

MEETING:	PLANNING COMMITTEE
DATE:	23 NOVEMBER 2011
TITLE OF REPORT:	<p>DMS/112351/F - RETROSPECTIVE APPLICATION FOR CHANGE OF USE ON PART OF LAND ASSOCIATED WITH LOSITO STUD FROM AGRICULTURAL TO EQUINE USE, RETROSPECTIVE APPLICATION FOR CHANGE OF USE FROM AGRICULTURAL BARN TO STABLES AT LOSITO STUD, HARRIS LODGE, WHITCHURCH, ROSS ON WYE, HEREFORDSHIRE, HR9 6EG</p> <p>For: Miss Karen Harris, Losito Stud, Harris Lodge, Whitchurch Road, Ross On Wye, Herefordshire, HR9 6EG</p>

Date Received: 23 August 2011 **Ward: Kerne Bridge** **Grid Ref: 355729,218725**
Expiry Date: 19 October 2011
Local Member: Councillor JG Jarvis

1. Site Description and Proposal

- 1.1 The application site lies to the north east of the A4137 shortly before it crosses the A40 at Whitchurch. It is generally sloping in nature and lies within the Wye Valley Area of Outstanding Natural Beauty. The field, no.6877, concerned, forms part of a larger site extending to 12.73 ha. Public Footpath WC94 crosses through the application site. Part of the boundary of the site is formed by the Garron Brook and part by a former quarry then landfill site that has now been restored. For policy purposes the site lies in open countryside.
- 1.2 This retrospective application is to use the field in connection with an equine business relating to training and breeding for show jumping purposes. It also includes a change of use of the agricultural building to stables containing 10 loose boxes.

2. Policies

2.1 National Planning Guidance:

- PPS1 - Delivering Sustainable Development
- PPS4 - Planning for Sustainable Economic Growth, particularly policy EC12 Determining Planning Applications for Economic Development in Rural Areas

2.2 Herefordshire Unitary Development Plan:

- DR3 - Movement

Further information on the subject of this report is available from Mr M Tansley on 01432 261815

- DR4 - Environment
- DR10 - Contaminated Land
- E11 - Employment in the Smaller Settlements and Open Countryside
- LA1 - Areas of Outstanding Natural Beauty
- LA6 - Landscaping Schemes

3. Planning History

- 3.1 DMS/102895/F - Retrospective application for siting of mobile home for residential occupation associated with equine business on part industrial part agricultural land. Refused 25/07/11.

EN/2010/001249/ZZ - Enforcement Notice to be issued 12/10/11. Requiring cessation of use of land for mixed residential and equine use and remove from the land those items associated with those uses.

DMS/110320/E - Circular 14/90 Notification. Proposed erection of pole in existing electricity line. No objection.

DMS/102014/S - Agricultural Notification for Portal framed Agricultural Building to Store Hay and Fodder. Notices issued Prior Approval Required and Prior Approval Refused 17 September 2010. However these notices were not received by the applicant until 18 September, 1 day out of time.

SH980137PF - Renewal of permission SH921168PF. County Matter notification to South Herefordshire DC

SH921168PF - Raising of land with inert fill. Planning Permission granted by Hereford and Worcester County Council 26/11/92

4. Consultation Summary

Internal Council Advice

- 4.1 Conservation Manager – Landscapes: Following submission of further information no objection subject to conditions.
- 4.2 County Land Agent: The present use of the barn is stables (equitation); however, it was erected as an agricultural building. The suitability of the site for an equine operation, which will have livery as well as advanced horses to be brought on for senior eventing, is interesting.

It is bordered by a main road (A4133) to the south-west, a stream to the south-east, and fenced around the remainder. The main road is fast, has no speed limit on this stretch and is heavily used both by cars and lorries. In my opinion, it is unsuitable for riding upon due to the volume and speed of the traffic and to slow down to a horse's speed would result in queues of traffic building up behind.

The ground slopes from the north to south and the south-eastern area is level by the stream.

The proposal is that the land is used for equitation, however the only flat area is by the stream and is the only natural area for a school, this would be possible in the summer provided it is not too wet but in the winter will poach and become uneven in consequence horses will not move freely on it and are likely to lame themselves if they do.

To put in an all-weather school will need planning permission, but it will be necessary, because even the dry land on the banks will become poached, cut up in time and become unsuitable for exercising upon.

Due to the above factors and the safety limitations placed upon exercising off the site due to the only access being onto a dangerous main road, the proposed use of the site would appear to be far from ideal. If the premises were to be used purely as a stud and for breeding purposes only, then it would still be classed as agricultural.

- 4.3 Environmental Health: Having reviewed desk top study no objection but recommend note to applicant in relation to further study if further development.
- 4.4 PROW: Will not affect PROW.
- 4.5 Transportation Manager: The minimum that would conform without a speed survey is an x distance of 2.4m with a y distance of 160m to the North West, with visibility to the junction of the A4137 road which accesses the A40 for vehicles heading South West to Monmouth.

5. Representations

- 5.1 Whitchurch and Ganarew Group Parish Council: The Parish Council strongly object to this retrospective application and request that the land and buildings concerned are reverted back to their original situation.
- 5.2 Goodrich and Welsh Bicknor Group Parish Council: “The Parish Council unanimously recommends refusal of the above application.

The owners of this land are continuing to attempt to circumnavigate planning law to achieve their original objectives.

The existing structure on this land was obtained under the '28 –day rule' relating to agricultural land. By approving this retrospective planning application, you will lose any ability to insist on the removal of this illegal development. It is entirely inappropriate to apply for, or approve, change of use on a structure which itself has been obtained by deception, and is therefore surely illegal.

The applicant has not inadvertently failed to understand planning law, but deliberately attempted to mislead officials.

This area of land should remain agricultural and therefore it is inappropriate to approve any application to use the agricultural building as stables.

Giving retrospective permission for this development particularly given the current abuse of the planning control legislation will set a dangerous and bad precedent, which ultimately could have a hugely detrimental effect on rural communities in Herefordshire.”

- 5.3 Ross Ramblers: No objection to change of use, however when walking the footpath it was obstructed by a electric fence.
- 5.4 A letter of objection has been received from Messrs J and D Madeley and Son, Little Whitfield, Glewstone.

They refer to the pending appeal and strongly object to the proposal for the following reasons:

- Agricultural storage building never used as such. It was never intended to be livestock building, if it was planning permission would have been required.
- Flouting of planning regulations.
- No reason for good agricultural land to be used for equine purposes.

- 5.5 In support of the application the applicant has submitted a desk top study of potential ground contamination.

The Design and Access statement advises that the stables are adjacent to the mobile home to ensure high level of security and welfare for horses. Show jumping horses require intensive management, with 24-hour supervision required.

The land associated with Losito Stud is of 12.73 ha and is part industrial and part agricultural, the applicant wishes to apply for retrospective application of the agricultural land to equine use.

“Losito Stud has 32.45 acres of grazing which generally means less pressure on the pasture but good management can help reduce problems. We will keep the sward length of winter grazing as long as possible to reduce poaching and run-off. We will try not to graze any part of the field below 2.5cm. We will move feed areas and mineral licks regularly to avoid creating muddy areas, we will not use inorganic fertilizers as they can reduce plant and wildlife diversity and we will seek advice on how to maintain and improve the land value for wildlife.

We will not over graze any part of Losito Stud as it would threaten our horses and customers' horses health by increasing the risk of harmful worms in the pasture, increase the risk of 'stressed' grass which is thought to contribute to the causes of Laminitis. It would also lead to bare or poached ground, poached ground can lead to mud fever in wet conditions and provides an ideal seed bed for poisonous plants. It would also look unsightly – the landscape would then look exhausted and it would give a negative impression of horse-keeping and horses as a part of the landscape.

The British Horse Society recommends a ration of two horses per hectare on permanent grazing (1-1.5 acres per horse). A number of factors will affect this recommendation, such as:

- size and type of horse/pony
- Length of time spent stables or exercised off the pasture
- Time of year
- Quality of the pasture, underlying soil and topography
- Number of other grazing animals on the pasture

Losito Stud has taken this advise and put it in place here at Losito Stud.

Fences, Trees and Hedges

Fencing, hedges and new tree planting will be incorporated into Losito Stud. Our key issue here is to ensure boundaries and field sub-divisions are right for our horses and in sympathy with the surrounding landscape.

Having well-managed hedges will provide natural shelter from the weather and is one of the best boundaries for horses and wildlife. We will look then to reduce electric fencing.

Fence posts at Losito Stud are left as a natural colour and we will manage our hedgerows to prolong their life and increase their stock-proof nature. We will use local hedging contractors to help and support a traditional local craft.

The edge around Garron Brook is fenced off to stop the horses chewing and stripping bark and branches that may result in the death of the tree. We will also provide mineral licks which will offer vitamins and minerals that a horse may be looking for if it chews the trees. We are aware that we have a duty of care to store waste and dispose of and we do have an arrangement with a local farmer to have it taken away. The muck heap is not near any watercourses. We will ensure that all feed bags, twine, plastics and packaging are disposed of

correctly. We regularly remove dung from all the paddocks which removes harmful parasites (worms).

The stables will be within an established barn and cannot be viewed from outside.

We have also fenced a fence 6 metres back from Garron Brook and the Environment Agency has been out and find that no horses can contaminate Garron Brook. We have also started placing bird boxes in some of the trees and swallows are already nesting here at Losito Stud. We have also put up ladybird boxes and bee boxes. We plan to place frog houses around Garron Brook.

There is no major external lighting at Losito Stud just an outside house light for security.

We have reinstated the original turning area from when the site was in infill site/quarry.

Water troughs are the original troughs used on farms and made from metal.

Show jumping fences are stacked away every day and placed next to the barn at Losito Stud.

Losito Stud is aware of Hereford UDP Policies - LA1- We are a small scale business and we do not adversely affect the landscape and will make sure this continues throughout, and our business is necessary to facilitate the economic and social well-being. The AONB have informed me that they had no concerns with both Losito Stud planning applications, they only object if there is a significant detrimental impact on the AONB.

Under Herefordshire UDP LA2 Policy we are looking at planting more hedges to replace any electric fencing for paddocks. We are currently consulting with a local landscaper to help us to make any improvements to the landscape and wildlife.

Under Policy NC8 we will enhance wildlife with putting up bird, bee, ladybird and frog boxes. We will include a 6-metre wildlife buffer zone around Garron Brook and contribute to wildlife by supplying the above wildlife boxes. We will also consult with a wildlife expert.”

- 5.6 The full text of these letters can be inspected at Hereford Customer Services, Franklin House, 4 Commercial Road, Hereford, HR1 2BB and prior to the Committee meeting.

6. Officer's Appraisal

- 6.1 An appeal Hearing is due to be held on 22nd November, against the refusal to permit the temporary accommodation, ref DMS/102895/F.
- 6.2 An enforcement notice was also served on 12th October, seeking removal of that accommodation and included reference to elements now included in this application. At time of preparation of this report no appeal had been submitted the applicant has until 10th November to do so.
- 6.3 The building being used as stabling was originally submitted to the Council as an agricultural notification application for an agricultural store. The decision was that Prior Approval was required and concurrently refused. It was considered that the siting of the building in isolation was unacceptable. However the decision notice was received 1 day after the 28 day deadline. This meant that the development could proceed in accordance with the submitted details. The information available suggests that the building was not used for storage but was used as stables from the outset. This means that the application is effectively for the retention of the building as well as its change of use.

- 6.4 Since this and the previous application for the accommodation further details have been submitted which satisfies the requirements of policies LA1 and LA6.
- 6.5 It is understood that highway requirements have been discussed and that necessary improvements can be achieved.
- 6.6 The applicant believes that as the part of the land was formerly a quarry and then filled that its use falls within the industrial use class. However the land was restored to agriculture as is usual with such site when the tipping ceases. Consequently the lawful use of the land is agricultural. Since the use of land for agricultural purposes does not constitute development, no application would have been required to establish that.
- 6.7 This leaves the applicant with the bigger part of the land outside of the application site, and technically without permission for use in connection with the equine business should this application be approved. Should that be the case though it would be clearly not expedient to take further action if it was subsequently used in connection with the business..
- 6.8 Given the additional information regarding compliance with policies LA1, LA6 and likely acceptability in highway safety terms, it is considered that the proposal is acceptable. This does not make any difference to the council's position that a temporary dwelling is not necessary on site, given the availability of accommodation on the opposite side of the road and the appeal will continue to be defended on that basis.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

1. **Within 3 months of the date of this permission a landscape design shall be submitted to and approved in writing by the Local Planning Authority. The details submitted should include:**
Soft landscaping
 - a) **A plan showing details of all existing trees and hedges on the application site. The plan should include, for each tree/hedge, the accurate position, species and canopy spread, together with an indication of which are to be retained and which are to be removed.**
 - b) **A plan at a scale of 1:200 or 1:500 showing the layout of proposed tree, hedge and shrub planting and grass areas**
 - c) **A written specification clearly describing the species, sizes, densities and planting numbers and giving details of cultivation and other operations associated with plant and grass establishment.**
 - d) **A plan showing the wildlife buffer zone and wildlife boxes, together with details of those boxes.**
2. **H03 Visibility splays**
3. **H04 Visibility over frontage**

INFORMATIVES:

1. **The desk study report submitted as part of the application includes reference to the existing building on the site and as such any further development or alteration to it (internal or external) will require further assessment to consider the risk to**

structures and site users from the ground gas and/or other contaminants.

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

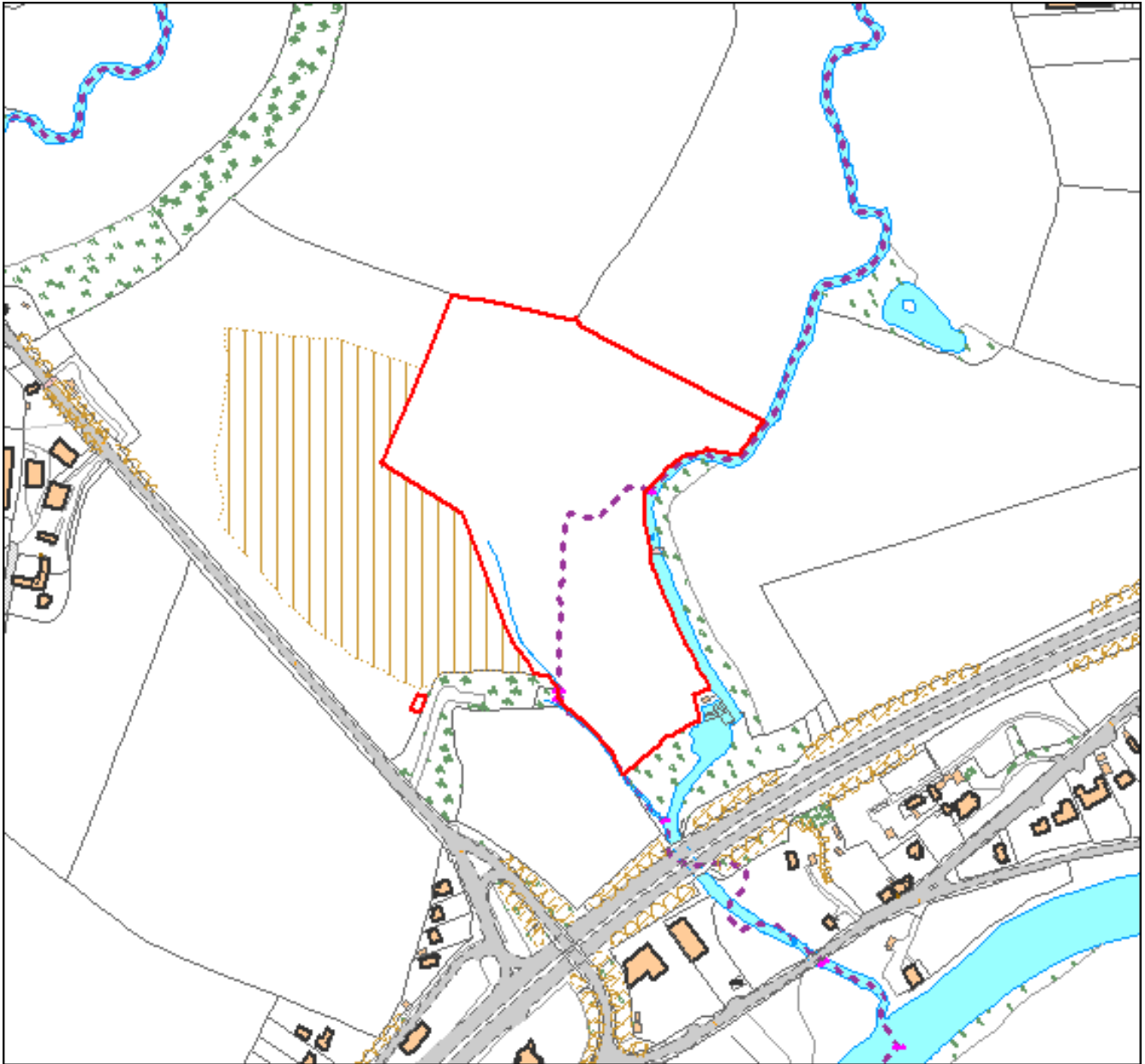
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DMS/112351/F

SITE ADDRESS : LOSITO STUD, HARRIS LODGE, WHITCHURCH, ROSS ON WYE, HEREFORDSHIRE, HR9 6EG

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Further information on the subject of this report is available from Mr M Tansley on 01432 261815