

## PLANNING PERMISSION

**Applicant:**

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**Agent:**

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Date of Application: 7 April 2014

Application No: P141024/F

Grid Ref: 341135:245364

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**Proposed development:**

**SITE:** Land at Flag Station, Mansell Lacy, Hereford, HR4 7HN

**DESCRIPTION:** Proposed erection of 4 nos. poultry buildings, associated feed bins, hard-standings and access road.

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This application falls within Schedule 1, Paragraph 17(a) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (The EIA Regulations). Accordingly, it was accompanied by a mandatory Environmental Statement which, along with all other submitted information, supporting documents, representations and responses, has been fully taken into account in considering this proposal.

THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL hereby gives notice in pursuance of the provisions of the above Acts that PLANNING PERMISSION has been GRANTED for the development described above in accordance with the application and plans submitted to the authority subject to the following conditions:

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

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

- 2 The development hereby approved shall be carried out strictly in accordance with the approved plans (location plan – drawing number IP/FE/01, site layout plan – drawing number IP/JD/02, site plan – drawing number IP/RW/03, proposed broiler units elevations and floor plan – drawing number IP/JD/04) and the schedule of materials indicated thereon. The number of broilers on site shall not exceed 180,000.

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 Policy DR1 and DR2 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 3 Notwithstanding the approved plans all the external colouring of the feed silos hereby approved shall be to colour code 'Juniper Green' (BS12B29).

Reason: With consideration to the impact on the surrounding landscape and to comply with Policies DR1 and LA2 of the Herefordshire Unitary Development Plan.

- 4 The development hereby permitted shall not be brought into use until the access, turning area and parking facilities shown on the approved plan have been properly consolidated, surfaced, drained and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority and these areas shall thereafter be retained and kept available for those uses at all times.

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway and to conform with the requirements of Policy T11 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 5 Prior to the commencement of the development hereby permitted, full details of all external lighting to be installed upon the site (including upon the external elevations of the buildings) shall be submitted to and be approved in writing by the local planning authority. No external lighting shall be installed upon the site (including upon the external elevations of the buildings) without the prior written consent of the local planning authority. The approved external lighting shall be installed in accordance with the approved details and thereafter maintained in accordance with those details.

Reason: To safeguard the character and amenities of the area and to comply with Policy DR14 of Herefordshire Unitary Development Plan.

- 6 No development shall take place until a Manure and Site Management Plan has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the provisions of the approved Plan.

Reason: In the interests of pollution prevention and efficient waste minimisation and management so as to comply with Policies S10 and DR4 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 7 No development shall commence until the Developer has prepared a scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and land drainage will be dealt with and this has been submitted to and approved in writing by the local planning authority. The work shall be carried out in accordance with the approved scheme.

Reason: In consideration of the location for the proposed development and its proximity to residential use and to comply with Policies DR2 and DR4 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 8 All manure moved off site will be so in covered and sealed trailers.

Reason: In consideration of the amenity of the surrounding area and to comply with Policy DR4 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 9 None of the existing trees and/or hedgerows on the site (other than those specifically shown to be removed on the approved drawings) shall be removed, destroyed or felled without the prior approval in writing of the Local Planning Authority.

Reason: To safeguard the amenity of the area and to ensure that the development conforms with Policy DR1 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 10 In this condition 'retained tree/hedgerow' means an existing tree/hedgerow that is to be retained in accordance with the approved plans and particulars.

No development, including demolition works shall be commenced on site or site huts, machinery or materials brought onto the site, before adequate measures have been taken to prevent damage to those trees/hedgerows that are to be retained. Measures to protect those trees/hedgerows must include:

a) Root Protection Areas for each hedgerow/tree/group of trees must be defined in accordance with BS3998:2010 – Tree Work - Recommendations, shown on the site layout drawing and approved by the Local Planning Authority.

b) If necessary, temporary protective fencing, of a type and form agreed in writing with the Local Planning Authority must be erected around each hedgerow, tree or group of trees. The fencing must be at least 1.25 metres high and erected to encompass the whole of the Root Protection Areas for each hedgerow/tree/group of trees.

c) No excavations, site works or trenching shall take place, no soil, waste or deleterious materials shall be deposited and no site huts, vehicles, machinery, fuel, construction materials or equipment shall be sited within the Root Protection Areas for any hedgerow/tree/group of trees without the prior written consent of the Local Planning Authority.

d) No burning of any materials shall take place within 10 metres of the furthest extent of any hedgerow or the crown spread of any tree/group of trees to be retained.

e) There shall be no alteration of soil levels within the Root Protection Areas of any hedgerow/tree/group of trees to be retained.

Reason: To safeguard the amenity of the area and to ensure that the development conforms with Policies DR1 and LA5 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 11 No development shall commence on site until a landscape design has been submitted to and approved in writing by the Local Planning Authority. The details submitted should include:

Soft landscaping

a) A plan(s) showing details of all existing trees and hedges on the application site. The plan should include, for each tree/hedge, the accurate position, species and canopy spread, together with an indication of which are to be retained and which are to be removed.

b) A plan(s) at a scale of 1:200 or 1:500 showing the layout of proposed tree, hedge and shrub planting and grass areas

c) A written specification clearly describing the species, sizes, densities and planting numbers and giving details of cultivation and other operations associated with plant and grass establishment.

## Hard landscaping

- a) Existing and proposed finished levels or contours
- b) The position, design and materials of all site enclosure (e.g. fences, walls)
- c) Car parking layout and other vehicular and pedestrian areas
- d) Hard surfacing materials

Reason: In order to maintain the visual amenities of the area and to conform with Policy LA6 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 12 The soft landscaping scheme approved under condition 11 shall be carried out concurrently with the development hereby permitted and shall be completed no later than the first planting season following the completion of the development. The landscaping shall be maintained for a period of 5 years. During this time, any trees, shrubs or other plants which are removed, die or are seriously retarded shall be replaced during the next planting season with others of similar sizes and species unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5-year maintenance period. The hard landscaping shall be completed prior to the first use of the development hereby permitted

Reason: In order to maintain the visual amenities of the area and to comply with Policy LA6 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 13 A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, including the woodland area immediately to the south of the application site, shall be submitted to and approved in writing by the Local Planning Authority prior to any phase of the development. The landscape management plan shall be carried out as approved.

Reason: In order to maintain the visual amenity of the area and to comply with Policy LA6 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 14 On commencement of the development, the mitigation as proposed must be carried out in accordance with Recommendations 1 to 4 set out in the ecologist's badger report submitted in support of the application from Betts Ecology dated March 2014. An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6, NC7, NC8 and NC9 of the Herefordshire Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of the National Planning Policy Statement and the NERC Act 2006.

- 15 The recommendations set out in section 7.4 the ecologist's report from Bretts Ecology dated September 2013 must be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a habitat protection and enhancement scheme must be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved. An appropriately qualified and experienced ecological clerk of works must be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6, NC8 and NC9 of Herefordshire Unitary Development Plan, in relation to Nature Conservation and Biodiversity and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006.

- 16 No development will take place until the developer has provided detailed construction drawings of the proposed surface water outfall to the receiving watercourse to be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme and retained as such thereafter.

Reason: To ensure the integrity of the receiving watercourse and to comply with Policies DR4 and DR7 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 17 No development will take place until the developer has provided detailed construction drawings of the proposed attenuation structure to be submitted to and approved in writing by the Local Planning Authority. The details submitted must include information pertaining to the depth, levels and dimensions of the structure. The development shall thereafter be carried out in accordance with the approved scheme and retained as such thereafter.

Reason: To ensure that the development has sufficient capacity to attenuate surface water runoff up to and including the 1% annual probability event (including climate change allowance) to ensure no increased flood risk to people or property elsewhere and to comply with Policies DR4 and DR7 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 18 Prior to the commencement of development, details of the design and location of the waste water storage tanks are to be submitted to and approved in writing by the Local Planning Authority, the development shall thereafter be carried out in accordance with the approved scheme.

Reason: To ensure the effective drainage facilities are provided for the proposed development, and that no adverse impact occurs to the environment or the existing public sewerage system so as to comply with Policy CF2 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 19 There shall be no HGV movements on site between the hours of 7pm to 7am, except for the collection of birds.

Reason: To safeguard the amenity of the area so as to comply with policy DR13 of the Herefordshire Unitary Development Plan.

- 20 The heating of the buildings shall be through radiators fed by a gas boiler.

Reason to ensure compliance with policy DR9 of the Herefordshire Unitary Development Plan.

- 21 During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries shall be taken at or despatched from the site outside the following times: Monday-Friday 7.00 am-6.00 pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.

Reason: To protect the amenity of local residents and to comply with Policy DR13 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

Informatives:

1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including the Environmental Statement, and any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

2 This planning permission does not authorise the applicant to carry out works within the publicly maintained highway and Balfour Beatty (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford, HR2 6JT (Tel: 01432 261800), shall be given at least 28 days' notice of the applicant's intention to commence any works affecting the public highway so that the applicant can be provided with an approved specification, and supervision arranged for the works.

Under the Traffic Management Act 2004, Herefordshire Council operate a notice scheme to co-ordinate Streetworks. Early discussions with the Highways Services Team are advised as a minimum of 4 weeks to 3 months notification is required (dictated by type of works and the impact that it may have on the travelling public). Please note that the timescale between notification and you being able to commence your works may be longer depending on other planned works in the area and the traffic sensitivity of the site. The Highway Service can be contacted on Tel: 01432 261800.

3 All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- intentionally kill, injure or take any wild bird
  - intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
  - intentionally take or destroy the egg of any wild bird
  - intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.
- The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural England and the Council's Ecologist.

4 This permission does not extend to the provision of a biomass boiler, a separate planning application for which would be required.

5 The applicant is reminded of the obligation pursuant to the Environmental Permit to operate the unit in accordance with the information submitted as part of the Environmental Permitting process, including the noise and odour management plans.



**DEVELOPMENT MANAGER**

Date: 15 December 2014

**YOUR ATTENTION IS DRAWN TO THE NOTES BELOW**

**Notes**

This permission refers only to that required under the Town and Country Planning Acts and does not include any consent or approval under any other enactment, byelaw, order or regulation. In particular consent may be required under the Building Regulations.

The applicant is advised that additional Council Tax payments may be sought in the event that the Valuation Office, who routinely monitor decision notices, consider any part of the development hereby permitted to be self-contained. This assessment is particularly likely to be the case in respect of flats, basement conversions, granny annexes, studio rooms and log cabins and/or where the additional accommodation contains its own kitchen, bathroom and bedroom. Further information can be found on the Council's website at <https://www.herefordshire.gov.uk/search?q=annexes>

**Appeals to the Secretary of State**

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.
- If you want to appeal, then you must do so within 6 months of the date of this notice, using a form which you can get from The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN.
- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

**Right to Challenge the Decision of the High Court**

Currently there are no third party rights of appeal through the planning system against a decision of a Local Planning Authority. Therefore, if you have concerns about a planning application and permission is granted, you cannot appeal that decision. Any challenge under current legislation would have to be made outside the planning system through a process called Judicial Review (JR).

The decision may be challenged by making an application for judicial review to the High Court. The time limits for bringing such challenges are very strict, and applications need to be made as soon as possible after the issue of the decision notice. So, if you think you may have grounds to challenge a decision by Judicial Review you are advised to seek professional advice as soon as possible

These notes are provided for guidance only and apply to challenges under the legislation specified. If you require further advice on making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000). For further information on judicial review please go to <http://www.justice.gov.uk>

The Council has taken into account environmental information when making this decision. The decision is final unless it is successfully challenged in the Courts. The Council cannot amend or interpret the decision. It may be redetermined by the Council only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

**Purchase Notices**

- If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.