

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	29 SEPTEMBER 2021
TITLE OF REPORT:	<p>210222 - APPLICATION FOR CHANGE OF USE FROM AGRICULTURE TO SITING TWO YURTS FOR HOLIDAY USE WITH THE ACCOMPANYING CONVERSION OF ONE GARAGE BAY (OF A PAIR OF GARAGE BAYS PLUS WORKSHOP) TO PROVIDE TWO BATHROOMS AND TWO DISHWASHING FACILITIES AT WILLEY LANE FARM AT TOGPEN, WILLEY LANE, LOWER WILLEY, HEREFORDSHIRE,</p> <p>For: Mr Murray per Mr Paul Murray, Togpen, Willey Lane, Lower Willey, Presteigne, Herefordshire LD8 2LU</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=210222&search-term=210222
Reason Application submitted to Committee – Member Redirection	

Date Received: 21 January 2021
Expiry Date: 1st October 2021

Ward: Mortimer

Grid Ref: 334303,267081

Local Member: Cllr Carole Gandy

1. Site Description and Proposal

- 1.1 The dwelling known as Togpen is located in the north west of Herefordshire in the sparsely developed rural area known as Lower Willey. It is a short distance from the England/Wales border, with the nearest settlements being the village of Lingen approximately 2km to the east and the market town of Presteigne approximately 3.5km to the south west. Togpen lies on the southern side of the unclassified Willey Lane (U91620) as part of a small cluster of dwellings which also includes Willey Lane Farm and a converted barn. It forms part of a wider land holding extending to approximately 36 hectares which comprises mix of grassland and deciduous woodland. The land subject of the current application is situated to the east of the dwellings and sits within a valley where the topography of the land falls way in a southern direction. Surrounding land uses are predominantly agricultural with dwellings being scattered sporadically throughout the surrounding locale.
- 1.2 The current application seeks permission for the change of use of a parcel of land to the east of the dwelling to support the siting of two yurts to be used for holiday accommodation purposes. It is proposed that the yurts would be in situ between the 1st April and 31st October in any given calendar year, being removed for storage during the winter. It is also proposed that a bay of an existing garage structure near the main dwelling would be converted to provide bathroom and washing up facilities in order to support the occupation of the yurts. The scheme would utilise the existing site access onto the adjacent Willey Lane with the existing hardstanding yard areas providing parking space for users of the yurt accommodation.

Further information on the subject of this report is available from Mr Adam Lewis on 01432 383789

- 1.3 The parcel of land on which the yurts would be sited falls away to the east and is currently predominantly laid to pasture interspersed with a number of trees, with an area at the western end also being set aside for the growing of lavender. It is proposed to site two yurts towards the bottom end of the field approximately 60m and 90m respectively away from the main house (Figure 1 – yurts shown in yellow). They yurts themselves to do not constitute operational development, however the Applicant has indicated that they would have a diameter of 4.9m and a maximum height of approximately 3m. The external canvas would be coloured brown. An image of a similar yurt has been provided and is included at Figure 2.



Figure 1: Proposed Block Plan



Figure 2: Example Image of Similar Yurt

- 1.4 In order to allow for the sloping topography of the land, a level surface for each yurt would be created through the construction of a circular timber platform measuring 4.9m in diameter. This would remain in place permanently and would consist of vertical supports mounted in post spikes that are driven into the ground with a ply board deck above to support the yurt (Figure 2). The platforms would be 0.5m above natural ground level at their highest point.

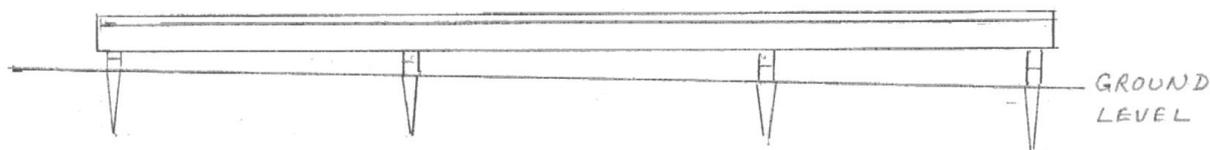


Figure 3: Proposed Platform Cross Section

- 1.5 There would be no additional hardstanding formed as part of the proposal with access to the yurts proposed to be via grass paths through the field from the parking areas to the west. The toilet and washing facilities that are proposed to be provided within the existing garage building will be connected to the utilities of the main house, which includes the discharge of additional foul water to an existing septic tank and associated soakaway field.

2. Policies

2.1 Herefordshire Local Plan Core Strategy (CS)

The following policies from the CS are considered to be of relevance to the current proposal;

- SS1 Presumption in favour of sustainable development
- SS4 Movement and transportation
- SS5 Employment provision
- SS6 Environmental quality and local distinctiveness
- SS7 Addressing climate change
- RA6 Rural economy
- MT1 Traffic management, highway safety and promoting active travel
- E1 Employment provision
- E4 Tourism
- LD1 Landscape and townscape
- LD2 Biodiversity and geodiversity
- LD3 Green Infrastructure
- SD1 Sustainable design and energy efficiency
- SD3 Sustainable water management and water resources
- SD4 Waste water treatment and river water quality

It is highlighted to Member's that the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy has yet to be made and is due early November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application.

The Herefordshire CS policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:- https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy

2.2 **Border Group Neighbourhood Development Plan (NDP)**

The Border Group NDP was 'made' on 25th January 2019. The following policies from the NDP are considered to be of relevance to the current proposal;

- BG1 – Promoting a sustainable community
- BG2 – Development strategy
- BG14 – Supporting local business
- BG17 – Highways and transport infrastructure
- BG18 – Flooding and surface water drainage
- BG20 – Protecting and enhancing the natural environment and landscape

The Border Group NDP policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

https://www.herefordshire.gov.uk/directory_record/3032/border_group_neighbourhood_development_plan

2.3 **National Planning Policy Framework (NPPF - July 2021)**

The following Chapters of the NPPF are considered to be relevant to the current proposal

- 1. Introduction
- 2. Achieving sustainable development
- 4. Decision-making
- 6. Building a strong, competitive economy
- 8. Promoting healthy and safe communities
- 9. Promoting sustainable transport
- 11. Making effective use of land
- 12. Achieving well-designed places
- 14. Meeting the challenge of climate change, flooding and coastal change
- 15. Conserving and enhancing the natural environment

The NPPF can be viewed here;

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005759/NPPF_July_2021.pdf

3. **Planning History**

3.1 There are numerous planning applications relating to the site over the period of approximately 20 years. The following are considered to be most relevant to the current proposal;

- DCN052328/F - Proposed conversion of agricultural barn into residential unit - Approved 2005
- P162900/FH - A Retrospective Planning Application for Four Small Outhouses, changes to the Entrance on to the Public Road, the Inclusion of a Wood Burning Stove, the Erection of Fences outside the Development Area and the Resultant Increase in the Curtilage – Allowed on Appeal APP/W1850/W/17/3176885
- P210478/PA7 - Prior approval for proposed lean-to extension to existing agricultural barn – Prior Approval Given

4. Consultation Summary

Statutory Consultations

4.1 Natural England – No Objections

SUMMARY OF NATURAL ENGLAND'S ADVICE: NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.

Notwithstanding the above, your authority should be aware of a recent Ruling made by the Court of Justice of the European Union (the CJEU) on the interpretation of the Habitats Directive in the case of Coöperatie Mobilisation (AKA the Dutch Case) (Joined Cases C-293/17 and C-294/17).

The Coöperatie Mobilisation case relates to strategic approaches to dealing with nitrogen. It considers the approach to take when new plans/projects may adversely affect the ecological situation where a European site is already in 'unfavourable' conservation status, and it considers the acceptability of mitigating measures whose benefits are not certain at the time of that assessment. Competent authorities undertaking HRA should be mindful of this case and should seek their own legal advice on the implications of these recent ruling for their decisions.

Internationally and nationally designated sites

The application site is within the catchment of the River Lugg which is part of the River Wye Special Area of Conservation (SAC) which is a European designated site, and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended), the 'Habitats Regulations'. The SAC is notified at a national level as the River Lugg Site of Scientific Interest (SSSI) Please see the subsequent sections of this letter for our advice relating to SSSI features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have¹. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

European site - River Wye SAC - No objection

Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has undertaken an Appropriate Assessment of the proposal, in accordance with Regulation 63 of the Regulations. Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

River Lugg SSSI – No objection

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

4.2 **Welsh Water – No bespoke comments**

We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

As the applicant intends utilising a septic tank facility, we would advise that the applicant contacts Natural Resources Wales who may have an input in the regulation of this method of drainage disposal.

However, should circumstances change and a connection to the public sewerage system/public sewerage treatment works is preferred we must be re-consulted on this application.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

Internal Council Consultations

4.3 **Transportation Manager – No Objections**

The highways implications of the introduction of 2 yurts in the field adjacent to the main cluster of buildings are considered to be of low impact in this area of the network. The use for the access is considered appropriate, taking into account the character and usage of the highways network adjacent to the application site.

The scheme includes adequate parking for the modest number of yurts and there is ample opportunity for turning in the site.

It would be beneficial if the inclusion of secure cycle parking for guests was delivered to allow active travel options for guest to nearby amenities and points of interest. To ensure that this is followed through the inclusion of condition CB2 is recommended in the event that permission is granted.

There are no highways objections to the proposal, subject to the recommended condition being applied.

4.4 **Conservation Manager (Ecology) – No Objections**

The site is within the catchment of the River Lugg (Wye) SAC and this application triggers the requirement for a Habitat Regulations Assessment process. The appropriate assessment completed by the LPA must be subject to a 'no objection' response from Natural England prior to any planning consent being finally granted.

The following notes and comments are made in respect of the HRA process:

- The applicant has advised the existing septic tank and ground discharge soakaway drainage field will be utilised to manage additional foul water flows created by the proposed holiday accommodation occupation.
- The applicant has advised that the existing septic tank has a usable capacity of 3600 litres (3.6Cubic meters) and the location of the drainage field has been shown on supplied plans.
- Under British Water 'flows and loads' a 3600 litre septic tank is suitable for 10-11 people equivalent (10-11P)
- The septic tank currently supports foul water from a 3 bedroom house that 'flows and loads' equates to 5P (people equivalent) or 5x 150 litres = 750 litres

- The proposed two holiday yurts (each designed to accommodate up to two people = total 4P) are 'fully serviced' and 'flows and loads' provides for the same 150 litres per person foul water flows – so 4x150 = 600 litres
- Calculated total foul water flows in to the system would be 1350 litres + required 'headroom' 2000 litres = 3350 litres.
- With a total capacity of 3600 litres the existing septic tank system is demonstrated to have sufficient capacity to accommodate the additional flows from the proposed development.
- The LPA has no reason to consider that the information supplied by applicant is not correct.
- The existing soakaway drainage field location is within the proposed development boundary and under the applicant's ownership/control.
- From supplied plan and available information – including data supplied to the LPA by Natural England the LPA has no reason to consider that as an existing drainage field it is not compliant with relevant current criteria that as agreed with Natural England demonstrate beyond all reasonable scientific doubt that there are no 'phosphate pathways' created by the proposed development. (Criteria: Distance from recorded watercourse, distance from designated nature conservations site, ground water levels, slope, distance from any other foul water drainage field, expedited pathways such as local geology)
- Any additional surface water created will be minimal and can be accommodated within the proposed development location.
- The agreed foul water and surface water management systems can be secured by condition on any planning consent granted.

Subject to Natural England having 'no objection' to the HRA appropriate assessment completed by the LPA a relevant condition is requested on any planning consent granted:

Other ecology comments: Based on available information the LPA has no reason to consider that there are likely to be any effects on 'protected species from the proposed development. The applicant and their contractors in respect of all demolition, site preparation and construction works have their own legal duty of care to wildlife protection as afforded by the Wildlife & Countryside Act that lies above any conditions the LPA could include; with any breach being investigated by the local Wildlife Crime Officer from West Mercia police. A relevant informative is suggested for inclusion on any planning consent granted.

The site is in an area with an intrinsically dark landscape that benefits local amenity and nature conservation, including nocturnal protected species known to be present in the. A condition to ensure all external lighting is kept to the essential minimum and any systems installed compliant with current best practice is requested.

Excepting any required planting or other works in respect of the wider site and any landscape conditions, given the location, nature and scale of the development it is not appropriate for ecology to require any specific biodiversity net gain enhancement for this specific application.

4.5 **Environmental Health (Noise and Nuisance) – No Objections**

My comments are with regard to potential noise and nuisance issues that might arise from development. Our department has no objections on these grounds provided that the following conditions are imposed:

There shall be no playing of amplified music nor the use of fireworks outside at any time.

Reason: In order to protect the amenity of occupiers of nearby properties so as to comply with Policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy 2011-31

4.6 **Conservation Manager (Landscape) – No Objections**

Final Comments 21st May 2021

I refer to correspondence dated 08/04/2021 between the applicant and planning officer, explaining the proposal in response to the landscape officer comments.

Concerns raised have been clarified. I.e. the use of a dark coloured material (brown), not white to reduce visual contrast with the landscape; the yurt base is circular and integrated; siting rationale has been conveyed; and the yurts will be temporary in nature, for example, removed in the winter months.

On the basis of this, I have no objection

Initial Comments 1st April 2021

Yurts can be white and contrasting within the rural landscape. In this instance, given the lack of detail (i.e. design, colour, chimney stack etc.), it is difficult to ascertain how the yurts will appear within this landscape setting.

There is a simplicity to the temporary and low impact nature of the development proposal, other than permanent timber platforms located in a field. There are potentially other associated elements and paraphernalia that may come with visitor demands and request that may provide unintended or unforeseen impacts (hard pavements during wet and muddy conditions; accessibility requirements for wheelchairs; handrails; bike lockers; chimneys; outdoor picnic tables; additional paving for outdoor use; and campfire rings etc.), that could change the degree of simplicity and therefore visual impact.

The development would impact the visual amenity of open countryside and local distinctiveness contrary to Local Plan, Core Strategy LD1 and SS6

5. **Representations**

5.1 **Border Group Parish Council** – Support the application. No bespoke comments.

5.2 **Nine Letters of Objection** have been received. They are summarised as follows;

- Increased traffic on single track rural lanes causing safety and maintenance issues
- Unsuitable development for an unspoilt rural area
- Contrary to policies of Border Group Neighbourhood Plan BG1, BG14, BG17, BG20
- Potential for adverse effect on the character of the rural landscape
- Additional guests would disturb neighbours and tranquillity of the area (noise, lighting)
- Concerns regarding adequacy of drainage arrangements and effect on River Lugg and nearby Limebrook
- Potential for overlooking and lack of privacy adversely affecting neighbouring amenity
- Application is disingenuous as 'agricultural diversification'
- There is a general lack of demand for holiday accommodation in the area
- Lack of facilities nearby to support holiday accommodation
- Rural location of site would increase car dependency
- Increased demand on private water supplies
- Concerns regarding scope for further growth

5.3 **Four Letters of Support** have been received. They are summarised as follows;

- Proposal would support local community and rural economy
- Proposals would support low impact sustainable tourism

Further information on the subject of this report is available from Mr Adam Lewis on 01432 383789

- Proposal fully accords with national policies and local development plan
- Sufficiently remote to avoid any detriment to neighbours
- The proposal would generate minimal amounts of traffic

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

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=210222&search-term=210222

Internet access is available at the Council's Customer Service Centres:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

6. Officer's Appraisal

6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:

"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

6.2 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS) and the 'made' Border Group Neighbourhood Development Plan (NDP). The recently revised National Planning Policy Framework (July 2021) is also a significant material consideration.

6.3 As noted at Section 2.1, the Herefordshire CS is now over five years old and is currently at the early stage of review as required by Chapter 33 of the NPPF. The level of consistency of the policies in the CS with the NPPF, and the weight to be attributed to them, must be taken into account by the decision maker when determining any application. In this case, Officer's consider the most relevant policies of the CS – namely those relating to tourism and development in the context of the rural economy – to be consistent with the principles set out with the NPPF. As such, the policies of the CS are considered to continue to attract significant weight.

6.4 At the heart of the NPPF lies the presumption in favour of sustainable development, which must be applied in all aspects of plan-making and decision-taking. In the context of the latter, the application of the positive presumption means that development proposals which accord with an up-to-date development plan without delay. Where there are no relevant development plan policies or the policies which are most important for determining the application are out-of-date, then permission should be granted – unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The positive presumption is reflected in the policies of the local development plan.

6.5 The proposal in this case seeks to provide tourism accommodation in the rural context as a form of business diversification. The guidance set out at Chapter 6 of the NPPF is therefore pertinent, which broadly sets out that planning policies and decisions should help to create conditions which contribute to the creation of a strong and competitive economy. In the specific context of the rural economy, Paragraph 84 directs that the planning system should support the sustainable growth and expansion of all types of businesses in rural areas. This includes through diversification of agricultural businesses and through support for sustainable rural tourism and leisure development which respect the character of the countryside.

6.6 Strategic Objective 9 of the Core Strategy broadly aligns with the NPPF and seeks to develop Herefordshire as a destination for quality leisure visits and sustainable tourism by the provision of new, and the enhancement of existing, tourism infrastructure. More detailed policy guidance in this regard is provided by RA6 and E4. Broadly, E4 seeks to promote Herefordshire as a destination for quality leisure visits and sustainable tourism by utilising, conserving and enhancing

the county's unique environmental and heritage assets and recognising the intrinsic character and beauty of the countryside. It encourages the provision of new accommodation and attractions throughout the county which will help to diversify the tourist provision, extend the tourist season and increase the number of visitors staying overnight. In rural areas specifically, it directs that proposals for new tourist accommodation must be of an appropriate scale and character for their surroundings. Policy RA6 relates more broadly to proposals that effect the rural economy, and confirms that proposals which help diversify the rural economy, including those which support the retentions and diversification of existing agricultural business and support the promotion of sustainable tourism, will be supported subject to certain criteria being met, as follows;

- The development should be of a scale which is commensurate to its location and setting
- The development should not cause unacceptable adverse impacts to the amenity of nearby residents by virtue of design and mass, or by noise, dust, lighting and smell
- The proposal should not generate traffic movements which cannot be safely accommodated within the local road network
- The proposal should not undermine the achievement of water quality targets in accordance with policies SD3 and SD4

6.7 From the Border Group NDP, Objective Two of the plan is to encourage diversification within the rural economy of the group parish through supporting tourism, broadening the base of agricultural businesses and creating a balance between providing homes and jobs. Policy BG1 reflects the objectives and sets out a range of principles that seek to promote sustainable development. Under point c), it states that a high level priority will be to support the development of the local rural economy by enabling the diversification of businesses and employment opportunities but ensuring any new development does not detract from features that support the local tourism industry. BG14 states that proposals for the development of local businesses will be supported where they result in sustainable economic growth. The policy requires in all instances that the development should be in scale with the rural character of the area in which the site is located and sets out a criterion based approach for assessing whether a proposal can be considered 'sustainable'. These are as follows;

- a. The amenity of nearby residents is not adversely affected; There will be no detrimental effect upon the local highway network as a consequence of traffic generated by the proposal;
- b. Opportunities should be taken to develop routes and off-site measures which facilitate and encourage active travel;
- c. Small scale light or general industry, in particular craft-based operations or sustainable technologies will be encouraged to locate in suitably converted rural buildings, or on brownfield sites provided they comply with the general criteria set out in this policy;
- d. There will be an emphasis upon the use and conversion of rural buildings to employment uses;
- e. Proposals should avoid obtrusive external storage and paraphernalia or provide effective screening where this is necessary;
- f. Potential polluting effects of any enterprise should be fully mitigated, and where they cannot, permission will be refused;
- g. Diversification proposals meeting the above criteria will in particular be supported where this retains essential services and facilities through increasing their viability.
- h. Tourism enterprises will be supported where they are appropriate to the area's rural character in terms of their nature and scale;

6.8 It is understood from the supplied Design and Access Statement that the Applicant operates a small scale and low intensity agricultural business from the premises and on the surrounding land holding of approximately 36 hectares. This appears to consist of sheep grazing, land stewardship and a small operation growing lavender. The proposal seeks to diversify the operation further and provide two yurts as accommodation for tourists. The proposal broadly aligns with the objectives of the CS and the NDP to support the tourism sector in the county and would bring benefits by

expanding the accommodation offer, increasing visitor numbers and promoting additional expenditure in the local economy. The proposal is hence considered to benefit from 'in principle' policy support, as set out above. In order to be permitted however, the full details of the proposal must be assessed to determine whether the scheme is representative of sustainable tourism development. The main issues to consider in this regard are set out below.

Site Location and Sustainability

- 6.9 Unlike with housing orientated policies, the tourism policies of the development plan do not specifically define what is considered to be an appropriate location for new tourist accommodation. Rather, a criteria based approach is adopted which includes that proposals should be of a scale that is commensurate with the location whilst respecting the character of the area within which the site is set. Policies E4 and BG14 do however seek to ensure that measures for active travel such as walking and cycling are encouraged, and this aligns with national and local policies which broadly seek to ensure that new development be directed to the most sustainable locations which reduce the need to travel, reduce dependency on the use of private cars, and promote alternative means of sustainable transport as much as possible. That being said however, in the context of proposals which support the rural economy Paragraph 85 is specific in directing that planning decisions should recognise that sites to meet local business needs in rural areas may have to be found in locations that are adjacent or beyond existing settlements and in locations that are not well served by public transport. In these circumstances, it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport).
- 6.10 It is noted that the rural location of the site and the limited facilities available in the surrounding area is a common theme in the representations received from local residents. In this sense, it is acknowledged that the site is in relatively isolated rural location with the nearest village of Lingen offering basic services (such a public house) being around 2km away to the east. The site is not served by public transport. With this in mind, it is a reasonable assumption that future users would have a high dependency on the use of a private car during their stay and it must be acknowledged that this creates a degree of tension the policy objectives to promote sustainable alternative transport means. However, the rural location of the site is not untypical of the type of accommodation that is commonly sought by visitors to the county and the NPPF is explicit that decision makers must recognise that sites to support the rural economy may have to be found in locations that are beyond settlements and not served by public transport. The competing objectives in this regard, as well as the benefits and harms associated with them, must be weighed by the decision maker in the final planning balance.

Landscape Character

- 6.11 Policy E4 the CS states that proposals for new tourism development will be supported where they protect the county's unique environmental and heritage assets and recognise the intrinsic character and beauty of the countryside. In a similar vein, policy BG14 h) of the NDP sets out that new tourism enterprises will be supported where they are appropriate to the area's rural character in terms of their nature and scale. More broadly, policy SS6 of the Core Strategy states that development proposals should be shaped through an integrated approach to planning a range of environmental components from the outset, including the character of the landscape and local distinctiveness. This is further supported by policy LD1 which states that proposals should demonstrate that they have been positively influenced by the character of the landscape in terms of the site selection and the scale; nature and design of the development. Similar requirements are set out within policy BG20 of the NDP. In the context of rural tourism, RA6 and BG14 both set out similar requirements to ensure that proposals are appropriate to the area's rural character in terms of their nature and scale.

- 6.12 In considering the impact of the proposal upon the landscape, Member's must be mindful that the proposal in this case is primarily concerned with the material change of use of the land. There is a limited amount of physical works proposed as part of the scheme that are considered to constitute operational development having regard to the definitions set out at Section 55 of the Town and Country Planning Act (1990). Broadly, the operational development is confined to the building of the two timber platforms upon which the yurts would sit. The yurts themselves are not considered to be buildings for the purposes of the Act.
- 6.13 The site here lies within a narrow valley which rises from Lingen in the east towards Stapleton Hill and Hell Peak in the west. The surrounding area is distinctly rural in character, with the land predominantly being a patchwork of fields and woodland interspersed with sporadic dwellings. The Council's Landscape Character Assessment (2004) identified the area to be within the 'Wooded Hills and Farmland' landscape type, which is typified by sloping topography and a strong hedgerow field pattern interspersed with the patches of semi-natural woodlands.
- 6.14 In terms of the scale and nature of what is proposed, the two yurts provide a modest amount of accommodation and the physical impacts of the scheme are naturally limited by the temporary nature of the structures and the use of existing buildings to provide supporting facilities. It is therefore considered that the proposal is commensurate to the site context and that would not be at odds with the sparsely developed character of the surrounding locale. No conflict with this element of RA6 or BG14 h) is hence identified.
- 6.15 In terms of siting, the yurts are proposed to be positioned on an area of pasture land to the east of the main house at Togpen. The main views of the yurts would be gained at relatively close range from the adjacent Willey Lane, which is separated by an established hedgerow. Although the site has a more open aspect to the east, the enclosed topography of the valley and the absence of any PROW's in this direction limits longer distance of the site from public vantage points. Nonetheless, the introduction of the yurts has the potential to impact the character of the landscape character and this must be carefully considered. Specialist advice from the Council's Conservation Manager (Landscape) has been sought in this regard and, following clarification on a number of points, it has been confirmed that no objections are offered to the scheme in landscape character terms. Although there would be potential for impact as a result of the scheme, this is considered to be mitigated to acceptable levels by the temporary nature of the yurts and the choice of external fabric colour. The nature of the yurt tents is such that they are inherently experienced as transient, rather than permanent, features within the landscape in any case, and that would be reinforced further here by the Applicant's undertaking to remove them from the land between 1st November and 31st March. This removal during the winter months can be secured by condition. The Applicant has also specified that the external fabric of the yurts would be coloured brown (rather than the typical white), which is visually recessive within the landscape and serves to reduce the prominence of the yurts further. Again, this can be secured by condition. The timber bases are the only elements of the yurt arrangement which would remain permanently in situ, and the low height and nature of these is such that they would be minimally intrusive upon the character of the area. The scheme does not seek to provide any new hardstanding or similar infrastructure to support the use of the land, and the conversion of the existing garage bay to provide washing and toilet facilities would have a negligible impact on the character of the landscape. On the basis of the above therefore, it is considered that no significant harm to the character of the landscape would occur which brings the proposal into conflict with development plan policies LD1, BG20, RA6 or BG14.

Highways and Access

- 6.16 Policies RA6 and BG14 both seeks to ensure that proposals in the context of the rural economy do not adversely effect the integrity of the highways network. Policy MT1 of the CS offers more detailed requirements in this sense, directing that all development proposals should demonstrate that the strategic and local highways networks can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts

can be managed to acceptable levels to reduce or mitigate any adverse impact from the development. Developments should also ensure that developments are designed and laid to achieve safe entrance and exit, and have appropriate operational, manoeuvring and parking space having regard to the standards set out in the Council's Design Guide for New Developments. At a local level, policy BG17 sets out a range of highways related requirements including that safe access onto roads should be delivered and adequate off-street parking should be provided. BG1 also sets out the principle that developments should not result in danger from vehicles or traffic that cannot be accommodated upon the local highway network, both in terms of highway capacity and effect upon local amenity. These policies reflect the principles established at Chapter 9 of the NPPF, particularly Paragraph 110 which states that applications should be assessed to insure (inter alia) that safe and suitable access can be achieved for all uses and that any significant impacts on the network in terms of capacity can be mitigated cost effectively to an acceptable degree. At Paragraph 11, it states that development should only be refused on highways grounds where the residual impact on the road network would be severe.

- 6.17 The proposal in this case would utilise the existing vehicular access to the site off the unclassified Willey Lane. The existing access point offers good levels of viability and the single track nature of the highway in this location means that traffic speeds and volumes are relatively low. Given the modest nature of the accommodation proposed, the levels of additional traffic generated by the development are also low and it is considered that the minor uplift in vehicle movements could be satisfactorily accommodated by the local network. As such, the effects of the development on the road network in terms of safety or traffic generation could not reasonably be described as being 'severe' as defined by the NPPF. There is also adequate space available within the site for parking and turning. It is noted that the Council's Transportation Manager has not identified any issues with the scheme in this respect and hence no objections are offered. Conditions are recommended to secure a scheme of secure cycle storage prior to the first occupation of the accommodation, which is in line with the policy aspirations to encourage the use of active travel measures wherever possible. Subject to this, the scheme is considered to accord with policies RA6, BG14, MT1 and BG17 in highways terms.

Neighbouring Residential Amenity

- 6.18 Policy SD1 of the CS requires that development proposals safeguard good standards of residential amenity for existing and proposed residents, for instance in terms of overlooking, overshadowing or overbearing. Policies RA6 and BG14 are also relevant in the context of development in the rural economy. The former requires that proposals should not cause unacceptable adverse impacts to the amenity of nearby residents by virtue of design and mass, or by noise, dust, lighting and smell; whilst the latter offers support to rural diversification provided that the amenity of nearby residents will not be adversely affected. These accord with the principles set out at Paragraph 130 of the NPPF with regards to creating places that deliver high standards of amenity for both existing and future occupiers.
- 6.19 It is noted that a number of local representations have been received which raise concerns that the development could detrimentally affect the amenity of existing residents. The key concerns identified in this sense are through additional noise, additional lighting and additional traffic.
- 6.20 In the first instance, the occupation of the yurts as tourism accommodation is not a use that is considered to be a particular source of noise or nuisance. The use as tourist accommodation is akin in nature to the use of residential properties in the surrounding locale and hence the proposal does not give rise to any compatibility issues in this sense. The views of the Council's Environmental Health Officer (Noise and Nuisance) have been sought in this regard and no concerns have been raised. Conditions have however been recommended to restrict the use of fireworks and amplified music, and further conditions are also recommended to limit the installation of external lighting to ensure that neighbouring amenity (as well as landscape character and the area's dark skies) are maintained. In respect of potential for overlooking or loss of privacy, the degree of separation between the proposed location of the yurts and nearest

neighbouring properties is sufficient to ensure that no harm in these terms would occur. Likewise, the limited additional traffic that would be generated by the proposal could not reasonably be described as having the potential to adversely affect amenity over and above the current movements on the network. As such, Officers consider that the proposal would not have any demonstrable adverse impact on the amenity of nearby residents. There is hence no conflict with SD1, RA6 or BG14 found.

Protected Species and Biodiversity

- 6.21 Policy LD2 of the CS seeks the conservation, restoration and enhancement of biodiversity and geodiversity assets. As such, development will not be permitted where it has the potential to harm these assets or reduce the effectiveness of the ecological network of sites. The introduction, restoration and enhancement of biodiversity and geodiversity features will be actively encouraged. Similarly, policy BG20 of the NDP seeks to ensure that all development should not adversely affect important biodiversity habitats and species. These policies reflect the principles established at Chapter 15 of the NPPF.
- 6.22 The proposal site in this case comprises an area of grassland interspersed with a small number of fruit trees. The yurts would be sited in the open areas between the trees and operational works would be limited to the erection of the base structures, which involves posts being driven into the ground and a level platform being formed atop this. Having regard to the nature of the site and the limited disturbance associated with the proposal, the Council's Ecologist advises that there is no reason to believe that the scheme would have any adverse effect upon protected species or features of biodiversity. A condition will be attached to restrict the provision of external lamination that may otherwise be detrimental to the dark skies of the area and an informative note is recommended to remind the Applicant of their responsibilities should protected species be encountered on the site. Subject to this, the scheme is considered to accord with policies LD2 and BG20.

Drainage and Habitats Regulations Assessment

- 6.23 In relation to foul water management, policy SD4 sets out a hierarchal approach whereby a connection to the mains sewer is the preferred option of management. Where this is not possible, private alternatives should be provided with the order of preference being package treatment plants with discharge to a soakaways, septic tanks, and (in exceptional circumstances) cess pits. In all circumstances, proposals will need to demonstrate that the development would have no likely significant unmitigated adverse effect on water quality and the River Wye Special Area of Conservation (SAC). This requirement is reinforced by policy LD2 and the Council has a statutory duty to consider the impact of development upon the River Wye SAC under the Conservation of Habitats and Species Regulations.
- 6.24 Toilets and welfare facilities would be provided through the conversion of part of an existing garage block, with additional waste water being managed through a connection to the existing septic tank which served the host dwelling and, in turn, discharges treated effluent to a soakaway drainage field. The Applicant has provided details of the tank and calculations to confirm that the system has adequate capacity to support the additional loadings created by the development in accordance with British Water Flows and Loads. Officers have no reason to doubt the veracity of these calculations and hence the arrangement proposed is considered to be acceptable with regards to the requirements of policy SD4.
- 6.25 With respect of the Council's duties under the Habitats Regulations, the site here lies within the catchment of the River Lugg which, in turn, is a sub-catchment of the River Wye SAC. Members will no doubt be aware however that the River Lugg is currently failing its conservation targets for phosphate levels. Following a 2018 judgement in the Court of Justice of the European Union on the interpretation of the Habitats Directive ('The Dutch Case'), it has been clarified that where a site is failing its water quality objectives, and is therefore classed as being in an unfavourable

condition, there is limited scope for the approval of additional damaging effects. In essence, this means that the Council is currently unable to positively assess applications in the Lugg catchment unless it can be shown with certainty to have a neutral impact upon the integrity of the designated site. Natural England, as the relevant statutory body, have provided advice on situations that would allow the Council, as the competent authority, to conclude that the development would have a neutral impact in this regard. This includes where discharge of treated effluent to a drainage field is proposed and a range of criteria are met. This guidance is set out within the Council's April 2021 Position Statement, which is available here;

<https://www.herefordshire.gov.uk/downloads/file/22149/position-statement-update-april-2021>

- 6.26 The Council's Ecologist is responsible for assessing the proposal with regards to the Habitats Regulations and has completed an Appropriate Assessment as required by Section 63 of the regulations. The assessment has regard to information supplied by the Applicant, as well as GIS data supplied to the Council by Natural England. The assessment concludes that having regard to the information available, the existing drainage system on the site would comply with the relevant criteria and hence there would be no pathway for the development to have an adverse impact on the integrity of the River Lugg and River Wye SAC. This assessment has been subject to consultation with Natural England and their response (Section 4.1) confirms that they agree with the Council's conclusion that the development would have no adverse impact on the integrity of the River Lugg or River Wye SAC, subject to conditions being imposed to secure the drainage arrangement in perpetuity. The scheme is hence considered to safeguard water quality and designated conservation sites and there is no conflict with development plan policies LD2 and SD4, or the requirements of the Conservation of Habitats and Species Regulations (2017) (as amended).

Planning Balance and Conclusions

- 6.27 The application is to be considered in the context of the presumption in favour of sustainable development as required by the NPPF. This means approving development that accords with the development plan without delay. The Framework sets out that the achievement of sustainable development is dependent on three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are an economic objective, a social objective and an environmental objective.
- 6.28 In the first instance, it is noted that the development plan lends 'in principle' support for proposals which support the rural economy and promote Herefordshire as a tourism destination. The proposal here would align with these objectives. The provision of the yurts would support the diversification of a rural business and would expand the overnight rural accommodation offer which, in turn, would promote additional expenditure in the local economy. This is a tangible benefit that contributes to the achievement of the economic objective of sustainable development as defined by the NPPF. Moreover, the economic benefits of the scheme, particularly in terms of the income offered for the applicant and the financial stimulus provided to local business by visitors, would also lead to knock-on benefits in the social sphere in terms of increasing the vitality and resilience of the rural community. In the environmental sphere, it is considered that the scheme would have a negligible impact on the highways network and residential amenity, whilst potential impacts upon the character of the landscape and biodiversity have been adequately mitigated against. However, a degree of harm has been identified as a result of the site's isolated rural location; which increases car dependency and does not align with policy objectives to promote sustainable alternative means of travel.
- 6.29 Considering the proposal holistically, it is considered that the benefits of the scheme are not outweighed by the limited harms that have been identified. When viewed in the round, the proposal is representative of sustainable tourism development which accords with the relevant policies of the development plan – notably RA6, E4 and BG14. It hence benefits from the positive

presumption that is enshrined within the NPPF and approval is recommended accordingly, subject to the conditions set out below.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

- 2. The development shall be carried out strictly in accordance with the approved plans, except where otherwise stipulated by conditions attached to this permission.**

Reason. To ensure adherence to the approved plans in the interests of a satisfactory form of development which complies with policies E4, RA6, LD1, SD1 and MT1 of the Herefordshire Local Plan Core Strategy, policies BG1, BG14, BG17 and BG20 of the Border Group Neighbourhood Development Plan and the principles set out in the National Planning Policy Framework.

- 3. There shall be no more than two yurts sited upon the land subject of this permission at any time and they shall be sited in accordance with the locations shown on the approved site block plan supplied to the Local Planning Authority on the 24th August 2021.**

Reason: In order to define the terms of the permission and to minimise the potential for visual intrusion within the landscape as required by policies SD1, LD1, RA6 and E4 of the Herefordshire Local Plan – Core Strategy, policies BG1, BG14 and BG20 of the Border Group Neighbourhood Development Plan and the principles set out in the National Planning Policy Framework

- 4. The yurts subject of this permission shall only be in place and/or occupied between the 1st April and 31st October in any given year. Outside of these periods, the yurts shall be dismantled and removed from the land along with all associated paraphernalia (with the exception of the permanent base structures).**

Reason: In order to define the terms of the permission and to minimise the potential for visual intrusion within the landscape as required by policies SD1, LD1, RA6 and E4 of the Herefordshire Local Plan – Core Strategy, policies BG1, BG14 and BG20 of the Border Group Neighbourhood Development Plan and the principles set out in the National Planning Policy Framework

- 5. The yurts hereby permitted shall only be used for holiday purposes by tourists. No person or group of persons shall occupy the accommodation for more than 28 days consecutive days at a time and no same person or group of persons shall occupy the accommodation for more than 156 days in any one calendar year. The owners/operators of the site shall maintain an up-to-date register of the names of all occupiers of the accommodation and of their main home address (i.e. place of residence) and shall make this information available at all reasonable times to the Local Planning Authority.**

Reason: To ensure that the development hereby permitted is used for the specific use applied for and to prevent the proliferation of uncontrolled residential uses in the open countryside in accordance with polices SS4, SS7, RA6, E4 and RA3 of the Herefordshire Local Plan Core Strategy, polices BG1, BG14 and BG20 of the Border Group Neighbourhood Development Plan and the principles set out in the National Planning Policy Framework

6. **The external surfaces of the yurts hereby approved shall be permanently coloured dark brown, unless a suitably recessive alternative colour is first agreed in writing with the Local Planning Authority.**

Reason: To ensure that the yurt structures assimilate appropriately into the landscape in the interests of protecting the character of the locale in accordance with the requirements of policies SD1, LD1, RA6 and E4 of the Herefordshire Local Plan – Core Strategy, policies BG1, BG14 and BG20 of the Border Group Neighbourhood Development Plan and the principles set out in the National Planning Policy Framework.

7. **All foul water shall discharge through a connection to the existing septic tank and ground discharge drainage field as advised in supplied Design & Access Statement and accompanying site plans; and all surface water shall to discharge to soakaway infiltration features on land under the applicant’s ownership; unless otherwise agreed in writing by the Local Planning Authority.**

Reason: In order to comply with The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019’ (the ‘Habitats Regulations’), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD2, SD3 and SD4

8. **At no time shall any external lighting except in relation to safe use of the approved development be installed or operated in association with the approved development and no permanently illuminated external lighting shall be operated at any time, without the written approval of the Local Planning Authority. All lighting installed shall demonstrate compliance with latest best practice guidance relating to lighting and protected species-wildlife available from the Institution of Lighting Professionals.**

Reason: To ensure that all species and local intrinsically dark landscape are protected having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019’ (the ‘Habitats Regulations’), Wildlife & Countryside Act (1981 amended); National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1-3

9. **There shall be no playing of amplified music nor the use of fireworks outside at any time.**

Reason: In order to protect the amenity of occupiers of nearby properties so as to comply with Policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy,

Prior to the first use of the yurts hereby permitted, full details of a scheme for the provision of covered and secure cycle parking facilities shall be submitted to the Local Planning Authority for their written approval. The covered and secure cycle parking facilities shall be carried out in strict accordance with the approved

details and available for use prior to the first use of the development hereby permitted. Thereafter these facilities shall be maintained for the lifetime of the development.

Reason: To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy and to conform to the requirements of policies SS4, MT1, RA6 and E4 of Herefordshire Local Plan – Core Strategy, policies BG14 and BG17 of the Border Group Neighbourhood 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.
2. The proposed development may not have access to mains water and be reliant on a private water supply. The applicant is advised that the Private Water Supplies (England) Regulations 2016 (as amended) and the Water Supply (Water Quality) Regulation 2016 are likely to apply. In accordance with these Regulations and the Building Regulations 1984 the water must be of a potable and safe standard.

If the supply is to be used for shared or commercial purposes including renting, the Private Water Supplies (England) Regulations 2016 specify that the water supply cannot be used until it has been risk assessed by the local authority’s private water supplies team (01432 261761) and found compliant.

Applicants that are connecting to existing private water supplies or accessing sources of water on land over which they have no control are advised to give careful and specific attention to contractual/civil arrangements including rights of access, maintenance arrangements, provision of alternative water supply are agreed in writing at the outset.

3. The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended), with enhanced protection for special “protected species” such as all Bat species, Great Crested Newts, Badgers and other wildlife that are present and widespread across the County. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it advised that further advice from a local professional ecology consultant is obtained.

Decision:

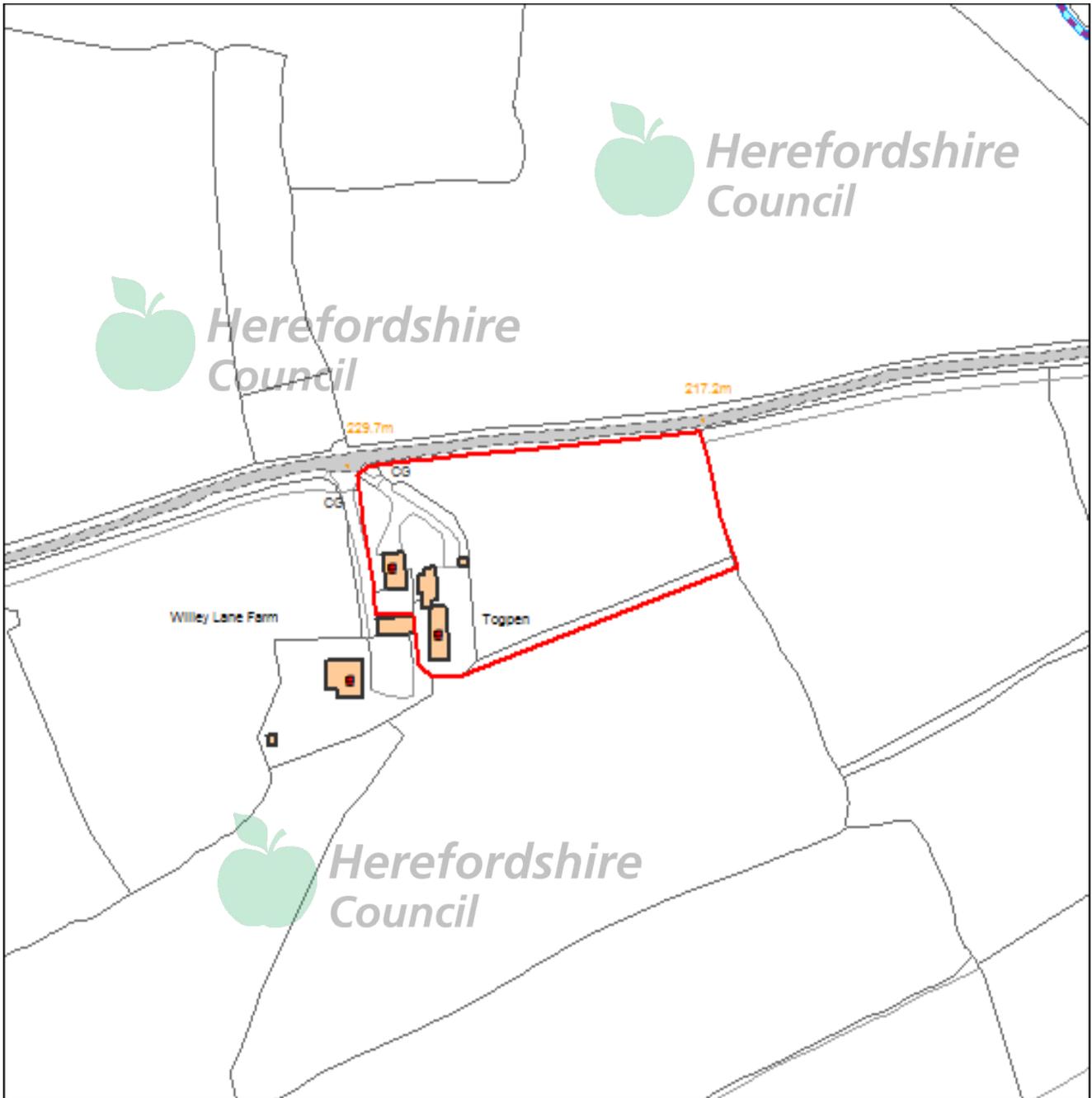
Further information on the subject of this report is available from Mr Adam Lewis on 01432 383789

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 210222

SITE ADDRESS : TOGPEN, WILLEY LANE, LOWER WILLEY, HEREFORDSHIRE

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