

|                         |                                                                                                                                                                                                                                                                                                                                                            |
|-------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>MEETING:</b>         | <b>PLANNING COMMITTEE</b>                                                                                                                                                                                                                                                                                                                                  |
| <b>DATE:</b>            | <b>12 MAY 2010</b>                                                                                                                                                                                                                                                                                                                                         |
| <b>TITLE OF REPORT:</b> | <p><b>DMNE/092262/F - CHANGE OF USE OF LAND FROM AGRICULTURAL TO FAMILY TRAVELLERS SITE, PLUS RETROSPECTIVE APPLICATION FOR CONSTRUCTION OF BARN AND NEW ACCESS. AT FREEMAN'S Paddock, BROMTRES HALL, BISHOP'S FROME, HEREFORDSHIRE, WR6 3BY</b></p> <p><b>For: Mr Michael Freeman, 6 Tinkers Corner Caravan Site, Bosbury, Herefordshire, HR8 1HZ</b></p> |

**Date Received: 1 September 2009**

**Ward: Frome**

**Grid Ref: 364877,248357**

**Expiry Date: 10 December 2009**

Local Members: Councillor PM Morgan

### **FURTHER INFORMATION REPORT**

#### **1. Background**

- 1.1 This application was reported to the meeting on 14 April 2010 when the committee were minded to refuse the application contrary to the recommendation. The Head of Planning and Transportation and the Monitoring Officer advised that such a decision would be difficult to defend if challenged. In accordance with the Constitution: Section 4.8.10 of Part 4 – Section 8 – The Planning Rules, determination of the application was deferred.
- 1.2 The updated report to that meeting is attached as an appendix.

#### **2. Further Information**

- 2.1 The Constitution, in Section 4.8.10.2 of The Planning Rules, sets out the requirements for the content of this report.
- 2.2 Updating Members on any additional information received
- It has not been necessary to seek any additional information.
- 2.3 Reporting on any discussions that have taken place with the applicant/objectors since fees initial meeting.
- It was not considered necessary for further meetings or discussions with the parties.
- 2.4 Setting out the legal procedure and likely financial implications of proceeding with the initial resolution.

- 2.4.1 National planning policy provides that there should be provision of caravan sites for gypsies and travellers. National policy as most recently set out in Circular 01/2006 expects the development plan to identify specific sites and to include policies to deal with windfall sites.
- 2.4.2 The Unitary Development Plan relies solely on a criterion based policy for exception sites. Sites for such uses are one of the few exceptions to the restriction on new development in the countryside, for which the primary aim is to protect it for its own sake against unnecessary development. Policies H7 and more specifically H12 set out the circumstances under which applications will be considered.
- 2.4.3 A number of individual sites have been approved under this policy. There have additionally been refusals with the subsequent success on appeal being mixed. The Officer recommendation remains that the proposal, subject to conditions, is acceptable in policy terms.
- 2.4.4 With regard to the specifics of this case the Committee were minded to refuse planning permission having regard to the location of its site, the impact on the landscape and the justification for the agricultural building. The specific policies mentioned were S1, H12, LA2 and E13.

In these circumstances the following reasons for refusal could reflect Member debate at the last meeting:-

1. The proposal would represent an uncharacteristic form of development which would be out of keeping with, and be detrimental to, the established landscape character of the area. As such the development would be contrary to Policies S1, LA2, H7 and H12 of Herefordshire Unitary Development Plan 2007.
  2. The provision of a family travellers' site in this location is considered to be unacceptable as it would be remote from local services and facilities and it would not be readily accessible to a choice of modes of transport. As such the development would be contrary to Policies S1, H7 and H12 of Herefordshire Unitary Development Plan 2007.
  3. The Local Planning Authority is not satisfied, having regard to the size of the holding and the nature of the proposal that the barn is reasonably required for the purposes of agriculture. As such the development would be contrary to Policy E13 of Herefordshire Unitary Development Plan 2007.
- 2.4.5 The Council has a duty to determine the application in accordance with the Development Plan. The above reasons are based on the Committee's assessment of the proposal. However having regard to the context as set out in the report to the April meeting it is advised that defending the decision at any resulting appeal may prove to be difficult. Member involvement in the process would be essential, particularly if the case was dealt with either by public inquiry or a hearing.
- 2.5 Any Monitoring Officer advice
- 2.5.1 The legal position has been accurately described elsewhere in this report. Most of the requirements for this proposal in the Unitary Development Plan and other policies and guidance have been met. The decision not to follow officer recommendation when the application is so strong with raise the possibility of appeal.
- 2.5.2 This is particularly so in view of Circular 01/2006 specifically requiring local authorities to have a development plan document which would deal with the issues of allocating such sites in their areas. The Local Development Framework Core Strategy will ultimately include such provision but the relative document is not programmed until 2013.

|                         |                                                                                                                                                                                                                                                                                                                                                            |
|-------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>MEETING:</b>         | <b>PLANNING COMMITTEE</b>                                                                                                                                                                                                                                                                                                                                  |
| <b>DATE:</b>            | <b>14 APRIL 2010</b>                                                                                                                                                                                                                                                                                                                                       |
| <b>TITLE OF REPORT:</b> | <p><b>DMNE/092262/F - CHANGE OF USE OF LAND FROM AGRICULTURAL TO FAMILY TRAVELLERS SITE, PLUS RETROSPECTIVE APPLICATION FOR CONSTRUCTION OF BARN AND NEW ACCESS. AT FREEMAN'S Paddock, BROMTRES HALL, BISHOP'S FROME, HEREFORDSHIRE, WR6 3BY</b></p> <p><b>For: Mr Michael Freeman, 6 Tinkers Corner Caravan Site, Bosbury, Herefordshire, HR8 1HZ</b></p> |

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

- 1.1 The application site comprises an agricultural field located in open countryside within 1.6 km (1 mile) of the main village of Bishops Frome, accessed from the C1133. The field has a mature hedge line along the road frontage and is a clearly defined rectangle of some 0.35ha. A ditch and verge separates the road and field hedge boundary.
- 1.2 The proposal is for the change of use of the agricultural field to a family traveller site with new vehicular access and a retrospective application for an agricultural barn.
- 1.3 The pitch comprises two number caravans measuring 8.80 x 3.15 metres and are of a typical style and metal construction.
- 1.4 The barn measures 8.16 x 7.43 metres with a maximum height of 4.20 metres. The road facing elevation has a height of 3.25 metres.

## **2. Policies**

### **2.1 National Planning Guidance**

- PPS7 - Sustainable Development in Rural Areas  
Circular 1/2006 - Planning for Gypsy and Traveller Caravan Sites

Local Authorities and Gypsies and Travellers: A Guide to Responsibilities and Powers, DCLG, 2007

Designing Gypsy and Traveller Sites, Good Practice Guide, DCLG, 2008

West Midlands Regional Spatial Strategy

### **2.2 Herefordshire Unitary Development Plan:**

- S1 - Sustainable Development

---

Further information on the subject of this report is available from Mr C Brace on 01432 261795

|     |   |                                                         |
|-----|---|---------------------------------------------------------|
| DR1 | - | Design                                                  |
| DR2 | - | Land Use and Activity                                   |
| DR3 | - | Movement                                                |
| H7  | - | Housing in the Countryside Outside Settlements          |
| H12 | - | Gypsy and Other Travellers                              |
| H13 | - | Sustainable Residential Design                          |
| T8  | - | Road Hierarchy                                          |
| LA2 | - | Landscape Character and Areas Least Resilient to Change |

### 2.3 Other Planning Documents:

Herefordshire Council Travellers' Policy, 2008

Gypsy and Traveller Accommodation Assessment Shropshire, Herefordshire, Telford and Wrekin and Powys revised final report July 2008.

### 3. Planning History

None relevant.

### 4. Consultation Summary

#### Statutory Consultations

4.1 None required.

#### Internal Council Advice

4.2 The Transportation Manager makes no objection to the proposal, as the new access achieves enhanced visibility over the existing access arrangements. The applicants' traffic and speed results demonstrate that the 85th%ile is 30 mph or below, so visibility splay distances necessary can be as low as 2.0 by 45m. The proposed access exceeds this requirement. A number of conditions are recommended if approval is granted. These are included in the recommendation.

4.3 The Conservation Manager makes no objection to the proposal. There is no detrimental impact upon Grade II listed Hall Court.

There is no objection to the proposal on landscape grounds as there are limited views into the site from public vantage points, and in any event, the site is well screened by the network of field hedgerows and trees. The proposed mitigation through a landscaping scheme is considered to adequately screen the proposed structures and enhance the site.

Similarly in terms of ecology there is no objection on the basis of the removed hedgerow to create the new access being mitigated through appropriate new planting on the site. A number of conditions are recommended if approval is granted. These are included in the recommendation.

4.4 Environmental Heath and Trading Standards Manager makes no comment on the application.

4.5 The Building Control Manager confirms that the drainage proposals are satisfactory.

4.6 The Drainage Engineer confirms the use of a septic tank and soak away in this location is acceptable and appropriate.

4.7 The Head of Strategic Housing states that a total of 83 additional Gypsy and Traveller pitches are required in the period 2007 – 2012. It is emphasised that vacancies on Council owned

---

Further information on the subject of this report is available from Mr C Brace on 01432 261795

pitches does not indicate a lack of demand in the same way a 'hard to let' affordable housing unit does not indicate a lack of demand for affordable housing. It is confirmed that there are difficulties in securing exception sites in rural locations.

4.8 The PROW Officer makes no objection to the proposal.

## **5. Representations**

5.1 The applicants have applied for planning permission following their acquisition of this parcel of land, and the opportunity this affords them to set up their own site and subsequently live on and work on the small holding it creates. The applicants have found living on a Council owned site has proved problematic and not allowed them to live in the traditional manner to which they aspire. The applicant has pursued this opportunity for a number of years, denied by the inability to find an affordable parcel of land that also meets local and national planning policies.

5.2 Bishops Frome Parish Council objects to the planning application on the following summarised grounds:

- The report on Bishops Frome is inaccurate in regards facilities available
- The site is outside the settlement boundary of Bishops Frome
- As the applicant lives on a Travellers site the application is not justified
- The applicant has ignored planning directions
- There is a covenant on the land which prohibits development on or of the land

5.3 Seventeen representations of objection have been received from local residents. These are summarised as:

- Inaccuracies regarding Bishops Frome
- The site is visible
- Questions the applicants' status as a Gypsy or Traveller
- Questions need for 2 number mobile homes
- Concern over drainage
- Application is vague
- Applicant has ignored planning rules and an enforcement notice
- There is a covenant on the land prohibiting development on or of the land
- Concerns over expansion in the future
- Need and justification as applicant lives on a traveller site
- Questions the original Design and Access statement
- The submitted plan is not to scale and is inaccurate
- More than one property is affected
- The barn is not used for animals but storage of building materials
- Spoil the setting of the village
- Concern over crime
- Highway safety
- The site is outside the settlement boundary
- Questions the need
- Negative impact on area
- Impact upon Hall Court, a Grade II listed building
- Lack of a tree survey
- Drainage
- No utilities serve the site
- Development of a Greenfield site
- Impact on residential amenity

- 5.4 One letter of support has been received from a local resident who comments the proposal will have minimal impact upon the area and adds to the social mix of the community.
- 5.5 Following the submission of further information from the applicant, a second consultation period was held. No objections were withdrawn, and the additional comments received from 6 of the original commentators are summarised as:
- Inaccuracies still have not been addressed
  - The barn details are lacking
  - The caravan illustrated is described as 'probable' therefore concern is raised over what could result or be enforced
  - No details of who carried out or what criteria were used in respect of the survey
  - Questions the suitability of the mobile homes to provide adequate accommodation to the family unit
  - The child aged 21 is not a child
- 5.6 The CPRE object to the proposal on the following summarised grounds:-
- Open countryside location
  - Impact on high quality landscape
  - Obtrusive development
  - Applicant has contravened planning control
- 5.7 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**

### Introduction

- 6.1 The application follows an enforcement investigation and subsequent pre-application discussions in which the principle of the proposal were discussed in regards local and national planning policy and the sites' constraints and history.
- 6.2 The field subject of this application has previously been subject to an enforcement investigation regarding the unauthorised agricultural building on the north part of the site. Following a meeting with the applicant, his intention to apply for change of use to Traveller site with the retrospective application for the barn, formal enforcement action was held pending the determination of this application. The welfare of the livestock as the winter period was approaching, was also taken into account when reaching this decision. It is emphasised that the applicant and his family have not moved onto or are living on the application site.
- 6.3 Two rounds of public consultation have taken place. The second round followed the submission of additional information, including dimensioned scaled drawing of the existing agricultural building and photographs and dimensions of the proposed static caravans. An independently commissioned professional traffic and speed survey was also submitted.

### Legislative context

- 6.4 The Local Planning Authority is mindful of the guidance set out in Circular 1/2006 on the European Convention on Human Rights, and its obligations under the Race Relations Amendment Act 2000.
- 6.5 The Housing Act 2004 requires Local Authorities to include the accommodation needs of Gypsies and Travellers in their Local Housing Assessments.

- 6.6 The principle Unitary Development Plan policy against which this application is assessed is H12 Gypsy and other travellers. This is a criteria based policy which assesses traveller sites on their individual merits having regard to the issues of sustainability, size and scale, landscape impact, and the provision of suitable residential amenity. No traveller sites are allocated in the Unitary Development Plan thus the provision of new sites in the county is through compliance with this policy. Regard is made to other relevant policies in respect of local and site specific issues of highways, design, access, amenity and conservation.

#### The applicant

- 6.7 The applicant is considered to meet the definition of a Gypsy or Traveller as defined in Circular 1/2006. The family unit comprises the applicant, Mr Freeman, his wife and four children aged 12 – 20 who live within the current family unit. Mr and Mrs Freeman and a daughter all work in the general locality. The family currently live on the Council owned site 'Tinkers Corner', Bosbury.
- 6.8 It is considered on the basis of the size of the immediate family unit that two number static caravans is appropriate and acceptable subject to other material planning considerations, set out in this report. A condition restricting the occupancy of the two number caravans to a family with defined dependants, i.e. children and or grandparents of the owner, is recommended to secure the long term viability of the pitch whilst also preventing its expansion, including other relatives or additional families. This condition addresses local concerns over future expansion of the site for use by other Gypsies or Travellers outside of the applicant and his immediate family.

#### Need

- 6.9 A Gypsy & Traveller Accommodation Assessment for Herefordshire was completed in July 2008. This report identified a shortfall in provision for 207 – 2011 of 83 Gypsy Traveller pitches within the county. Herefordshire has no Gypsy and Traveller site allocations within the Unitary Development Plan and instead uses the criteria based approach of the UDP policy H12, along with National guidance contained in Circular 1/2006
- 6.10 Notwithstanding the vacant pitches on council sites, National guidance indicates that small private pitches have a significant role in reducing shortfall. Furthermore, as with choice based letting in respect of social housing, someone should be forced to live somewhere because there are vacancies.

#### Sustainability

- 6.11 The site is located within 1.6 km (1 mile) of Bishops Frome, a main village which as such, is considered a sustainable location for housing and economic development in the wider rural area. The location of the site is considered to be in accordance with UDP policy S1 and H12 and paragraph 54 and 64 of Circular 1/2006, which acknowledge the difficulties for securing such a land use, whilst also recognising in the interests of sustainability and access to services, regard must be given to the location of such development.
- 6.12 The village has, notwithstanding errors in the application supporting documents, a range of facilities, services and employment opportunities all of which are within a reasonable distance of the site, on foot or by bicycle. The services include public transport opportunities, which comprise regular access to Hereford, Ledbury, Worcester, Ross and Bromyard. Compared to Bosbury, the applicants' current residence, Bishops Frome offers more services, facilities and is a more sustainable location to be based.

#### Highways

- 6.13 The applicants' commissioned a traffic flow and speed survey which confirmed that C1133 in this area records low volumes of hourly traffic, which travels at or around 30 mph, significantly below the 60 mph national speed limit of this stretch of road.
- 6.14 This demonstrates the proposed access arrangements, which relocate from the existing access point to a new position offering greater visibility, exceed the required splay dimensions. The proposed splays provide approximately 70 metres visibility in each direction from a point 2 metres from the edge of carriageway, whilst given the traffic data, such splays could be as short as 45 metres in each direction. In this regard, UDP policies DR3 and T8 are satisfied, as is paragraph 66 of Circular 1/2006 which refers explicitly on the issue of potential impact upon minor roads.

#### Setting of Hall Court

- 6.15 Hall Court, a Grade II period country house is approximately 308 metres from the application site, separated by mature hedgerows and a tree line on both sides of the C class road. Hall Court also sits on significantly higher ground. Given these distances, and the approved stable block unscreened and approximately 71 metres from Hall Court, in the foreground of the principle elevation, the application is considered to have no impact upon the setting of the listed building.

#### Landscape

- 6.16 The prevailing development pattern in this area outside of the Bishop Frome settlement boundary is that of sporadic and isolated development, which in the main, fronts onto the highway. The position of the caravans and agricultural building follows this principle.
- 6.17 The proposed buildings are sited so to be screened by the existing mature hedgerows. Further additional planting and landscaping mitigation is proposed. The site is well screened from public view, including from the public highway C1133, the nearest Public Right of Way and Hall Court, by this vegetation and the site and areas natural topography. In order to protect the landscape position and allow some flexibility, a defined area in which the residential caravans can be stationed is attached as a condition. This prevents the caravans being positioned in such a way which would create an alien pattern of development. Conditions regarding existing hedgerow and tree protection and a new planting scheme, including species, are attached to safeguard the area. Furthermore a condition is recommended preventing open storage of non agricultural materials and machines in order to safeguard the character and appearance of the area.

#### Amenity

- 6.18 There are 19 residential properties within a 1 km radius of the application site, however no residential properties or their curtilages adjoin the site. There are no residential properties either side of the application site within the immediate area. The nearest residential property is 'West Lodge' which is 88 metres away, separated by three established hedgerows and a C class road. It is considered that the proposal has no undue impact upon the residential amenity of any property in the immediate area, or on other land uses. National guidance and UDP policies DR1, DR2, and H12 are satisfied.
- 6.19 In regards the residential amenity provided within the proposal, it is considered ample 'domestic curtilage' is provided separate from the agricultural use on the land. This provision provides adequate vehicular parking and turning areas as well as safe play areas and work storage areas, which are separated from each other, as required in policy H12.

#### Drainage



- 6.20 The Council's Building Control and Land Drainage departments have assessed the application and both make no objection on drainage grounds. The installation of the septic tank and soak away units are considered appropriate and would be assessed by Building Control during the building phase.

#### Agricultural Need

- 6.21 The agricultural building is considered of a size and scale commensurate with the landholding and agricultural activities taking place. A condition restricting its use to agricultural purposes is recommended to allay concerns raised by local residents over the storage of inappropriate materials.

#### Conclusion

- 6.22 The Council acknowledges that there is a shortfall in the provision of Gypsy and Traveller sites within the county and that individual, suitable private pitches can help meet that need. The UDP supports the development of sites for Gypsies and other travellers through a criteria based approach set out in policy H12. This application is considered to meet those criteria, along with the policies regarding highways, landscape and amenity. In addition, UDP Policies DR1, DR2, DR3, H7, H13, T8 and LA2 are considered to be satisfied.
- 6.23 The proposal meets the guidance and criteria set out at national level in Circular 1/2006 Planning for Gypsy and Traveller Caravan Sites, Local Authorities and Gypsies and Travellers: A Guide to Responsibilities and Powers, DCLG, 2007, and Designing Gypsy and Traveller Sites, Good Practice Guide, DCLG, 2008.

### **RECOMMENDATION**

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

- 1 A01 Time limit for commencement (full permission)**
- 2 H01 Single access - no footway**
- 3 H05 Access gates**
- 4 H08 Access closure**
- 5 H13 Access, turning area and parking**
- 6 G02 Retention of trees and hedgerows**
- 7 G09 Details of Boundary treatments**
- 8 G10 Landscaping scheme**
- 9 G11 Landscaping scheme - implementation**
- 10 G12 Hedgerow planting**
- 11 G13 Tree planting**
- 12 F34 Numbers limitation – 2 static, 2 touring**
- 13 F35 Caravan colours**
- 14 I45 Restriction of open storage**

---

Further information on the subject of this report is available from Mr C Brace on 01432 261795

15 I42 Scheme of refuse storage (residential)

16 The occupation of this hereby permitted Gypsy and Traveller site is restricted to the owner or tenant of the pitch, their partner and immediate family, defined as children and parents.

Reason: To restrict the pitch to one family unit, in order to protect the locality, amenity and quality of provision in accordance with Circular 1/2006 Planning for Gypsy and Traveller Caravan Sites, Designing Gypsy and Traveller Sites, Good Practice Guide, DCLG, 2008 And Herefordshire Unitary Development Plan policies DR1, DR2, H7, H12 and LA2.

17 The siting of the hereby permitted static caravans is limited to the area hatched red on the attached plan titled 'Annex A'.

Reason: To allow flexibility in the siting of the static caravan(s) whilst protecting the character and appearance of the open countryside in accordance with PPS7, Circular 1/2006 Planning for Gypsy and Traveller Caravan Sites and Herefordshire Unitary Development Plan policies DR1, DR2, H12 and LA2.

18 The agricultural building hereby approved shall be used strictly for agricultural use and storage only.

Reason: To protect the character and appearance of the open countryside and prevent the introduction of non-agricultural materials onto the site in accordance with Herefordshire Unitary Development Plan policies DR1, DR2 and LA2.

**INFORMATIVES:**

1 N15 Reason(s) for the Grant of Planning Permission

2 N19 Avoidance of doubt - Approved Plans

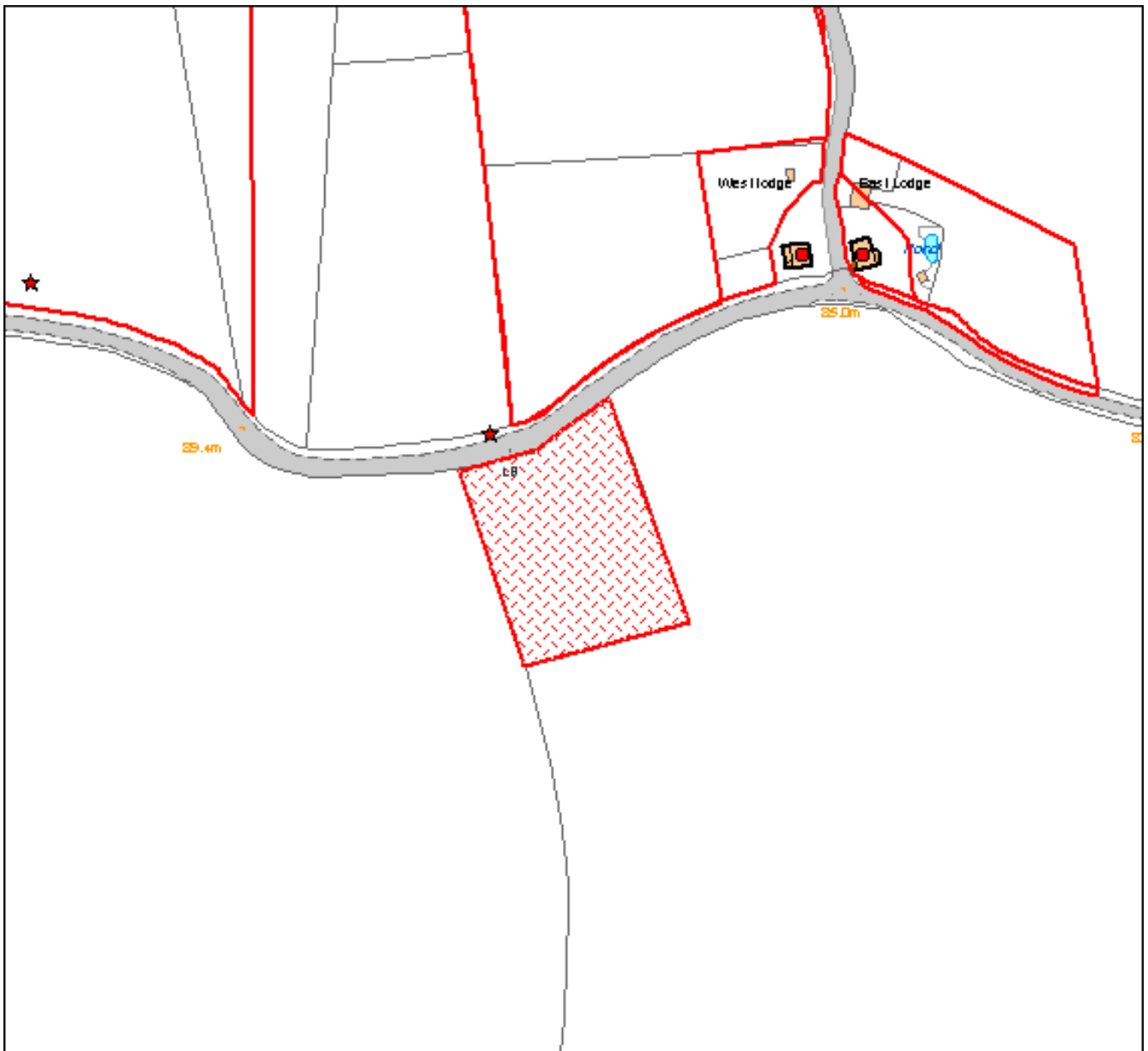
Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.



This copy has been produced specifically for Planning purposes. No further copies may be made.

**APPLICATION NO:** DMNE/092262/F

**SITE ADDRESS :** FREEMAN'S PADDOCK, BROMTREES HALL, BISHOP'S FROME, HFDS, WR6 3BY

Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005