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| MEETING: | PLANNING AND REGULATORY COMMITTEE |
| DATE: | 15 March 2022 |
| TITLE OF REPORT: | 222295 - PROPOSED CHANGE OF USE OF BUILDING TO HOLIDAY LET AT AGRICULTURAL BUILDING ADJACENT BERRINGTON BOWER, MARDEN, HEREFORD, HR1 3EY For: Mr Powell per Mr Matt Tompkins, Lane Cottage, Burghill, Hereford, Herefordshire HR4 7RL |
| WEBSITE LINK: | https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=222295&search-term=222295 |
| Reason Application submitted to Committee – Redirection | |

Date Received: 12 July 2022

Ward: Sutton Walls

Grid Ref: 352652,250046

Expiry Date: 6 September 2022

Local Member: Cllr Kema Guthrie

1. Site Description and Proposal

- 1.1 The application site relates to a small, historic barn of stone construction. It is located to the immediate north of Berrington Cottage, just to the west of the small hamlet of Litmarsh and approximately 1¾ miles north of Marden. The barn, together with the dwelling, are accessed via a private road taken off the C1120 (Marden – Litmarsh – Bodenham road). The building is an attractive example of a stone cowshed and has some architectural and historic value.
- 1.2 This planning application seeks to change the use of the building into a holiday let. There would be no external changes to the building and the existing driveway and access would be utilised without amendment. The existing drainage arrangements would also remain which is a connection to an existing septic tank and associate drainage field.
- 1.3 The barn has been the subject of enforcement action and a subsequent appeal. The current position is that the operational development and associated works undertaken to the barn are lawful; the change of use to residential however is not and requires the benefit of planning permission. It is therefore confirmed that no structural works or external alterations are proposed.

2. Policies

2.1 Herefordshire Local Plan - Core Strategy (CS)

| | |
|-----|--|
| SS1 | Presumption in favour of sustainable development |
| SS6 | Environmental quality and local distinctiveness |
| RA5 | Re-use of rural buildings |
| RA6 | Rural economy |
| MT1 | Traffic Management, highway safety and promoting active travel |

Further information on the subject of this report is available from Miss Emily Brookes on 01432 261825

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| E4 | Tourism |
| LD1 | Landscape and townscape |
| LD2 | Biodiversity and geodiversity |
| LD3 | Green Infrastructure |
| LD4 | Historic environment and heritage assets |
| SD1 | Sustainable Design and energy efficiency |
| SD3 | Sustainable water management and water resources |
| SD4 | Waste water treatment and river water quality |

The Herefordshire Local Plan Core Strategy 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 Marden Neighbourhood Development Plan (MNDP)

| | |
|-----|--------------------------------------|
| M3 | General Design Principles |
| M10 | Landscape Character |
| M11 | Flood Risk and Surface Water Run-off |

The MNDP was adopted on 6 October 2016, the policies can be viewed on the Council's website by using the following link:-

https://www.herefordshire.gov.uk/downloads/file/9017/neighbourhood_development_plan.

Marden Parish Council submitted a revised draft Neighbourhood Development Plan to Herefordshire Council on 26 November 2020, however withdrew the plan on 1 October 2021.

2.3 The National Planning Policy Framework (NPPF)

2. Achieving sustainable development
4. Decision-making
6. Building a strong, competitive economy
11. Making Effective use of land
12. Achieving well-designed places
15. Conserving and enhancing the natural environment
16. Conserving and enhancing the historic environment

The NPPF can be accessed via the following link:

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>.

2.4 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. In this case, the policies relevant to the determination of this application have been reviewed and are considered to remain entirely consistent with the NPPF and as such can be afforded significant weight.

3. Planning History

3.1 The relevant planning history can be summarised as follows:

P180027/ENF – enforcement appeal – appeal dismissed and enforcement notice upheld with corrections

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=180027

3.2 Enforcement notice P180027/ENF was dismissed concluding that the building had changed use unlawfully and that the rooflights, balcony and flue were harmful to the character and appearance of the building. Moreover, no harm to the amenity of neighbouring properties was found.

3.3 Following the appeal decision, a letter was sent from the Council's enforcement team outlining the following observations and recommendations:

- i. The barn is not being used for residential purposes.
- ii. The balcony has been removed and made good.
- iii. The kitchen /washroom facilities have not been removed, however I do not consider that their provision for use by someone working on the holding to be unreasonable.
- iv. I note that the rooflights have not been removed, though those on the rear have been sealed internally and fitted with slate externally. I note that you think it would be difficult to make the roof watertight if the whole casement was removed from the rear. I do not agree that that would be the case, however as the rear rooflights serve no functional purpose I would agree the spirit of the requirement has been met. In respect of the two rooflights on the front you advised that they are required to help prevent dampness in the building. I have spoken to colleagues in Building Control who advise that the important thing is to ventilate the building, this could be done through ventilation in the first floor doors for example. Therefore the rooflights should be either removed altogether or treated as per those on the rear.
- v. The flue had been removed, though the stove was currently in the building, pending a move to the shed. You asked whether an alternative flue could be provided under permitted development rights. I do not consider that this would be the case, notwithstanding that having removed the stove there is no longer a requirement for a flue.

4. Consultation Summary

4.1 Welsh Water - No objection

4.2 Area Engineer

- Cycle parking should be supplied.
- The first 5 metres of access should be surfaced with bound materials.
- The visibility is incorrectly drawn.
- Given the existing barn and its potential agricultural use it is not considered that the proposed holiday let would result in any intensification of use.

4.3 Environmental Health Officer (noise/nuisance) – No objection

My comments are from a nuisance perspective.

I have visited both Berrington Bower and the neighbouring property, Berrington Cottage with the Planning Officer. I watched the wood burning stove being lit and also when it was in full operation. There was a little smoke on start-up (which is to be expected) but the smoke was barely visible when it was fully alight. The fuel being used was seasoned wood which had been

kept under cover for a minimum of two years. I have been advised that the appliance and flue comply with current building regulations.

Currently there are two external lights – one above the main doorway which is on a sensor and the other situated on the side of the shed, lighting up the pathway. Neither of the lights shine into the neighbouring property.

Our department has no objections to this application but suggest that the following conditions be added should the application be successful:

There shall be no playing of amplified music or the use of fireworks outside at any time. Fire pits must not be used outside at any time.

Artificial lighting to the development must conform to requirements to meet the Obtrusive Light Limitations for Exterior Lighting Installations for Environmental Zone - E2 contained within the Institute of Light Engineers Guidance Notes for the Reduction of Obtrusive Light, GN01/21. 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

Informative - Private Water Supplies: 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.

Informative - Wood burning Stove: When the wood burning stove is replaced, the new appliance must meet new EcoDesign standards which came into force on 1st January 2022. Only certain types of wood are suitable for burning and the wood must be dry. This means it should have a moisture content of less than 20%. If the applicant continues to burn his own wood, I suggest that a moisture meter is purchased. Any wood purchased by the applicant should be certified as 'Ready to Burn'. Using fuels that are approved and labelled as 'Ready to Burn' ensures compliance with the Air Quality (Domestic Solid Fuels Standards) (England) Regulations 2020 that outlaw the sale of wet wood and house coal, which are the most polluting fuels.

4.4 Ecologist – Initial consultation – Objection

It is noted that the actual works to the building have already been completed and no further ecology comments in this respect are relevant.

As identified in the NPPF, NERC Act and Core Strategy LD2 all developments should demonstrate how they are going to practically enhance (“Net Gain”) the Biodiversity potential of the area. To secure these enhancements a relevant Condition is suggested:

To obtain Biodiversity Net Gain

Prior to first use of any part of the development works approved under this planning decision notice, evidence of the suitably placed installation within the site boundary or on other land under the applicant's control of a minimum total of TWO bat boxes (or similar features supporting bat roosting) and TWO bird nesting boxes (mixed types) and ONE Hedgehog Home should be

supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority.

Reason: To ensure Biodiversity Net Gain as well as species and habitats enhancement having regard to the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife and Countryside Act 1981, National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies LD1, LD2 and LD3.

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

Protected Species and Dark Skies

At no time shall any external lighting, except low power (under 550 Lumens/5 watts and <3000 Kelvin), 'warm' LED lighting in directional down-lighting luminaires on motion operated and time-limited switches 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 this local planning authority.

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.

The application site lies within the catchment of the River Lugg SAC and lies within the hydrological catchment of the River Lugg SAC, which comprises part of the River Wye Special Area of Conservation (SAC); a habitat recognised under the Habitats Regulations, (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')) as being of international importance for its aquatic flora and fauna.

At present the levels of phosphates in the River Lugg exceed the water quality objectives and it is therefore in unfavourable condition. Where a European designated site is considered to be 'failing' its conservation objectives there is limited scope for the approval of development which may have additional damaging effects. The competent authority (in this case the Local Planning Authority) is required to consider all potential effects (either alone or in combination with other development) of the proposal upon the European site through the Habitat Regulations Assessment process.

The competent authority (in this case the Local Planning Authority) is required to consider all potential effects (either alone or in combination with other development) of the proposal upon the European site through the Habitat Regulations Assessment process.

The HRA process must be based on a demonstration of legal and scientific and be undertaken with a 'precautionary' approach.

Notes in respect of HRA

The proposal is for one new self-contained unit of holiday accommodation with associated additional overnight visitor accommodation creating additional foul water and surface water flows (nutrient pathways).

As agreed with natural England new visitor/holiday accommodation is considered additional to any previous residential use and must demonstrate Nutrient Neutrality in its own right.

Welsh Water have confirmed that no mains sewer network is available at this location. The application information advises that the additional foul water created will be discharged to an existing private foul water management system - septic tank. No detailed foul water management report has been supplied to support the application and required HRA scientific and legal certainty that Nutrient Neutrality can be achieved.

A detailed foul water report is requested to provide scientific and legal certainty that the existing Septic Tank has sufficient capacity to manage the increased flows and that the system is fully compliant with all relevant criteria for 'small private foul water treatment systems' as agreed between the LPA and Natural England – including that all discharges (existing and additional) are made to a suitably sized soakaway drainage field that operating effectively and is at least 200m from any other foul water outfall. See: <https://www.herefordshire.gov.uk/nutrient-management/nutrient-management-guidance-developers/2>

If the relevant criteria for small private foul water systems cannot be demonstrated an alternative method of demonstrating Nutrient Neutrality is required – such as legal confirmation that appropriate Phosphate Credits have been purchased.

Once the required additional professional testing, information and report has been submitted the required HRA process can be progressed.

At this time due to legal and scientific uncertainty and phosphate neutrality not secured there is an identified Adverse Effect on the Integrity of the River Lugg (Wye) Special Area of Conservation (a European Site, 'National Network Site' or 'Higher Status' nature conservation site). There is an Ecology OBJECTION raised as the application does not demonstrate compliance with Core Strategy SD4 and SD3 (SS1, SS6 and LD2 also apply); 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'); NPPF; and NERC Act obligations.

Ecologist following further information and re-consultation – No Objection

Notes in respect of HRA

The proposal is for one new self-contained unit of holiday accommodation with associated additional overnight visitor accommodation creating additional foul water and surface water flows (nutrient pathways).

As agreed with Natural England new visitor/holiday accommodation is considered additional to any previous residential use and must demonstrate nutrient neutrality in its own right.

Welsh Water have confirmed that no mains sewer network is available at this location. The application information advises that the additional foul water created will be discharged to an existing private foul water management system - septic tank. The additional drainage information supplied – Townsend Water Engineering dated 3 October 2022 is noted and refers. This additional information confirms that the existing septic tank system has capacity to manage the combined flows from existing residential property and the new holiday accommodation. The septic tank is confirmed as discharging to an existing drainage field sized to accommodate all poetical flows from the size of septic tank installed.

No new private foul water system is required or proposed and all additional nutrient pathways can be managed within the existing system that has been confirmed as operating effectively. No pathways for any nutrients (phosphates) in to the River Lugg SAC hydrological catchment are identified. The buildings already exist creating surface water. Any additional surface water can

be managed through relevant permeable surfaces or local sustainable drainage systems/infiltration features.

As no nutrient pathways are created into the River Lugg SAC, the proposed foul water management scheme is embedded within the application details and can be secured by condition no adverse effects on the integrity of the River Lugg SAC are identified and this application can be screened out at HRA appropriate assessment 'stage 1'.

Recommended Condition:

Habitat Regulations (River Lugg (Wye) SAC) – Foul Water

Unless otherwise approved in writing by the planning authority all foul water, created by the development approved by this permission shall discharge through connection to the existing private, residential septic tank discharging to soakaway drainage field, as identified in the drainage information by Townsend Water Engineering dated 3 October 2022.

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 and SD4.

No ecology objection is now raised. The other previous general ecology comments and suggested conditions remain valid

4.5 Land Drainage – initial consultation – Further information required.

We recommend that the following information is provided prior to the Council granting planning permission:

- Results of infiltration testing undertaken in accordance with BRE365 and confirmation of groundwater levels to demonstrate that the invert level of any soakaways or unlined attenuation features can be located a minimum of 1m above groundwater levels in accordance with Standing Advice;
- A detailed surface water drainage strategy with supporting calculations that demonstrates there will be no surface water flooding up to the 1 in 30 year event, and no increased risk of flooding as a result of development between the 1 in 1 year event and up to the 1 in 100 year event and allowing for the potential effects of climate change;
- Submission of the existing foul water drainage details including percolation test results, location of the drainage field and associated sizing

Land Drainage - Following further information – No Objection

Overview of the Proposal

The Applicant proposes the change of use of a rural building to a holiday let. The site covers an area of approx. 0.2ha. There is a large pond located approx. 120m to the north of the site. The River Lugg flows approx. 715m to the north of the site. The topography of the site is relatively flat with a gentle slope down from south to north.

Site Location

Figure 1: Environment Agency Flood Map for Planning (Rivers and Sea), September 2022



Flood Risk

Fluvial Flood Risk

Review of the Environment Agency’s Flood Map for Planning (Figure 1) indicates that the site is located within the low risk Flood Zone 1. As the proposed development is less than 1ha and is located within Flood Zone 1, in accordance with Environment Agency standing advice, the planning application does not need to be supported by a Flood Risk Assessment (FRA). This is summarised in Table 1:

Table 1: Scenarios requiring a FRA

| | Within Flood Zone 3 | Within Flood Zone 2 | Within Flood Zone 1 |
|-----------------------------------|----------------------------|----------------------------|----------------------------|
| Site area less than 1ha | FRA required | FRA required | FRA not required* |
| Site area greater than 1ha | FRA required | FRA required | FRA required |

**except for changes of use to a more vulnerable class, or where they could be affected by other sources of flooding*

Surface Water Flood Risk

Review of the EA’s Risk of Flooding from Surface Water map indicates that the site area proposed for development is not at risk of surface water flooding, however there is a low-risk surface water flow route along the northern site boundary.

Figure 2: EA Surface Water Flood Risk Mapping



Extent of flooding from surface water

● High ● Medium ● Low ○ Very low ⊕ I

Other Considerations

Review of the EA's Groundwater map indicates that the site is not located within a designated Source Protection Zone or Principal Aquifer.

Surface Water Drainage

We understand that the proposed holiday let is an existing agricultural building with an existing surface water drainage system. No increase in impermeable area is proposed as part of the development. The existing system involves a woodland rainwater garden to the north with the approximate dimensions of 70m x 4m x 0.8m (L x W x D). This provides an attenuation volume of 224m³, which has been shown to be sufficient to accommodate a 1 in 100yr + 45% CC event. Therefore, the existing arrangements are adequate for the proposed development.

Should any surface water exceedance runoff occur, given the site topography, it is highly unlikely that any third parties would be affected.

Foul Water Drainage

We understand that the existing agricultural building was refurbished between 2012-2014, whereby a foul water drainage system was installed. We understand that a septic tank with discharge to a drainage field was constructed under the supervision of building control and was deemed acceptable (122301). It is stated that this system has functioned well since construction. The drainage field location is shown as being within the land ownership boundary.

As requested, the percolation test results used to size the drainage field in 2012 have been provided. We understand that 2 trial pits were excavated and found an acceptable average Vp rate of 20.6s/mm. It was calculated that a drainage field area of 20m² would be required. The existing drainage field has actually been constructed to have an area of 45m², which is more than twice the required area. Therefore, we understand that the existing foul drainage system is adequate for the proposed development.

In the unlikely event that foul water re-emergence does occur, we note that the land topography gently slopes south to north, therefore it is highly unlikely that any third parties would be affected in this instance.

Overall Comment

We hold no objection to the proposed development as all existing surface water and foul water drainage infrastructure is adequate and will be retained.

5. Representations

5.1 Marden Parish Council - Objection

1. the requirements of the Appeal Decision made 13 March 2019 by Elizabeth Jones, and Inspector appointed by the Secretary of State, have not implemented in full.
2. a waste water and drainage strategy with details including foul water percolation tests, location of drainage field and associated sizing have not been submitted. Also required are the results of infiltration testing undertaken in accordance with BRE365 and confirmation of ground water levels to demonstrate that the invert level of any soakaways or unlined attenuation features can be located a minimum of 1m above groundwater levels in accordance with the Standing Advice. (Ref: Balfour Beatty report, 7/9/22 pg.4.)
3. all of the construction work to date has been done without any formal planning permission.
4. all works are outside the requirements of the NDP: M2, M3, M12 and M14 - Dark Skies.
5. an ecological survey has not been supplied.

5.2 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=222295&search-term=222295, however they are also summarised below:

5.3 1 letter of support which can be summarised as follows:

- Marden has a considerable total mileage of well-maintained footpaths and bridleways, including a stretch of the three counties ride. Light touch sustainable tourism should be supported in the parish and to this application should be supported.

5.4 A total of 18 letters of objection have been received and these can be summarised as follows:

- The barn is of no historical significance
- The site has never been used for agricultural purposes.
- The ground is boggy. Many residents have suffered with their septic tanks flooding in times of prolonged rainy conditions.
- Why has a barn got a septic tank?
- Pollutant reach the River Lugg.
- The low lying nature of the land will cause any effluent to seep on to the neighbouring land before reaching ditches.
- Could this application be subject of a restriction to the number of persons using the holiday let at any one time i.e. no tents, mobile homes, persons sleeping on the floor etc.
- Disruption to the neighbouring property.
- External lighting causing pollution.
- The building is outside the settlement boundary.
- The enforcement notice has never been complied with or rescinded
- At appeal of the enforcement notice the Inspector considered that the conversion was harmful to the character and appearance of the appeal building and surrounding area and did not comprise sustainable development. There has been no change in policy. The current proposal will be judged against the same criteria and should fail for the same reasons.
- The application is for a one-bedroomed holiday let, why is there parking for three vehicles?
- The additional cleaning and washing between visitors would increase the waste production.
- Drainage arrangements are unclear.
- Concern of impact upon Berrington water lakes.
- Increased traffic and difficult access on a dangerous bend
- An old tree was felled and some of the hedging has been taken out and replaced by ugly fencing. The fencing is not in keeping within the area.
- What is to stop the holiday let being converted to a dwelling.

- No evidence to demonstrate that the installation of the septic tank or flue was carried out in accordance with Building Regulations
- The applicant is wrong to say that there is no need for an ecological survey
- The approved NDP policies about where new developments should be allowed are being completely ignored.
- An appropriate density in context with the surrounding area is not being retained if this development is permitted; this is ribbon development in an area of High Landscape Value
- Certain SUDS facilities will not be effective because the operation of such systems will be compromised when the water table is close to the surface for most of the year. There will not be sufficient attenuation storage capacity available underground to mitigate against surface water flood risks.
- This holiday-let development will do nothing to encourage sustainable tourism. It is an area with no frequent bus services, and on a busy narrow lane road where walkers, cyclists and horse-riders are at risk from speeding traffic with no roadside footpath available.
- The flue means smoke permeates the interior of the neighbouring property.
- The rooflights mean that the privacy of the neighbouring property is compromised
- Noise from those using the holiday let
- Policy RA5 is not met.
- The proposal will not lead to an enhancement to its immediate setting.
- It will not make a positive contribution to any rural business, enterprise and do little to support the local economy.
- Hedging has to be cut back to provide visibility
- There is little potential for any revenue from a holiday let to make a difference to the economic well-being as there are no nearby restaurants or public houses.

5.5 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

Policy context and Principle of Development

- 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' Marden Neighbourhood Development Plan (NDP). At this time the policies in the NDP can be afforded weight as set out in paragraph 48 of the National Planning Policy Framework 2021, which itself is a significant material consideration.

Principle

- 6.3 The principle of tourism-related development is addressed under CS policies RA6 and E4. Policy RA6 promotes employment generating proposals which help to diversify the rural economy and includes proposals for sustainable tourism of an appropriate scale. Moreover, Policy E4 seeks to promote Herefordshire as a destination for quality leisure visits and sustainable tourism which capitalises on the county's assets and which helps to diversify the tourism offering within the county. Within the reasoned justification to Policy E4 it is stated that "some small-scale tourism development may be appropriate in rural areas". Policy RA5 concerns the re-use of rural buildings.
- 6.4 The MNDP does not contain any relevant policies relating to the provision of tourist accommodation. However, it is noted that the site lies outside of the Litmarsh settlement boundary as defined by the MNDP. Therefore, given the location of the site outside of the designated

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settlement for growth, it falls to be assessed against the relevant policies of the development plan which pertain to the open countryside.

- 6.5 In this instance, the proposal would represent a small-scale tourism development which would result in the delivery of modest economic growth and expansion of the tourism offering within the County. The accommodation could be offered for short-term occupancy by families, walkers and cyclists, permitting access to the quiet roads and public rights of way found in the surrounding area. Furthermore, environmental benefits arise by virtue of the proposed re-use of a redundant rural building of permanent and substantial construction. For these reasons, the principle of the development proposal complies with Policies RA5, RA6 and E4 of the Core Strategy.

Relevant Enforcement background

- 6.6 In reviewing the Inspector's decision letter following the appeal against an Enforcement Notice, it was determined that the building provided residential accommodation and had been used as such. Paragraph 15 of the letter is important stating

"From the evidence currently available, on the balance of probabilities, I conclude that a material change of use of the barn as alleged has taken place. Planning permission is required but has not been granted. Thus, there has been a breach of planning control as alleged and the appeal on ground (c) fails."

- 6.7 The Inspector did not conclude that the change in use of the building was unacceptable as a matter of principle, but rather that a material change of use had occurred and that permission had not been granted to that effect.
- 6.8 The Inspector discusses the effect of the development on the character and appearance of the appeal building and surrounding area later in the letter. In paragraphs 20-25 she concluded that the balcony, rooflights and flue were dominant domestic features which were completely out of place with the character of the rural building, thus being contrary to CS Policy RA5. The balcony has since been removed however the rooflights remain (albeit sealed internally with slates placed over on the eastern roof slope) and the flue has been removed and a new one installed on the northern end elevation.



The building in 2017



The building in 2021 without flue

- 6.9 It is acknowledged that the Inspector concluded that the balcony, rooflights and flue were harmful to the character and appearance of the barn. However in comparing the appearance of the building then and now it is not considered that the introduction of a flue and the retention of the rooflights represents an unacceptable form of development such that a refusal is warranted in this instance. It is your Officers view that the most significant domestication and visual harm was caused by the

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balcony and its removal ensures that the character and appearance of the barn remains. As such no conflict with RA5, SD1 or LD1 of the CS is found.

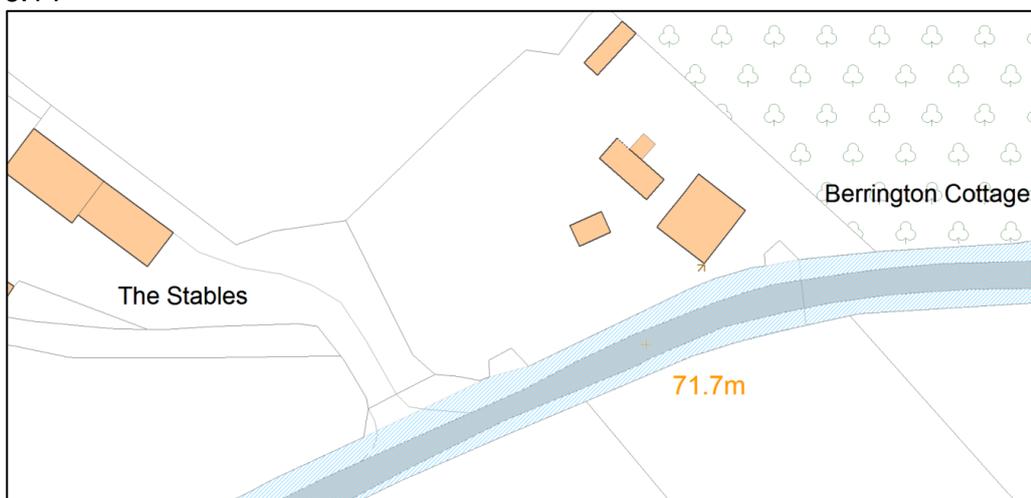
Amenity

- 6.10 Given the nature of the application and the proximity to Berrington Cottage, the impact upon the amenity of the existing and future occupiers must be given due consideration. Although the proximity between the buildings is close (just under 4 metres), there is a well vegetated boundary established between the buildings which provides a level of screening and privacy.
- 6.11 The plans only show a single window in the south western elevation; previously this was a door opening onto the since removed balcony. No other windows are proposed. The rooflights in the north eastern roof slope may give an opportunity for a degree of overlooking of the curtilage of the neighbouring property. As such, whilst these have been plastered over internally and do not afford views out, a condition is recommended to secure the removal of the units and to make good the roof with slates. The two rooflights in the south west roof slope look onto the applicants own property and cause no harm in respect of amenity. It is advised that the justified and sensitive use of rooflights is entirely commonplace in conversion schemes of this nature and the retention of the two in the south-western elevation is not considered to be unreasonable, especially given the otherwise minimal intervention in terms of new window openings.
- 6.12 Concern was raised with regards to the flue and the impact of the smoke upon the neighbouring property. Environmental Health (nuisance) were consulted and conducted a site visit observing the lighting of the flue and the smoke that was generated. From this visit they raised no objections to the proposals.

Access and Parking

- 6.13 No objection has been raised by Area Engineer with regards to the number of trips generated. It is considered that converting an agricultural barn to a holiday let has limited highway safety impacts as the trips tend to be offset. The existing access and driveway arrangements are to be retained and therefore there are no objections in this regard. There is adequate space for the parking and turning of vehicles. There were concerns that the proposed visibility splays were over land that is not either within the applicant's ownership or the highway extent, however it is confirmed through mapping that this would not be the case. The image below is taken from The Council's mapping system and indicates the highway extent.

6.14



- 6.15 The proposed holiday let would benefit from the inclusion of secure cycle storage to allow guests to make use of active travel options when visiting nearby points of interest. In order to ensure this is delivered, a compliance condition is recommended.

Ecology

- 6.16 The proposal is limited to a change in use of the building. The internal works have already been carried out and as such no formal requests with regards to the need for an ecological survey have been received from the Ecologist. The building and its adjacent areas of hardstanding and grazed improved pasture are of limited value to wildlife. As such, the proposal would not have any adverse effects on any designated sites or priority habitats; or any European protected species, such as bats or amphibians or reptiles in the wider area.
- 6.17 In line with national and local planning policy, the works should be designed to provide a net biodiversity gain. A suitably worded condition, to secure the biodiversity net gain, is recommended.

Drainage, Flooding and Habitat Regulations

- 6.18 With regards to foul water drainage, the existing septic tank is proposed for use, which has a capacity of 5 people; more than sufficient to accept the nominal increase in domestic loading from a one-bed holiday let unit. The tank is understood to be in good working order (with building control sign off), with the associated drainage field as the means of outfall. The relevant testing has been carried out and indicates that the land has an acceptable Vp rate. The Ecologist and Land Drainage specialists have both reviewed the application and raise no objections to the foul water drainage strategy. Furthermore, no objection is raised with regards to the potential impact of the proposal upon the River Lugg. No conflict with CS policies SD3 and SD4 and NDP Policy M11 is therefore found.
- 6.19 The building already exists and there is no further hardstanding being introduced. The site is located within Flood Zone 1 and there are no surface water flood risks indicated for the site. The drainage field is appropriately sized providing an attenuation volume over double that required. No concern with regards to surface water flooding is found, according with CS policy SD3 and NDP Policy M11.
- 6.20 To achieve certainty, a compliance condition regarding surface and foul water drainage, is reasonable and necessary in the interests of maintaining water quality and avoiding pollution of ground and surface waters.

Conclusion

- 6.21 To conclude, the proposal accords with the development plan when read as a whole. The proposal would result in the re-use of an existing rural building, make a more efficient use of the land and diversify the County's tourism offering, thereby leading to small-scale economic and environmental benefits. The effects of development in the landscape would be visually contained and the proposed use of the building is in keeping with the rural area. No harm to the amenity of surrounding neighbours is found. It is necessary to impose a condition removing permitted development rights for any future alterations and extensions, in line with Policy SD1 and RA5 and its reasoned justification.

RECOMMENDATION

That planning permission be granted subject to the following conditions and any other further conditions considered necessary by officers named in the scheme of delegation to officers:

- 1. C01
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. Development in accordance with approved plans and materials

The development hereby approved shall be carried out strictly in accordance with the approved plans (drawing nos. 24.6; 24.4; 24.3; 24.5; 24.1; 24.2; Ordnance Survey map reference SO5250SE; letter from Townsend Water Engineering dated 3rd October 2022; untitled amended visibility splays) except where otherwise stipulated by conditions attached to this permission.

Reason: To ensure adherence to the approved plans and to protect the general character and amenities of the area in accordance with the requirements of Policies SD1, LD1, SS6, LD2, SD3, SD4 and MT1 of the Herefordshire Local Plan – Core Strategy, Policy M11 of the Marden Neighbourhood Development Plan and the National Planning Policy Framework.

3. Prior to first use of any part of the development works approved under this planning decision notice, evidence of the suitably placed installation within the site boundary or on other land under the applicant's control of a minimum total of TWO bat boxes (or similar features supporting bat roosting) and TWO bird nesting boxes (mixed types) and ONE Hedgehog Home should be supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority.

Reason: To ensure Biodiversity Net Gain as well as species and habitats enhancement having regard to the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife and Countryside Act 1981, National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies LD1, LD2 and LD3.

4. At no time shall any external lighting, except low power (under 550 Lumens/5 watts and <3000 Kelvin), 'warm' LED lighting in directional down-lighting luminaires on motion operated and time-limited switches 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 this local planning authority.

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, SD1, SS6, LD1-3.

5. Unless otherwise approved in writing by the planning authority all foul water, created by the development approved by this permission shall discharge through connection to the existing private, residential septic tank discharging to soakaway drainage field, as identified in the drainage information by Townsend Water Engineering dated 3 October 2022.

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 and SD4.

6. There shall be no playing of amplified music or the use of a fire pit or 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

7. Prior to the first occupation of the development hereby permitted full details of a scheme for the provision of covered and secure cycle parking facilities within the curtilage of the holiday accommodation 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;

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 SD1 and MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

8. Within 3 months of the date of this permission the roof lights found on the north eastern roof slope are to be removed in their entirety and slates to match the existing slates are to be re-laid.

Reason: To safeguard the amenity of the area in compliance with Policy SD1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

9. Notwithstanding the provisions of article 3(1) and Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015,(or any order revoking or re-enacting that Order with or without modification), no development which would otherwise be permitted under Classes A, AA, B, C, D, E and H of Part 1 and of Schedule 2, shall be carried out.

Reason: To ensure the character of the original conversion scheme is maintained and to comply with Policy RA5 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no windows shall be constructed in the north eastern and south eastern elevations of the property.

Reason: In order to protect the residential amenity of adjacent properties and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

INFORMATIVES:

1. IP2 – Application approved following revisions
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. When the wood burning stove is replaced, the new appliance must meet new EcoDesign standards which came into force on 1st January 2022.**

Only certain types of wood are suitable for burning and the wood must be dry. This means it should have a moisture content of less than 20%. If the applicant continues to burn his own wood, I suggest that a moisture meter is purchased. Any wood purchased by the applicant should be certified as 'Ready to Burn'. Using fuels that are approved and labelled as 'Ready to Burn' ensures compliance with the Air Quality (Domestic Solid Fuels Standards) (England) Regulations 2020 that outlaw the sale of wet wood and house coal, which are the most polluting fuels.

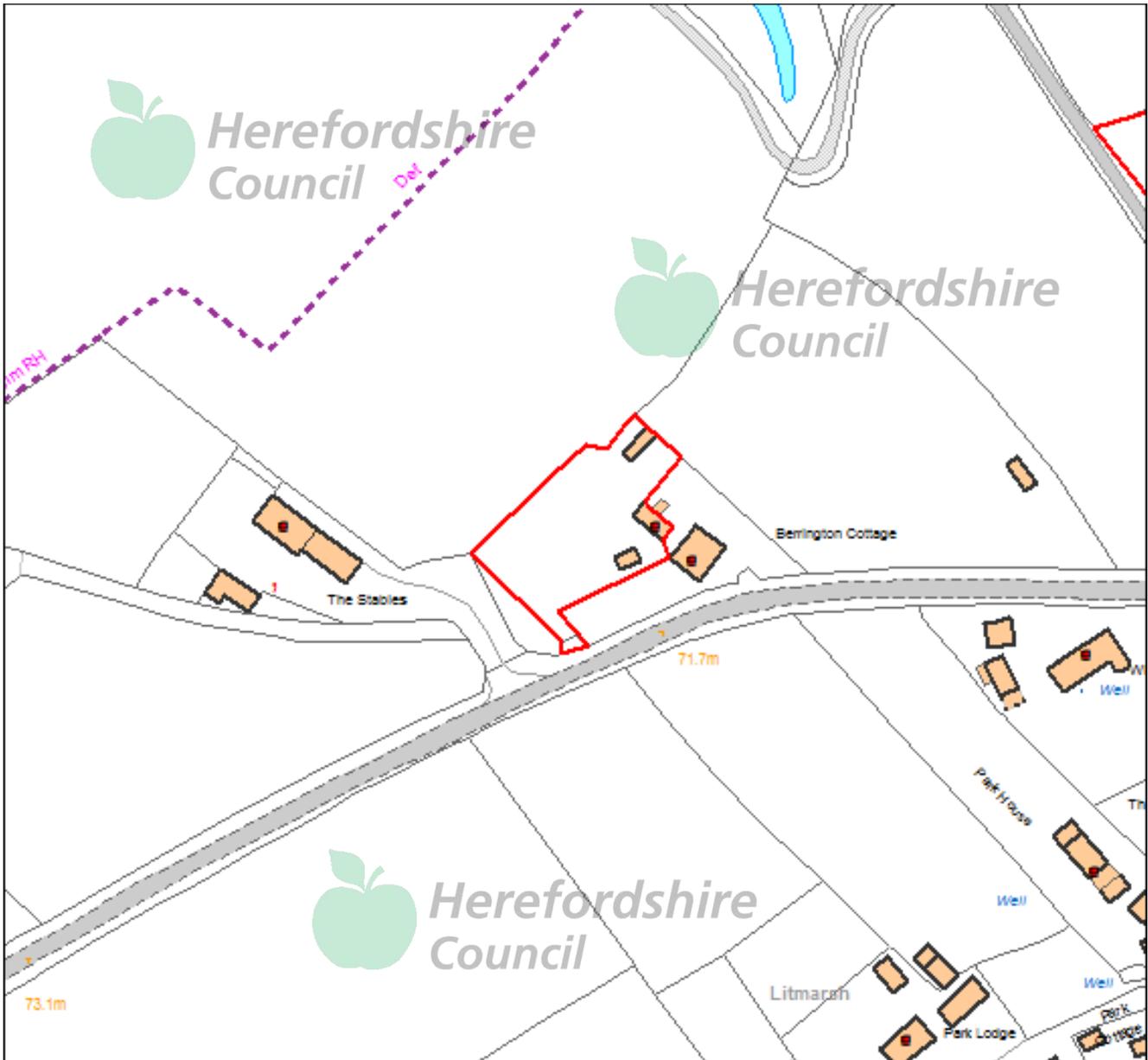
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 222295

SITE ADDRESS : AGRICULTURAL BUILDING ADJACENT BERRINGTON BOWER, MARDEN, HEREFORD, HEREFORDSHIRE, HR1 3EY

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Further information on the subject of this report is available from Miss Emily Brookes on 01432 261825