

<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>20 FEBRUARY 2013</b>
<b>TITLE OF REPORT:</b>	<b>S113607/O - PROPOSED THREE BEDROOM DETACHED AGRICULTURAL DWELLING AT TIDNOR WOOD ORCHARDS, TIDNOR LANE, LUGWARDINE, HEREFORD, HR1 4DF.</b>  <b>For: Mr Henry May, Knockmoyle, Strone, Dunoon, Argyll, PA23 8TB.</b>
<b>WEBSITE LINK:</b>	<a href="http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=113607&amp;NoSearch=True">http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=113607&amp;NoSearch=True</a>

**Date Received: 28 December 2011 Ward: Hagley**

**Grid Ref: 356067,239647**

**Expiry Date: 9 April 2012**

Local Members: Councillor DW Greenow

### **Introduction**

The determination of this application was deferred at the meeting of the Planning Committee on 18 July 2012. The Minutes of that meeting record that the following information was requested to enable further consideration of the application:

- (i) Further clarification of the financial case substantiating the viability of the enterprise
- (ii) Clarification of the measures proposed to safeguard the long term retention of the orchard
- (iii) Further information on the drainage system and discharge levels.

There have been a number of exchanges with the applicant in the intervening period and these are set out in this updated report. Of particular note are the submission of an Agricultural Assessment and Management Plan prepared by the applicant in September 2012 and additional information relating to the installation of an upgraded private package treatment plant incorporating phosphate reduction. These documents are the key additions to the application and where necessary specific reference is made below to the additional information that has been submitted.

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

- 1.1 Tidnor Wood Orchards are located on the north side of Tidnor Lane (C1144) approximately 1.5km from the village of Bartestree. The orchard extends to approximately 10 hectares (25 acres), of which just over 2 hectares (5 acres) is managed as a Museum Orchard. The total collection includes nearly 400 different cider apple varieties.
- 1.2 The main entrance to the site is in the south east corner of the holding close to Longworth Lodge. The access road serves a small collection of buildings that has been developed by the applicant since around 2005. These buildings include a cider making building (Cider House), the stable block which provides facilities for the educational courses and community events that are organised at the site through the Tidnor Wood Orchards Community Interest Company (CIC). This building also appears to provide for a low level of residential use from

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the first floor (based upon my observations). The remaining buildings provide for the storage requirements of the enterprise.

- 1.3 The site is in open countryside and the land whilst relatively flat adjacent to the road rises in a northerly direction toward Tidnor Wood. The site falls within the Unregistered Park and Garden of Longworth. Longworth Hall itself is a Grade II Listed Building that lies to the east beyond the buildings associated with Longworth Hall Farm, some of which have been converted for residential use.
- 1.4 To the south of the site beyond the C1144 is predominantly agricultural land forming the Flood Plain of the River Lugg, a designated Special Area of Conservation (SAC) and a Site of Special Scientific Interest (SSSI)
- 1.5 The application seeks outline permission for the erection of a dwelling to provide full-time accommodation for the management of the orchard, the small scale production of cider and other products (including honey and sheep rearing) and the various educational and community initiatives that would continue to be organised.
- 1.6 The proposed dwelling would be served by an extension of the existing access road to the west of the existing buildings within part of the established orchard, and would be located to the north of the stable block. A three bedroom traditional cottage design utilising reclaimed bricks, timber cladding and slate is proposed. Accommodation extending up to 100 sq. metres (200 sq. m gross) floor area is identified in the supporting documentation. All matters are reserved and as such this proposal essentially seeks approval for the principle of establishing a permanent residential presence at the site.
- 1.7 The application is accompanied by a Design and Access Statement, an Ecological Appraisal and indicative plans identifying the location and layout of the proposed dwelling and the additional information identified above.

## **2. Policies**

### **2.1 National Planning Policy Framework (NPPF)**

Paragraphs 28 (Supporting a prosperous rural economy), 55 (Delivering a wide choice of high quality homes), 56-68 (Requiring good design) and Sections 11 (Conserving and enhancing the natural environment) and 12 (Conserving and enhancing the historic environment) are considered to be of particular relevance to this application.

### **2.2 Herefordshire Unitary Development Plan (HUDP)**

- S1 - Sustainable development
- S2 - Development requirements
- S7 - Natural and historic heritage
- DR1 - Design
- DR3 - Movement
- DR4 - Environment
- H7 - Housing in the open countryside outside settlements
- H8 - Agricultural and forestry dwellings and dwellings associated with rural Businesses
- T8 - Road hierarchy
- LA2 - Landscape character
- LA4 - Protection of historic parks and gardens
- LA5 - Protection of trees, parks and gardens
- LA6 - Landscaping schemes
- NC1 - Biodiversity and development

- NC2 - Sites of international importance
- NC3 - Sites of national importance
- NC5 - European and nationally protected species
- NC6 - Biodiversity Action Plan priority habitats and 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
- HBA4 - Setting of listed buildings

## 2.3 Supplementary Planning Documents

Landscape Character Assessment 2004

## 2.4 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.aspx>

## 3. Planning History

- 3.1 S102609/S Steel clad shed. Prior Approval Not Required 19 October 2010
- 3.2 DCCE2008/1831/F New stable block type complex for agriculture, re - submission of DCCE2008/0099/F Approved - 5 September 2008
- 3.3 DCCE2008/0099/F Stable block to include toilet, store, stable, office/crew room with hay loft above - for agriculture Refused 11 March 2008
- 3.4 DCCE2006/3753/F Siting of a mobile home for a maximum period of 2 years - associated with building work. Approved 16 January 2007
- 3.5 DCCE2006/1654/F Cider house/store/packing shed Approved 26 July 2006
- 3.6 DCCE2005/2054/S Open store Prior Approval Not Required 7 July 2005
- 3.7 DCCE2005/0444/S Proposed secure store Prior Approval Not Required 4 March 2005

## 4. Consultation Summary

### 4.1 The following section contains an updated summary that includes previous responses and those provided since the deferral of the application in July 2012

Statutory Consultees

- 4.2 Welsh Water – no comments received
- 4.3 Natural England previously agreed with Herefordshire Councils negative Habitats Regulation Assessment (HRA) screening. A response to the revised “No Likely Significant Effects” screening is awaited

Internal Council Advice

- 4.4 Traffic Manager raises no objections on the grounds that traffic generation is unlikely to increase as a result of an orchard worker residing at the site. A condition requiring details of parking arrangements is recommended
- 4.5 County Land Agent advises that there is no functional need for a worker to be on site throughout the year. The area involved is 25 acres of orchard and although it generates an

average gross income of approximately £15K per annum, the financial test requires a profit of £20K per annum. The project should be self-financing but it is very unlikely that the profitability after costs will be sufficient to cover a full-time worker, even were it considered that there was a functional need. No such functional need exists based upon the 25 acres of orchard.

(NB. The additional information provided by the applicant which is summarised in the Appraisal section establishes that annual net profits are low and there have been losses recorded in 2011 and projected for 2012.

#### 4.6 Conservation Manager (Senior Landscape Officer)

##### Landscape Character

The landscape character type is Principal Settled Farmlands, although the main character of the site is as an orchard. Tidnor Wood is a designated Ancient Replanted Woodland and, being located on rising ground, it is an important landscape feature in the wider setting. The orchard has been established on lower slopes to the south of the woodland. The site falls within the Unregistered Park and Garden of Longworth, which is of local historic interest. Longworth Hall is a Grade II listed building and the lodge building on the southern entrance corner is associated with the historic estate. There are some small buildings existing on the site, which are of functional appearance and small scale.

##### Landscape Impact

A proposed residential building on this site would represent development in open countryside. The proposed compact, three-bedroom dormer style cottage would be significantly larger than the existing buildings. The associated residential garden boundary, together with other domestic paraphernalia (such as refuse collection, patio, washing line), has not been addressed at this outline stage, but would have an impact on altering the landscape character of the site.

The application is for a site to the north of the existing buildings. The aim of grouping buildings is that they will have a relationship to each other, their infrastructure should work together and reduce the spread of development. The alternative site, close to the entrance, would not do this. It would not be appropriate as it would detract from the importance of the neighbouring historic lodge building.

The proposal would significantly alter the character of the site, if either location is chosen. Both sites result in the loss of orchard trees and associated habitat, changing the character to domestic.

##### CONCLUSION

This change is not acceptable in landscape terms as it will adversely affect the orchard character of the site, contrary to Herefordshire Unitary Development Plan Policy LA2. The proposed development will also affect the historic structure and setting of the protected historic park of Longworth, contrary to Herefordshire Unitary Development Plan Policy LA4.

If the need for a dwelling on this site is established, then further detail should be provided to demonstrate that the development could be achieved without a negative landscape impact. Consideration should be given to any opportunities to offset or compensate for, the loss of orchard trees and the change in character. A more detailed site survey and landscape impact assessment would be required, including a historic landscape appraisal. The design details, particularly ground levels and proposed boundary treatments, would need to be carefully considered, if the development is to be appropriately integrated into the landscape.

- 4.7 Conservation Manager (Senior Ecologist): Thank you for consulting me on the above application. I visited the site in March 2012 and note that it is currently a traditional, commercial orchard. I have received the ecological report by Wildways dated 7 February 2012 detailing an ecological assessment of the site that was undertaken in late January 2012. This is not a suitable time of year for surveys to assess grassland vegetation, but I agree that the grass sward did not appear to be particularly diverse outside the wildflower area.

Traditional orchards are listed as a Habitat of Principal Importance in England in Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006. The Local Authority also has a duty to have regard for biodiversity under this Act. Herefordshire's Unitary Development Plan Policy NC6 also seeks to protect Herefordshire's priority habitats, including orchards.

There are two proposed locations for the new dwelling; one just inside the existing access and the other to the rear of the existing buildings. Therefore, both proposals will result in a loss of area of traditional orchard. There is also no indication of garden or domestic curtilage with the proposals which could result in further loss of orchard habitat. A permanent dwelling would also increase disturbance at the site, such as through external lighting at night. No compensation or mitigation measures for loss of habitat have been submitted as part of the application. I would expect this to include at least a long-term management plan to secure the future of the remaining orchard.

I note that the development proposals include the use of the existing access gate but that there is an additional access track proposed across the orchard and wildflower area. It is not clear whether more trees are to be removed to accommodate this; frequent vehicle movements through the orchard could also have a negative impact on the orchard trees.

#### Conclusion

I am unable to support this application due to the loss of Herefordshire Biodiversity Action Plan Priority Habitat. It is not clear why a new dwelling on the site is required for the management of the orchard. In addition, no compensation or mitigation measures have been submitted as part of the application.

#### Reasons:

The proposal does not comply with Circular 06/2005 and Policies NC1, NC4, NC6 and NC7 within Herefordshire's Unitary Development Plan. The proposal also does not comply with Policies NC8 and NC9 within Herefordshire's Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006.

- 4.8 Conservation Manager (Water Quality) – in response to the additional information provided, the proposal has been re-screened under the HRA regime. This has led to a recommendation that with the installation of an upgraded package treatment plant, there would be No Likely Significant Effects upon the River Lugg SAC.

The recommendation is subject to consideration by Natural England, the outcome of which will be reported verbally

- 4.9 Acting Parks, Countryside and Leisure Development Manager (in response to an approach from the applicant inviting interest in the adoption and future maintenance of the orchard) has advised that Herefordshire Council is not in a position to take on responsibility of new land and commenting on the potential for a local group of orchard enthusiasts to take on the long term maintenance of the older and orchard and new collection such as has been the case in Colwall.

## 5. Representations

5.1 Since the deferral of the application, there has been further re-consultation upon the Agricultural Assessment and Management Plan and the summary set out below incorporates the updated comments from other interested parties

5.2 Bartestree and Lugwardine Parish Council agreed to support the application with their comments including a summary of objections from 2 members of the public

5.3 A total 7 letters of objection have been received from JE Smith, Parkwest, Longworth, Lugwardine, Hereford, HR1 4DF, E Price, Longworth Mill, Lugwardine, Hereford, HR1 4DF, M Dowling, Tidnor Mill, Lugwardine, Hereford, HR1 4AS and MJ Hurcombe and G Godsall, Hares Hatch, Lugwardine, HR1 4DF and Ms Hall and Houlton of Stile Cottage, Cattery, Larport Lane, Dormington, HR1 4EW. The objections can be summarised as follows:

- agricultural activity is unlikely to have sufficient turnover and profits to cover the wages and costs of a full time employee
- no livestock in need of constant care and attention
- there is a vacant farmhouse within 100metres of the orchard that could be available for letting
- applicant already has one person living on the site in a caravan
- entrance to the site has poor visibility
- existing septic tank installed without permission
- proposed development is in a sensitive wildlife and rural area close to an important SSSI
- new development will aggravate existing water pollution and flooding issues
- development is a stepping stone to retail activity that is totally unsuitable in this rural location
- increased activity and greater public access will generate more traffic (coach parties) which is not suitable on this lane

5.4 A petition of 33 signatories objecting to the application to erect a domestic dwelling in the greenfield site known as Tidnor Wood Orchard, Tidnor Lane, Lugwardine, Hereford, HR1 4DF and supporting the Planning Officers recommendation to the Committee held on 18 July 2012. The petition also asks for the Planning Committee and Parish Council to respect our views.

5.5 Since the deferral of the application, there have been a number of exchanges with the applicant. These have ranged from the submission of additional information such as the Agricultural Assessment and Management Plan and the details of a new package treatment plant, to procedural matters.

5.6 The applicant has specifically sought to respond to a number of objections confirming the following:

- Coaches would not visit Tidnor nor would significant numbers of other vehicles
- Visitors are not encouraged and visits are by invitation only
- Cider maker will not be opening a shop

5.7 The applicant has also made a written approach to Herefordshire Council to offer the orchard for adoption (see response above from the Acting Parks, Countryside and Leisure Development Manager)

5.8 The consultation responses can be viewed on the Council's website by using the following link:-

<http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=113607&NoSearch=True>

Internet access is available at the Council's Customer Service Centres:-  
[www.herefordshire.gov.uk/community\\_and\\_living/consumer\\_advice/41840.asp](http://www.herefordshire.gov.uk/community_and_living/consumer_advice/41840.asp)

## 6. Officer's Appraisal

### Functional and financial case/the principle

6.1 The NPPF is broadly supportive of proposals that promote sustainable development, which is seen as a "golden thread running through plan making and decision taking" and encompasses the need to support a prosperous rural economy (Para. 28) and good quality design (paras 56-68) whilst maintaining strict control over the circumstances in which new isolated homes in the countryside will be permitted (para.55). Since the Committee decision to defer the determination of the application, the applicant has submitted an additional supporting statement (Tidnor Wood Orchards Agricultural Assessment and Management Plan) which sets out in more detail the financial position of the enterprise, the nature of the activities that operate at Tidnor Wood Orchards and those that might be developed further as well as proposals for the retention and management of the orchard into the future. In general terms, it is accepted that there has been a record of investment and expansion at the site, which is evidenced by the steady growth of buildings from which the enterprise operates. The applicant has developed a nationally renowned collection of older apple varieties (Museum Orchard) which is supported by the cider apple crop produced on the remainder of the site. Around this, a small scale cider production business has been established together with other educational and community orientated activities.

6.2 In particular the applicant has provided Profit and Loss Accounts (M E Townsend) as follows:

	Gross Sales	Net Profit/Loss
2006	£21989	£2157
2007	£16996	£2479
2008	£10983	£1308
2009	£33309	£3319
2010	£7648	-£11,212
2011	£42564	£16817
2012	Estimated projected loss of over £10000	

6.3 The supporting information indicates that the annual net profit when averaged out over this period is £2000 and that profit levels have been reduced by expenses that have been incurred by sourcing and replacing trees and pruning as a result of poor management in the past. The additional information clarifies that the main sources of income at present are through a Tree Sponsorship Scheme (£80 per tree with 60 current sponsors), the sale of scions (cuttings)(£5 per stick) and in the last year an annual rent of £4000 has been received from the cider maker. A small scale range of souvenirs is also produced and it is suggested that this could be developed further along with the sponsorship scheme. The applicant submits that these established activities could be further developed by enabling an orchard worker to reside permanently on site. It is suggested that this too would provide security and enable better maintenance of the orchards into the future.

6.4 The NPPF expressly advises that local planning authorities should avoid new isolated houses in the countryside unless there are special circumstances such as an essential need for a rural worker to live permanently at or near to their place of work. Policy H8 of the HUDP is also relevant and requires there to be evidence of a long term genuine need as an essential part of a financially viable business. The policy also suggests that use should be made of existing buildings where possible and that new dwellings should be carefully sited, be of an appropriate scale and design and be commensurate in size with any established functional need. It is considered that in the event that a functional need is accepted, there are alternative

opportunities for providing such accommodation within existing buildings at Tidnor Wood Orchard.

#### Orchard management and maintenance

- 6.5 The applicant has sought to clarify his intentions with regard to the long term maintenance of the orchard. In essence he would be willing to gift the land and trees to an appropriate recipient and has made unsuccessful approaches to the National Trust, the National Association of Cider Makers, Hereford Cider Museum and Herefordshire Council. Furthermore, the applicant has set up the Tidnor Wood Orchards Community Interest Company (CIC), the continued and proper regulation of which would provide a degree of protection since in the event that the Tidnor Wood CIC was liquidated it is understood that the land would have to be transferred to another CIC or similar charity. The applicant advises that the presence of a dwelling could attract an individual who would take on the responsibility of managing the CIC in addition to other work on the site and thereby provide greater certainty as to the retention of the orchards
- 6.6 In this case, whilst the intentions of the applicant to maintain and protect both the Museum and working orchards and develop the educational/community based initiatives are acknowledged, it is not considered that there is any functional requirement associated with the activities on the site that would warrant a full-time residential presence. The day-to-day management of the orchards does not require a level of supervision that would require any one to reside permanently and whilst mention is made of security benefits, no convincing evidence of theft or damage to property is provided and in any event, this is not in and of itself a reason for allowing a new dwelling.
- 6.7 The supporting information advises that the existing activities are financially “self sufficient” and advice provided by the County Land Agent confirms that the project should be self financing but is very unlikely that it would be sufficiently profitable to cover a full-time worker.
- 6.8 Furthermore, whilst putting the management of the orchard into a CIC, is acknowledged, it remains the case that the applicant has not provided a legal mechanism that would provide complete certainty that the house and orchards would be retained together, in perpetuity and it is not considered that there would be no realistic planning mechanism to achieve this aim
- 6.9 Accordingly, it is not considered that this proposal demonstrates a sufficiently robust functional need and the financial model, whilst potentially self sustaining, suggests that there would be serious concerns about the long term viability of the enterprise. In both these respects, the conclusion is that a dwelling on site may well be convenient in terms of developing the enterprise, it is not an essential requirement and your officers are not convinced that there is a mechanism that would safeguard the orchard in perpetuity. As such a new dwelling in this isolated and otherwise unsustainable location would be contrary to Policies H7 and H8 of the HUDP and para 55 of the NPPF.

#### Impact on character and appearance of the locality

- 6.10 The site is within an attractive area of countryside on the edge of the floodplain of the River Lugg with the landscape character type identified as “Principal Settled Farmlands”. The existing buildings and indeed the proposed site for the dwelling are on a relatively flat part of the site, which then rises up towards Tidnor Wood. The site also falls within the Unregistered Park and Garden of Longworth Hall.
- 6.11 The chosen location for the dwelling is well related to the existing and established range of buildings at the site but the introduction of a residential use would in my view be at odds with the low key agricultural nature of these buildings. The dwelling would be taller than the existing



buildings and would necessitate the removal of a number of orchard trees as well as introducing additional hardstandings and domestic paraphernalia.

- 6.12 It is acknowledged that the proposed location would have a limited impact in the wider landscape by reason of its relatively inconspicuous position in relation to public vantage points. There would however be a change in the character of the site, and in the absence of any overriding justification for a dwelling, it is considered that such development should be resisted in order to protect the character of the site and surrounding area from unwarranted and unjustified development. In this context, it is considered that the application would be contrary to Policies LA2 and LA4 of the HUDP

#### Impact on Biodiversity

- 6.13 In common with the assessment set out above, the lack of any overriding justification for the dwelling must be given significant weight in the decision-making process. In the absence of such a need, the loss of even a small number of orchard trees and the associated loss of, and impacts upon the associated habitats should be accorded more weight in my opinion. In this respect it is considered that the proposal would fail to satisfy Policies NC1, NC6, NC7 and NC8 of the HUDP.
- 6.14 In addition to the direct impacts of the construction of the proposed dwelling, it is also of significant importance to establish the likely impacts of foul drainage discharges from the site in order to properly assess the impacts of such discharges upon the biodiversity of the local watercourses. This has become of particular significance in the light of the recognition that further discharges into the River Lugg are likely to have significant effects on its biodiversity value as a designated Special Area of Conservation. At the time of writing, and in response to additional technical information provided by the applicant (upgraded package treatment plant incorporating phosphate reduction), The Councils consultant Ecologist has carried out a further screening of the proposal concluding that with the upgraded treatment plant, there would be “No Likely Significant Effects” upon the integrity of the River Lugg/Wye Special Area of Conservation.
- 6.15 Natural England are currently scrutinising the revised HRA Screening and subject to confirming acceptance this would remove one of the previous refusal reasons.

#### Conclusion

- 6.16 Whilst the applicant has invested significant time and resources in establishing and maintaining the orchards and developed a self financing enterprise offering small scale apple and cider production alongside the provision of educational and community based activities, it is not considered that the aspiration to further develop these activities would amount to an essential need for a dwelling and as such it is maintained that in this isolated rural location the proposal is unacceptable as a matter of principle. In reaching this conclusion it follows that the unwarranted residential development would have an impact on the site and surrounding locality as well as the biodiversity value of the site. Whilst the implications for foul discharge is awaiting clarification from Natural England, it would appear likely that this technical matter has been resolved, subject to the installation of the upgraded treatment plant.
- 6.17 Therefore, notwithstanding the additional information provided by the applicant, the application is recommended for refusal.

**RECOMMENDATION**

That subject to the advice from Natural England corroborating the Councils HRA Screening, that planning permission be refused for the following reasons:

1. In the absence of any exceptional circumstances demonstrating that there is an essential need for a full time and permanent residential presence on the site, the erection of a dwelling in this isolated rural location would represent unwarranted and unsustainable development that would be contrary to Policies S1, H7 and H8 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.
2. In the absence of any exceptional circumstances justifying the introduction of a dwelling in this location, its siting, design and layout would result in harm to the character and appearance of the site and the surrounding locality. The unwarranted erosion of this attractive landscape which also forms part of an Unregistered Park and Garden would be contrary to Policies LA2 and LA4 of the Herefordshire Unitary Development Plan.
3. In the absence of any exceptional circumstances justifying the introduction of a dwelling in this location, its siting would result in harm to the biodiversity value of the site through the loss of trees and associated habitat. The unwarranted and unmitigated loss of orchard habitat would be contrary to Policies NC1, NC6, NC7 and NC8 of the Herefordshire Unitary Development Plan.

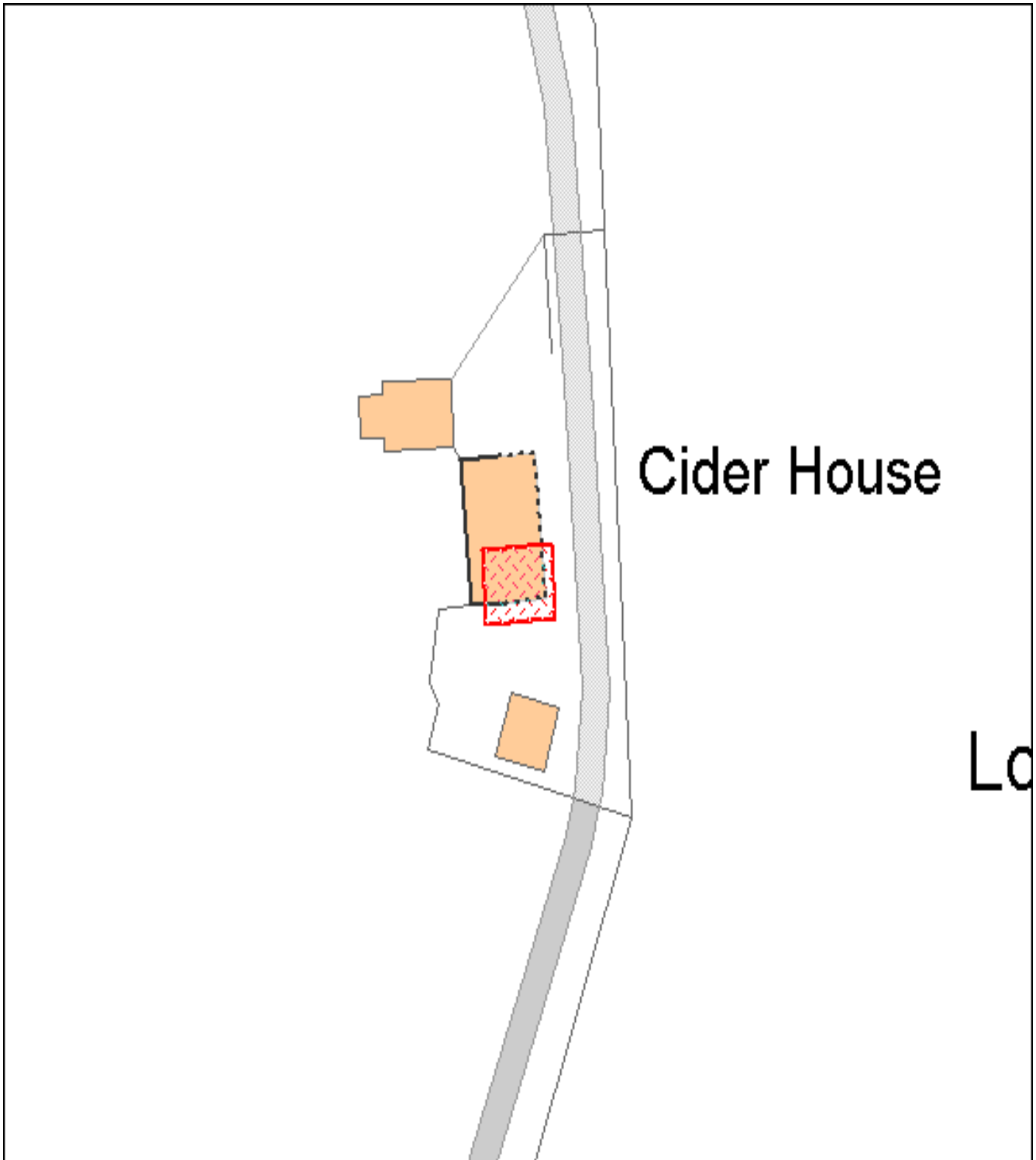
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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** S/113607/O

**SITE ADDRESS :** TIDNOR WOOD ORCHARDS, TIDNOR LANE, LUGWARDINE, HEREFORD, HR1 4DF

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