

MEETING:	PLANNING COMMITTEE
DATE:	9 JANUARY 2013
TITLE OF REPORT:	<p>S122644/F - RETENTION OF EXISTING MOBILE HOME (WITH TEMPORARY USE FOR 2 YEARS) AS ACCOMMODATION ANCILLARY TO OCCUPATION OF DWELLINGS PERMITTED BY APPROVALS DMS/113120/F & DMS/113121/F. AT MARSH FARM, UPTON BISHOP, ROSS-ON-WYE, HR9 7UP.</p> <p>For: Mr Dinsdale per The Design Studio, 6 Sansome Walk, Worcester, WR1 1LH.</p>
WEBSITE LINK:	http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=122644&NoSearch=True

Date Received: 24 September 2012

Ward: Old Gore

Grid Ref: 365659,227027

Expiry Date: 19 November 2012

Local Members: Councillor BA Durkin

1. Site Description and Proposal

- 1.1 The application site is located in open countryside located between the B4221 (Hill Top) and Tanhouse Lane. Marsh Farm comprises a derelict and ruinous farmhouse. All that remains is a stone barn previously used as a cider press and part of the east wall of the farmhouse. The site is located between the B4221 and Tanhouse Lane. The former farmhouse was 2-storey T-shaped building with single storey elements that dated from the late C16 or early C17 with a cider house that was probably added in the C18. On the northwest side of the farmhouse is a threshing barn a Grade II listed building that dates from the C18 or early-C19 dates.
- 1.2 Planning permission has been granted for the rebuilding of the farmhouse (DMS/113120/F) and the conversion of the threshing barn to a single dwelling (DMS/113121/F and DMS/113123/L) . Public footpath UB22 runs to the east of the site.
- 1.3 To the north of the derelict farmhouse, close to the entrance off Tanhouse Lane are 2 modern farm buildings. Adjacent to the southernmost building is a timber clad mobile home which this application proposes to retain for the duration of building works associated with the rebuilding of the farmhouse and the conversion of the threshing barn. The mobile home is on an area of concrete that is to the southwest side of an orchard.
- 1.4 The mobile home is unauthorised and in breach of the terms of an Enforcement Notice that related to the previous occupation of it, and other mobile homes by travellers. The other mobile homes within the orchard, the hardstandings and LPG tanks associated with the use of the land by travellers have since been removed as required by the Enforcement Notice.
- 1.5 Foul drainage from the mobile home is to a septic tank that is adjacent to a pond on the north side of the farm track close to the derelict farmhouse.

2. Policies

Further information on the subject of this report is available from Mr D Thomas on 01432 261974

2.1 Herefordshire Unitary Development Plan:

S2	-	Development Requirements
DR1	-	Land Use and Activity
H7	-	Housing in the Countryside Outside Settlements
LA2	-	Landscape Character and Areas Least Resilient to Change

2.2 National Planning Policy Framework:

Chapter 11	-	Conserving and enhancing the natural environment is considered relevant to this application.
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2.3 The Unitary Development Plan policies together with any relevant supplementary planning documentation can be viewed on the Councils website by using the following link:-

<http://www.herefordshire.gov.uk/housing/planning/29815.aspp>

3. Planning History

DCSE2007/2707/F	Conversion of barn to form residential unit. Withdrawn
DCSE2007/2713/F	Conversion of barn 2 to form holiday accommodation and conversion of barn 3 to form office accommodation. Withdrawn
DCSE2007/2899/S	Hay barn/implement store. Prior approval not required. 4.10.2007
DCSE2007/3445/F	Application for temporary siting of mobile home. Refused 1.10.2008
DCSE2007/3452/F	Temporary siting of mobile home. Refused 1.10.2008
DCSE2008/0320/S	Implement shed for farm machinery. Prior approval not required 4.3.2008.
DCSE2008/2995/F	Demolition of existing Grade II Listed farmhouse and attached barns and rebuild new farmhouse. Refused 5.2.2009
DCSE2008/2991/L	Demolition of existing of Grade II Listed farmhouse and attached barns. Refused 5.2.2009
DCSE2008/2993/F	Conversion and alterations of existing barns within the curtilage of a Grade II Listed barn to form farm office and farm workers staff rooms and secure stores/parking. Refused 6.2.2009
DCSE2008/2994/L	Conversion and alterations of existing barns within the curtilage of a Grade II Listed barn to form farm office and farm workers staff rooms and secure stores/parking. Refused 6.2.2009
DCSE2008/2926/F	Proposed temporary siting of mobile home. Refused 26.1.2009
DCSE2008/2951/F	Temporary siting of mobile home. Refused 27.1.2009
DCSE2008/3002/F	Conversion of Grade II Listed threshing barn to form residential dwelling. Refused 3.2.2009
DCSE2008/3003/L	Conversion of Grade II Listed threshing barn to form residential dwelling. Refused 3.2.2009
DCSE2009/0855/F	Change of use of land and full planning permission to retain existing 1 mobile home. Retain existing log cabin mobile home and 4 additional log cabin mobile homes. Refused 22.6.2009

DCSE2009/1568/F	Change of use of land and full planning permission to retain existing 1 mobile home. Retain existing log cabin mobile home and 4 additional log cabin mobile homes, 6 touring caravans for nomadic use only. Refused 15.9.2008. Appeal Dismissed 16.9.2011. In conjunction with this application an Enforcement notice was served against the unauthorised use of the land for use as a travellers' site. The Enforcement Notice was upheld on appeal on 16.9.2011.
DMS/103232/F	Change of use of land to private gypsy site and traveller caravan site comprising of 4 pitches each containing 1 mobile home and 1 toured and utility block. Application withdrawn
DMS/110942/F	Retention of farm track. Approved 29.6.2011
DMS/113120/F	Demolition of existing remains of farmhouse and attached barn and rebuild new dwelling to match existing. Approved 1.2.2012
DMS/113121/F	Conversion of redundant barn to form new residential dwelling. Approved 5.1.2012
DMS/113123/L	Conversion of redundant barn to form new residential dwelling. Approved 5.1.2012

4. Consultation Summary

Statutory consultations

4.1 None.

Internal Council advice

4.2 Traffic Manager has no objection.

4.3 Public Rights of Way Officer has no objection.

4.3 Conservation Manager – Landscape Officer: Assessing the log cabin as a single element on the site, I consider that it is muted in colour and largely viewed against the backdrop of the modern barns, from public vantage points on the footpath UB22 which crosses rising land to the south east of the appeal site. Providing that the siting of the log cabin is time limited, I consider that its retention, in its existing position would be acceptable. The log cabin on its existing site is not visible from the road; the fruit trees on its site have already been lost so moving it to another location on the site would not appear to offer any particular benefits.

5. Representations

5.1 Upton Bishop Parish Council has no objection as long as the following conditions were applied:-

1. A maximum period of 2 years (after which time a further application would need to be submitted)

2. Removal on completion of the building works (if this was under a 2 year period).

Also the Cllrs requested that the existing enforcement notice be held in abeyance for the allowed time period for the mobile home remaining on site.

5.2 18 objections have been received. In summary it is said:

- The description of the site location is incorrect. The site is not within a group of existing farm buildings; it is in a protected historic orchard in which according to Herefordshire's Unitary Development Plan no development is permitted.
- The location is within the site subject to the Enforcement Notice and covered by the Planning Appeal decision of 16 September 2011 requiring all cabins and hardstanding to be removed from the orchard by 16 June 2012. The cabin breaches the Enforcement Notice.
- The land registry does not record Mr Dinsdale as owner of Marsh Farm. Mr Maguire and Mr Tapsell are still recorded as the owners. They made a similar application in 2007/8 for a cabin for occupation while they renovated the then listed farmhouse and converted the threshing barn. This was refused in 2008.
- To maintain a consistent approach this should be the decision this time too.
- It was announced at the May 2012 auction that there was an enforcement order requiring the cabin (which was excluded from the auction sale particulars), be removed by 16 June 2012. The new owner knew what the position was before purchase. The purchaser now has the property back on the market. Therefore it could be repurchased by the previous owners or someone else who would find any permission for the cabin advantageous because it cuts through the Appeal decision.
- The description of the proposed development does not reflect the proposal that the cabin would be only a temporary feature. The cabin cannot be ancillary to the accommodation of a property that does not exist. There is no statement of who would use the cabin, what for and under what conditions.
- Moving the cabin to a new location outside the enforcement site would not be a problem. The access track is the main entrance to Marsh Farm. It is hard surfaced and was used to bring all the large log cabins covered by the Enforcement Notice onto the orchard via the track passed the old farmhouse from the B4221.
- The cabin can be easily seen from the public footpath that passes close to the orchard site. But it could be moved closer to the farmhouse development site where if it were moved to within the curtilage it would not need special planning permission anyway. Location nearer the replacement farmhouse building site would make it part of that development with all the machinery, building materials, scaffolding and other building operations so that the cabin would not have wider visual impact.
- In the current location it is spoiling a BAP protected orchard and leading to disturbance and possible further degradation of the habitat of European protected species. These issues are part of the sustainability consideration and carry obligations for the Council to protect the site from development.
- There has been a breach of the Enforcement Notice for 4 months now. This is a criminal offence. The application must therefore be judged in light of this and the Appeal decision.
- We also urge that the enforcement take place following an appeal.
- There has been unauthorised development on this orchard site for over 3 years and, after a full planning Inquiry considering all the issues associated with the log cabins on the site, the planning inspector required that all the cabins be removed and the orchard returned to agricultural use by 16 June 2012.
- The council is the enforcing body for this decision and must ensure compliance. Otherwise it sends a message to developers that the county is weak and will not enforce the law. It is after all a criminal offence not to comply with an Enforcement Notice.
- It makes no sense for the Council, who used public monies to defend against the appeal for planning permission, now to agree that the unauthorised development can remain after all. The cost to the public purse extends beyond just the Council's costs, to include the

inspectorate's costs and of course the residents' costs in supporting the Council as a rule 6 party to the Inquiry.

- The apparent new owner of the site knew that there was an enforcement order covering the land he was buying, as there was a clear statement about this at the auction. The cabin was not included in the auction so there is clear intent here and it is irrelevant that he has other plans for the site. He is in breach of the Notice and has been for 4 months; so he is committing a criminal offence.
- Failure to enforce creates opportunity for further disturbance to the habitat of European protected species which under European Directives, the Council has a duty to protect from development. Also the Council's local plan, the UDP, requires BAP orchards to be protected from development, as well as stating that there will be no development permitted in open countryside.
- Enforcement to ensure compliance with the Notice and the Appeal decisions is in the public interest, according to the Council's published policy.

5.3 In support of the application it is said:

- The retention of existing mobile home with temporary use for 2 years as accommodation ancillary to occupation of dwelling(s) permitted by approvals DMS/113121/F and S113120/F;
- The application relates to the need to provide temporary ancillary accommodation during the redevelopment of two dwellings at Marsh Farm; a former grade II listed farmhouse (delisted 2007), and separate threshing barn. They are accessed from a farm track and are close to the application site although they do not abut.
- The site has a complex planning history and the conduct and actions of the preceding owners resulted in enforcement action being taken by Herefordshire Council. All non-conforming development has now been removed and site restored other than this mobile home.
- The site is generally well-screened from the road and surrounding landscape. The farm buildings are situated in a depression in the landscape and the mobile home is located on hardstanding next to the farm buildings, consequently the mobile home is, in its present location, unobtrusive and not visible in any distant views or from frequently used roads and paths. Views into the site are limited to those from the main vehicular entrance gate located to the north.
- The application site is a small area of land occupied by a temporary dwelling/mobile home. The application site sits within the total area of Marsh Farm amounting to approximately 11ha; including the agricultural buildings close to the application site and the former farmhouse (now delisted) and threshing barn (listed grade II).
- These traditional buildings are slightly more prominently located than the agricultural buildings which are set in a depression in the landscape and generally well screened.

5.5 Ownership and residual enforcement matters:

- In June 2012, the applicant (Mr B J Dinsdale) became the owner of the buildings and land at Marsh Farm as outlined on drawing 1214/010 in the application pack. At that date two elements of unauthorised development remained to be removed from site:
- The mobile home which is the subject of this application for temporary retention
- Underground LPG tanks.
- The LPG tanks have since been removed.

- Mr Dinsdale has provided full documentary evidence that he is the freehold owner of the property. He has made it clear, by his actions, that he is intent on implementing the approved permissions in compliance with the approved plans and in accord with all relevant requirements of the Council. He is also wholly independent of the previous owners whose actions were responsible for the troublesome planning history.
- Immediately upon the acquisition of the property in June 2012 Mr Dinsdale became aware of pressure placed upon Herefordshire Council to pursue a prosecution for non-compliance with the enforcement action, notwithstanding that he, Mr Dinsdale, was not responsible for, the unauthorised development and use of the land prior to his ownership.
- As Mr Dinsdale has gone to considerable lengths to demonstrate good faith in his intentions to develop legally, and has cooperated fully with the LPA in finding ways to resolve the residual enforcement issues, any prosecution could not be justified as being in the public interest.
- For the same reason, this application deserves to be considered on its merits untainted by a planning history for which the applicant was not responsible.

5.5 Justification for non-relocation:

- It has been accepted in discussions with officers of Herefordshire Council that the mobile home could be relocated to sit within or abutting the curtilage of the approved dwellings (S113120/F and DMS/113121/F), and that this would satisfy the enforcement requirement to remove the mobile-home and, as temporary structures within the development site(s), not require permission.
- However, the development sites are restricted in area. As is justified in the following sections of this Statement, it is apparent from inspection of the setting and opportunities to locate the mobile home other than in its present location, including consideration of visual impact, that a relocation of the unit to be close to the development sites would place the unit in a much more prominent location than the present.
- Furthermore, relocation would require the construction of a concrete or similar base and installation of temporary servicing (water, drainage), this would be an inappropriate use of materials, generate unnecessary waste (upon removal) and merely add to the cost of the works without any positive benefit to the landscape or securing any planning benefit.

5.6 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 This application is for the temporary retention of a timber clad mobile home for residential occupation during building works at Marsh Farm.

6.2 The mobile home formed part of an application to retain it and a further 4 to be sited on an orchard to the east. It is also subject to an Enforcement Notice. There were 4 mobile homes on the site at the time of the appeals and whilst 3 of the mobile homes have been removed the mobile home adjacent to the farm building remains and is subject of this application. The application seeks to retain the mobile home for a period of 2 years with an undertaking from the applicant that the mobile home will be removed upon completion of the building works required to implement applications for the renovation of the farmhouse (DMS113120/F) and the conversion of the redundant threshing barn (DMS113121/F and DMS113123/L). In normal circumstances subject to other policies, the principle of such a proposal would be acceptable.

However, a material consideration in this case is that the Enforcement Notice required the mobile home to be removed from the site by 16 June 2012.

- 6.3 The mobile home is drained to an existing sewerage treatment plant that is located to the north of the farmhouse close to a pond. It is understood that the treatment plant was installed by the previous owner of the site and was designed to serve the 4 mobile homes that previously existed. The sewerage treatment plant should have planning permission as well as Building Regulations approval, which it does not. Also, as the treatment plant was installed to serve 4 mobile homes consent from the Environment Agency is required. It is understood that there is no consent from the Environment Agency. Officers are seeking further clarification from the applicant as to the type of treatment plant that has been installed and whether it complies with all necessary regulations and an update will be given at Planning Committee. However notwithstanding this, it is considered that this matter can be satisfactorily addressed by a time limited condition requiring the submission of details of the plant.
- 6.4 With regard to landscape impact the Conservation Manager advises that following the dismissal of the appeal, the context of the site has changed in that all elements apart from the mobile home have been removed from the site. In this context, considering the mobile home as a single element on the site, it has a muted colour, and is largely viewed against the backdrop of the modern barns from public vantage points on the footpath UB22 which crosses rising land to the south east of the site. It is considered that provided the siting of the log cabin is time limited, its retention in its current position would be acceptable with its presence having a minimal visual impact on the landscape. Furthermore, in response to one of the concerns raised locally, the mobile home does not encroach into the adjoining orchard. It is on an area of concrete that is to the southwest of the orchard.
- 6.5 Objections to this application have raised the matter of ownership of the site. The applicant has stated that he is the owner of all the land to which the application relates and has signed Certificate A under Article 12 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 to this effect. The applicant's solicitor has also confirmed that as of 7 June 2012 his client is the owner of the site. However, objections to this application have challenged this statement with Land Registry which identifies that title remains with Mr and Mrs B Tapsall and Mr and Mrs T Maguire. Your officers have contacted Land Registry in this matter who comment "The land has not been registered and therefore not transferred with Land Registry. We have a pending search for a purchase to Mr and Mrs Dinsdale which would indicate an application is on its way, however the application has not been received yet." As a consequence of the reply from Land Registry officers have no basis to question the applicant's statement with regard to land ownership and therefore consider the application is valid.
- 6.6 Notwithstanding the objections that have been received to this application, the application is not for the permanent retention of the mobile home as living accommodation which would conflict with policy H7: *Housing in the countryside outside settlements*. It is to provide temporary living accommodation for a limited time period of 2 years during building works at Marsh Farm or upon completion of those works whichever is the soonest. The applicant is agreeable to this by way of a planning condition. As there is no alternative habitable accommodation available at Marsh Farm for the applicant to reside in during building works it is considered that the retention of the mobile home for a relatively short period of time so that he can live on site while building works are undertaken is not unreasonable. This coupled with the limited visual impact associated with its current location is such that the granting of temporary permission is recommended.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1. The mobile home hereby permitted shall be permanently removed from the site within 2 years of the date of this permission or upon completion of the development permitted under planning permissions DMS/113121/F and S113120/F whichever is the shorter period.

Reason: The local planning authority is only prepared to grant planning permission in this location on a temporary basis until the completion of building works having regard to policy H7 of the Herefordshire Unitary Development Plan.

- 2. Prior to the first occupation of the mobile home hereby approved, full details of the sewage treatment package serving the mobile home will be submitted to and approved in writing by the local planning authority. The approved system will be maintained for the duration of the siting of the mobile home and shall thereafter be removed in perpetuity.

Reason: In order to ensure that satisfactory drainage arrangements are provided and to comply with Policy DR4 of the Herefordshire Unitary Development Plan.

Reason for Approval

- 1. In reaching this decision the local planning authority had regard for the need of temporary accommodation during building works permitted by planning permissions DMS113120/F, DMS/113121/F and DMS/113123/L. Furthermore, regard was had to landscape impact associated with the retention of the mobile home and it was considered that due to its muted colour and proximity to existing modern agricultural buildings barns that there would be minimal landscape harm. The proposal therefore complies policies S2, DR1, DR2, H7 and LA2 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

INFORMATIVES:

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

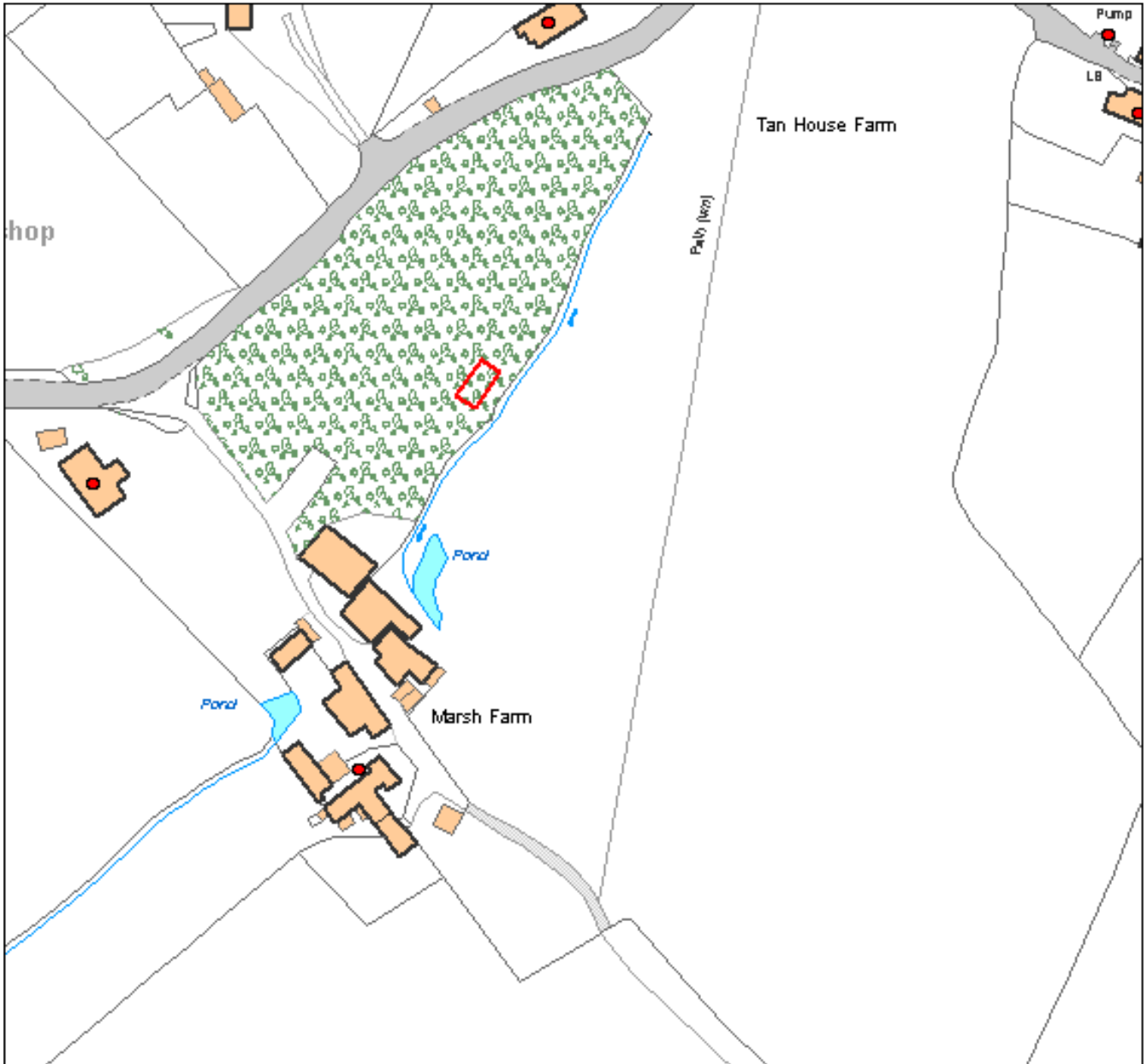
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: S/122644/F

SITE ADDRESS : MARSH FARM, UPTON BISHOP, ROSS-ON-WYE, HEREFORDSHIRE, HR9 7UP

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