

## The Planning Inspectorate

### COMMENTS ON CASE (Online Version)

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**Appeal Reference: APP/W1850/W/23/3316691**

#### DETAILS OF THE CASE

Appeal Reference

Appeal By

Site Address

#### SENDER DETAILS

Name

Address

Company/Group/Organisation Name

#### ABOUT YOUR COMMENTS

In what capacity do you wish to make representations on this case?

- Appellant
- Agent
- Interested Party / Person
- Land Owner
- Rule 6 (6)

What kind of representation are you making?

- Final Comments
- Proof of Evidence
- Statement
- Statement of Common Ground
- Interested Party/Person Correspondence

Other

**COMMENT DOCUMENTS**

**The documents listed below were uploaded with this form:**

**Relates to Section:** REPRESENTATION

**Document Description:** Your comments on the appeal.

**File name:** Appeal Representation by Immediate Neighbours-1.pdf

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## **Appeal Representation by Immediate Neighbours**

### **Ref. Appeal Reference: APP/W1850/W/23 3316691 & 2**

**In connection with Herefordshire Council Planning applications 222006 & 7 at Lower Daffaluke, Daffaluke Lane, Glewstone Herefordshire, HR9 6BB**

31st August 2023

For the attention of the Planning Inspectorate

We, the immediate neighbours with properties directly adjoining the planning appellants property, Lower Daffaluke, submit this document by way of a summary of our key findings, concerns and issues surrounding this proposed development. As such please view this document as supplemental to our numerous objections posted against these latest applications (222006 & 7) and previous withdrawn applications 212661 & 213968. Note, much of the material lodged against the withdrawn applications, by the many objectors is extremely relevant here to the extent that Herefordshire Councils planning dept. provided assurance that all relevant material from this earlier application would be taken into account against 222006 & 7 when making their determination and therefore avoiding much duplicated effort by all concerned [Ref. [Appendix 1](#), Answer 1 – Email 12<sup>th</sup> July 2022 from Mr Withers].

As you will no-doubt appreciate from your review of the objections much time and effort has been put into the research and writing of these objections. We have not entered into this lightly and through our knowledge of the site and research now believe there are some serious issues with this application that collectively have a detrimental impact on this quiet rural location. We knew little of the planning process before embarking on this and were not even aware that the Planning Office had stopped informing adjoining residents/land owners to new development applications by post. Thankfully following a casual conversation with the appellants Mrs Ebbutt took the initiative and ran a search on the Planning portal to find that the initial application was live and had been for several days, giving little or no time for anyone to comment.

During the course of this seemingly very protracted process we have sought considerable advice from many professional sources including, planning professionals, ecologist's, CPRE, CBA, Cellmark, to name a few and also sought legal planning advise. Our many objections are made in the context of the NPPF (the Framework), the Herefordshire Local Plan Core Strategy document 2011-2031 (HLPCS), various planning, building & installation guidance documents, including Planning Practice Guidance (PPG) and neighbouring Llangarron Parish Neighbourhood Plan

On a general note, we have found on all applications submitted by the Appellants and their Agent for Lower Daffaluke that they have persistently supplied inaccurate or incorrect information or omitted key facts which have mislead the council. These inaccuracies have rarely been challenged, investigated or corrected by the Planning Department (despite local and surrounding residents' repeatedly flagging inaccuracies), leading to a number of Consultees and Planning Department (on occasion) to make recommendations based on false premises.

This [REDACTED] information has primarily concerned the following important aspects:

- **Transport and Road Safety**
- **Heritage** conservation & preservation of the Grade II listed buildings
- **Commercial, Residential, Smallholding status**
- **Ecology** and existing value of the surrounding natural environment and waterways
- **Drainage and effluent disposal (including PTP)**
- **Surface water and soakaway provision**
- **Provision of critical water supply for all existing and proposed new residents**
- **Presence of Toxic waste (asbestos) on site**
- **Noise pollution**

Below, in no particular order, are points on several topics that we feel have not been answered or addressed satisfactorily as yet by this application. The reasons for which are manifold, but by-and-large this has been as a result of poor quality mis-leading information provided by the appellants in their application documentation and subsequent, in suffice, often inaccurate, unqualified and invariably late or no follow-up to requests for additional information. As regards the Council we believe many of these outstanding concerns and issues are as a result of; a lack of knowledge/unfamiliarity with the site, its surroundings, resistance to accept facts they should have known, lack of research and what appears to be an unwillingness to accept and uphold the Core Strategy and governing guidance for what they are and as intended to be applied. Neither has shone in this process and what it has very clearly shown is that the knowledge, material facts, findings and concerns voiced by conscientious objectors holds little sway with the Council and its consultees, leaving us particularly aggrieved and frustrated by this whole process.

**Appendix 2 provides a high-level review of the Application History, that we have been privy too. Of note are discussions held with the appellants and various correspondence with the Council.**

1. **Traffic & Access** – There has been considerable concern raised over the substantial uplift in traffic & access inevitable as a result of this proposed development and intended use. Access is only possible via a very narrow lane known as Daffaluke Lane (U71014) and shared unadopted entrance track. This lane is in a poor state and continues to deteriorate year on year despite annual repairs. The continued safe use of this lane is a concern to all that live along it and the wider community that use it, with 24 objections against the original application 212661 (including the CPRE and the Parish Council) it's clearly an issue, with further considerable correspondence on this topic since (in particular please see [Appendix 3](#), communication to Traffic & Access Consultee Ms Tookey-Williams dated 18<sup>th</sup> Sept 2021). Unbelievably the Councils Consultee has given approval with no explanation and not entertained any form of discussion on the matter, yet a council officer ruled back in 2012 against a previous planning application at this site that *"This narrow lane would not be suitable for any significant intensification"*, Citing condition CA1 (3 cars) and research of other Herefordshire planning applications in more recent times shows planning refusals being determined on traffic & access grounds for comparable or less significant safety related issues.

In all of their applications the Appellants state that their property is a smallholding which is not [REDACTED]. The [REDACTED] labelling of Lower Daffaluke as Lower Daffaluke Farm and referring to it as

a Smallholding by the appellants and lack of investigation/correction of this by the council has we believe led to incorrect and potentially dangerous recommendations on local road safety. Several internal consultees have based their recommendations on that very fact, Transport in particular. Traffic & Access Consultee's response to Mr and Mrs Ebbutt questions raised with regards to traffic on 20<sup>th</sup> September 2021 posted against application 212661 reads:

*"Further to previous comments made it should be noted that the barns are existing therefore they already generate trips under their permitted use. The change of use from agricultural to holiday lets will not only change the type of vehicles being used along the highway it will also go some way to offsetting the residential trips associated with the holiday accommodation."*

The Traffic & Access Consultee incorrectly believes that the Appellants' property was a working farm and that farm vehicles would be replaced by private cars. She states that the traffic will be reduced. We question whether she has visited the site and driven down either connecting lane. Historically when once a farm (prior to 1998) it was a pig farm of 26 acres when the main vehicular access for all farm traffic was across this land out to Hendre lane and the A4137. Today as a residential property of just 6.2 acres access to the property is only possible via Daffaluke lane.

Whereas the Traffic Officer (Consultee) back in 2012 clearly understood that Lower Daffaluke was a residential property and would/was not creating agricultural vehicle movements and hadn't done for some time.

Of additional note:

- Daffaluke lane can only be reached by further similar single track country lanes.
- Some means of motorised transport is essential for anyone visiting or staying at Lower Daffaluke. There is no public transport, the nearest shop is in Peterstow 2 miles away and nearest Pub approximately 1.5miles away.
- Daffaluke lane is registered with Council as a 3m wide road. Due to minimal maintenance delivered by Herefordshire council in the last 25 years this lane tarmacked width now averages only 2.4 metres wide (sides have collapsed on much of the length), with no verges and no official passing places, flanked by high hedgerows (see attached photos). This is a shared surface with limited visibility where you are forced to reverse or walk back for long distances in order to pass.
- A council steward deemed Daffaluke lane as unsafe this July after a member of the public complained. Despite *The Hedgerow Regulations (1997)* prohibiting cutting or trimming between 1<sup>st</sup> March and 31 August, the hedges were cut back as never before to bare branches with the loss of all greenery at the height of bird-nesting season. When queried, the council said the request had been made by a local resident. [This request had not come from any of us.]

This application was first being reviewed by the Council when first Covid out back in 2020, when home working and travel restriction were very much in place. We don't believe a site visit/lane inspection was made and requests for confirmation on whether a boots-on-the ground inspection was or has been made since have not been answered. With the increasing

enforcement on the restrictions of grass cutting early in the year and hedge cutting during the bird nesting season from March through August (prime holiday letting time) safe passage along Daffaluke Lane becomes increasingly difficult. Photos 1 to 4 below illustrate this well. These photos were taken this year, a few days before the Council made the decision to cut the hedges of Daffaluke Lane on the 20<sup>th</sup> of July some 5 weeks before the end of the no-cut restriction period on the grounds of safety.

As we understand it, the inevitable increased intensification of use created directly by this proposed development contravenes Herefordshire's MT1 Policy, in particular points 1,2 and 4, and that further development of the applicant's property in this way cannot be safely accommodated within the local road network (RA6). We therefore believe this issue has not been addressed adequately by the Council and needs further review.



Photos 1 & 2 - Daffaluke Lane to North of entrance to Lower Daffaluke



Photos 3 & 4 - Daffaluke Lane South of Lower Daffaluke entrance

2. **Listed status** – Pre-App advice sought by the appellants 210695/CE dated 14<sup>th</sup> April 2021, ahead of original application 212661 declared the Stone Barn for conversion as “having no historic interest”. Appellants Design & Access statement submitted as part of their Pre-App application back in February 2021 clearly states the existence of Listed building consent SS980747 LA for the Stone Barn, hence the appellants and agent were fully aware of its listing status [REDACTED]

After some further research, including identification of the Listing within the Council's own archives, and a considerable number of email exchanges with the Council the listing it was eventually accepted 4 months later and LBC application 213938 eventually filed in October 2021. [REDACTED]

3. **Listed Barn Conversion** - Historically known as ‘Lower Daffaluke’ or ‘Little Daffaluke’, the addition of ‘Farm’ is a new title. Used as a smallholding until the retirement of the farmers in 1999. The small holding licence then lapsed and has never been renewed. For the past 24yrs Lower Daffaluke has been bought and sold as a residential property.

In 1998 the Listed stone barn was granted planning permission by Herefordshire Council for the conversion to form 2 and 3 bedroom holiday lets under application SS980747/LA and SS980722/PF. The assigned Case Officer in 1998 was Debbie Lewis which we now gather is the Built Environment Officer at Herefordshire Council and assigned to this current application (222006 & 7). The conversion granted had a comprehensive list of conditions to preserve the stone barn:

*“All existing windows and doors were utilised **with no new openings**. Unit 1 to have 3 bedrooms and unit 2 to have 2 bedrooms. Roof to be natural slate. No roof trusses to be cut etc., etc.”*

**There were no objections from local residents including Mr & Mrs Clark who've been in residence at Daffaluke House from [REDACTED] to this day.**

Herefordshire Council deemed Lower Daffaluke important enough to be placed on the Herefordshire Through Time Register, recorded as Lower Daffaluke (Little Daffaluke) S.M.R. No. 47723, ‘Historic Farms recorded as part of the Herefordshire Historic Farmsteads Characterisation Project’.

The planning approval of 1998 was sympathetic and respected the historic courtyard orientation of the stone barn with no additional opening into the back (West) elevation. This application looks to destroy much of this historic relationship with the principal 16c Old Farm House and courtyard, effectively reorientating the stone barn by closing off doorways on the East elevation, creating 9 new window openings to the West, including addition of a new principal entrance. With this, it will inevitably debase the agricultural roots and much of the quaint feel and original function of the old building(s) will be lost forever. Further to which the appellants now want to introduce vehicles into this otherwise quiet field space behind the Stone Barn (to the West) with the provision of a parking/turning space. This appears to be distinctly at odds with the fundamental requirements of Section 16 of the NPPF.



Case Officer Gemma Webster requested a survey of an identified large crack running from ground level to roof trusses up the East elevation close to the South gable end wall in the Stone Barn in January 2022, after recommending the withdrawal of P212661/F and P213968/L. She also wrote:

*"Yes, I would suggest to withdraw the LBC as well and then re-submitting amended plans as a whole with detailed supporting documents alongside the LBC in parallel." "It would be ideal if you would submit a report with your re-submission application regarding the crack in the Stone Barn wall.....as discussed yesterday and hopefully this will provide you the time for it to be undertaken and completed."*

To date no structural report has been received/posted. Posted email correspondence from appellants Agent to Mr A Collinson shows that Agent sent a photo to Mr Collinson one year on from officer's request (dated 16.2.2023), six months after the new planning applications of 222006/7 was posted, resulting in a very brief email response from Mr Collinson, no detailed analysis, formal report and no qualifications/credentials shown. This is wholly unsatisfactory and does not meet the request/requirements of the Case Officer. [Note, the Case Officer's email referred to above no longer appears to shown against P212661/F and P213968/L.]

As mentioned earlier the conditions for repair and conversion of the Stone Barn in SS980747/LA (1998) and P213968 (2021) are specific. 'No roof trusses to be cut and minimal cutting of the lime/ash floor which should be retained, roof coverings to be natural slate etc.' Three reports, the first against P213968 (2021) and two subsequent reports against current application P222006/7 have all been written by the same HBO Consultee yet the conditions applied have progressively been relaxed and watered down... why? If requirements and conditions cited against SS80747/LA were deemed to be important back in 1998 why are they no-longer as important now? None of the earlier preservation conditions of 1998 present obstacles to the conversion of the barn for holiday accommodation use.

Many objectors, we included, would welcome sympathetic repair and conversion of the Stone Barn for accommodation use which respects its heritage, but feel that the reorientation, proposed alterations and many new apertures are not in the best interests of this historic building or ecology of the area in which it sits.

The Council for British Archaeology (CBA), A National Amenity Society, has made representations against both the first withdrawn LBC 213938/L & current LBC 222007/L applications citing failure to satisfy the requirements of paragraphs 194, 199 and 200 of the NPPF, no acknowledgement or attempt to address these issues has been made as yet.

4. **Muddled intended use and business type** - To date the buildings of this proposed development across the 4 Planning Applications have been stated as functioning as: - studio space, workshop space, games room, snug, kitchen for communal catering, weekend workshops, company away days, site office, laundry, dog grooming/training and washing, stables, storage, bike shed, greenhouse; and holiday accommodation including glamping, self-catering, facilitators accommodation.
5. **Listed Setting** – There are three Listed structures in close proximity of each other, 16c Old Farm House and Stone Barn for conversion of Lower Daffaluke and Bramley Barn, with the

relationship between the three structures key to their listed status. Bramley Barn sits just 90mtrs North and directly above the proposed development site with its principal elevation and windowed outlook looking out directly over the proposed development site and on to the hills in the distance.

To this date there has been no appropriate consideration with regards to the Listed setting, of these three listed buildings, certainly not to the level appropriate according to the **Good Practice Advice 3 – The Setting of Heritage Assets (2<sup>nd</sup> Edition, 2017)**, by Heritage England. As such this fails compliance with Section 16 of the NPPF.

We note also that the Planning Inspectorate questionnaire (s78 & s20) completed as part of this appeal is incorrect, in that it does not recognise the proposed alterations to the Listed stone barn nor does it include within its requested documents a copy of the official listing description of Bramley Barn, NHLE No. 1214577.

Again as above, under Item 3 – Listed Barn Conversion; The Council for British Archaeology (CBA), A National Amenity Society, has made representations citing failure to satisfy the requirements of paragraphs 194, 199 and 200 of the NPPF, no acknowledgement or attempt to address these issues has been made as yet.

6. **Drainage** - Welsh Water advised 3<sup>rd</sup> August 2021 appellants to seek advice from Buildings Regulations regarding Sewerage and alt methods of drainage.

Back in December 2022 the EHO for Air, Land & Water Protection stated *“It is applicant’s responsibility to ensure private water supply is sufficient and safe in quality and quantity, especially at times of low rainfall” and asked for appellants to provide more information regarding location of PTP and soakaways from a suitably qualified and experienced technical specialist. This information is ideally to be submitted prior to determination to comply with SD1 and SD3, Herefordshire Core Strategy and NPPF. If not a condition before use be imposed.”*

As far as we are aware, to date nothing has been submitted to the Council and posted against the application that constitutes information provided by a suitably qualified and experienced technical specialist.

Various posted reports by the Drainage Consultee asked a number of questions of the appellants requiring professional information/calculations on SuDs and status of the current surface water handling, to date only anecdotal and incorrect information has been provided within emails from the appellants and their agent. There has been little or no credible information provided and nothing that constitutes a technical report by a professional.

On 17<sup>th</sup> August 2022 the Balfour Beatty Drainage Consultee asked the applicant to *“provide more detail on the location of the surface water soakaways and location of foul water discharge and type/size of infrastructure of the PTP. I assume the PTP serves Lower Daffaluke House. We need to be confident that existing foul water drainage infrastructure can accommodate the additional flows produced as part of the development and that the surface water soakaways are functional and large enough to deal with a climate change event”.*

On 17<sup>th</sup> August 2022 the appellants Agent that he *“cannot confirm exact location of existing soakaways”* when asked for more information by the Drainage Consultee.

On 6<sup>th</sup> September 2022 in an email to the Drainage Consultee the Agent writes that he does not want to provide calculations and asks if it is absolutely necessary.

Binding rules state that 'New' discharges must be made to a watercourse that normally has flow throughout the year. This stream was dry during the hot summer of 2022 and has been dry on numerous occasions previously. It was dry again this summer.

On 11<sup>th</sup> September 2022 applicant states by email that it is a running stream.

On 17<sup>th</sup> August 2022 the appellants Agent states the amount of hardstanding and roofed areas is being reduced by about 50%. Calculations actually show an increase of 20+% and this without allowance for necessary pathways between buildings.

On 3<sup>rd</sup> October 2022 the Drainage Consultant again asks for confirmation of the exact location of the PTP, noting the discrepancy in proposed site plans for the two planning applications. She believed that the PTP was constructed as part of the previous house extension under P121014 in 2012. This was not so (See Point 8 on PTP below). She was also under the impression that Building Control had previously signed off the foul water drainage arrangements under the above planning.

By 3<sup>rd</sup> November 2022 Applicants SUDS scheme has still not been posted on planning website.

On 1<sup>st</sup> December 2022 Land drainage again ask for *"submission of detailed drainage and surface water and foul water drainage /plans, construction drawings including associated surface water drainage calculations. Applicant should provide CLEAR TO SCALE SITE LAYOUT PLAN which included calculations to confirm the size of the attenuation basin required."*

On 1<sup>st</sup> December 2022 the first site plan and topographical survey to SHOW CORRECT placement of the PTP is posted. 18 months after the first planning application and 6 months after the current planning applications were applied for!

To date the Drainage Consultees questions remain ostensibly unanswered despite the Drainage Consultee openly making requests on three separate occasions. We have challenged the [REDACTED] and considerable inaccuracies in the scant information forthcoming from appellants and consequently the content within the Drainage Consultees reports, we have also provided further information of importance, some in connection with foul water handling and the PTP issue below, yet the Drainage Consultees latest report approves the application!

The drainage assessment to date appears woefully inadequate, there nothing specified on drawing no technical no technical SuDs specification, there are claims of "will use existing soakaways" when a quick walk around the site would show that there is very little in existence and that its totally inadequate, i.e. does not comply with Core Strategy SD3 and LD2.

7. **Tin Barn, Pig Cotts & Field Shelter** – The 'Tin Barn' (actually an old chicken shed) and the ruinous pig cotts are of post 1948 construction and have no heritage merit. Neither are capable of conversion. Instead, this would be a new build in a new location. Thus the new Tin Barn contravenes C.S. Policy RA5.

The Pig Cotts and Open Field Shelter are essentially two halves of one structure, situated to the north of the development close to Bramley Barn. The development proposes raising of roof, attaching solar panels, but no change of use. The pig cott roof is the most sound and historically relevant and pleasing element of this whole structure constructed of old clay tiles also used elsewhere around this property. Why raise it if no change of use intended now or in the future? Raising is not needed in order to mount solar panels and its current slope and south facing aspect is perfectly suited for mounting solar panels. The field shelter

to the back is collapsing made of corrugated tin roof and crumbling concrete support pillars with little/no footings or concrete foundation. No information is provided on the materials of reconstruction to be used or intended use of this field shelter. The vagaries of the proposed development plans provide no indication on whether this shelter is to continue to be used as an animal shelter or whether to be walled and enclosed or left open and/or a reinforced concrete raft installed for example.

Town and Country Planning (General Permitted Development)(England) Order 2015 prohibits the housing and keeping of pigs and other livestock within 400m of a dwelling. The appellants claim “no change of use” but these pig cotts are situated within 30m of the proposed stone barn conversion to holiday lets and within 70m of the Bramley Barn residence, hence there must be a change of use. Use other than keeping of pigs is obviously intended yet unspecified. No survey has been undertaken or requested as far as we know to ascertain whether or not the structure of the pig cotts is capable of supporting a new roof with solar panels, without major or complete reconstruction.

8. **PTP** – There has been much confusion over this by the council and to this day we’re not certain the Council or their consultees fully understand everything concerning the installed PTP. Without going into detail over everything concerning this issue within our various objections and numerous communications the Council was █████ in the dark about the specifics for some considerable time █████ and obviously weren’t able to substantiate the information we provided. Only in December 2022 was it finally acknowledged by the Council that retrospective approval of non-authorized installation was necessary by a process they called “Regularisation”, with new Red-Line development profile defined, new Yellow Notices erected and inclusion of “*Regularisation of the location of the completed Private Treatment Plant*” within an amended application title. This some 18 months after the original application filing.

The Pre-App advise sought recommended two PTP’s be installed with drainage fields to meet the needs of this development. The first a small 4 person PTP with drainage field approved under planning application P121041 (2012) to service the needs of a very large extension to the 16c Old Farm House. The previous owners built the extension but it was left unfinished, the two bathrooms within the extension and drainage system including 4 person PTP were never installed. Instead of which the 18 person (Model 20) PTP without drainage field was installed by the appellants in March 2021 just prior to their first application explicitly to meet the needs of ALL accommodation at this dwelling, i.e. All needs of this new proposed development, plus the homestead extension, plus needs of the original 15c Listed homestead (replacing the very old septic tank installation approaching or now at end of life). Hence the retrospective ‘Regularisation’ tied to the current application (222006).

Such is the location of the installed 18 Person PTP that addition of a drainage field is not possible, it sits on solid rock, partially below the natural water table of the valley floor approximately 26m from a small surface water course (an unnamed stream) on the southern boundary of Lower Daffaluke into which the outflow discharges directly, roughly 20m upstream of neighbouring wildlife ponds and wetland area, situated 40 to 50m from the PTP itself.

The Pre-App advice of April 14<sup>th</sup> 2021 stated “*Any final outfall from PTP/septic tank must be through a spreader/soakaway system. NO outfall released directly to any watercourse, stream or culvert. Details of how surface water run-off will be managed to ensure no*

*increased discharge. This DRAINAGE and ECOLOGY information must be submitted with any future application as the development is located within the Garron Brook sub-catchment of the River Wye SAC. Policy SD3 and SD4.”*

Appellants finally acknowledged that no drainage field was fitted in September 2022, after the first HRA and Natural England were consulted.

[Note in Pre App’s written in support of other recent planning applications within this area state: *“In order to comply with Core Strategy SD4 and LD2, Habitat Regulations, NPPF, NERC Act, General Binding Rules you must fulfil following: If connection to an existing private treatment system is proposed a professional report demonstrating this is current and appropriately sized must be supplied. If a new private treatment system is proposed any final outfall from a septic tank or PTP must be through a soakaway drainage field on land under your client’s control. No soakaway field should be closer than 50m to any watercourse. No direct outfall discharge in to any local watercourse, stream or culvert is likely to be acceptable. All appropriate plans and reports should be supplied.”*]

The Appellants submitted Waste Management Report is just a general sales brochure for Marsh Industries domestic package sewage treatment plants, this does not provide specifics of the proposed onsite installation and how it will meet the requirement, standards or be maintained. There has been no statement anywhere on the model range or precise product part number, this information is essential for full and proper assessment of the installed PTP on this site as discharge qualification and performance differs across the Marsh range of products.

Despite appellants claims of Building Control approval the Herefordshire BC website still shows no approval of a PTP at Lower Daffaluke, [Appendix 4](#) shows the web entry as at 27<sup>th</sup> August 2023. It’s our understanding that as the PTP was installed without prior approval no assessment of the location with respect to its surroundings and the applicable current regulations has been made, the only Building Control approval has been for an open trench and pipework inspection, where a network of pipes and junctions and interconnection to the PTP were installed in preparation for connection with the proposed development buildings etc. as mentioned above, together with outflow pipe to the stream. At this time only connection with the new extension of the 16c Old Farm is in use and connected to the PTP. This 18 person PTP, as presently installed would not appear to satisfy the manufactures recommended installation requirements, is barely compliant with current Binding Rules for Small sewage discharges (SSDs), sitting within 50m of a wildlife pond, and would fail to meet the new General Binding rules effective from 2 October 2023. The PTP manufacturer Marsh Industries states compliance with BS12566-3 if correctly installed with quoted 97% pollutant removal at best, hence this installation with no drainage field if fully compliant would still discharge suspended Ammoniacal Nitrogen at the rate of 8.4mg/ltr, at best. Herefordshire Wildlife Trust state in their letter to the planning officer of 8<sup>th</sup> Oct 2021 ([Appendix 5](#)) that *“Research shows that package treatment plants only reduce phosphate levels by an average of 50%”* and as a consequence of the acknowledged continuing deterioration of the River Wye, locations such as this within the catchment of the River Wye SAC must be capable of demonstrating Nitrogen Neutrality.

*It’s worth noting:*

- 1. That at the time Kettle Civils wanted to dig the hole deeper such that the tank could sit below the level of the drive, but as they struck solid rock this was not possible. Hence why the PTP tank now sits at the height it does today, buried but some 30cm above the height of the drive. We know this because Mr Ebbutt was invited on-site during the preparation and installation of the new 20 POP PTP at the time when Kettle Civils and the inspector from Building Control were onsite.*

2. No detail regarding the intended connection of foul water drainage from the original 16c part of the Old Farm House to the installed 18 person PTP has been given in the current application 222006. Therefore no assessment has been made or factored in on the implications of this change with regards treatment, outflow and potential environment implications of this within the current application.
3. In a Pre-App for a nearby dwelling in Glewstone the case officer (Gemma Webster) wrote:

*“If a new private treatment system is proposed any final outfall from a septic tank or PTP must be through a soakaway drainage field on land under your client`s control. No soakaway field should be closer than 50m to any watercourse. No direct outfall discharge in to any local watercourse, stream or culvert is likely to be acceptable. All appropriate plans and reports should be supplied. (Core Strategy SD4 and LD2, Habitat Regulations, NPPF, NERC Act, General Binding Rules).”*

4. The un-named stream into which the PTP discharges has minimal flow throughout much of the year and has been known to dry-up in the summer months in recent years. Luke Brook into which it flows 350+m away is on record with the authority ecologists as seasonal. Luke Brook is also on record as already being of poor quality.



Photo 5 - Stream bed between discharge point and neighbouring ponds taken in July this year

9. **Ecology** – The muddle over understanding the specifics of the PTP detailed above has had a serious impact on the ecology assessment and reports submitted by Ecology Consultees involved with this application to date.

Valley in which the proposed development sits consists of grass fields, orchards, wildflower fields and well established wildlife ponds and wetland. Regularly seen are Owls, bats, [REDACTED] polecats, weasels and stoats, many varieties of birds including raptors and wildfowl, the occasional Kingfisher, grass snakes and adders and occasional otter may be seen.

The first report and HRA produced by Ecology Consultee Mr C Nikitik dated 22/07/2022 and posted on 24/07/2022 we believe was based on the assumption that the applicants 18 person PTP had been installed in the location of the 4 person PTP approved under the 16c Old Farm House extension of application P121041 (2012) together with drainage field. This was never acknowledged or confirmed.

In April this year Mr Nikitik left the Council and Mr J Bisset was assigned Ecology Consultee, he produced a second report, dated 05/07/2022 together with revised HRA both posted on 14/07/2023, based on an updated Appellants commissioned Ecology Survey (dated June 2023) declaring that 'Stage 2 – Appropriate Assessment' was not required and consequently HRA submission to Natural England was not necessary.

We have since taken issue with this, not least because of glaring errors and ill-founded assumptions made within the Appellants 'Amended Ecology Update Survey', but also due to lack of investigation of protected species other than bats and in particular, Great Crested Newts (GCN) present in three neighbouring ponds. Thus failing to determine with scientific certainty using a precautionary approach whether or not GCN do live and breed within these ponds.

Errors found in the Appellants commissioned Ecology Survey included:

- Impacts on Ecology were made in reference to the Listed stone barn only and did not consider the other structures of the proposed development, in particular the new Tin Barn proposals of this application and use as an additional accommodation/laundry room.
- Development plans/drawings referenced within the survey do not reflect the current application status and neither do they align with the drawings of the original referenced ecology survey of September 2021.
- There is no consideration of other protected species, the survey is essentially only a bat survey.

Just prior to Mr. Bisset's report we commissioned our own GCN eDNA testing on two of the three neighbouring ponds, one either side of the proposed development site. These ponds were considered good to excellent habitats for GCN by the registered tester and both tests came back positive for GCN with maximum scores of 12/12. See [Appendix 6](#) for copies of the test result sheets.

Since Mr Bisset's Report appeared we have raised various objections specific to these ecology issues and refuting his findings (For example, please see Mr. Ebbutt's latest objection, dated 24<sup>th</sup> July 2023, see [Appendix 7](#)). Based on our assessment using the Natural England Rapid Risk Assessment tool (RRA) results in AMBER: OFFENCE LIKELY, consequently a very definite need for Appropriate Assessment and an HRA. As yet we have heard nothing further from the Council on this matter.

Land east of the A4137 is within the Wye Valley AONB. This property is just outside the boundary. It is a sensitive setting and as such is protected under Policy 15, Para 176 of the NPPF which emphasises that 'development within the setting of the AONB should be

sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

The ecology reports and assessment work performed appears to be grossly inadequate with some glaring errors still present and as such the compliance with the NPPF and Core Strategy policy's SS1, SS6, RA6 cannot be determined or assured.

The appellants' Statement of Case document filed against this appeal talks of an electric vehicle charge point next to the pig cotts and small coppice of trees West of the pig cotts, yet neither have been mentioned previously within the current applications (222006 & 7) and previous withdrawn applications (212661 & 213968). We are bewildered by this, as neither have been mentioned in any context or communication at any time previously. A charge point near the pig cotts will require new vehicular access to this area generating considerable new hard standing and additional surface water management. The coppice positioned directly in front of the principal outlook of Bramley Barn will in time invariably block out all view of the fields and hills beyond.

The consideration of this and the previously withdrawn application has been inexplicably long and drawn out and, in our view, needn't have been. The current application still lacks clarity on the underlying long-term use and scope of the proposed development and ultimately use of the land. The appellants have mentioned a whole host of potential intended uses that has evolved through their application(s) and discussions, from glamping to arts & crafts training, to keeping all types of animals (although not horses or cattle we understand) to promoting biodiversity and demonstrating biodiversity in action around their land supported by live-in staff and invited trainers. The latest and current development proposal shows no workshop/training facility as shown in previous plans yet their application still claims to offer workshops and training as a commercial enterprise. There is no clearly defined intent on this commercial enterprise or intensity of use of this proposed development or land in which it sits. The land itself amounts to a mere 6.2 acres is elongated and narrow with one of the two present field areas detached from the main body of land/dwelling by a narrow entrance track between neighbours. With the boundaries of two significant residential homes making up 75-80% of the boundary line with the appellants' property. As one Councillor has stated in the past "This relatively small narrow strip of land in this location and bounded as it is by neighbours in relatively close proximity is not suitable for an enterprise like this, if in a remote yet accessible location and the middle of a fifty-acre plot then yes I could understand it."

This latest proposal continues to lack clarity of purpose for the structural developments, which can only lead to the question why? Hence clarity use/intensity of use as required by any commercial planning application is needed. Especially so given the present-day rich ecology of this tranquil green field location and the narrow (potentially hazardous) country lane along which is the only means of access, as the proposed development with its linked commercial intent would appear to offer no benefit, will arguably have a negative ecological impact on the immediate area and will inevitably disrupt and diminish the enjoyment of local residents now and those of the future.

For the record we would just like to clarify that our objections are not a personal or emotional attack as implied by the Appellants. Our objections have been centred on the submission of inaccurate information and subsequent recommendations that run counter to the official guidelines and rules outlined in Herefordshire Council's Core Strategy and NPPF. Any issues we have had with the council's procedures were raised directly with them, and supported by the professional opinions of specialist consultants and our local MP Jesse Norman. Many concerns raised in these communications were eventually resolved, however, in 2 years of submissions, apart from the



inclusion of a new red line in December 2022 to include the [REDACTED] installed PTP (application 222006), all these applications have continued to ignore and failed to address the many planning irregularities and nonconformities raised above.

For the reasons above and numerous further points raised within our objections and indeed though that of others objecting to this development, the grant of planning permission to this unsustainable proposal would result in adverse impacts that would significantly and demonstrably outweigh any benefits when assessed against the Framework as a whole and well established planning policy. Planning permission for this development as proposed should be refused.

As we have repeatedly submitted to the council, we would be happy for the Appellants to sympathetically convert the existing stone barn as befits its Grade II listed status and setting, and respects the important ecology of the surrounding natural environment, and the safety of local Daffaluke Lane users.

Unfortunately, intensification of this small site appears to be the aim, as the appellants have recently enquired if the unauthorised PTP can be upgraded from a Model 20 PTP to 25, i.e. from 18 persons to 24 persons. See email from agent 12.9.23, page 3, P222006/F (note, date of 12.9.23 is the date incorrectly given against the application entry.)

Yours sincerely on behalf of:

[REDACTED]  
Julian, Aleksandra, Josh & Henry Ebbutt – Bramley Barn, HR9 6BB  
[REDACTED]

## APPENDIX 1

### Email sent to Mr Ebbutt 12/07/2022 from Mr S Withers

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**From:** Withers, Simon <Simon.Withers@herefordshire.gov.uk>

**Sent:** 12 July 2022 15:32

**To:** [REDACTED]

**Cc:** Webster, Gemma <Gemma.Webster3@herefordshire.gov.uk>

**Subject:** Planning Application P222006F & P222007L - Lower Daffaluke

Dear Mr Ebbutt

I appreciate your request but would recommend that your comments are received on or before 28 July (the updated consultation expiry date following the display of site notices). If that proves impossible despite your best endeavours, then please liaise directly with Gemma Webster who may be able to informally agree some additional time depending upon the status of the applications at that time.

In answer to your specific questions I can advise as follows:

1. Previous objections cannot be carried over onto new applications although in practice those that raise relevant material considerations will naturally form part of the officers consideration of the new proposals
2. To my knowledge Ecology comments were never received prior to the withdrawal of the previous applications but will be an important consideration prior to making a formal decision.
3. I am not qualified to comment upon the level of information required to address the potential presence of Great Crested Newts – any additional requirement would be addressed through the comments from our Ecologist which has not yet been received
4. The Habitat Regulations Assessment is not the responsibility of the application. This process is undertaken by the Council's Ecologist in consultation with Natural England
5. The new Principal Building Conservation Officer has been consulted in relation to the Planning application 222006F and will address all relevant heritage considerations in her response in due course
6. Consultation with the National Amenity Societies appears to have been inadvertently missed by the Registration team and I will attend to this immediately.

Kind regards

# Herefordshire.gov.uk

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## Simon Withers

Development Manager | Development Management  
Economy and Environment

**Personal Contact Details:**

@ [Simon.Withers@herefordshire.gov.uk](mailto:Simon.Withers@herefordshire.gov.uk)

**Tel** 01432 260612

**Mail** Development Management, Herefordshire Council, Plough Lane Offices, Plough Lane, Hereford, HR4 0LE

## APPENDIX 2

### Appellants Planning Application History – Lower Daffaluke

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#### Pre-App 210695/CE applied for: 12<sup>th</sup> February 2021

18 person Package Treatment Plant (Model 20 PTP) installed without Planning Permission: March 2021. As it is now confirmed in August 2023 by the Council website, without Building Regs Approval.

Pre-App response sent to Appellants: 14<sup>th</sup> April 2021

#### Planning Application P212661/F applied for: 5<sup>th</sup> July 2021

Appellants casually inform Mr Ebbutt that they are looking to put a planning application in: 17<sup>th</sup> July 2021

Appellants show Ebbutt's outline plans of their proposed application: 23<sup>rd</sup> July 2021

[REDACTED]  
[REDACTED]

Mrs Ebbutt discovers that planning application P212661/F is already live on the Herefordshire Council website: 30<sup>th</sup> July 2021

No Yellow Notices up at this time and realise we have only 10 days to make any comments/objections; other neighbours informed. Request extension for comments since very late Yellow Notices. Extension agreed by Planning Dept. following Parish Council assistance. Appellants return in August from holiday and say that they were not aware that the Planning Application had been submitted by their agent/architectural technician!

[REDACTED]  
[REDACTED] there was plenty of time for them to tell us about their plans before submitting the Planning Application.

Amended: 27<sup>th</sup> September 2021

Withdrawn: 20<sup>th</sup> January 2022

#### Planning Application P213968/L applied for: 9<sup>th</sup> November 2021

Withdrawn: 20<sup>th</sup> January 2022

Meeting arranged by Mr Ebbutt and Mr Clark with Appellants 26<sup>th</sup> February 2022 at the request of the Council to see whether we could agree a way forward before next Applications submitted. Mr Ebbutt and Mr Clark said that they would not object to a Planning Application for the Grade 2 Listed stone Barn to be converted into holiday accommodation (i.e. not including any of the peripheral ex. agricultural stock sheds) providing that the application was sympathetic to the barn listing, the many regulations relevant to a SAC and to the surrounding valley area. Applicant Mr North said that while their priority was the Barn, they were indeed proposing once again to convert or re-build a number of the peripheral sheds and so could not agree to our proposal.

A further meeting took place with the Appellants on site on DATE with Councillor Elissa Swinglehurst present, a couple of alternative development schemes were put forward thought to meet the

appellants needs favourably that had the potential to comply with all planning/regulation needs but with no acceptance of any change and consequently no agreement reached.

**Planning Applications P222006/F and P222007/L applied for 29<sup>th</sup> June 2022**

Letter of Objection to P222007/L from Mr Clark submitted 25th July 2022 pointing out that 8 questions on this Application's questionnaire were either misleadingly or incorrectly answered, the most serious being that in answer to the question whether any work had commenced on site already, the answer given was NO, despite the PTP having been installed more than a year earlier without Planning permission. (in what the Council's Mr. Withers belatedly described as "an unapproved Location"). In answer to the question about the status of the site the answer given was Small Holding, which it had not been since 1998. This is very important because 2 of the Consultees have confirmed that they base their replies on the accuracy of the information submitted by the Appellants, and have now changed their submissions having been made aware of the above. Other consultees have not, and to our considerable surprise the Planning Dept have not apparently asked the Appellants to correct these erroneous submissions.

[REDACTED]

[REDACTED] the current Planning Application Yellow notices have been modified & reposted on the 2<sup>nd</sup> February 2023 amendment made to the application title 'Regularisation of the PTP location'. We fear no comments have been submitted because nobody understands what it means!

Reference made in objections to Planning Dept's Pre-App response in April 2021 which states "any final outfall from a PTP/Septic tank must be through a spreader/soak away system in order to manage 'on site' all residual phosphates, nitrogen and suspended particulates and ensure there is NO outfall released directly into any local watercourse, stream or culvert".

Appellants submit an Appeal against Herefordshire Council Planning dept: February 2023  
Objectors not notified by Planning Dept until June 2023.

Letter sent by Heather Langridge Case Officer for the Appeal confirming the Appeal is valid and that the start date is: 28<sup>th</sup> July 2023

\* \* \* \* \*

## APPENDIX 3

### Traffic & Access – Correspondence to Ms Tookey-Williams, dated 18<sup>th</sup> September 2021

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Herefordshire Council  
Planning Office  
Plough Lane  
Hereford  
HR4 0LE

Bramley Barn  
Lower Daffaluke  
Glewstone  
HR9 6BB

18<sup>th</sup> September 2021

Dear Ms Jill Tookey-Williams,

Ref. Planning Application **P212661/F Lower Daffaluke**

We notice that you are listed as a consultee on this application and submitted your appraisal and recommendation on the 16<sup>th</sup> July 2021 by way of a Council Memorandum. Having reviewed the memorandum I'm a little concerned that perhaps not all information/attachments of this application were made available to you at the time and/or you were not able to visit due to Covid restrictions and therefore had to make reference to a 2D map, Google maps or similar in order to make your assessment. Having lived at Bramley Barn for some [REDACTED] years now, with access off the mid-point of Daffaluke Lane and having done a little digging into the archives we'd welcome your review of the points raised below. With restrictions now lifted we'd also encourage you to visit the site with a view to reconsidering your traffic and access assessment and recommendations.

1. Transport officer Mr Tim Cooke visited public highway U71014 (known as Daffaluke Lane) in 2012, with reference to Planning Application 121041 regarding an earlier extension at this same property, commenting "This narrow lane would not be suitable for any significant intensification", sighting Condition: CAI (3 cars). [ Copy of Mr Cooke's Transport Memorandum dated 04 May 2012 can be found attached). This large extension went ahead, turning Lower Daffaluke from a 3-bedroom dwelling into a substantial 5-bedroom dwelling.
2. This current application goes well beyond the previous approved planning application 121041 proposing multiple accommodation units, conversion of a further substantial stone barn for yet further accommodation/day centre/training use. As a direct result of which the inevitable increase in traffic along this narrow back lane will be very significant indeed. Conceivably increasing the number of vehicles using Daffaluke Lane on a daily basis by as much as 15 to 20 times that of present-day use.
3. Since Mr Cooke's visit twelve years ago, this small, narrow country lane has steadily deteriorated year-on-year:
  - a. Numerous potholes now appear every year, with only small number repaired each year.
  - b. The edges of the tarmacked surfaces, have collapsed and continue to collapse due to use by wider and heavier modern-day vehicles, notably agricultural equipment and weekly dustbin lorry. These same vehicles, including additional delivery vans and lorries also drag dirt from the banks of the high hedges onto the tarmacked surface.

- c. Following winter rains the lower parts of the lane become awash with deep mud. It's not unusual for it to be so deep that it catches the underside of a standard saloon car.
  - d. For the past three years part of the bridge over Luke brook has been in a collapsed state at the apex of one of several sharp blind corners. The head wall of a feeder stream to Luke Brook, that runs alongside a length of Daffaluke lane for some distance, has partially collapsed and a culvert upstream of this head wall is damaged and weak. [I understand that Balfour Beatty are now due to repair the bridge over Luke Brook sometime this winter.]
4. During the summer months, May through August, whilst the birds are nesting in the hedgerows the hedges are not cut. Hence, Daffaluke lane and its feeder lanes become heavily overgrown making passage difficult even for a standard family saloon car. Van drivers frequently complain to current residents and find it impossible to reverse should they meet anyone as wing mirrors become buried in the hedgerows preventing any rear view from the vehicle.
  5. There are very few places to pass other vehicles, no acknowledged passing only places, only the odd restricted field entrance or neighbour's private entrance. Passing walkers, dog walkers, cyclists, parents with child and pram, mobility scooters or school children can be tricky and often requires one or other to find a field entrance for safe passage.
  6. To the southern end of Daffaluke lane, where it meets another single-track country lane at a 90° T-junction, there is a small splay with central grass triangle. Exit to/from this junction is all but blind at most times of the year and only eased when hedging is cut hard back to the high banks in early September. This has been a constant source of near misses and occasional accidents during the time I've been resident. Locals that know what to expect do take extra care, but an influx of those unfamiliar with the junction on a regular basis will undoubtedly lead to additional accidents.
  7. There are several points along Daffaluke lane where visibility around corners is restricted and short, at two points there are 90° sharp blind bends, one of which is directly opposite the shared entrance to our property with that of the applicants.
  8. Many locals use Daffaluke Lane to either exercise, walk their dogs, cycle or ride their horses, New House Farm (a stud farm) has direct access on to the lane from which they frequently hack their horses. Any increased vehicular activity over and above present-day use will invariably cause problems and make it significantly more dangerous for these other road users.

Further to the above we'd like to bring to your attention some detail surrounding the shared access that we have (at Bramley Barn) with the applicants, whether this falls within your assessment remit or not we're not sure, but from a traffic and access standpoint approval of this application will create problems.

Off the highway that is Daffaluke Lane, both we as owners of Bramley Barn and the owners/planning applicants of Lower Daffaluke have right-of-passage over approximately 30 meters of lane before the lane splits to form the entrance to our respective properties. This, 30 meter stretch of lane feeds only Bramley Barn and Lower Daffaluke. From our assessment, this is the one and only access option

to/from Lower Daffaluke, one that is very restrictive with no means of improvement without major reconstruction, potentially involving multiple land owners. Currently, Bramley Barn is a five bedroomed private dwelling and the applicant's property now also a 5 bedroomed private dwelling.

The branch off this shared access to Bramley Barn, its configuration, together with its change in elevation and blind spot with the entrance of Lower Daffaluke, presents its own additional problems which if this application were approved, would greatly increase the risk of passage for anyone who has cause to visit either property. As an entrance to two private dwellings with limited traffic its manageable and has been for the past 30 plus years, but for use beyond this, such as that created by these proposed development plans, it becomes totally unsuitable. Further to which it's our understanding under common law ruling that there's an expectation that shared access of this type be used fairly by all parties. With the inevitable significant and continuous imbalance in use caused as a direct consequence of this development, this would certainly not to be the case.

It's our belief that even a small increase in traffic over and above that of today's traffic levels along the narrow country lane U71014 known as Daffaluke Lane and the lanes leading to it will lead to a significant level of increased risk, congestion and possible frustration to these that use them now. Consequently as we understand it, the inevitable increased intensification of use created directly by the proposed development of Planning Application P212661/F contravenes and cannot meet Herefordshire's MT1 Policy, in particular points 1,2 and 4, and that further development of the applicant's property in this way cannot be safely accommodated within the local network (RA6).

We note too from the many objections we've seen posted against this further development of Lower Daffaluke that many of our concerns over traffic and access along Daffaluke Lane (U71014) have been similarly echoed by local residents and users of this lane. As such, we'd encourage you to visit the site and would be happy for you to call on us should you wish to discuss this matter further.

Yours Faithfully

Mr & Mrs Ebbutt

Cont.....

Supporting information sent with letter dated 18<sup>th</sup> September 2021 to Ms Jill Tookey-Williams re. Planning Application P212661/F Lower Daffaluke

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Photos of central section of Daffaluke Lane, Highway U71014, plus photos of shared entrance off Daffaluke Lane to private dwellings Lower Daffaluke (applicants) and Bramley Barn.



Photo 1. - Approach to shared access travelling South West along Daffaluke lane. The tarmacked lane turns sharply to the left as indicated by the arrow.





Photo 2. - Taken standing on the shared access facing West towards the properties. Arrow to the right leads up to Bramley Barn, straight arrow to Lower Daffaluke. Note, the entrance/boundaries of the two properties lie roughly on the arrow heads.



Photo 3. – Close-up of division from shared access looking West showing the change in elevation and shape of the entrance to Bramley Barn. Entrance to Lower Daffaluke on the left.



Photo 4 – View from entrance track to Bramley Barn, looking down towards shared access



Photo 5. Daffaluke lane looking North-East away from shared entrance, i.e. in the opposite direction to Photo 1. Note, concrete head wall of stream runs along blue line over this stretch of lane between tarmac and hedge. The stream is roughly 0.8m below the headwall/tarmac. Beyond this is another sharp blind 90° bend and high banked steep section of lane.



Photo 6. – Looking South from the shared access entrance off Daffaluke lane. The lane turns sharply to the East just out of shot lower left of photo.



Photo 7. – View looking North of narrow steep and high banked section in front of Daffaluke House.



Photo 8. – View South away from Daffaluke House. Further high sided banked hedges lead to the small splayed T-junction with further single tracked lane to Glewstone/A4137.

**All photos taken between 31<sup>st</sup> August & 6<sup>th</sup> September 2021**

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Cont....

Memo from Mr T Cooke Transport Consultee Herefordshire Council in response to application 121041 (2012) Lower Daffaluke



PFM  
Rec Cond

## MEMORANDUM

To : Mr D Thomas, Development Control, Blueschool House - H31  
From : Tim Cooke, Transport Planning Assistant, Transport Planning, Plough Lane - H37  
Date : 04 May 2012

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Application No : S 121041 /FH

Description : Proposed one and a half storey extension. Works to include new rooflights and dormer windows and replacement of porches to kitchen and rear entrance.

Site : Lower Daffaluke, Glewstone, Ross on Wye, Herefordshire HR9 6BB

Grid Ref : 35522229

COMMENTS: 3. Recommends conditions...

SITE VISITED:

ADDITIONAL COMMENTS: The proposed works involve some intensification of the dwelling from a 4-bedroomed to a 5-bedroomed property, and 3 car parking spaces must be provided. Access is via a private drive to the public highway (U71014). This narrow lane would not be suitable for any significant intensification.

S106  
COMMENTS:

S106 sum requested: £0.00

CONDITIONS: CA1 (3 cars)

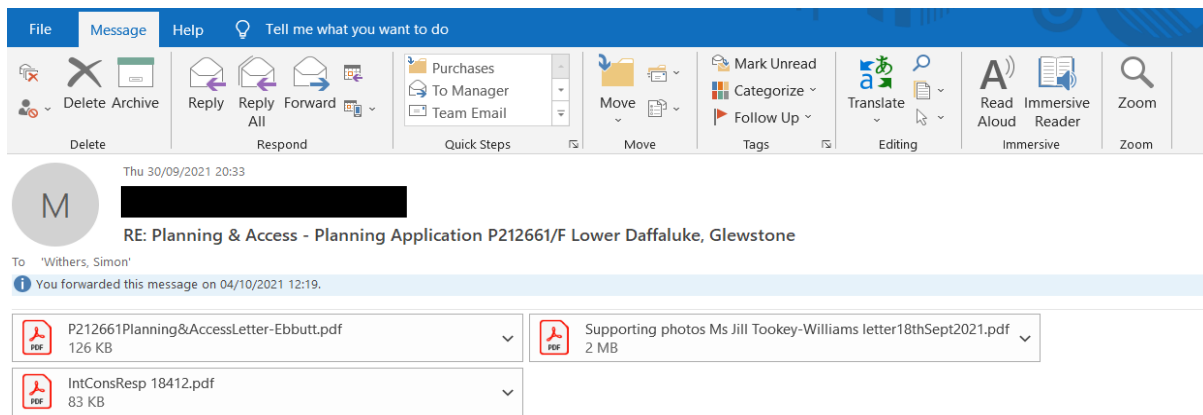
HIGHWAY NOTES: I11, I35

COMMENTS BY : Tim Cooke, Transport Planning Assistant

DATE COMMENT MADE 04 May 2012

Cont....

## RepObj 565196 Letter to Mr Withers posted against Application P212661/F



Dear Mr Withers,

Thank you for this update and sharing the email from Ms Tookey-Williams.

However, I cannot accept your engineers continued believe that this application presents no material impact on the highway that is Daffaluke Lane (U71014), your engineer is still either not aware or not been made aware of all the material facts connected with this application. Would I be right in thinking that in the absence of an assigned caseworker/planning officer to this application your consultees are not getting access to all pertinent and relevant information on which to base their assessments? Do they look at the objections raised or only when disseminated by the assigned planning officer? Can you confirm whether or not Ms Tookey-Williams has visited Daffaluke lane or not? I'm also amazed by the fact that she appears to have totally disregarded Mr Cooke's memorandum.

As I've alluded to previously there are a number of errors within the submitted documentation of this application and the information that has been provided is scant at best [REDACTED].

Further to my letter of 18<sup>th</sup> September to Ms Tookey-Williams where I highlight a number of points relevant to the traffic and access determination of this application, here is some further clarity and points of relevance:

As I understand it there is no commercial tie to this property. The 6-acre dwelling was sold and purchased last as a domestic property and for the past 22yrs it has been used and converted by the former owner (Mr M Hopson) on the basis of such. Despite the application stating the property to be a 'small-holding' Mr Hopkins nor the present owners have ever held a small-holding licence. Hence, this application does not represent a change in commercial use, but a change in use from domestic to new commercial use.

If a commercial (agricultural) tie still exists then it's also my understanding that this could have legal implications on the previous sale/purchase(s) of the property.

Our neighbours, Mr & Mrs Clark, knew the farmer (now deceased) that owned and worked the land known as Lower Daffaluke, from the late 1940's until 1999, and are still in touch with the farmer's wife. Lower Daffaluke was always been self-contained, with all its land accessed directly from the farm buildings with no need to access Daffaluke lane. The farm was worked and maintained by the farmer and his wife, there were no regular farm hands, only their son. It was predominantly a sheep and pig farm of less than 40 acres in total. Little use of the highway, known as Daffaluke lane, was made or needed for agricultural use other than for an occasional trip to the market.

The application cites three Barn's for conversion, however two are not barn's and should not really be referred to as such. There is only one substantial long barn of sand stone, lime mortar and oak beam construction dating from the 17<sup>th</sup> or 18<sup>th</sup> century. This stone barn was used for grain processing, bagging, storage and animals. The other two 'so called' barns are in fact ruined remains of former open pig pens, a lean-to animal

shelter and small chicken shed, built by the farmers own hand in the mid-20<sup>th</sup> century. None of which would have given rise to trips to/from the property, former farm.

Mr T Cooke, Transport Planning Memorandum dated 4<sup>th</sup> May 2012 posted in connection with the approved extension to the farmhouse, now domestic dwelling (Planning Application S121041/FH), increased the accommodation from a 3 bed to 5 bed domestic dwelling. Mr Cooke commented that "This narrow lane would not be suitable for any significant intensification" and stipulated a 3-car condition, this at a time when the substantial stone barn of this application was in a similar empty state as is today and the pig pens, chicken shed etc. were in a ruinous state. Hence, Mr Cooke's assessment of the highway known as Daffaluke Lane (U71014) in 2012 and following approval of the farmhouse extension to a 5-bed domestic dwelling, was that the lane was at or very close to its intensification limit. Since that time use of U71014 has remained constant, potentially increased slightly and its condition only deteriorated.

The current understanding from the applicants, evident from the application and through further discussions directly with the applicants, is that they plan to use the substantial barn as communal space not just for those staying in the proposed accommodation (glamping units) but for day visitors for meetings, training days, arts & craft activities etc. The application Design & Access statement makes loose reference to this but is far from explicate on the potential or intended use of this development if approved. Events staged for day visitors will further increase vehicular traffic to/from the site week-in week-out, potentially throughout the year. Further to which the arrangement of the accommodation units would indicate intended use beyond glamping, i.e. for business meeting, corporate type event accommodation etc. If permitted annual use would extend well beyond the 6-month ceiling cited by Ms Tookey-Williams in her current assessment.

No reference was made by Ms Tookey-Williams in connection with my concerns over the shared access. Is this not a Traffic & Access concern or a subject of consideration when applying for planning approval? If not, could you please explain why not and to whom I should look for advice on this matter?

With all due respect, based on my previous letter to Ms Tookey-Williams, the above points and with this difficult to access isolated location, I believe you will find that the further significant development of this property clearly contravenes the NPPF and Herefordshire's own Core Strategy regarding Traffic and Access.

Note, I have seen the revised application plans and these points are just as relevant if not more so.

Kind Regards

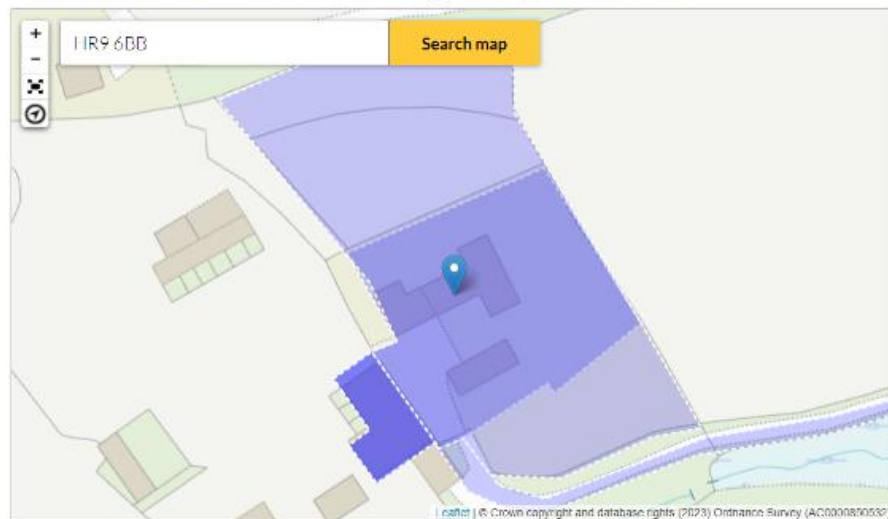
Mark Ebbutt

## APPENDIX 4

### PTP – Building Control online official records (as of 27<sup>th</sup> August 20



Search for an address or location to view all the building control applications in that area.



Proposal	Address	Type	Validated
<a href="#">NAPIT scheme installation of: New Consumer Unit Fitted in a Existing Dwelling on: 2008-11-05 by Member ID: 2839 - schemeunique ID: 220172</a>	Lower Daffaluke Farm Glewstone Ross-On-Wye, Herefordshire HR9 6BB	Competent Person Scheme	11/12/2008
<a href="#">One and half storey extension to cottage and installation of new treatment plant</a>	Lower Daffaluke, Glewstone Ross-On-Wye Herefordshire HR9 6BB	Building Notice	29/10/2009
<a href="#">10 windows, 1 door with 50% or more glazing.</a>	Lower Daffaluke Farm Glewstone Ross-On-Wye Herefordshire HR9 6BB	Competent Person Scheme	20/08/2014
<a href="#">Install one or more new circuits.Circuit alteration or addition in a special location.Install a replacement consumer unit.</a>	Lower Daffaluke Farm Ross-On-Wye HR9 6BB	Competent Person Scheme	10/05/2021
<a href="#">Install one or more new circuits.</a>	Glewstone Ross-On-Wye HR9 6BB	Competent Person Scheme	12/08/2022

## APPENDIX 5

### Herefordshire Wildlife Trust – Letter to Case Officer of 8<sup>th</sup> October 2021

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Herefordshire Council  
Planning Services  
PO Box 4  
Hereford  
HR1 2ZB

**The Herefordshire Wildlife Trust**  
Queenswood Country Park  
Dinmore Hill  
Nr Leominster  
Herefordshire  
HR6 OPY

T : 01432 356872

F : 01432 275489

E : [enquiries@herefordshirewt.co.uk](mailto:enquiries@herefordshirewt.co.uk)

W : [www.herefordshirewt.org](http://www.herefordshirewt.org)

Friday 8<sup>th</sup> October 2021

Dear Gemma Webster,

**Town & Country Planning Act 1990**

**Site:** Lower Daffaluke Daffaluke Road Glewstone Herefordshire HR9 6BB

**Description:** Proposed conversion of 2 barns to provide holiday accommodation, and third barn to provide facilities ancillary to holiday use. To include demolition works and proposed extensions to two of the barns.

**Application No:** P212661/F

**Applicant:** Mr & Mrs North

We would like to express concern regarding this application as we note that no ecological impact assessment has been included in the documents provided and therefore it is unclear whether one has been completed and what mitigation has been suggested. We would like to see an ecological impact assessment provided and sufficient time allowed to review the assessment.

The proposal involves the conversion of a number of old agricultural buildings and demolition of at least one building. As these buildings may provide roosts for bats then we would like to see suitable consideration being allowed for bats, an appropriate survey undertaken and mitigation in place if they are present.

The proposal includes the management of a pond onsite which is linked to a network of ponds in the immediate area. It is possible that these ponds are home to great crested newts *Triturus cristatus*, a European protected species and therefore consideration needs to be taken as to whether the species is using the development site as terrestrial habitat and if so relevant measures should be taken.

We note that the proposal states that surface run-off will use existing water ways and we would be concerned about the increased levels of pollution that this might result in, particularly so close to the river Wye Special Area of Conservation. Similarly, the foul water is due to be managed by a package treatment plant. Research shows that package treatment plants only reduce phosphate



levels by an average of 50%. Discharge straight into a water course, rather than via a drainage field, could therefore result in increased phosphate levels in the local water course and consequently the River Wye SAC. we would like reassurance that the plant is adequate for the increased levels of waste water and meets the requirements for the development.

Yours sincerely



Sarah King  
Community Engagement Officer  
Herefordshire Wildlife Trust

**APPENDIX 6**

**Great Crested Newt eDNA Test Results**

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**eDNA Technical Report**



**Mr. Mark Ebbutt**  
**Mark Ebbutt**  
 Bramley Barn  
 Lower Daffaluke  
 Glewstone  
 Ross-on-Wyre  
 HR9 6BB

T: [REDACTED]  
 E: [REDACTED]

<b>Report Reference</b>	R0000404
<b>Report Date</b>	12 Jun 2023
<b>Reported By</b>	kbraun

<b>Dispatch Order Reference</b>		P0000342					
<b>Site Name</b>		Lower Daffaluke (1)					
<b>Site Location</b>		n/a					
<b>OS Reference</b>		n/a					
Barcode	Received Date	Sampled Date	Sample Check	Degradation Check	Inhibition Check	Result	Positive Replicates
GCN005031	06/06/2023	04/06/2023	PASS	PASS	PASS	POSITIVE	12 out of 12

PRIVATE & CONFIDENTIAL

**eDNA Technical Report**



**Mr. Mark Ebbutt**  
**Mark Ebbutt**  
 Bramley Barn  
 Lower Daffaluke  
 Glewstone  
 Ross-on-Wyre  
 HR9 6BB

T: [REDACTED]  
 E: [REDACTED]

<b>Report Reference</b>	R0000403
<b>Report Date</b>	12 Jun 2023
<b>Reported By</b>	kbraun

<b>Dispatch Order Reference</b>		P0000342					
<b>Site Name</b>		Bramley Barn					
<b>Site Location</b>		Herefordshire					
<b>OS Reference</b>		n/a					
Barcode	Received Date	Sampled Date	Sample Check	Degradation Check	Inhibition Check	Result	Positive Replicates
GCN005023	06/06/2023	04/06/2023	PASS	PASS	PASS	POSITIVE	12 out of 12

## APPENDIX 7

### Example Ecology Objection – RepsObj 55 from Mr Ebbutt, posted 26/07/2023

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*Note; A couple of spelling corrections and the odd mis-written word errors have been corrected within this copy.*

Herefordshire Council  
Planning Office  
Plough Lane  
Hereford  
HR4 0LE

Mr Julian Mark Ebbutt  
Bramley Barn  
Lower Daffaluke  
Glewstone  
HR9 6BB

24<sup>th</sup> July 2023

For the attention of the Planning Officer

**OBJECTION TO PLANNING APPLICATIONS Ref. P222006/F & P222007/L** - With specific reference to Ecology Consultee Comments/Report (By Mr J Bisset, returned 05/07/2023), HRA (By Mr J Bisset, dated 05/07/2023) and the latest applicants Ecology Report, entitled "Amended Ecology Update Report" (dated June 2023).

Dear Gemma Webster,

It is clearly evident the Councils Ecologist Mr Bisset does not have a good appreciation of the intricacies of this application, the current/changed application documentation and by all accounts has not read or understood relevant reports from fellow consultees or any of the many objections containing much additional relevant and important factual information. This confirms my suspicion that much reliance has been placed on the content of latest Amended Ecology Study Report (Dated June 2023) provided by the applicants with which there are many issues. See my earlier objection (dated 16<sup>th</sup> July 2023) specific to the applicants report and further comments on this below.

Given the enormity of the issues of the applicants Amended Ecology Study Report and reliance placed on it, its therefore fair to say that the findings of the Consultees Ecology report by Mr Bisset (dated 05/07/2023) and his HRA assessment of the same date are effectively unsubstantiated.

Further to which I would contend that there is far from sufficient information available and known to the Councils' Consultees on foul and surface water handling that can be used to make any well-grounded judgement on there likely effects on this site, especially those likely to be detrimental to the ecology of the area.

#### **Specific to Applicants Amended Ecology Study Report (dated June 2023)**

The cross-referenced applicants original Ecology Report (Dated September 2021) states that (and this is not updated in later reports):

*"Guidelines suggest that a desk-top data search, including records procured from the local biological records centre is usually carried out as an initial step for bat surveys involving activity investigations.*

*It was regarded that it would be unreasonable to incur additional considerable expense for the client to have purchased such a data search when it would have been unlikely to have contributed any necessary context to the survey beyond the freely available data. As such, a desk study was undertaken using the freely available Nature on the Map website to establish the presence of statutory conservation sites within 2km of the site as well as establishing whether any European Protected Species (EPS) licences have been granted within 2km of the scheme.”*

Nature on the Map is not a collection of local records and is not updated as such. Therefore, there is no indication of the sensitivity of local species to the proposals.

In the scheme of things purchase of official up to date Data Search information is not unreasonable to expect (£200 - £250) in order to provide comprehensive and up to date survey

The report(s) appear to contravene Herefordshire Council’s own validation procedure,

<https://www.herefordshire.gov.uk/downloads/file/21420/ss6-ld2-biodiversity-ecology-compliance-checklist>. I.e.:

- (i) The report does not comply with CIEEM1 guidelines
- (ii) The report does not comply with Collins 20162
- (iii) The report does not comply with BS420203
- (iv) Local Wildlife Sites are not recorded by this scheme
- (v) There could be a known [REDACTED] within 30m of the works [REDACTED]
- (vi) Sch 1 breeding birds could be present within a ‘disturbable’ range – unlawful to disturb a Sch I breeding bird, e.g. a Barn Owl might use the local area, assessment of nests found in the barn was at wrong time of year.
- (vii) GCN Records could be collected which would inform mitigation
- (viii) Bat records have not been collected.
- (ix) The application should not have been validated on this basis

The Ecology Report does not include a Phase I study, during which any protected species information could have been identified and provided. Such protected species are a material condition for planning yet no such information has been provided. [REDACTED]

[REDACTED] an otter has appeared in our garden within the past 2years, directly adjacent to and above the proposed development site on the opposite boundary to the stream. Barn Owls and Tawny Owls are heard and seen regularly, only the other night a very young Barn Owl was spotted and has regularly been heard in and around our garden.

As material consideration has not been assessed for these protected species Herefordshire Council should therefore consider rejecting the report(s) and request a fully detailed, accurate, comprehensive and compliant Ecology Report.

Note, Section 6 of the original September 2021 Ecology report refers to a ‘desk top data search’, referring to 500m local designations. This conflicts with Section 4.1 of the same report, in which local sites cannot be found from Nature on the Map. There has been no update in this regard in subsequent reports presented.

The latest June 2023 Ecology report now recognises the potential for newts to be present in ponds albeit it states 115m+ away, where, as stated in my previous objection of 16<sup>th</sup> July 2023 the site boundary is actually only 43m, 62m and 70m from three near neighbouring ponds in which neighbours have now confirmed the presence of GCN in two of the three waterbodies through a separate eDNA study in 2023, with GCN most likely present in the third. Mitigation in the Ecology reports relies on the Natural England Rapid Risk Assessment (RRA) tool, the resultant reported

“offence probability score” is far from correct; 1/ because a gross underestimation of the on-site area of significant potential habitat disturbed and in the majority lost has been applied, and 2/ because no allowance has been made for likely disturbance to “Individual GCN” within the RRA tool, instead the mitigation proffered relies on the assumption that the majority of GCN will be within 50m of the ponds (quoting *Jehle and Cresswell & Whitworth*).

Actually Cresswell & Whitworth 2004 summarised:

*“It will also almost always be necessary to actively capture newts 50-100m away. However, at distances greater than 100m, there should be careful consideration as to whether attempts to capture newts are necessary or the most effective option to avoid incidental mortality. At distances between 100 and 200-250m from breeding ponds ... targeting particular habitat features may be worthwhile, using similar capture protocols as described for the within 100m zone.”*

The inclusive most likely areas of the proposed development site offering significant potential habitat for GCN is shown by Appendix 1A, Figure 1, attached. This totals 675m<sup>2</sup> (0.07 Ha), and if the lowest likely effect on individual newts is assumed this puts the RRA “Offence Probability Score” between 0.3 and 0.5, well into the AMBER: OFFENCE LIKELY range. Hence the mitigation preferred is not sufficient, more needs to be done.

### **Surface/Foul Water**

Several questions raised by the Drainage Consultee (Jenifer Alan) remain unanswered. There has been talk of SUD’s but no information has been provided (descriptive or technical). There has been much emphasis and reliance put on the use of ‘existing surface water systems’, but in reality, there is none or very little that exists on site and around these dilapidated field buildings. With restoration and conversion new roofing, large remade areas of concrete and with new hard standing and paths rain water run-off will be considerable compared to present day, therefore new surface water management means are essential.

See my email to Jennifer Allen, dated 17<sup>th</sup> February 2023 concerning amongst other things inevitable excavation work needs for acceptable compliant habitation use and covered areas/surface water run off calculations.

### **PTP**

The recently installed PTP is continually referred to by the Council as ‘existing’, it is not existing it is ‘new’, installed with the single primary intension of meeting all needs of this proposed development and enabling with an additional capacity allowance its use to service the needs of the old cottage (main dwelling) and its extension. Also note, under the definition of the Government/Environment Agency regulation of 2015 such installations are defined as “new”.

The contention put forward by Herefordshire Council and used as the basis for embedded mitigation (see HRA below), is that *“The proposal is to manage additional foul water flows through the existing private foul water system (Package Treatment Plant) that was installed to serve a permitted extension to the main dwelling but was located and sized to accommodate future additional flows from this holiday accommodation”* On the face of it this statement is not wrong, but it is inaccurate [REDACTED] as it was not ‘existing’ and PTP size and its location was not a material consideration of the permitted extension planning approval, nor was approval sought prior to its eventual much later installation.

This ‘new’ single large PTP was installed in ~~May/June~~ March 2021, at the time of the applicants first and now withdrawn application for this proposed development. Just weeks after their Pre-App was

completed, recommending that two separate PTP's be installed (note, it's not known whether this information was known to the applicants at the time of PTP installation or not).

Whilst the PTP now services the needs of the cottage (main dwelling) extension it bears no relation to the considerably smaller PTP installation applied for and approved under approved planning application for the extension granted way back in June 2012 (S121041F)

If (had) two PTP's been installed these could have been positioned at more elevated site locations enabling drainage fields to be used as is recommended requirement even for installation to water courses. These site locations would also be considerably more remote from the neighbouring nature ponds through which the water course, in this case the small un-named stream, runs. The siting of these PTP's would also be such that they'd be fully compliant with current installation regulation, something that the 'new' large single installed PTP is not.

This installed 'new' large single PTP is presently only connected to service the needs of the cottage extension and has done so since its installation, [REDACTED] Additionally, this installation does not appear to be compliant with General Binding Rules 17 & 19, nor does it comply with the Building Regulations and conditions for installation of small sewage systems.

The stream into which the new PTP outflows directly has little flow at the best of times and is known to dry up on occasion. This is occurring ever more frequently of late with the changing climate. For example, through May/June this year there was periods of no flow. This stream of no-name runs into Luke Brook, Luke Brook is known to be seasonal and is on record as seasonal with the authorities (Balfour Beatty Ecology group).

## HRA

This updated HRA reflects a complete turn-around in its findings from that of Mr Nikitik's earlier report, concluding "No Significant Effect" and as a consequence no need for Stage Two – Appropriate Assessment or need for consultation with Natural England. Whereas in fact, proposal changes and new evidence not previously known or available to Mr Nikitik would indicate even greater impact from this development proposal than first reported by Mr Nikitik, i.e. most definitely indicating "Likely Significant Effects" and Appropriate Assessment Required.

The PTP is being cited as supporting 'embedded mitigation' as a means to protect the River Wye SAC, however this is neither a feature or characteristic of the proposal, it is 'additional to' there to avoid an adverse effect, and hence cannot be considered as an allowance consideration for embedded mitigation. This goes against the very statement included within the HRA form "**NB:** *Where avoidance and mitigation measures do not form an integral part of the project/ plan and are to be put in place to reduce the impacts, these must not be considered in order to avoid impacts at the Screening stage and will require consideration at the Appropriate Assessment stage (in line with the People Over Wind judgement).*" and the considerable information available on this subject.

In fact, it can be argued that the PTP as installed requires mitigation of its own to justify acceptability, as with direct out-flow into the stream Nitrogen Neutrality cannot be assured now or for the lifetime of the installation.

A number of key form questions and consequently important answers on this latest HRA are missing when compared with the earlier HRS submitted by Mr Nikitik.

In support of the general clarity and understanding of the various points above, not just within the HRA, it's worth noting the following:

Section 1.2 of the HRA captures the plan headlines of four building of the proposed development. However, whilst the detail changes and implications of three of these four building is understandable from information provided in the application, details on the 'pig shed' building is not. Hence, the full implications of this regarding the effect on ecology will not be understood by the reader. This is compounded further by the fact that the applicant's ecologist has not recognised the updates to plans and position of the rebuilt tin barn and has only considered the stone barn and the implications of its conversion on ecology within the latest Amended Updated Ecology Study Report at the exclusion of all other buildings of the proposal.

The proposal headline for the pig-shed building states; *"Raising the south roof of a pig-shed building (unlisted) to the ridge height of the north roof, installing solar panels, no change of use."*

Given the dilapidated state of this building and in order to raise and fit a new roof, add solar panels and for this building to be fit for use as a pig-shed and field shelter the assumption has to be that much of the existing structure will need to be replaced/rebuilt. The concrete roof supports to the field shelter are crumbling/broken and unsafe, the main ridge support wall running the length of the structure has significant damage, the open pig pen areas are in a very poor state with considerable ruderal growth coming up through the broken concrete bases. With piles of rubble and stone both around the building and within the pens either used in the repair or discarded. The field shelter to the rear and running almost the full length of the building currently has a dirt (earth) floor, given that there are no animals or intention of having cattle/horses or the like on the land and as this space is presently used timber/equipment storage, it's highly likely this area will be covered with a reinforced concrete floor. Sadly, the application provided no detail in this respect. Yet this detail is vitally important if the full implications on drainage and ecology are to be understood.

The proposal site/property (Section 1.6) is stated as a Rural Farmstead, but for the past 20yrs the property has been classified as 'Residential'. The Surrounding land in relation to the site, to which the question refers, i.e. with reference to the surrounding properties bounding the site, would be better described as "Agricultural Land & Private Residential Homes".

From an ecological perspective, mitigation measures alone are not sufficient to address the issues identified and when considered in combination with several other significant concerns identified through the numerous objections to this development proposal, I would contend that changes to the proposed construction layout itself are required.

Yours faithfully

Julian Mark Ebbutt

Appendix A1:



Figure 1

The outlined red line areas show significant potential wildlife habitat areas, especially suited to GCN for shelter, foraging and hibernation, that will be disturbed during construction, with the majority of which lost completely following completion.

Note: These areas capture piles of rubble, stone, open walling and much ruderal growth both in and around the many open access derelict aspects of these structures. They do not include the enclosed covered spaces of the buildings which whilst still accessible to GCN and other land mammals are more likely to be used by Birds & Bats etc.

**Total red line area  
approx. 675m<sup>2</sup>  
(0.07Ha)**



## The Planning Inspectorate

### COMMENTS ON CASE (Online Version)

Please note that comments about this case need to be made within the timetable. This can be found in the notification letter sent by the local planning authority or the start date letter. Comments submitted after the deadline may be considered invalid and returned to sender.

**Appeal Reference: APP/W1850/W/23/3316691**

#### DETAILS OF THE CASE

Appeal Reference

Appeal By

Site Address

#### SENDER DETAILS

Name

Address

Company/Group/Organisation Name

#### ABOUT YOUR COMMENTS

In what capacity do you wish to make representations on this case?

- Appellant
- Agent
- Interested Party / Person
- Land Owner
- Rule 6 (6)

What kind of representation are you making?

- Final Comments
- Proof of Evidence
- Statement
- Statement of Common Ground

Interested Party/Person Correspondence

Other

**YOUR COMMENTS ON THE CASE**

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Other

**YOUR COMMENTS ON THE CASE**

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