

MEETING:	PLANNING COMMITTEE
DATE:	25 APRIL 2012
TITLE OF REPORT:	<p>S120210/F- REMOVAL OF CONDITIONS 13 AND 16 OF PLANNING PERMISSION DMS/102971/F. TO REMOVE CONDITIONS LINKING THE ANCILLARY USE OF THE RESTAURANT TO THE HOTEL AT CASTLE LODGE HOTEL, GREEN COURT, WILTON, HEREFORDSHIRE, HR9 6AD</p> <p>For: Mr C Felices per Mr Bernard Eacock, 1 Fine Street, Peterchurch, Herefordshire, HR2 0SN</p>
WEBSITE LINK:	http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=120210&NoSearch=True

Date Received: 20 January 2012 **Ward: Llangarron**

Grid Ref: 358876,224387

Expiry Date: 16 March 2012

Local Member: Councillor JA Hyde

1. Site Description and Proposal

- 1.1 The application site comprises a substantial stone barn and adjoining land situated in the angle between the A40 trunk road, the B4260 leading to Ross-on-Wye and the unclassified road leading to Wilton Castle. The site is a short distance away from the Castle Lodge Hotel, which was in the same ownership. The site is within the Wilton Conservation Area and the Wye Valley Area of Outstanding Beauty (AONB).
- 1.2 Planning permission was granted for the conversion of the aforementioned barn to a restaurant and formation of associated car-parking on 17 March 2006 (SE2005/2343/F). This planning permission was the subject of a number of planning conditions. The planning permission was due to expire on 17 March 2011, but was extended on 10 January 2011 (S/102971/F). This planning permission was subject to the same conditions, as attached to the original planning permission.
- 1.3 This application is made under the provisions of Section 73 of the Town and Country Planning Act 1990 (as amended) and proposes the removal of conditions 13 and 16 attached to the extant planning permission. A similar application was refused by the Planning Committee on 6 April 2011 (S102972/F) and previously by the Southern Area Planning Sub-Committee on 25 November 2009 (DCSE0009/1859/F). The reasons for refusal were as follows:

The local planning authority considers that conditions 13 and 16 of planning permission SE/102971/F (10 January 2011) continue to serve a useful planning purpose. The removal of these conditions would allow the operation of two separate businesses, with a concomitant increase in traffic upon the adjoining lane and an increased risk of indiscriminate parking upon it. Given the proximity of the site to the strategic road network and the inadequacy of the junction onto the B4260, the local planning authority considers the conditions essential in maintaining both highway safety and the residential amenity of local residents. The application

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is thus contrary to Policies DR2, DR3 and T11 of the Herefordshire Unitary Development Plan 2007.

1.4 The conditions are as follows:

Condition 13

The restaurant hereby approved shall only be used for purposes ancillary to the hotel known as Castle Lodge Hotel and within Class C1 of the Town and Country Planning (Use Classes) Order 1987(or any order revoking and re-enacting that order with or without amendment) and shall not be used as a separate restaurant for any other purpose within Class A3 of that order.

Reason: In the interests of highway safety, to ensure the free flow of traffic using the adjoining highway and protect the amenity of residents in the vicinity of the site and to conform to Policies T11 and DR2 of Herefordshire Unitary Development Plan.

Condition 16

The restaurant and car-park hereby approved and the Castle Lodge Hotel shall not be sold, let or leased separately from each other, and the car-parking shall be permanently available for use by both the restaurant and Castle Lodge Hotel.

Reason: To ensure that car-parking facilities are available for both premises and protect the amenity of residents in the vicinity of the site and to comply with Policy DR2 of Herefordshire Unitary Development Plan.

1.5 The application is supported by a draft legal agreement providing for a contribution towards the making of a Traffic Regulation Order (TRO) to provide for parking restrictions on the unclassified lane that serves the site. The application in its most recently revised form also makes provision for the dedication of 16 parking spaces within the curtilage of the barn restaurant which would be for the sole use of patrons of the Castle Lodge Hotel.

1.6 The most recent refusal referred to above, (S102972/F) was the subject of an appeal to the Secretary of State. It was dismissed on Appeal on 6 October 2011. The appointed Inspector was satisfied with parking provision proposed for both Castle Lodge Hotel and the new barn restaurant and did not consider that there would be an adverse impact on residential amenity associated with a distinct restaurant use. However, it was considered that the visibility onto the B4260, should be comparable at least to that being provided by the extant planning approval onto the unclassified lane. It was further stated by the Inspector that no up-to-date figures for traffic generation were provided and that trip generation figures dated from 2005 were out of date. This current application is accompanied by a Transport Statement, in order to provide an up-to-date assessment of trip generation and use of the site

2. Policies

2.1 National Planning Policy Framework

2.2 Herefordshire Unitary Development Plan

S1	-	Sustainable Development
S2	-	Development Requirements
S7	-	Natural and Historic Heritage
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
T11	-	Parking Provision

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LA1	-	Areas of Outstanding Natural Beauty
HBA6	-	New Development within Conservation Areas
NC1	-	Biodiversity and Development
HBA12	-	Re-use of Rural Buildings
E11	-	Employment in the Smaller Settlements and Open Countryside

2.3 Government Circular 11/95: The Use of Conditions in Planning Permissions

3. Planning History

3.1	SH910820PF	Conversion of barn to a dwelling	-	Approved 07.01.92
	SH951204PF	Change of use of land and barn (with extension) to vehicle hire centre with offices with valleting room.	-	Refused 05.02.96
	SH960935PF	Change of use of land and barn (with extension) to vehicle hire centre with offices with valleting room.	-	Refused 05.02.96
	SH961463PF	Conversion of existing barn to dwelling.	-	Approved 02.06.97
	SE2002/1765/F	Change of use to redundant barn into conference centre and construction of new car park.	-	Approved 25.09.02
	SE2003/2164/F	Relocation of restaurant to barn and construction of new car park and alterations to existing car park.	-	Approved 15.10.03
	SE2004/3888/F	Refurbishment and conversion of existing derelict barn to restaurant and creation of new car parking facilities serving existing hotel and new restaurant, together with associated junction improvement works.	-	Withdrawn 28.02.05
	SE2005/2343/F	Refurbishment and conversion of existing derelict barn to restaurant and creation of car parking facilities serving existing hotel and new restaurant, together with associated junction improvement works.	-	Approved 17.03.06
	SE0009/1859/F	Refurbishment and conversion of existing derelict barn to restaurant, together with associated junction improvement works (removal of conditions 13 and 16 on Planning Permission DCSE2005/2343/F).	-	Refused 25.11.09
	SE/100914/F	Refurbishment and conversion of existing derelict barn to restaurant, together with associated junction improvements (removal of conditions 13 and 16 on application DCSE2005/2343/F).		Withdrawn 10.06.10
	SE/101074/F	Proposed extension of time limit on application DCSE2005/2343/F – to restaurant and creation of new car parking facilities servicing existing hotel and new restaurant together with associated junction improvements.	-	Withdrawn 16.07.10
	SE/102971/F	Replacement of extant planning permission	-	Approved

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	SE2005/2343/F for refurbishment and conversion of existing derelict barn to restaurant and creation of new car parking facilities serving existing hotel and new restaurant, together with associated junction improvement works.	10.01.11
SE/102972/F	Removal of conditions 13 and 16 of Planning Permission S/102971/F. Refurbishment and conversion of existing derelict barn to restaurant and create new car parking facilities and associated junction improvement works – to Remove conditions linking the ancillary use of the restaurant to the hotel.	- Refused 06.04.11 Dismissed on Appeal 06.10.11

4. Consultation Summary

Statutory Consultations

- 4.1 Highways Agency: The Highways Agency recognises that it is intended to allow the barn restaurant and hotel to operate independently and that this is still the case with the current proposal. The Highways Agency states that the previous interest related to car parking provision. It is considered that the Council is best placed in accordance with recent Government guidance to determine appropriate minimum car parking numbers. Therefore, the Highways Agency does not wish to offer any objection to the application.

Internal Council Advice

- 4.2 Traffic Manager: Having regard to the appeal, it is acknowledged that the findings of the Inspector state that the removal of conditions 13 and 16 need not lead to inadequate parking provision. A parking plan is required for both sites to demonstrate a combined total of 75 spaces. How will the shared parking on both sites be secured?
- 4.3 Public Rights of Way Manager has no objections

5. Representations

- 5.1 Bridstow Parish Council objects to the removal of Conditions 13 and 16.
- 5.2 Eleven letters of objection have been received from residents in the locality. The following main issues are raised:
- Removal of two conditions would result in two separate businesses operating, with an associated increase in the volume of traffic using the junction of the lane and B4260 road, which is in close proximity to A40/A49 Wilton roundabout and to junction with BP service centre.
 - Transport Statement (TS) changes nothing still 386 trips as compared to Highways Agency's figure of 412 trips.
 - Comparison data in TS to sites in Scotland and Republic of Ireland not comparable.
 - Car –parking provision at Castle Lodge Hotel not enforceable
 - It will become a 'turn around restaurant' operating between 7 am and 11 pm
 - Conditions imposed to safeguard amenity and safety of local residents. No justification for removing the conditions.
 - Wilton Castle needs parking facilities for open days and functions.
 - Double yellow lines proposed will not prevent parking problems. HGV's already park at entrance of lane which is lined.
 - Important local building in AONB and Conservation Area has been allowed to deteriorate

5.3 The consultation responses can be viewed on the Council's website by using the following link:-
www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx

Internet access is available at the Council's Customer Service Centres:-
www.herefordshire.gov.uk/community_and_living/consumer_advice/41840.asp

6. Officer's Appraisal

6.1 The application proposes the removal of two conditions attached to planning permission S/102971/F. The effect would be to allow for the operation of the hotel and restaurant as two separate businesses. It should be borne in mind that this application does not affect any of the other conditions attached to the extant permission. As such, it would still be a requirement that no more than 60 seats be laid out for dining within the barn restaurant and that there should be no takeaway service. As such, measures would continue to exist that control the end use of the building. Likewise the developer would still have to comply with condition 26 of the extant planning permission, which requires works of mitigation to the lane and the junction with the B4269, including carriageway widening and the provision of a footpath along the site frontage. In addition, this application proposes to contribute towards the making of a TRO to provide for parking restrictions along the lane. This latest application also now needs to be assessed with reference to a dismissed appeal in respect of car parking provision, impact on residential amenity and use of the junction with the B4260 road.

6.2 As such the key issues in the determination of this application are as follows:

- The impact of the removal of the conditions upon the safety and free flow of traffic upon the strategic and local highway network.
- An assessment of the parking arrangements for the existing hotel and the proposed restaurant.
- An assessment of the impact of the removal of the conditions upon the living conditions of nearby residents.

6.3 The Highways Agency has previously confirmed that the removal of conditions 13 and 16 would not result in any intensification of use of the Wilton Roundabout and the junction of the B4260 than previously tested and agreed. The original Highways Agency assessment of the 2005 application was made on the basis that the barn restaurant and hotel would operate as independent businesses as it was on that basis that the application was originally made. The control imposed by conditions 13 and 16 was not put in place at the recommendation of the Highways Agency and the prospect of removing the conditions has, in the Agency's view, no material impact over and above what has already been tested and approved. It should also be noted that the Highways Agency response is made in the light of current levels of traffic on the A40 and A49, following the re-design on the Wilton Roundabout and having regard to the recently dismissed appeal. One of the key issues raised by the appointed Inspector related to the visibility achievable on the B4260 road, as compared to that available when leaving the site and joining the unclassified lane. The Inspector referred to a shortfall, in particular to visibility towards Ross-on-Wye. The Council's Traffic Manager has though whilst acknowledging the restriction in visibility on the nearside by a stone wall stated that this is more than compensated for by the visibility achievable for traffic heading uphill towards the Wilton roundabout from the junction. This is important given that most traffic leaving the lane would be likely to be turning right. This issue is not one that has been previously raised by the Council's Traffic Manager and notwithstanding the reference made by the Inspector it is considered that satisfactory visibility is achieved in both directions with no significant uplift in traffic generation resulting from the independent operation of a restaurant.

6.4 In relation to parking provision the Highways Agency do not object and neither does the Traffic Manager subject to appropriate provision of dedicated parking for both uses. The originally

approved scheme made provision across the two sites for a total of 64 spaces, with 55 provided upon the barn site and 9 at the hotel. Condition 16 requires that the car parking should be permanently available for use by both the restaurant and the Castle Lodge Hotel. This arrangement was workable whilst a condition was in place restricting the separate disposal of the barn restaurant and hotel. Now that it is proposed to remove this condition, it is essential that each business has adequate on-site provision to prevent indiscriminate parking on the lane and the concomitant effect that congestion could have upon the junction of the lane and the flow of traffic on the B4260 and the Wilton Roundabout.

- 6.5 Notwithstanding the historically approved parking layout, the outcome of the appeal decision suggests that a provision of 71 or 75 spaces (depending upon what floor space figure is used for the existing hotel) would be needed to serve both sites. As proposed, the barn site currently has 55 allocated spaces, which is in line with adopted Highways Design Guidance. The hotel provides for a theoretical minimum of 9 spaces, albeit 13 vehicles have been observed parking on the forecourt of the hotel at the weekend. Accordingly, this represents a potential total of 68 spaces across the two sites. In order to address ongoing concerns about the provision of parking space, a revised parking layout has been provided, which is the subject of further consultation at the time of writing. The revised plan shows an increased provision of 59 spaces on the barn site (a total provision of 72 spaces across both sites). Of these 59 spaces, 16 spaces would be retained for the sole use of patrons of the Castle Lodge Hotel giving it an achievable provision of 29 spaces which can be secured by planning condition. This allocated car parking is supported on the basis that it secures sufficient parking provision for the hotel. Again, it is reiterated that the existing permission does not allow for any takeaway from the site and also imposes an upper limit on the number of seats for dining.
- 6.6 The Traffic Manager had previously expressed concern with regard to the proposed level of parking at the hotel. This concern was based upon the fact that the provision at the hotel would fall below design guide standards and so increase the propensity for on-street parking on the unclassified lane. However, in determining the appropriate level of parking for the hotel it is pertinent to consider the existing parking arrangements and those approved under the extant planning permission. As discussed above, the revised proposal would secure 16 additional spaces in perpetuity for the hotel together with the existing minimum provision on the hotel site of 9 spaces, which is considered to be sufficient and in line with the extant planning permission. Furthermore, the potential 29 spaces for an 11 bedroom hotel would seem a reasonable provision in an edge of town location, notwithstanding the fact that the hotel restaurant is open to the public. In the light of the further uplift in total parking provision to 72 spaces, it is considered that the application has satisfied the need identified by the Inspector and as such any residual concerns about the parking layout have been addressed in the light of the appeal decision.
- 6.7 As referred to above, this application has no implications for the remaining conditions attached to the extant permission. Accordingly, the developer will have to fulfill the requirements of the outstanding conditions which include local highway improvements, restricted opening hours, no takeaway service and a limitation on the number of seats available for dining. It should be noted that in the representations received reference is made to a 'turn around restaurant', which can only be concluded is a takeaway facility and therefore controlled by the extant planning condition. Likewise, any external lighting must be agreed prior to the first use of the restaurant as would lighting for the car park. As such, it is considered that measures remain in place to ensure that the residential amenity of nearby properties would be preserved against the existing scenario.
- 6.8 One of the issues considered by the Inspector when determining the recently dismissed appeal was that of residential amenity. Reference is made in representations received that the amenity of residents could no longer be safeguarded. It is considered that the use of the restaurant barn i.e. times of opening and use together with the control of parking for not only the restaurant barn but also for the existing hotel will, as the Inspector stated, safeguard the

amenity of local residents. It is not considered that the removal of these conditions will have an adverse impact on local residents.

Summary and conclusions

- 6.9 The concerns expressed by local residents focus principally upon the implications for highway safety. Whereas the barn restaurant is currently tied to the hotel, the application, if approved, would effectively create a separate business utilising a junction opposite the service station entrance and in close proximity to the Wilton Roundabout. The Highways Agency has no objection to the removal of conditions 13 and 16 on the grounds that their assessment of the 2005 application was always based upon the barn restaurant operating separately from the hotel. Furthermore, the Traffic Manager still has no objections on highways safety grounds to the removal of conditions as proposed, this includes the visibility onto the B4260, an issue raised by the Inspector. The submitted Transport Statement also establishes that fewer trips will be undertaken as compared to 2005 figures and the therefore the issue of traffic generation has been appropriately addressed. It is considered on balance given technical advice currently provided, an assessment of visibility and parking provision made by the Traffic Manager together with that of the Highways Agency that two independent businesses can operate without undue implications for highway safety or upon the amenity of local residents. Accordingly, subject to the completion of a Section 106 Agreement to secure the contribution to making the Traffic Regulation Order and the conditions set out below, the application to remove Conditions 13 and 16 is recommended for approval.

RECOMMENDATION

- 1. Subject to no further objections raising additional planning considerations being raised by the end of the consultation period, the Head of Legal and Democratic Services be authorised to complete a planning obligation under Section 106 of the Town and Country Planning Act 1990 in regard to the making a contribution towards the making of a Traffic Regulation Order and the subsequent provision of parking restrictions on the unclassified lane.**
- 2. Upon completion of the above mentioned Officers named in the Scheme of Delegation be authorized to issue planning permission subject to the following conditions:-**

That planning permission be granted subject to the following conditions:

- 1. B04 Amendment to existing permission**
- 2. C06 Development in accordance with the approved plan**
- 3. Prior to the first use of the restaurant approved under reference S/102971/F details for the dedication and demarcation of 16 parking spaces for the sole use by patrons of Castle Lodge Hotel in accordance with a scheme to be submitted to and approved in writing by the local planning authority These spaces shall thereafter be retained and kept available for use by patrons of Castle Lodge Hotel at all times.**

Reason: To minimise the likelihood of indiscriminate parking in the interests of highway safety and to conform with the requirements of Policy T11 of Herefordshire Unitary Development Plan.

INFORMATIVE:

- 1. Having regard to the proposed removal of condition 13 and 16 of Application No.**

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S/102971/F, the local planning authority considered that the traffic generated by two separate businesses together with the total parking provision and associated improvements and proposed parking restrictions on the unclassified lane would ensure that no adverse impact upon highway safety or the residential amenity of local residents would result. Accordingly the local planning authority considers that the proposed removal of the conditions accords with Policies DR2, DR3 and T11 of the Herefordshire Unitary Development Plan

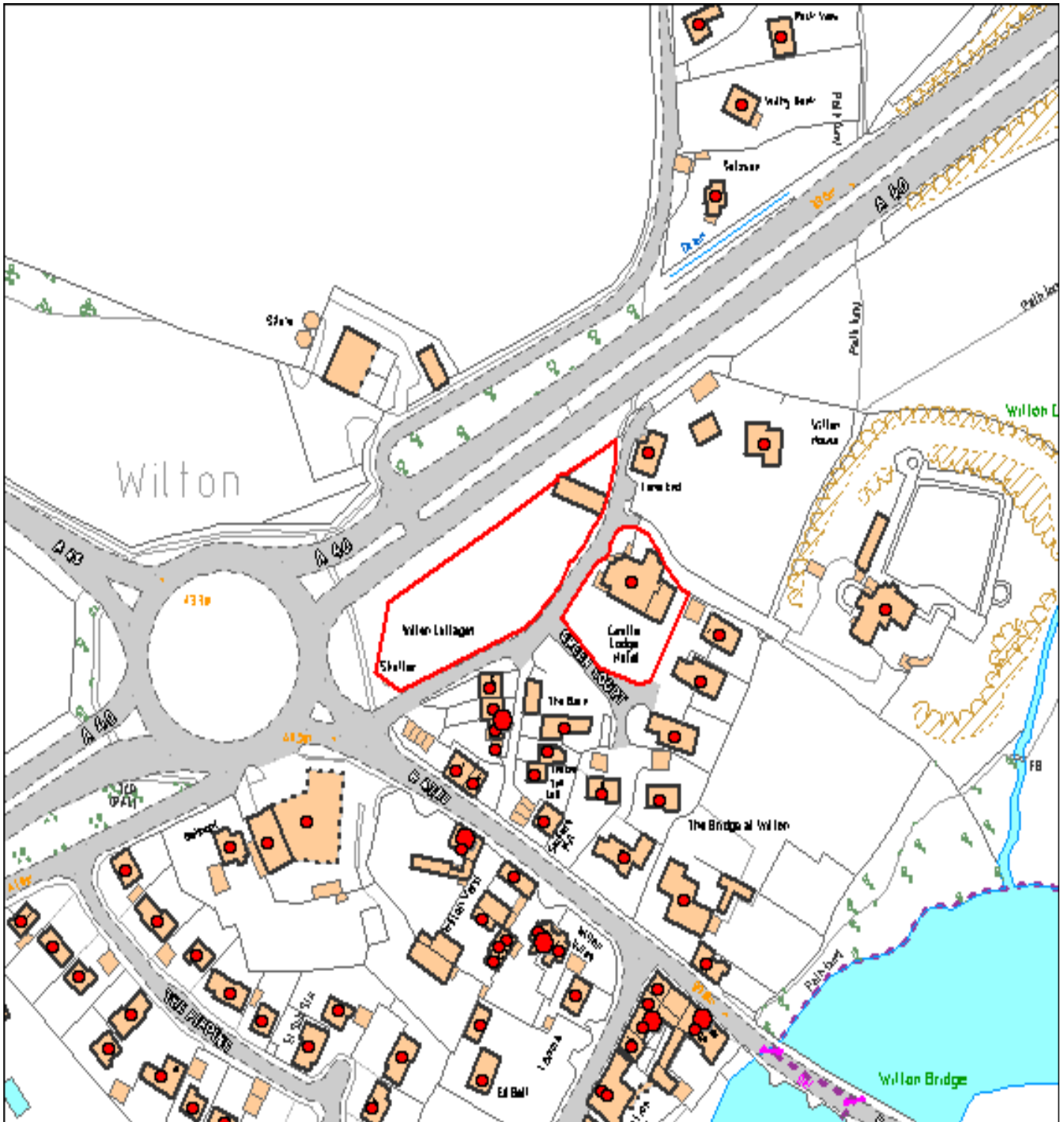
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: S/120210/F

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