

8A DCNW2005/3737/F - CONVERSION OF AGRICULTURAL BUILDINGS TO FORM ONE HOUSE AT UPPER FARM, AILEY, KINNERSLEY, HEREFORDSHIRE.

8B DCNW2005/3738/L – AS ABOVE

**For: Westate Ltd per Burton & Co, Lydiatt Place,
Brimfield, Ludlow, Shropshire, SY8 4NP**

**Date Received:
21st November 2005**

Ward: Castle

**Grid Ref:
33723, 48498**

**Expiry Date:
16th January 2006**

Local Member: Councillor J Hope

Introduction

This application was deferred at the previous meeting to seek additional information regarding the marketing of the barn. The agent has commented as follows:

"Further to our recent telephone conversation I am happy to further explain to you the situation regarding a Full Repairing and Insuring Lease.

You will recall with Ailey Barn that this is a traditional Herefordshire Barn in need of repair. From the Landlord's perspective it is our duty as Agents to get them the best deal we are able to do, and therefore, the asking price of £3 per square foot would normally relate to a building in good order. I have to point out however that it is the responsibility of the prospective Tenant's Agent to negotiate what repairs will be done by the Landlord in advance of the Letting, and this will usually reflect the final settled rent figure.

In the case of the "Ms. Sykes" bid through Messrs. Sunderlands, at no stage did her agent ask what work we might be prepared to do to put this building into a certain state of repair.

From the perspective of the Landlord clearly it is not viable to carry out repairs in advance of agreeing a Tenancy, due to the variance in what the Market might want. You know that we are expected to Market this to the whole Commercial Market, and the needs of someone, for example storing fertiliser, caravans, or vehicles would be much different from someone, for example, wishing to set up an office, or a retail business. It is for that reason that we do not in the Particulars comment on the condition that the buildings will be at the commencement of the Lease.

To be clear, the term "Full Repairing and Insuring Lease" gives the Tenant an obligation to keep in repair the building in question and return it to the Landlord in a similar state, (unless otherwise agreed in the terms of the Tenancy).

In other words if a building was put into "full office specification" for example, at the end of say, 10 years of a Tenancy, the Tenant should return that building structurally sound and

decorated to the standard at which they took up the Tenancy. In the normal course of events as Agents we could prepare a "Record of Condition" which is a photographic and written record stating the condition upon which the Tenant takes the Lease over, and at that time that is the basis for the "Full Repairing and Insuring Lease". Therefore, using that simple example, if a Tenant were taking the building for simple storage and for example the Landlord just replaced doors and windows, then the building would simply come back in that condition. Clearly, if the Tenant volunteered to do some of the work, then this would either be taken into consideration in the rental, or made as a depreciating allowance by the Landlord at the end of the Tenancy. In simple terms this is a perfectly normal business arrangement and had a Tenant been forthcoming a Lease under the 1954 Act would have been prepared and the condition of the building negotiated prior to confirming terms and rent.

I am sure you will be aware that it would be inappropriate for the Landlord to do the repairs in advance of finding a Tenant for 2 reasons:~

1) The expense of making repairs to a certain specification can be expensive and due to the low demand of such commercial properties in the area, these could then sit on the Register for some period of time unlet. (Please refer to an email from Alan Ronald to yourself Wednesday, the 2nd of November 2005 - 10:25 a.m.)

2) The second issue is that if the Landlord spends the money in advance of finding a Tenant it is entirely likely that if they have done it to a low specification for general storage that the demand will be for office or retail, and equally if they have done the work to a high standard for office or retail, then the demand would be for general storage. It, therefore, is clearly inappropriate for the Landlord to make any expenditure until such time as a Lease has been agreed and the specification confirmed.

I hope that these notes help to clarify the matter, and I reiterate my offer that if this is still an issue, that I am quite happy to meet with the Council's Surveyors or Valuers to discuss our Marketing, which we believe has been dealt with entirely appropriately.

Please revert to me if you require further help or information."

In consideration of the above-mentioned information provided by John Amos, the letting agents responsible for Ailey Barn, your officer's recommendation is unchanged as it is considered that the marketing of the site was undertaken in a satisfactory manner.

The original report follows:

1. Site Description and Proposal

- 1.1 The site for the proposed development is a redundant former agricultural barn of external timber frame and brick construction under a corrugated tin and partly tiled roof. The barn forms part of a former traditional farmyard and is located adjacent (on the south eastern side) to a Grade II listed former farm house, this is in separate ownership along with the rest of the former farmstead.
- 1.2 The application proposes conversion of the 'L' shaped building into a two storey dwelling consisting of four bedrooms on the first floor and four principle rooms on the ground floor as well as an intergrated garden store and double garage. The proposed conversion is in a style using external construction materials that are sympathetic to the structure's original character.

2. Policies

2.1 Leominster District Local Plan

- A1 – Managing the District's Assets and Resources
- A2 – Settlement Hierarchy
- A9 – Safeguarding the Rural Landscape
- A18 – Listed Buildings and their Settings
- A24 – Scale and Character of Development
- A54 – Protection of Residential Amenity
- A60 – Conversion of Rural Buildings Outside Settlements to Residential Use
- A78 – Protection of Public Rights of Way

2.2 Supplementary Planning Guidance – Herefordshire – Re-Use and Adaptation of Traditional Rural Buildings

2.3 Herefordshire Unitary Development Plan (Revised Deposit Draft)

- S1 – Sustainable Development
- S2 – Development Requirements
- DR1 – Design
- DR2 – Land Use and Activity
- H7 – Housing in the Countryside Outside Settlements
- H14 – Re-Using Previously Developed Land and Buildings
- HBA4 – Setting of Listed Buildings
- HBA12 – Re-Use of Rural Buildings
- HBA13 – Re-Use of Rural Buildings for Residential Purposes

3. Planning History

NW2005/2212/F - Conversion of Agricultural building to form one house - Withdrawn 3rd August 2005.

NW2005/2213/L - Conversion of Agricultural building to form one house - Withdrawn 13th September 2005.

NW2005/2956/F - Conversion of Agricultural building to form one house - Withdrawn 4th November 2005

NW2005/2957/L - Conversion of Agricultural Building to form one house - withdrawn 4th November 2005

4. Consultation Summary

Statutory Consultations

- 4.1 Environment Agency raises no objections.
- 4.2 The Ramblers Association have no objections.
- 4.3 Georgian Group raise no objections.

Internal Council Advice

- 4.4 The Conservation Manager raises no objections subject to the inclusion of conditions to any approval notice subsequently issued.
- 4.5 The Public Rights of Way Manager raises no objection subject to the right of way that runs across the development site remaining at its historic width and suffering no encroachment or obstruction during the works or at any time after completion.
- 4.6 The Highways Manager raises no objections subject to the inclusion of standard conditions to any approval notice subsequently issued.
- 4.7 The Ecology Manager raises no objections subject to the inclusion of a condition to any approval notice subsequently issued.

5. Representations

- 5.1 Kinnersley and District Group Parish Council raises concerns about the proposed development which can be summarised as follows:
- a) Conversion will lead to the loss of a complete Grade II listed farm settlement.
 - b) Rooflights are unsuitable for a barn conversion.
 - c) New window openings not acceptable in a barn conversion.
 - d) Adjoining public highway is already over-used and the entrance has poor visibility.
 - e) The process of offering the structure subject to this application to commercial purposes was set at an unrealistic rent.
 - f) Concerns about public footpath that crosses the application site.
 - g) Concerns are also raised about previous applications that have been refused with regards to local need/affordable housing.

- 5.2 Letters of objections have been received from:

- Dr R and Mrs E Sykes, Ailey Farm, Ailey
- Mr & Mrs P D Cartwright, The Masons, Ailey
- Harry Ellam, Old Castle Cottage, Kinnersley.

These objections can be summarised as follows:

- a) The barn was marketed for commercial use at an inflated price that did not reflect its poor structural condition.
- b) The design of the proposed development is unsympathetic to the style of the original building and includes the creation of multiple new openings within its elevations.
- c) Impact of proposed conversion on the setting of the adjacent Grade II listed former farm house and the historic character of the former farmyard.
- d) Impact of the proposed internal alterations on the existing barn's character.
- e) Concerns over disposal of storm water from the site.
- f) Concerns about access from the site onto the adjoining public highway.

5.3 The full text of these letters can be inspected at Northern Planning Services, Blueschool House, Blueschool Street, Hereford and prior to the Sub-Committee meeting.

6. Officers Appraisal

6.1 This is the third time an application for conversion of this barn has been submitted to the local planning authority, the previous two withdrawn. The proposed development raising much local opposition. All objectors to the previous applications have been consulted about the proposal. This appraisal will discuss each of the above-mentioned objections/issues under separate headings below. They also compare with the Local Parish Council's response.

Marketing of barn for commercial use

6.2 Policy A60 of the Leominster District Local Plan on Conversion of Rural Buildings outside Settlements to Residential Use clearly states that any building proposed for conversion is of permanent and substantial construction whose form, bulk and general design are in keeping with the surroundings, and the applicant has made every reasonable attempt to secure suitable re-use, or the residential conversion is a subordinate part of a scheme for business reuse.

The applicant has as part of the application submitted a detailed marketing report on the attempts to secure commercial use of the structure. The report states that the premises were first advertised in September 2004 in the Hereford Time, Ludlow Journal and Ludlow Advertising. The premises were also advertised in the Hereford Commercial Property register. Details of this advertising are included in an appendix attached to the applicants marketing report forming part of the application.

Objections received to the proposed development refer to the barn being marketed at an unrealistic rental. Relevant local and supplementary planning policy do not refer to a specific price at which the barn must be marketed at; and therefore it must be assumed that a fair and reasonable price was fixed to the premises marketed in relationship to the structural condition, location and suitable uses etc.

The last application for development at the site was withdrawn prior to the Planning Committee taking place due to concerns raised about the adequacy of the marketing of the site for alternative uses.

The applicant's agent in response to these concerns has submitted as part of this application a statement on the marketing of the site. This statement states details on the marketing of the site and concludes by stating that information provided on the marketing of the site by an internal Council consultee in response to information provided by an objector prior to the previous withdrawal was misleading and insubstantial advice. Research by the applicant's agent into the alleged offer made for alternative use leads then to conclude that this offer was not a genuine offer.

The Council's Lead Valuer and Estates Surveyor has been re-consulted on the application and raises no adverse comments with regards to the proposed development in relationship to marketing of the site.

Impact of proposed development on surrounding public highways and adjacent footpath

- 6.3 The Highways Manager has responded to the application with no objections subject to the inclusion of conditions relating to improving the visibility splays on the entrance to the site from the public highway, turning and parking within the application site for three cars and access gates set at a distance of a minimum of 5 metres from the public highway. It is considered that the applicant can easily achieve all of these requests.

In respect of the public footpath that crosses the application site the proposed development will not affect the footpath and in response to the Public Rights of Way Manager's response to the application a note should be attached to any subsequent approval notice issued warning the applicant that the footpath should remain accessible to members of the public at all times.

Design of proposed conversion

- 6.4 The first application was withdrawn to allow for consideration on the impact of the development on the privacy of the adjoining Grade II listed dwelling. The applicant has in a sympathetic manner re-introduced essential window openings on the western elevation to compensate for the loss of existing openings on the southern and eastern elevation. As well as changing and reducing roof lights due to concerns about the impact on the setting of the adjacent listed building. These changes have resulted in the eastern elevation retaining a strictly rural appearance and as such contribute positively to the setting of Ailey Farmhouse. On the north-western elevation of the structure is a dilapidated cart barn, the applicant proposes to use this section of the structure for use as a double garage and garden store retaining cart door openings and therefore retaining a very strong agricultural feel to the development. Both Policy A60 of the Leominster District Local Plan and Supplementary Planning Guidance, (SPG), on Re-Use and Adaptation of Traditional Rural Buildings do not specifically state that no new window openings should be created in a proposed barn conversion. In fact the SPG states in paragraph 5.19 on Openings – Windows and Doors: 'There is a presumption in favour of maximising the use of existing openings, and limiting new ones'. The openings should only be inserted where absolutely necessary and should respect the nature of the existing building. Conversions with an excessive number of new openings will be resisted.'

The structure subject to this application is not listed in its own right but curtilage listed in relationship to Ailey Farmhouse. Its close proximity to a residential dwelling therefore limits its use for alternative commercial uses, the proposed conversion of the structure to residential use, is in a sympathetic manner as possible and although the structure subject to this application, is in separate ownership to the rest of the former farmstead, the proposed development will retain a strong relationship to the previous historic farmstead character of the site as a whole in planning terms. If Committee are mindful to approve the application, it is recommended that a condition be attached to any approval notice issued, taking away permitted development rights in order to control further development.

The Conservation Manager has no objection subject to the inclusion of appropriate conditions to any approval notice issued.

Impact of proposed development on adjacent Grade II listed house

- 6.5 The proposal has overcome previous officer concerns with regards to the setting of the adjacent listed dwelling, and is considered sympathetic to the original farmstead historic character. The fact that the dwelling house and barn subject to this application are in separate ownership is not an overriding planning issue. The proposed development is considered to be in-line with policy criteria of Policy A18 – Listed Buildings and their Settings in the Leominster District Local Plan.

Impact of the proposed internal alterations on the barn's overall character and integrity

- 6.6 The proposed development internally is as sympathetic as possible with no detrimental impact on the structure's overall architectural historic significance and no different to other barn conversions that are approved by the Local Planning Authority. Accompanying the application is a structural report to which Officers are satisfied with its contents.
- 6.7 The applicant has also submitted as part of the application an ecological survey that identifies evidence of protected species using the site and therefore it is recommended that a condition be attached to any approval notice Committee are mindful to issue with regards to this issue.

Conclusion

- 6.8 No objections were received from any of the statutory consultees or internal Council consultees. Officers are of the opinion that the proposed conversion complies with criteria of all relevant local plan and supplementary policies, albeit that the proposed development proposes not to use existing openings on the southern and eastern elevations and introduce new openings on the western elevation to compensate for this loss. The barn is located within the curtilage of a listed building and therefore has an impact on the setting of this listed building, it is presently in a poor state of repair, the proposal will significantly enhance the setting of the listed building. The barn is located, in very close proximity to a residential dwelling and therefore certain commercial uses would not be feasible in planning terms, residential use therefore considered the most appropriate and sustainable use, in order to retain this former farmstead's original historic character.

RECOMMENDATION**DCNW2005/3737/F**

That planning permission be granted subject to the following conditions:

- 1 - A01 (Time limit for commencement (full permission))**

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

- 2 - A06 (Development in accordance with approved plans)**

Reason: To ensure adherence to the approved plans in the interests of a satisfactory form of development.

3 - C02 (Approval of details)

Reason: To safeguard the character and appearance of this building of [special] architectural or historical interest.

4 - C05 (Details of external joinery finishes)

Reason: To safeguard the character and appearance of this building of [special] architectural or historical interest.

5 - C10 (Details of rooflights)

Reason: To ensure the rooflights do not break the plane of the roof slope in the interests of safeguarding the character and appearance of this building of [special] architectural or historical interest.

6 - C12 (Repairs to match existing)

Reason: To safeguard the character and appearance of this building of [special] architectural or historical interest.

7 - C17 (Samples of roofing material)

Reason: To safeguard the character and appearance of this building of [special] architectural or historical interest.

8 - E16 (Removal of permitted development rights)

Reason: In order that the Local Planning Authority can have control over development at this sensitive location.

9 - F16 (Restriction of hours during construction)

Reason: To protect the amenity of local residents.

10 - G04 (Landscaping scheme (general))

Reason: In order to protect the visual amenities of the area.

11 - G05 (Implementation of landscaping scheme (general))

Reason: In order to protect the visual amenities of the area.

12 - H03 (Visibility splays)

Reason: In the interests of highway safety.

13 - H05 (Access gates)

Reason: In the interests of highway safety.

14 - H14 (Turning and parking: change of use - domestic)

Reason: To minimise the likelihood of indiscriminate parking in the interests of highway safety.

- 15 - The first two metres of access drive shall be provided with a bound surface to prevent gravel being displaced onto the public highway.

Reason: In the interests of highway safety in order to prevent debris from entering onto the public highway.

- 16 - The integral garage shall be used for the parking of vehicles only and not for additional domestic accommodation. Also the adjoining store room shall be used for garden/domestic storage and not for additional accommodation.

Reason: In order to retain the historic character of the building.

- 17 - An ecology mitigation strategy in accordance with detail as set out in the ecology survey submitted as part of the planning application will be carried out on site in accordance with a scheme to be submitted and approved in writing by the Local Planning Authority.

Reason: In order to preserve and enhance protected biodiversity on sites.

Informatives:

- 1 - HN02 - Public rights of way affected
- 2 - HN01 - Mud on highway
- 3 - HN05 - Works within the highway
- 4 - HN22 - Works adjoining highway
- 5 - N15 - Reason(s) for the Grant of PP/LBC/CAC

DCNW2005/3738/L

That listed building consent be granted subject to the following conditions:

- 1 - CO1 (Time limit for commencement (Listed Building Consent))

Reason: Required to be imposed by Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 2 - C02 (Approval of details)

Reason: To safeguard the character and appearance of this building of [special] architectural or historical interest.

- 3 - C05 (Details of external joinery finishes)

Reason: To safeguard the character and appearance of this building of [special] architectural or historical interest.

- 4 - C10 (Details of rooflights)

Reason: To ensure the rooflights do not break the plane of the roof slope in the interests of safeguarding the character and appearance of this building of [special] architectural or historical interest.

5 - C12 (Repairs to match existing)

Reason: To safeguard the character and appearance of this building of [special] architectural or historical interest.

6 - C17 (Samples of roofing material)

Reason: To safeguard the character and appearance of this building of [special] architectural or historical interest.

Informative

1 - N15 – Reason(s) for the Grant of PP/LBC/CAC

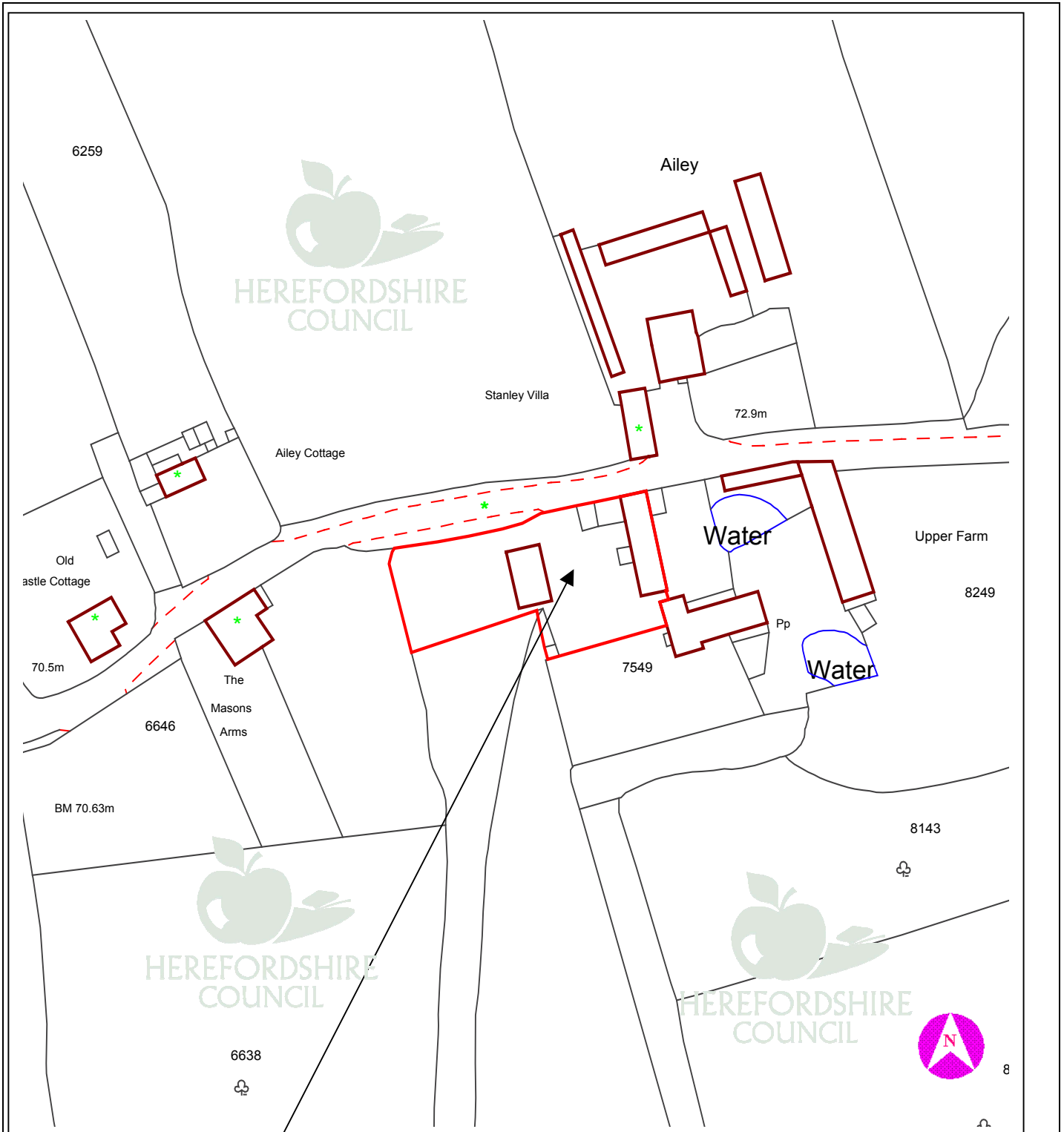
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCNW2005/3737/F

SCALE : 1 : 1250

SITE ADDRESS : Upper Farm, Ailey, Kinnersley, Herefordshire.

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