

<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>10 AUGUST 2011</b>
<b>TITLE OF REPORT:</b>	<p><b>DMS/111132/F - CHANGE OF USE OF LAND FROM AGRICULTURAL TO A ONE FAMILY TRAVELLER SITE INCLUDING SITING OF ONE MOBILE HOME, TOURING CARAVAN, SHED AND NEW ACCESS AT FIELD, THE LEYS, LYNNE DOWN, MUCH MARCLE, HEREFORDSHIRE, HR8 2NS.</b></p> <p><b>For: Mr John Lee, 2 Barnett Close, Ledbury, Herefordshire, HR8 2LT.</b></p>

**Date Received: 3 May 2011**

**Ward: Old Gore**

**Grid Ref: 364759,230885**

**Expiry Date: 28 June 2011**

Local Member: Councillor BA Durkin

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

- 1.1 The site is located within open countryside, in the parish of Yatton. The site is just over 9 kilometres from Ross-on-Wye and Ledbury. It is 2.4 km south of Much Marcle, which is the nearest defined settlement. The application comprises part of a 0.82 hectare field that is bounded by the A449 on the north west, to the northeast by a minor road to Kempley and to the east by a track. A public right of way (MM20) runs along this track. There are a small group of dwellings to the north of the application site, including the grade II listed Gamage Farmhouse.
- 1.2 The application proposes the change of use of agricultural land to enable stationing a mobile home, one touring caravan and a shed along the eastern boundary of the site. The application is submitted on the basis that the use would be for a single family of travellers. The eastern boundary adjoins the track and public right of way (MM20). An existing gated access on the north eastern corner where it adjoins Kempley Lane will be closed off and a new access point, serving an associated hardstanding area, would be created further north westwards along Kempley Lane. This will entail translocating 14 metres of hedgerow back 2 metres into the site. The existing hedgerow along Kempley Lane and towards the junction with the A449 road will be maintained at a height of 4 metres. Levels within the application site reduce gently from the boundary with the A449 towards the western boundary, where it is proposed to station the mobile home, touring caravan and shed. The roadside boundary is partly demarcated by hedgerow and metal railings at the northern end.
- 1.3 The application was accompanied by an ecological appraisal titled, 'Great Crested Newt survey of Gwynne's Hill Pond and The Leys'. The presence of this protected species and the failure to provide appropriate mitigation was a key factor resulting in an appeal being dismissed on 5 October 2009. The siting for the structures within the site and the location of the access further along Kempley Lane which form part of this current application have been

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Further information on the subject of this report is available from Mr A Prior on 01432 261932

revised in response to the Inspector's assessment of the application site and its elevated position in relation to the A449 road and the Grade 2 listed Gamage Farmhouse and adjoining buildings.

## **2. Policies**

### **2.1 National Planning Guidance:**

- PPS1 - Delivering Sustainable Development
- PPS3 - Housing
- PPG7 - Sustainable Development in Rural Areas
- PPS9 - Biodiversity and Geological Conservation

Circular 1/2006 Planning for Gypsy and Traveller Caravan Sites

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

### **2.2 Regional Guidance:**

West Midlands Regional Spatial Strategy

### **2.3 Herefordshire Unitary Development Plan 2007:**

- S1 - Sustainable Development
- DR1 - Design
- DR2 - Land Use and Activity
- DR3 - Movement
- H7 - Housing in the Countryside Outside Settlements
- H12 - Gypsy and Other Travellers
- T8 - Road Hierarchy
- LA2 - Landscape Character and Areas Least Resilient to Change
- LA5 - Protection of Trees, Woodlands and Hedgerows
- LA6 - Landscaping Schemes
- NC1 - Biodiversity and Development
- NC5 - European and Nationally Protected Species
- NC6 - Biodiversity Action Plan Priority Habitats 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

### **2.4 Other Material Considerations:**

Herefordshire Council Travellers' Policy , 2008

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

Planning for traveller sites: DCLG Consultation Document published April 2011

## **3. Planning History**

- 3.1 DCSE2008/2384/F – Change of use of land to a one family traveller site, including the siting of one mobile home, touring caravan, shed and a new access. – Appeal Dismissed – 5 October 2009.

DCSE2008/0719/F – Change of use of land to a one family traveller site, including the siting of one mobile home and touring caravan – Refused – 12 May 2008.

#### **4. Consultation Summary**

##### Statutory Consultations

4.1 The Ramblers Association – no comments received.

4.2 Open Spaces Society – no comments received.

##### Internal Council Advice

4.3 The Transportation Manager recommends that conditions are attached providing visibility along the lane.

4.4 The Conservation Manager (Conservation) raises no objections as regards the impact on the setting of the listed buildings.

4.5 The Conservation Manager (Landscapes) – The application site comprises part of an open grass field which is bounded to the north-east by Kempley Lane and to the east by a track. A public right of way (MM20) runs along this track. There is a small group of dwellings, including Gamage farmhouse, to the north of the site. The application site falls within the landscape type described as Estate Farmlands in the Landscape Character Assessment. The site is hedged on all of its boundaries, although the hedgerow on the A449 frontage is less substantial. Part of the hedgerow along this frontage was missing but it is stated that replacement hedgerow planting has been undertaken to fill this gap.

The proposal is to site the development in the eastern part of the field, with a new vehicular access created off Kempley lane. Some measures have already been undertaken to improve screening of the site. This includes allowing the existing boundary hedgerows to grow up and also new planting. This comprises the section of new hedgerow planting on the A449 frontage, as mentioned above and also a new cross-field deciduous hedgerow, to form a compartment in the eastern part of the field (the application site) within which it is proposed to site the development. New orchard tree planting is proposed for the western part of the field. It is stated that the planting of new native tree species (Oak and Ash) is included in the landscape proposals; however, this planting is not identified on the block plan.

With regard to the previous application (DCSE2008/2384/F), the proposed location of the new vehicular access, to be approximately 20 metres in width, was opposite Gamage farmhouse. In this application, the proposed location of the new access is further along Kempley Lane and the proposed width of the access has been reduced to 11 metres. The intention is to translocate hedgerow to form the visibility splay.

In relation to visual impact, there would be views into the site from the A449 and from the new vehicular access on Kempley Lane. Views from footpath MM20 are restricted by boundary hedgerow but it appears that the tops of the caravans may be visible. The development would also be visible from some more distant vantage points on the higher land to the west of the A449. However, in the longer distance views the proposed development would not be prominent; it would be seen as a small element within the wider landscape.

The extension of development into open countryside would cause some harm to the rural character of the landscape. However, if this site is acceptable in principle, I advise that the mitigation measures that have already been undertaken, in combination with the proposed mitigation measures and the reduction in width of the vehicular access will reduce the adverse visual and landscape effects as far as can be achieved.

It will take time for the mitigation to take effect – with regard to the new hedgerow and tree planting, it will take at least five years for this planting to grow sufficiently to provide significant screening and the development would be more prominent in winter months, when vegetation is not in leaf.

In the longer term, as the new planting matures, it is acknowledged that the proposed landscape scheme - the bolstering of existing hedgerows through gapping up, addition of hedgerow trees and the planting of new native species hedgerow and orchard trees will enhance the character of the landscape.

If permission is granted for this development, conditions G02: Retention of trees and hedgerows, G10: Landscaping scheme and G11: Implementation of landscaping scheme should be attached.

It is essential that the landscape plan clearly indicates which hedgerows and trees are existing and which are proposed (this is not clear on the submitted block plan). The location of the proposed Oak and Ash trees needs to be shown. A full planting specification needs to be provided for the hedgerow planting that has already been undertaken, the proposed hedgerow, tree and orchard planting.

As stated previously, (memo dated 3<sup>rd</sup> April 2008) I recommend that Oak (*Quercus robur*) and Ash (*Fraxinus excelsior*) trees should be planted at random intervals of between 10 – 15 metres, all the way around the perimeter hedgerows. These new hedgerow trees would help to filter views of the development, particularly from the A449 and from the higher ground to the west.

I recommend that the orchard planting should be in the form of a traditional ‘standard’ orchard; this comprises trees planted in a matrix. The orchard planting specification should include the size of the trees and the rootstock. I can provide further technical advice on suitable planting specifications, if required.

- 4.6 The Conservation Manager (Ecology) raises no objections subject to conditions controlling staging of works and details for habitat enhancement being agreed. The additional enhancement measures are welcomed but if these are not feasible close to the existing breeding pond (outside of applicant’s control) there may be opportunities to create a small pond in the northern corner of the application site. New hedgerow planting across the site will result in an improved habitat connectivity.
- 4.7 Planning Policy Manager comments summarised as follows:

Herefordshire UDP:

A strategic objective of the UDP is to meet the housing need of communities throughout the County (S3 – Housing). This approach is supported by national planning guidance (PPS3 - Housing). However in conjunction with this, Herefordshire Council seeks to promote sustainable development and of particular relevance to the application is the need to conserve and enhance the natural environment while respecting local distinctiveness and character. Specific planning policy is provided on the delivery of Gypsy and Traveller accommodation in UDP policy H12. The following paragraphs examine the criteria for Gypsy and Traveller accommodation development.

- The site is within reasonable distance of local services and facilities: The site is 2.6km from Much Marcle, which is identified within Herefordshire Council’s Rural Settlement Hierarchy (November 2010) as containing 6 key day to day services. This identifies Much Marcle as a sustainable rural location. It is recognised that within a rural setting the use of private motorised transport is likely to be higher than within an urban context. Accordingly

it is proposed that 5km is an accessible threshold within the emerging Local Development Framework. As the site is within this distance, it is considered to be in reasonable distance to local services and facilities. Notwithstanding that public transport is available adjacent to the site to provide access to Much Marcle and wider settlements further enhancing accessibility from the site.

- The site should be small: While the development proposals 1 mobile homes and 1 touring caravan, the site itself is relatively large (0.82 ha as stated on the application form). However, as highlighted on the submitted plans, planting in March 2011 provides a clear boundary which clearly decreases the size of the site. Accordingly it is felt that the site is of appropriate size for the proposed use.
- Adequate screening: These comments should be read in conjunction with the views of Herefordshire Council's Conservation department. However, from the plans submitted, the site is enclosed with new and existing vegetation to mitigate visual impact.
- Residential amenity: The site proposed appears sufficient to meet the needs of the applicant.

#### Material Considerations: Gypsy and Traveller Accommodation Assessment (July 2008)

The GTAA (July 2008) identified a need for 109 pitches for Gypsy and Traveller accommodation by 2017 of which 83 are to be delivered by 2012.

Herefordshire Council's Annual Monitoring Report 2009 – 2010 (published February 2011) identifies that 27 pitches had been delivered. Since March 2010 a further 9 pitches have been delivered reducing the need to 47.

#### Emerging Local Development Framework

Herefordshire Council's Core Strategy has been subject to consultation in January 2010 (Options paper) and Autumn 2010 (preferred options). It proposed that a second round of preferred option consultation will be undertaken in September / October 2011. Accordingly the core strategy is afforded limited weight due to the stage of progression. The preferred option is seeking to meet the defined need of the GTAA and sites will be supported in sustainable locations within 5km of settlements containing basic day-to-day needs. Site specific issues relating Gypsy and Traveller accommodation will be examined within the subsequent Market Towns and Rural Areas Plan.

To meet the defined need Herefordshire Council have undertaken a Call for Sites for land parcels suitable for Gypsy and Traveller accommodation. 11 sites in total have been submitted and are undergoing appraisal. Currently it would be premature to speculate how many sites would come forward either now (i.e. in line with UDP policy) or within site specific development plan documents. Notwithstanding this early indications are that there may be sufficient sites from this source to meet the remainder of the 2012 need alongside an element of the 2012 to 2017 need.

#### Conclusion

The comments above should be read in conjunction with comments received from other departments including conservation who are able to provide technical knowledge on issues around biodiversity, landscape and impacts upon the setting of statutory listed buildings. However, in terms of planning policy the site appears to be in conformity with policy H12 and the general housing and sustainability objectives of the UDP.

4.8 Public Rights of Way Manager has no objections.

4.9 Environmental Health and Trading Standards Manager has no objections subject to details for any external lighting.

## 5. Representations

5.1 Much Marcle Parish Council object to the planning application on the following summarised grounds:

- Adverse impact on landscape, not nullified by screening, given topography and relationship to listed building.
- Not within reasonable distance of services. Facilities 1.5 miles away along busy Class A road (used by 2500 vehicles a day).
- How can applicants integrate by integrating buildings with Gamage Farm complex? A 4 metres high hedge will preclude this.
- Extending hedgerow on A449 road will obscure vision, hence the reason railings were installed.
- All applications should not be treated without preferential treatment to any particular group, be it a minority of one or in the majority. i.e in line with Mr Pickles 'consultation document.

5.2 Twenty four of letters of objection have been received from local residents. These are summarised as follows:

- Discount policies stated in Design & Access Statement.
- Treat as is if dwelling in open countryside.
- Loss of hedgerow, several hundred years old.
- New hedgerow takes over 10 years to establish.
- Allowing hedgerow to grow more than 4 metres high does not allow for clustering visually; it isolates the site.
- Affects vista along A449.
- Affect views from Perrystone Hill.
- Reduction in property values.
- Loss of security.
- Not sustainable use of land.
- There are sites on A49 and on Walford Road
- Applicants claim rights under Article 8 of Human Rights Act. What about our rights of enjoyment/amenity and right to object?
- Site occupied by Great Crested Newts.
- Establishes precedent.
- Car dependent. Lack of facilities only shop and Post Office in Much Marcle, which could close at anytime.
- Dangerous cross-roads.
- Growing hedgerow along A449 will obstruct visibility.
- Drainage issue. Will discharge onto A449.
- Water connection is mine.

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Further information on the subject of this report is available from Mr A Prior on 01432 261932

- Applicant is not homeless, has home in Ledbury.

5.3 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 application site lies in open countryside where residential development is strictly controlled but in the context of this proposal for a single traveller family, the exception identified in Policy H7(6) and more specifically the criteria based Policy H12 of the Herefordshire Unitary Development Plan are the key considerations. In addition to the adopted Development Plan policies, it is considered that the guidance set out in Circular 1/2006 and the need identified in the Gypsy and Travellers Accommodation Assessment (GTAA) (July 2008) as the most up-to-date documents are key material considerations. Furthermore the issues resulting in the refusal of the previous application and recent appeal decision relating to this site has established a number of key principles that provide a focus for the detailed appraisal set out below.

6.2 In terms of the broad principle of this proposal, the status of the applicant and his family as Romani Gypsies falling within the definition of gypsies and travellers as set out in Circular 01/2006 is not questioned. As such the application is reasonably capable of being treated as an exception in accordance with Policies H7 and H12 of the Herefordshire Unitary Development Plan and by reference to the issues upon which the Inspector deliberated it is considered that the following matters are key considerations in the determination of the application:

(a) the proximity and accessibility of the site in relation to services and facilities;

(b) the effect on the character and appearance of the surrounding area;

(c) the effect on the setting of nearby listed buildings and;

(d) wildlife and nature conservation issues.

6.3 In addition to these key aspects that were identified by the Inspector in her consideration of the previous appeal, there are a range of other material considerations that need to be weighed up such as the shortfall of sites to meet the identified need for gypsy and travellers sites and the personal circumstances of the applicant.

### Proximity to services and facilities

6.4 It is evident that this was one of the key priorities arising in the determination to dismiss the previous appeal. Policy H12, whilst permissive requires sites to be sustainable in terms of their proximity to local services and facilities. The site is 2.4 km away from Much Marcle (a smaller settlement) and given the lack of footpaths and highway verges in the locality it would not be practical for users of the site to walk this distance. There is a bus route using the A449 road passing the bottom of Kempley Lane, however this service is sporadic. The Inspector even having regard to the pragmatic approach advocated by Circular 1/2006 considered that the site was not a sustainable one and as such was contrary to Policies S1 and H12. There have been no specific changes since the appeal decision that would make the site any more sustainable. However I am mindful of the comments made by the Planning Policy Manager with regard to the emerging policies of the Core Strategy which is suggestive of a 5 km distance from defined settlements with day-to-day services being a reasonable threshold, albeit in my view this emerging policy cannot be given any weight at this stage.

### Effect on the character and appearance of the surrounding area

- 6.5 It is considered that the main issues relate to the perception of the site when viewed against the complex of buildings at Gamage Farm. The site is elevated in relation to the A449 road, but could with the planting of hedgerow along the southern boundary of the site create a relatively well screened compartment for this otherwise open field. This new hedgerow would also assist in filtering views of the two caravans and shed. Furthermore the proposal incorporates tree planting in the undeveloped part of the field that would in time enhance the site in a manner consistent with the character of the wider locality. It is understood from representations received that the applicants have attempted to plant a boundary hedge, but without success. This is a matter that can reasonably be made the subject of a planning condition that would secure ongoing replanting in the event that specific plants fail to establish. The revised siting provides a backdrop of hedgerow, but more importantly having regard to the previously refused scheme, will result in the loss of hedgerow further up Kempley Lane and away from Gamage farmhouse.
- 6.6 The development will have an impact but it is a localised one. I consider that the revised proposal offers an improvement to the refused scheme and whilst the repositioning of the caravans away from existing residential development (Gamage Farmhouse), I attach weight to the Inspectors conclusions in relation to the appeal where she concluded that the previous scheme was not result in an unacceptable degree of harm to the character and appearance of the surrounding area.

#### Effect on setting of nearby listed buildings

- 6.7 The Inspector has previously concluded in relation to the earlier refused scheme that the removal of hedgerow opposite Gamage Farmhouse to create a new driveway and the siting of the caravans would reduce the visual intimacy of Kempley Lane and that the caravans would not relate well to the existing group of dwellings (the farmhouse and converted stable building) such that there would be conflict with Policy HBA4. The current proposal retains the hedgerow opposite the farmhouse by creating a new access further up Kempley Lane diagonally opposite a much wider access into Gamage Farm. The caravans are also sited further away from Gamage Farmhouse. The Conservation Manager does not raise any concerns in relation to the setting of the listed building and accordingly, it is considered that these two revisions result in a scheme that satisfies the requirements of Policy HBA4.

#### Wildlife and nature conservation issues

- 6.8 The likely presence of Great Crested Newts (GCN) and the absence of an appropriate survey incorporating mitigation was a fundamental flaw in the previous proposal This issue has been subsequently addressed through the submission of a GCN survey. The survey identifies a medium sized (potentially large) newt population in ponds within a 500 metres radius of the site and these ponds benefit from likely hibernation habitats in closer proximity than the application site and its associated hedgerows. Clearly whilst this does not rule out the possibility that newts may use the application site for hibernation purposes the risk of this is limited and would be mitigated by careful monitoring at the time of any works to the hedgerows. It is recommended that additional enhancement measures in the form of the creation of a pond in the northern corner of the applicant's field should be undertaken if attempts to provide mitigation closer to the existing ponds does not prove possible.
- 6.9 These measures together with the biodiversity benefits of the proposed orchard planting (a Herefordshire Biodiversity Action Plan Priority Habitat) are supported by the Conservation Manager and as such, subject to conditions, the proposal is in accordance with Policies NC1, NC6, NC7, NC8 and NC9 of the Herefordshire Unitary Development Plan.

#### Other matters



- 6.10 It is clear that the Inspector gave significant weight to the substantial unmet need for travellers sites that has been identified through the GTAA and the particular accommodation needs of the applicants. The needs of the applicant have not fundamentally changed and at the present time there is a need to provide a further 49 pitches by 2012. These are factors that weigh in favour of the application. However since the appeal the Council has undertaken a "Call for Sites", the result of which is that 11 sites have come forward and are currently undergoing appraisal. Whilst the early indication is that these sites may be sufficient to meet the remainder of the 2012 need and an element beyond this time, there is currently no certainty as to when the sites would come forward and the actual locations are not in the public domain. Therefore it is considered that little weight can be attached to this presently.
- 6.11 The personal circumstances of the applicant and his family, whilst being a material consideration can only be given limited weight and this was certainly not a decisive matter during the consideration of the appeal. Neither was the likely interference to the Human Rights of the family who, albeit currently living in accommodation that is not suitable for their needs would not be deprived of their established home.
- 6.12 In light of the revised access arrangements, additional consideration has been given to the new point of access and the associated visibility. The Traffic Manager raises no objection and as such it is considered that the requirements of Policies DR3 and T8 are satisfied.

### Conclusion

- 6.13 The application is locally sensitive and whilst the range of issues that must be taken into consideration remain, the appeal decision has provided a clear framework upon which to focus attention. It is maintained that the site is not sustainable in terms of its location in relation to local services and facilities however the application has successfully addressed matters relating to the setting of listed buildings and nature conservation, whilst maintaining an acceptable localised impact upon the landscape character of the site and the surrounding area. The unmet need for travellers' sites must be given considerable weight and in view of the limited progress that has been made towards bringing forward sites to meet this need, this is considered to outweigh concerns in relation to the somewhat isolated location of the site.
- 6.14 Accordingly, I recommend the application for approval subject to conditions.

### **RECOMMENDATION**

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

1. **C01 Time limit for commencement (full permission)**
2. **C06**
3. **The site shall not be occupied by persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006 or any subsequent superseding publication.**

**Reason: The permission is granted in recognition of the exceptional circumstances that apply to sites for gypsies and travellers that accord with Policy H12 of the Herefordshire Unitary Development Plan.**

4. **No more than one static caravan and one touring caravan shall be stationed on the site at any one time**

**Reason: The local planning authority wish to control the specific use of the land in the interest of local amenity and to comply with Policies DR2 and H12 of the Herefordshire Unitary Development Plan.**

5. **C88 Retention of trees and hedgerows**

- 6. **C96 Landscaping scheme**
- 7. **C97 Landscaping scheme - implementation**
- 8. **No development shall take place until details of earthworks have been submitted to and approved in writing by the Local Planning Authority. These details shall include the existing contours and ground levels and the proposed grading of the land areas including the contours and levels to be formed. Cross sections through the site of the existing and propose levels must be included, to show the relationship of the proposed grading to the surrounding landform and existing vegetation. Development shall be carried out in accordance with the approved details.**

**Reason: In order to protect the character and appearance of the area to ensure that development conforms with Policies DR1, LA2, LA5 and HBA4 of the Herefordshire Unitary Development Plan.**

- 7. **The use shall not take place until detailed plans identifying the position of the safe play area for children and an area for work and storage on the site shall have been submitted to in writing for approval by the Local Planning Authority. Development shall be carried out in accordance with the approved plans.**

**Reason: In order to comply with the requirements of Policy H12 of Herefordshire Unitary Development Plan.**

- 8. **CC1 Details of floodlighting/external lighting**
- 9. **CD1 Nature Conservation - Implementation**
- 10. **CD2 Habitat Enhancement Scheme**
- 11. **CAC Visibility over frontage**
- 12. **CAB Visibility splays**
- 13. **CAD Access gates**
- 14. **CAG Access closure**
- 15. **CAH Driveway gradient**
- 17. **CAL Access, turning and parking**

**Informatives:**

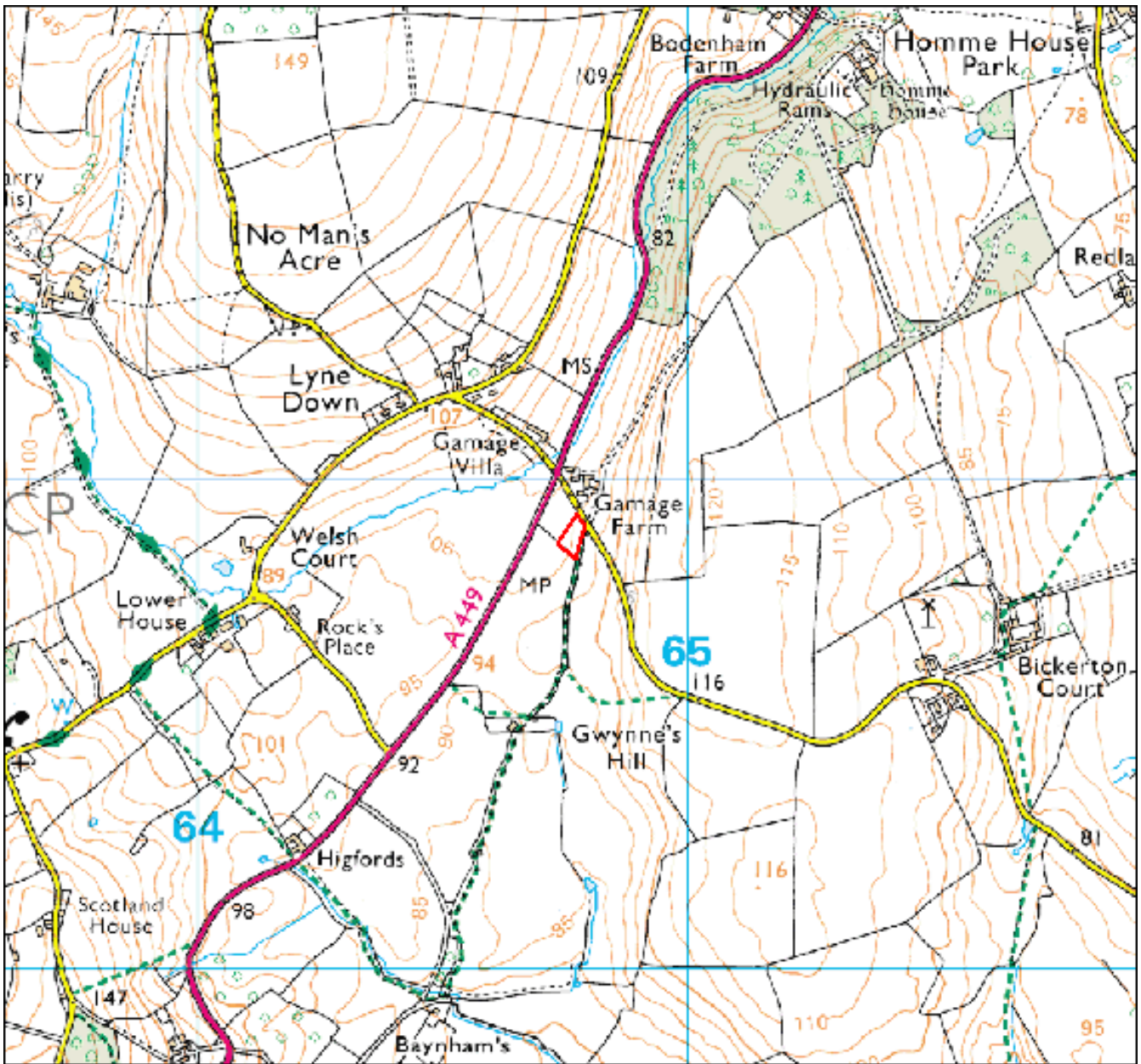
- 1. **I30**
- 2. **An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work**
- 3. **N15 Reason(s) for the Grant of PP/LBC/CAC**

Decision: .....

Notes: .....

**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** DMS/111132/F

**SITE ADDRESS :** FIELD, THE LEYS, LYNNE DOWN, MUCH MARCLE, HEREFORDSHIRE, MUCH MARCLE, HEREFORDSHIRE, HR8 2NS

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