

DELEGATED DECISION REPORT

APPLICATION NUMBER

212445

Rhydycar Mill, Priors Wood Road, St Weonards, Hereford, HR2 8PN

CASE OFFICER: Ms Laura Smith
DATE OF SITE VISIT: 20 August 2021

**Relevant Development
Plan Policies:**

**Herefordshire Local Plan – Core Strategy
Policies:**

SS6 Environmental quality and local distinctiveness
RA6 Rural economy
MT1 Traffic management, highway safety and promoting active travel
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
SS1 Presumption in favour of sustainable development

St Weonards Neighbourhood Development Plan

Is at drafting stage therefore carries no weight in decision making

National Planning Policy Framework (NPPF):

Chapter 2 Achieving sustainable development

Chapter 6 Building a strong, competitive economy

Chapter 12 Achieving well-designed places

Chapter 15 Conserving and enhancing the natural environment

Relevant Site History: None

CONSULTATIONS

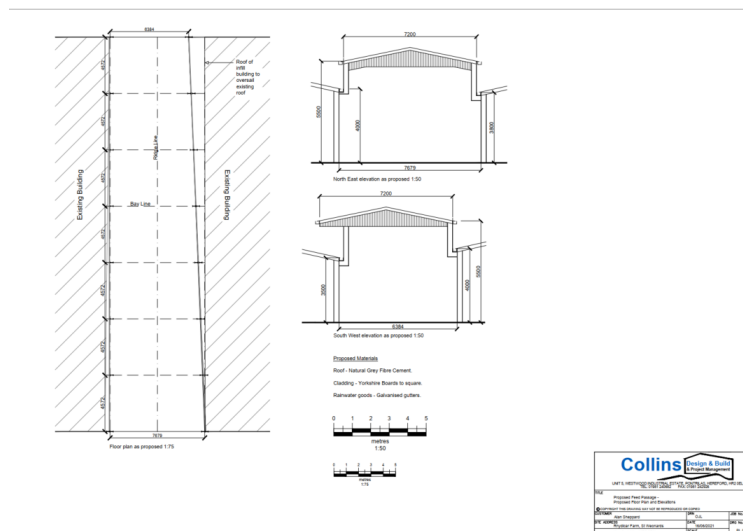
	Consulted	No Response	No objection	Qualified Comment	Object
Parish Council	X				
Transportation	X		X		
Forestry Commission	X			X	
Ecologist	X			X	
Natural England	X	X			
Press/ Site Notice	X	X			
Local Member	X		X		

PLANNING OFFICER'S APPRAISAL:

Site description and proposal:

The site is located at Rhydicar Farm, St Weonards which is an existing well established farmstead located to the West of the A466 accessed of an unclassified road.

The proposal is for a proposed covered feed passage



Proposed Plans

Representations:

Parish Council – No response provided

Transportation – ‘No objections, no highway implications.

All applicants are reminded that attaining planning consent does not constitute permission to work in the highway. Any applicant wishing to carry out works in the highway should see the various guidance on Herefordshire Council's website:

www.herefordshire.gov.uk/directory_record/1992/street_works_licence
<https://www.herefordshire.gov.uk/info/200196/roads/707/highways> ‘

Ecology – *‘The development site is within approx. 50m of the Garren Brook (Local Wildlife Site) a tributary of the River Wye SAC. A Habitat Regulations Assessment process is triggered by this application.*

The LPA must complete a relevant Habitat Regulations Assessment process and have legal and scientific certainty that there are no adverse effects on the integrity of the designated site PRIOR to any grant of a planning consent. The LPA must as required submit any HRA appropriate assessment for formal consultation and approval by Natural England prior to any planning consent being granted.

The LPA requires all information to be beyond doubt and legally and scientifically certainty in order to complete the HRA process that must be completed with a precautionary approach.

The following additional information is initially requested to enable the LPA to progress the required HRA process. The LPA or Natural England may request further evidence and clarification-information if identified as being required to support the HRA process.

- *Is the development required to support any recent intensification of livestock numbers on the holding or any planned future intensification of livestock numbers on the holding?*
- 1. *If the answer to the question above is “YES” then further detailed information on how additional manure created by the intensification support will be managed such as to clearly demonstrate nutrient neutrality can be achieved and secured for the lifetime of the development. In addition a prior to intensification and then a worst case scenario post intensification air emissions assessment should be completed and submitted to the LPA – the latest JNCC guidance (December 2021) on assessing impacts of air emissions will be utilised to identify if any more detailed ‘in combination’ air emission assessment is triggered in respect of any designated nature conservation site or ‘irreplaceable habitat’.*

In addition to the above a detailed scheme of how all manure and dirty water run-off created by operation of the proposed feeding passage will be managed such that there is certainty that no run-off can be discharged into the Garren Brook (Wye SAC) is requested.

It is noted that the development is located within an existing ‘farm building complex’ and no specific ecological report is identified as being required but due to the immediate proximity to the Garren Brook and potential for effects from construction operations on the brook, species within the reason for designation of the Wye SAC and general ecology and protected species known to utilise the brook corridor a comprehensive Construction Environmental Management Plan, including consideration for all potential effects of the construction and site management

processes and ecological working methods/risk avoidance measures should be supplied for approval as part of the HRA process or will be secured as a pre-commencement condition on any planning permission finally granted.

No additional external lighting should be installed as part of the proposed development to ensure the Garren Brook ecological corridor and the local intrinsically dark landscape that benefits local amenity and nature conservation interests is not affected by the operation of the development. A relevant condition would be requested on any planning permission finally granted to secure this lighting restriction.

Once the additional information has been supplied the LPA can look to progress the required HRA appropriate assessment and wider ecology comments and conditions as identified above finalised.'

Ecology Further Comments June 22 – *The development site is within approx. 50m of the Garren Brook (Local Wildlife Site) a tributary of the River Wye SAC. A Habitat Regulations Assessment process is triggered by this application.*

The LPA must complete a relevant Habitat Regulations Assessment process and have legal and scientific certainty that there are no adverse effects on the integrity of the designated site PRIOR to any grant of a planning consent. The LPA must as required submit any HRA appropriate assessment for formal consultation and approval by Natural England prior to any planning consent being granted.

The LPA requires all information to be beyond doubt and legally and scientifically certainty in order to complete the HRA process that must be completed with a precautionary approach.

Notes in respect of HRA

The application site lies within the catchment of the River Wye 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.

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 and species and habitats within the reason for designation 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. All mitigation must be legally securable through the planning process for the lifetime of the development.

Notes in respect of HRA appropriate assessment

- *The proposal is to create a new covered stock feeding area for temporary use in connection with existing adjacent stock sheds. The area is already an impermeable surface and used by stock.*

- *The applicant has confirmed in writing that NO increase (intensification) in stock numbers on the holding or utilising the yard area will be supported by the development..*
- *With no additional stock being supported, no increase in total manure created is identified.*
- *All manure will continue to be managed in line with current operations and in compliance with all relevant regulations and schemes that are subject to monitoring and enforcement by authorities and competent authorities-bodies outside of the planning process.*
- *All additional clean surface water created by the new roof area can be managed through appropriate sustainable drainage features.*
- *No additional or increased nutrient pathways or air emission deposition are identified and no effects on the Wye SAC are identified from the proposed development.*
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With no 'effects' based on the project alone there is no reason to consider that there are any additional 'effects' when considered 'in combination'.

With no mitigation measures required outside of the development proposal as submitted (fully embedded) no effects are identified and the HRA appropriate assessment can consider the development as 'screened out' at stage 1 and no further detailed appropriate assessment or consultation with Natural England is required in respect of the River Wye SAC.

Additional ecology comments

As considered in respect of River Wye SAC there are no identified effects on the Garren Brook Local Wildlife Site – subject to additional consideration and relevant mitigation secured by condition in respect of:

- *The additional local consideration on habitats and protected species any increase in illumination of this designated site and wildlife corridor might create. A relevant condition to ensure there are no effects from additional illumination is requested on any planning permission granted.*
- *The actual construction process could impact and effect habitats and species, including protected species associated with the Garren Brook LWS. A detailed construction environmental management plan (CEMP) is requested as a pre-commencement condition. Helpful guidance on all considerations relevant to a CEMP can be found at https://www.designingbuildings.co.uk/wiki/Construction_environmental_management_plan*

Forestry Commission – 'We also particularly refer you to further technical information set out in Natural England and Forestry Commission's Standing Advice on Ancient Woodland – plus supporting Assessment Guide and Case Decisions. As a Non Ministerial Government Department, we provide no opinion supporting or objecting to an application. Rather we are

including information on the potential impact that the proposed development would have on the ancient woodland. Subsequent Enforcement Notices, may be materially relevant to planning applications in situations where the site looks to have been cleared prior to a planning application having been submitted or approved.

If the planning authority takes the decision to approve this application, we may be able to give further support in developing appropriate conditions in relation to woodland management mitigation or compensation measures. Please note however that the Standing Advice states that *“Ancient woodland, ancient trees and veteran trees are irreplaceable. Consequently you should not consider proposed compensation measures as part of your assessment of the merits of the development proposal.”*

We suggest that you take regard of any points provided by Natural England about the biodiversity of the woodland. We also assume that as part of the planning process, the local authority has given a screening opinion as to whether or not an Environmental Impact Assessment is needed under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. If not, it is worth advising the applicant to approach the Forestry Commission to provide an opinion as to whether or not an Environmental Impact Assessment is needed under the Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999, as amended.’

Local member – No Objection

Pre-application discussion:

N/A

Constraints:

Listed Building Grade II – Nrby
Flood Zone 2 & 3 – Nrby
Surface Water – Nrby
SSSI Impact zone
SWS – Nr Site
Ancient Woodland – 250m away

Appraisal:

Policy context and Principle of Development

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.”

In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS) The National Planning Policy Framework 2019, which itself is also a significant material consideration.

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 was made on 9th 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.

With regards to the principle of development, in the first instance it is noted that Policy RA6 supports employment generating proposals in rural areas, especially where it involves the small scale expansion of existing businesses. However, it makes clear that such proposals will only be supported where they ensure that the development is of a scale which would be commensurate with its location and setting and would not cause adverse impacts to the amenity of neighbours by way of its design or through noise, dust, smell or lighting.

At the national level, the NPPF makes it very clear that planning decisions should enable the sustainable growth and expansion of all types of business in rural areas, either through the conversion of existing buildings or well-designed new buildings. The NPPF goes on to recognise that proposals to meet local business needs will often be found outside of sustainable settlements. This should not preclude development, but particular care and attention to ensure that the development is sensitive to its surroundings and does not have an adverse impact on the local highway network should be had in such instances.

In the case of this application it is sited within an established agricultural enterprise. The site at Rhydcar Farm is an established agricultural holding there is no intensification of farming operations as a result of these proposals, stock numbers will remain the same. The need for the covered feed passage is to minimise feed wastage and improve the drainage run off in line with Natural England's catchment sensitive farm initiative.

Design, Siting and Scale

With regards to the design of new buildings, Core Strategy policy SD1 is applicable. This states that proposals should be designed to maintain local distinctiveness through detailing and materials, respecting scale, height, proportions, and massing of surrounding development. Furthermore, with regards to landscape impacts policy LD1 applies. This policy explains how development proposals should demonstrate that the character of the landscape has influenced the design, scale, nature and site selection, and should also include new landscaping schemes to ensure development integrates appropriately into its surroundings. RA6 is also relevant in so far as it requires schemes to be of a scale which is commensurate to its location and setting.

The design of the building is as one would expect for a modern livestock unit. The proposed building would be positioned adjacent to the existing farm buildings on the site. The proposal will be clad in Yorkshire boards to square for the walls with the roof being a natural grey fibre cement, with the gutters being galvanised with 2 no 110mm downpipes. Therefore ensuring that

the new building is read as an extension to the existing farmyard. The scale of the extension and the new building are what would be expected for their intended use and therefore not considered to be adversely impacting to the holding.

Neighbouring Amenity

With regards to neighbouring residential amenity, policy RA6 requires that proposals should ensure that they do not cause unacceptable adverse impacts to the amenity of nearby residents by virtue of design and mass, noise, dust, lighting and smell. SD1 similarly requires that developments should safeguard good standards of amenity for existing and future residents. Both reflect the principles set out at Chapter 9 of the NPPF.

As mentioned above the site is within a well-established farmstead with no residential dwellings within the nearby vicinity and therefore no adverse impact upon neighbouring dwellings is considered.

Access and Highways

In respect of matters pertaining to highway safety Core Strategy policy MT1 is applicable, and this requires that proposals demonstrate that the strategic and local highway network can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network. It also requires under (4) that developments are designed and laid out to achieve safe entrance and exit and have appropriate operational and manoeuvring space, having regard to the standards of the Council's Highways Development Design Guide. Policy RA6 also sets out that proposals affecting the rural economy should ensure that the development does not generate a level of traffic movements which cannot be accommodated safely within the local highways network. This approach accords with the principles outlined in section 9 of the NPPF.

Access to the site in this case is taken via the existing track, the proposal will not increase the amount of traffic movements to and from the site the Highways Engineer was satisfied the proposal would not have an adverse highways impact and recommended no conditions.

Environmental Impacts and Habitats Regulation Assessment

Policy LD2 of the CS states that all development proposals should conserve, restore and enhance the counties biodiversity assets wherever possible. Amongst other things, this should be achieved through the retention and protection of nature conservation sites and habitats in accordance with their status. RA6 is also relevant in that this offers support to proposals which support the rural economy, provided (inter alia) that they do not undermine the achievement of water quality targets in accordance with Policies SD3 and SD4.

These policies are underpinned by Chapter 15 of the NPPF, particularly Paragraph 174 which requires that planning policies and decisions should contribute to and enhance the natural and local environment by, amongst other things, protecting and enhancing valued landscapes and minimising impacts on and providing net gains for biodiversity wherever possible. In determining planning applications, Paragraph 180 states that if significant harm to biodiversity resulting from a development cannot be avoided adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Under 180 b) and c), the Framework also directs that development which is likely to have an adverse effect on a Site of Special Scientific Interest should not normally be permitted and that development resulting in the loss or deterioration of

irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons.

As part of the supporting information it has been confirmed that the building does not support an intensification in operations or livestock numbers, and the use of the building for the stated purpose can be secured by condition. On this basis, it is not considered there would be likely significant effect and no further assessment is required under Regulation 63. On this basis, no conflict with LD2 is found.

There are no other matters pertinent to the proposal which requires discussion or assessment and taking the above into account, it is considered that the proposal generally accords with the provisions of the Herefordshire Local Plan – Core Strategy together with the overarching aims and objectives of the National Planning Policy Framework. The application is accordingly recommended for approval subject to the conditions as set out below.

RECOMMENDATION: **PERMIT** ☒ **REFUSE** ☐

CONDITION(S) & REASON(S) / REASON(S) FOR REFUSAL:
(please note any variations to standard conditions)

1. C01
2. C07

3. CNS - Protected Species and Lighting (Dark Skies)

At no time shall any external lighting except in relation to the immediate 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 this local planning authority.

All lighting installed shall demonstrate compliance with latest best practice guidance relating to lighting and protected species-wildlife available from the Bat Conservation Trust and 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.

4. **CNS - Construction Environmental Management Plan** Before any work; including demolition or site clearance begins or equipment and materials are moved on to site, a fully detailed and comprehensive Construction Environmental Management Plan (CEMP) including a specified 'responsible shall be supplied to the local planning

authority for written approval. The approved CEMP shall be implemented and remain in place until all work approved under both applications is complete on site and all equipment and spare materials have finally been removed; unless otherwise agreed in writing by the 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.

5. **CNS** - The cover feed passage building hereby approved shall be used for the storage of feed for the use of livestock for Rhydicar Farm. At no time shall it be used for the storage of any manure, slurry or other animal waste material emanating from outside this site. It shall not be used at any time for the accommodation of livestock unless otherwise first approved in writing by the Local Planning Authority.

Reason: In order to ensure the building is used in line with the specific terms applied for and to ensure that the development would not facilitate an intensification in farming operations at the site which would be liable to give rise to environmental impacts that would otherwise be contrary to policies SS6, LD2, SD3 of the Herefordshire Core Strategy, the National Planning Policy Framework; 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'), and the NERC Act 2006.

Informatives

IP1

INS - Wildlife Protection Informative

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, Otters, Dormice, Crayfish and reptile species 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 advice from a local professional ecology consultant is obtained.

Signed: 

Dated: 9.6.22

TEAM LEADER'S COMMENTS:

DECISION:

PERMIT

☒

REFUSE

☐

Signed:  Dated: 10/6/22

Is any redaction required before publication? No