local planning authority within three months of the date of this planning permission.

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 Within three months of this planning permission a 'Site Management Plan' which clearly sets out the arrangements for the use and occupation of the development hereby approved (to include amongst other issues; an agreed schedule for the transition of the site from its present form to that that approved in terms of the number, type and position of the accommodation units, the maintenance of buildings and common areas, litter collection and disposal, recreation and leisure provision including the control of amplified music, lighting, car parking arrangements) shall be submitted to and approved in writing by the local planning authority. The operation and use of the site shall thereafter be in accordance with the approved management plan.

Reason: In the interests of amenity of nearby residents and to ensure compliance with Policy E13 of the Herefordshire Unitary Development Plan.

8 C96 Landscaping scheme.

9 C97 Landscaping scheme – implementation.

Informatives:

1 N02A Section 106 Obligation.

2 N15 Reason(s) for the Grant of PP/LBC/CAC.

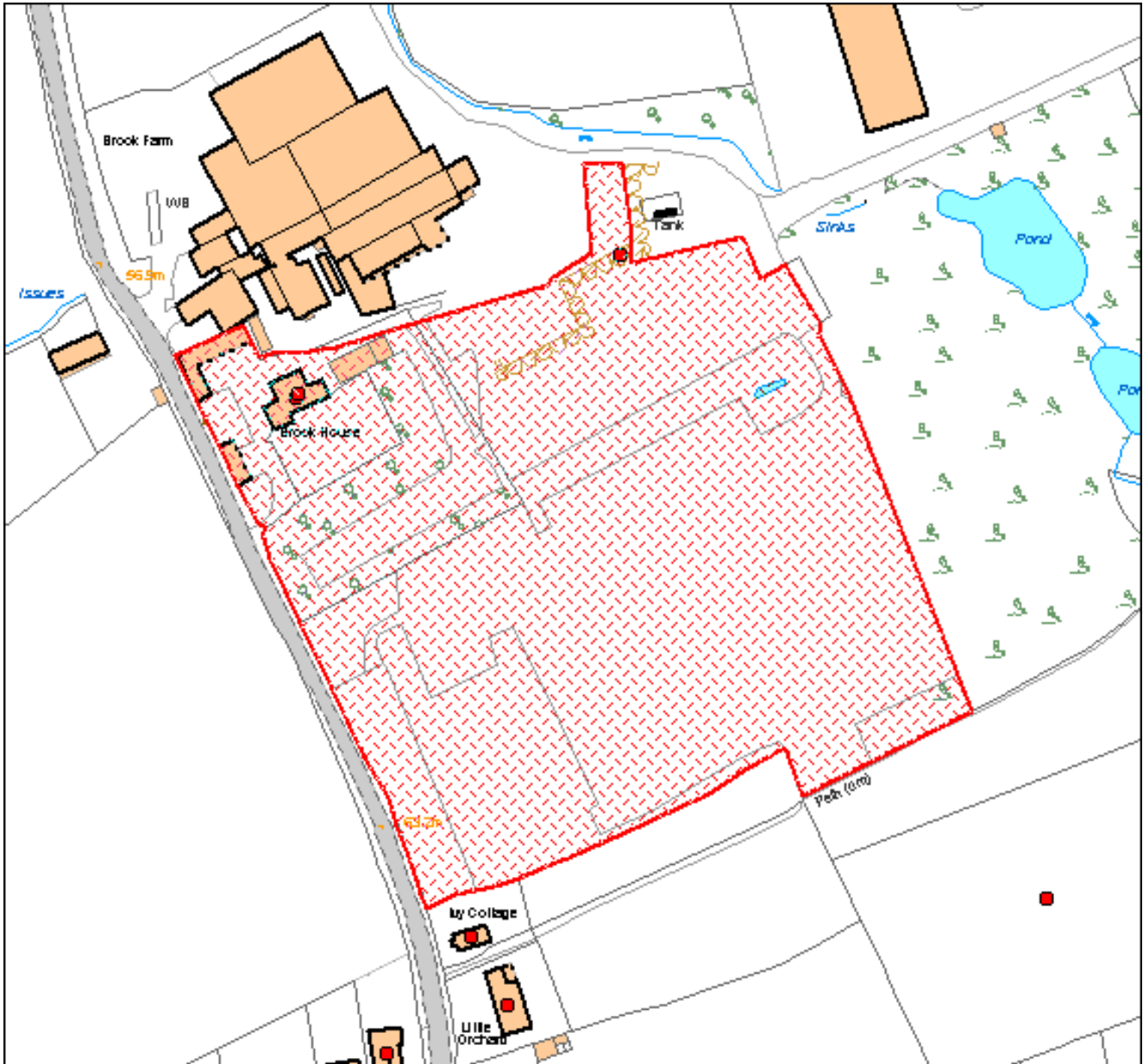
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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