

Mr Malin
Willie's Cacao Ltd
Como House
Como Road
Malvern
WR14 2TH

Dear Mr Malin

SITE: Homelands Farm, Nordan, Leominster, HR6 0AJ
DESCRIPTION: Pre application advice - Proposed change of use of existing farm house and agricultural buildings for the production of artisan chocolate/distillery (Use Class B2)
APPLICATION NO: 231718/CE
APPLICATION TYPE: Pre App Advice

I refer to your pre-app advice request above. Please accept my apologies for the slight delay.

The enquiry relates to a site to the north of Leominster in the area known as Nordan. Homelands Farm is understood to be a former Council owned small holding that is located in a slightly set back position around 75m to the east of the B4361. It comprises the host farmhouse (that is in need of renovation) and a complex of varied agricultural buildings. This includes a core range of 18th century brick barns, as well as more modern steel framed structures that have developed around this. It is understood that a consent exists under the Class Q PD right for the conversion of two barns at the south of the site to dwellings (P/214327/PA4) and an application is currently under consideration for the conversion of the traditional barns to six dwellings (P223480/F).

The enquiry seeks advice towards the proposed redevelopment of the farm and buildings into a premises for the production of artisan chocolate and alcohol (use Class B2). It follows on from an earlier pre-app enquiry at another site in Herefordshire under 221467/CE and I have taken a base understanding of the business from our discussions as part of that earlier pre-app. It is understood that the enquiry is 'pre-purchase' and, if you were to be successful in acquiring the site, then the established operations would be relocated from their current base in Devon.

The request is 'high level' at this stage. A brief planning statement has been submitted which sets out an overview of the proposed use, a rough vision for the site and an appraisal of relevant policy. We have not been provided with any detailed plans. As such, you will appreciate that the scope of the advice we are able to offer is inherently limited. Being mindful of this and the 'pre-purchase' nature of the enquiry, my main focus has therefore been on identifying whether there might be any 'red flags' that would lead me to discourage you from pursuing the project further.

Policy Context and Principle of Development

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that all planning applications are determined in accordance with the development plan, unless material considerations indicate otherwise. In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS) and the Luston Group Neighbourhood Development Plan (NDP). The National

Planning Policy Framework (NPPF) is also a significant material consideration in determining any application.

I would advise that the following policies are of most pertinence;

Herefordshire Local Plan – Core Strategy

https://www.herefordshire.gov.uk/downloads/download/123/adopted_core_strategy

SS1 Presumption in favour of sustainable development
SS4 Movement and transportation
SS5 Employment provision
SS6 Environmental quality and local distinctiveness
SS7 Addressing climate change
RA5 Re-use of rural buildings
RA6 Rural economy
MT1 Traffic management, highway safety and promoting active travel
E1 Employment provision
E2 Redevelopment of existing employment land and buildings
E3 Homeworking
E4 Tourism
E5 Town Centres
LD1 Landscape and townscape
LD2 Biodiversity and geodiversity
LD3 Green Infrastructure
LD4 Historic environment and heritage assets
SD1 Sustainable design and energy efficiency
SD2 Renewable and low carbon energy
SD3 Sustainable water management and water resources
SD4 Waste water treatment and river water quality

Luston Group Neighbourhood Plan (made 2nd January 2018)

https://www.herefordshire.gov.uk/directory_record/3083/luston_group_neighbourhood_development_plan

Policy LG1 – General Development Principles
Policy LG2 – Design of Development in Luston Group
Policy LG3 – Protecting and enhancing local landscape character and views
Policy LG4 – Dark Skies
Policy LG5 – Flood Risk, Water Management and surface water run-off
Policy LG8 – Supporting and enhancing existing small scale local employment

National Planning Policy Framework

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

1. Introduction
2. Achieving sustainable development
4. Decision-making
6. Building a strong, competitive economy
8. Promoting healthy and safe communities
9. Promoting sustainable transport
11. Making effective use of land
12. Achieving well-designed places
14. Meeting the challenge of climate change, flooding and coastal change
15. Conserving and enhancing the natural environment
16. Conserving and enhancing the historic environment

At the heart of the NPPF lies the presumption in favour of sustainable development. Paragraph 8 sets out that achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are an economic objective; a social objective; and an environmental objective. The application of 'the presumption' means that proposals which accord with an up-to-date development plan should be approved without delay. The CS reiterates this presumption through policy SS1.

The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy was made on 9th November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application. In this case the relevant policies of the CS have been reviewed and are considered entirely consistent with the NPPF with regards to promoting sustainable types and patterns of development, including promotion of businesses in rural areas. As such, it is considered that they can still be attributed significant weight.

You should also note that the preparation of a new local plan is currently underway. The review is still at the early stages and no 'draft' of the new plan is available at this point. As such, no weight can be given the local plan review at this point. However, the preparation of the new local plan is moving forward at some pace and it will attract an increasing amount of weight as it moves through the various consultation and drafting stages. I would recommend that you continue to monitor this as it may have implications for your proposal going forwards, depending on the stage the review has reached by the time a formal application is made. Details of the review process, including any public consultations, can be viewed on the Council's website here: <https://www.herefordshire.gov.uk/local-plan-1/local-plan-2021-2041>

Relevant Policies

You have identified the use of the site as falling within Class B2 (General Industrial) and I would agree with this classification based on the production processes you outlined during our earlier meeting at Keep Hill. I note your submission is also supplied with a statement which sets out an appraisal of the key policies in the current development plan. I would again largely agree that this statement has identified the policies of most relevance and hence I do not feel it necessary for me to recite them again here in full. Of particular note however is Chapter 6 Paragraphs 84-85 of the NPPF, which states that planning policies and decisions should enable to sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings. It is also clear that decisions should recognise that sites to meet local business needs in rural areas may have to be found adjacent to or beyond existing settlements.

From the Core Strategy, the strategic objectives of the local plan recognises the county's historic strength in land-based industries – seeking to support and encourage the development and diversification in sectors such as food and drink production. E1 is then relevant in terms of supporting employment provision and the economy, whilst RA6 is particularly pertinent for proposals in the rural context. This states that employment generating proposals which help diversify the rural economy, including those which support and strengthen local food and drink production, will be supported. Specific proposal will be permitted where they:

- ensure that the development is of a scale which would be commensurate with its location and setting

- do not cause unacceptable adverse impacts to the amenity of nearby residents by virtue of design and, mass, noise, dust, lighting and smell;
- do not generate traffic movements that cannot safely be accommodated within the local road network; and
- do not undermine the achievement of water quality targets in accordance with SD3 and SD4

The site here is also within the Luston parish which benefits from a 'made' NDP. Policy LG8 is particularly pertinent as it deals with 'Supporting and enhancing existing small scale local employment'. I include this policy in full below for ease of reference:

Policy LG8: Proposals for the redevelopment or change of use of existing employment premises to non-employment uses should demonstrate that they have been vacant for 6 months or more and during that time have been actively marketed for appropriate employment uses without securing a viable alternative use. The development of new small-scale employment premises should:

- a) Give priority to the re-use of a brownfield site, or the conversion of an existing building;
- b) Be of a scale appropriate to the immediate surroundings;
- c) Not have a detrimental impact on surrounding residential amenity
- d) Not lead to the loss of open space or green infrastructure;
- e) Be located close to existing highways and do not have an unacceptable impact on traffic;

Having regard to the above, it is evident that there is clear 'in principle' support for proposals such as yours. Willie's Cacao is clearly a well-established enterprise and the relocation of this to Herefordshire would support the strategic objectives of the CS to support the growth and diversification of the rural economy. I note from the supporting statement that the business has a turnover in the region of £2 million and that the factory at the Homelands Farm site would support around 13 full time employees across both the chocolate and brandy enterprise. These are tangible benefits that would attract weight in favour of any forthcoming application – contributing to the fulfilment of both the economic and social objective of sustainable development in so far as a more prosperous rural economy supports the vitality of the local community. As highlighted previously, it is important that any scheme be supported by a robust planning statement which sets out the context of the proposal and highlights any benefits it offers. Your planning agent will be able to assist with this.

I understand that you have already been in contact with the Council's Economic Development team during your search for a suitable site. I have spoken with relevant Officer's in the preparation of this letter and it has been confirmed that they would offer broad support to the proposals given the clear and tangible benefits to the rural economy and employment.

Despite the clear policy support in principle, a formal application could only be approved if an appraisal showed the specific details of the proposal to be compliant with the wider policies of the development plan and that the scheme was generally representative of sustainable development. At this stage, I'm afraid that I cannot offer a fully informed appraisal or give you any firm assurances that any formal application would be supported by Officers going forwards. This will largely be dependent of the specific details of the proposal and the quality of the submission. I can however provide you with an overview of the key material considerations as I see them and highlight any potential issues that would need to be taken into account in the preparation of an application. These are set out below.

Sustainability of Location

Policies E1 and RA6 do not specifically prescribe the locations that are considered suitable for new commercial developments. They do however set out that the development should be of a scale that is commensurate with the location, compatible with neighbouring land uses and that the site is suitable in terms of connectivity. In a similar vein, policy LG8 of the NDP seeks to encourage that employment

generating proposals make use of existing buildings and be located close to the highways network. These policies reflect the overriding theme of both national and local policy to seek that development is directed to the most sustainable locations. In the commercial context, this might typically entail directing proposals to towns or established industrial estates which have good connectivity and reduce the need for staff and goods to travel.

Whilst the site here is located within the open countryside, it is in close proximity to Leominster – which is one of the county's main market towns and employment centres. Although the majority of dedicated employment sites are found on the south side of the town, there are also a number of commercial enterprises on the north side scattered along the B4361 immediately to the south of Nordan, which includes a range of business units at the Broad Farm and Chalford Timber. The immediate area is therefore already characterised by hosting a degree of commercial activity and the scheme would not be at odds with this. The site also benefits from access directly onto the B4361 which, in turn, provides access to the wider strategic network such as the A49 to the south. It therefore has a reasonable level of connectivity and, being particularly mindful of the advice set out at Para 84 of the NPPF in terms of the pragmatism needed when providing for employment in rural areas, I am satisfied that the site is not in an unsustainable location for the use proposed. I hence do not consider that there is any significant policy tension likely to occur in terms of the suitability of the site's location.

Notwithstanding this, any future application should still seek to include measures that promote alternative and sustainable means of travel as much as possible. This might include ensuring that accessible cycle storage is provided for staff, that EV charging points are available on site, assessing whether the site lies on any regular bus routes, or providing a Transport Plan that includes a strategy to facilitate and encourage employees/visitors to use alternative modes of transport. This would add merit to the scheme and show that genuine consideration has been given to the issue of sustainability.

Highways and Access

Core Strategy Policy MT1 relates to the highways impacts of new development, and requires that proposals demonstrate that the strategic and local highway network can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts can be managed to acceptable levels to reduce and mitigate any adverse impacts from the development. It also requires under (4) that developments are designed and laid out to achieve safe entrance and exit and have appropriate operational and manoeuvring space, having regard to the standards of the Council's Highways Development Design Guide. In the context of proposals in the rural economy, RA6 also states that proposals will be permitted where they do not generate traffic movements that cannot safely be accommodated within the local road network. Policy LG1 of the Luston NDP states that all schemes should not 'have a detrimental effect on the safe and efficient operation of the existing transport and road infrastructure' which is similar to LG8 e). This approach accords with the principles outlined in Chapter 9 of the NPPF. Paragraph 11 in particular is pertinent in so far as it directs that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

It is noted that permission was granted in 2019 for the creation of a new farm access P190570/F. It is advised that a start has been made on this and therefore the permission is extant in perpetuity. The covering statement sets out that the scheme would utilise this access arrangement. The approved plans for that access show splays can be achieved of 2.4m x 145m to both the north and south. The junction with the B4361 would have a 9m radius and the track leading to the farm would be 5m wide. The approved details can be viewed here on the Council's website via the link below:

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=190570&search-term=190570

I have discussed the proposals with the Council's Highways Engineer. Given the high level nature of the enquiry and absence of any specific details, she advises that she regrettably cannot offer any definitive views on the acceptability of the proposal. I have however advised of the 'pre-purchase' nature of the enquiry and asked more broadly if there are any 'red flags' identifiable which might pose an issue from the perspective of the highways authority. At this stage, she has advised that she sees no such issues at present. It is acknowledged that the scheme would make use of an approved access that has been designed to a reasonably high specification and there appears to be adequate space available within the site to provide any additional passing bays, manoeuvring space and parking that may be required. It is also not anticipated that the scheme would generate a volume of traffic movements that could not be safely accommodated by the local road network. As such, there are no major issues identified at this point which would lead Officer's to discourage an application,

That being said, I must stress that this advice from the Highways Authority is heavily caveated and offered without prejudice to any decision on a future planning application. In assessing a formal application, the LPA will need to better understand the nature of the operation and traffic movements that are likely to be generated by the proposed change of use. This should be addressed through the submission of a Transport Assessment (alongside corresponding plans for the new access and internal site layout). It is recommended that you employ the services of a suitably qualified consultant to produce this for you and it is suggest that the existing site in Devon may be of help in modelling this possible impacts of the scheme (assuming it is of similar scale and nature to what's being proposed). The projected traffic generation for the site should include, but not be limited to:

- Deliveries of raw materials, packaging, fuels (gas, oil etc) to the factory site - including frequency of deliveries, types of vehicles that would be used and timings in the day.
- Daily movements of staff arriving and leaving work
- Dispatch of finished products from the site (including whether this is done 'in bulk' or using couriers etc for mail orders)
- Any movements associated with ongoing management of agricultural land remaining within the control of the applicant
- Vehicles associated with the residential use of the farmhouse

Within the site, it will need to be ensured that adequate operational and manoeuvring space is available to support the new use. This will likely entail providing passing places along the access track and ensuring that there is adequate turning space near the buildings to account for goods vehicles, as well as providing adequate parking for staff. Provision should also be made for alternative means of transport such as cycling or EV charging points, which should be incorporated within a Travel Plan.

Operational development – change of use of buildings

At this stage, the enquiry simply states that it is 'the intention is to retain and reuse the existing agricultural buildings for manufacturing'. There are no specific plans available for the redevelopment of the site at this time and it is assumed that these would be drawn up if the purchase is successful. In the absence of such plans at present however, the scope of the advice I can offer is limited and will largely be confined to directing you to policies and considerations that should be taken into account.

It is noted that policy LG8 of the NDP lends support for proposals in the rural economy which give priority to converting existing buildings. At face value, the scheme aligns with this policy aspiration. It should however be noted that the scheme would not entail the reuse of 'brownfield land', as the definitions of the NPPF make clear that agricultural land and buildings are not within this classification.

Policy SD1 of the CS is relevant in so far as this sets out that new development should maintain local distinctiveness through detailing and materials, respecting scale, height, proportions and massing of surrounding development. LD1 is also relevant in so far as it directs that proposals should be positively influenced by the character of the landscape in terms of nature, scale and site selection.

RA5 is relevant in so far as it relates to the re-use of rural buildings, broadly stating that proposals should respect the character and appearance of the buildings in question. In this case that would mean ensuring that the agrarian origins of the site are respected in any conversion scheme.

The site is not subject of any restrictive designations or within any protected landscape. There are however views of the site from vantage points to the north on PRoW's and from the highway to the west. The agrarian nature of the site at present is such that the buildings do not appear as discordant elements within the landscape. Indeed, they are typical of what one would expect to find in a rural area such as this. As such, any scheme to convert the buildings should seek to maintain this agrarian appearance as much as possible and avoid introducing elements that are overly 'industrious' in nature. The form of the buildings should be maintained and careful thought should be given to the choice of new external cladding materials, with non-reflective finishes and recessive colours being preferable to ensure the development assimilates well with the landscape. I have sought the advice of the Council's Landscape Officer in this regard which are again appended to this letter and include reference to the useful colour guide from the nearby Malvern Hills AONB. He also highlights the need for the scheme to incorporate new planting schemes, which I would fully endorse having seen the clear opportunities for this to be provided at the site peripheries during my visit to the site.

The buildings on site comprise a mix of traditional and modern buildings. The former are of worthy of some note here and would be regarded as being 'non-designated heritage assets'. They form the core of the farm and have a carefully planned layout that was reflective of farm design principles prevalent in the early 1800's. Both national and local policy is clear that the effect of development upon non-designated heritage assets should be taken into account in decision making, with a balanced judgement being needed having regard to the significance of the asset and any harm that may occur. Policy LD4 of the Core Strategy is relevant in this sense and LG3 of the NDP is also particularly pertinent, as it states under criteria f) that 'the conservation of traditional farm buildings through continued and appropriate new uses is supported and repairs and alterations should use local materials and techniques wherever possible'.

The intention to convert these buildings to support the new use is broadly supported, however this should be done sensitively having regard to their historic character. Historic England have produced a guidance note that sets out 'best practice' principles for developments which involve the adaptive reuse of traditional rural buildings which I would recommend be taken into account as the plans develop: <https://historicengland.org.uk/images-books/publications/adapting-traditional-farm-buildings/>

From my site visit, it is apparent that many of the traditional buildings of value are hidden and obscured by modern structures that have developed around them with time. I also note that the housing proposal under 223480/F seeks to remove the modern structures so that the traditional barns are revealed and their significance can be better appreciated. If the function of the commercial activity allows, I would encourage your scheme to do the same. Modern buildings which serve no useful purpose should be removed where they detract from the character of the brick built barns and the scheme should aim to reinstate the traditional courtyard of buildings if possible. This would deliver a significant heritage benefit which would attract weight in favour of the development.

A follow up email from the Applicant of 5th July has highlighted that a permission exists for a large shed to the west of the farmhouse and it would be their intention to change the use of this from agricultural to commercial. Reviewing our records, this is assumed to be the building approved as a livestock and silage store under N121359/F. It has been advised that a start has been made on this permission to secure it, but the building is not built. It therefore cannot be subject of a 'change of use' application as it does not yet exist. However, the grant of N121359/F does establish a fall back position which suggests that the principle of erecting a large new building here is acceptable from a visual and

landscape perspective. With that in mind, I would not envisage that there being any problems with a proposal to build an alternative structure here for commercial use. Full permission for this would however have to be sought as part of an application for the wider redevelopment of the site.

If your purchase is successful, the Council would be happy to advise further on the specific details of the plans as they evolve.

Residential Amenity

With regards to residential amenity, policy RA6 requires that proposals should ensure that they do not cause unacceptable adverse impacts to the amenity of nearby residents by virtue of design and mass, noise, dust, lighting and smell. SD1 similarly requires that developments should safeguard good standards of amenity for existing and future residents and there is similar provision within the NDP. Both reflect the principles that are set out at Chapter 9 of the NPPF in terms of securing good standards of living for all occupiers of land and buildings.

Although within the countryside, there are a number of third party dwellings in relative close proximity to the site who may be perceived as being liable to be effected by noise, odour or other nuisance that might be associated with the proposed B2 use. However, I am mindful that the current agricultural use of the site is also a potential source of nuisance and I recall from previous discussions that the manufacturing process does not involve any particularly noise generating plant or machinery. This is reassuring and means that I am not minded to suggest that a future application be supported by a detailed Noise Impact Assessment. However, it is suggested that an overview of the production process and machinery involved should be provided with the application documents so that a more informed judgement can be made in this regard. In particular it should identify any potential sources of nuisance or noise, which should include details of any low level and constant background noise that might be associated with refrigeration or ventilation. Details of any emissions and/or sources of odour should also be provided, along with details of external lighting. It is suggested that this be limited to PIR motion activated lighting only which is directed down to avoid detriment to amenity or dark skies.

As part of your application form, you will also be required to specify hours of operation for the factory unit. Typically one might expect an industrial unit such as this to operate 0800-1800 Mondays to Fridays, with reduced hours on Saturday and no working on Sundays. If it is considered that the use of the site could pose a risk to amenity if operated at unsociable hours, then it is typical that conditions would be attached to any permission granted to restrict working, deliveries and dispatch of goods to specific times only. Similarly conditions will also be attached to restrict the use of the buildings to the specific purpose that has been applied for. Again this is standard practice, however given that a generic condition limiting the use of the site to just B2 purposes could in theory allow for a wide range of industrial practices liable to generate comparatively higher levels of noise, I would consider it likely that a more bespoke operator specific condition could be used here. This can be discussed as part of the application process.

The nature of the proposed use is such that there will be a need for flues etc associated with roasting and other processes. It is noted that comments were received from colleagues in Environmental Health as part of the proposal at Keep Hill and I include them again here, as they continue to be of relevance to the any scheme that might come forward at Nordan:

The site is not located within or adjacent to an Air Quality Management Area. However, further information should be provided regarding predicted traffic movements and if this is likely to have an impact on local air quality.

Also additional information in relation to process emissions, including where there is a combustion power source e.g. biomass boiler, details of the emissions and again whether there is likely to be an impact on local air quality.

These details may be provided as a screening assessment in relation to Institute of Air Quality Management guidance or where necessary, a more detailed air quality assessment.

In my opinion, the comments do not raise any major concerns that are likely to prove obstructive to permission being granted – however clarification should be provided as part of any formal application in terms of any process related emissions and odours that may occur. The location and size of any new flues should also be clarified. If any of these are deemed to pose a risk to air quality, further assessment and/or mitigation might be required – but the LPA will be able to advise further on this as specific details of the scheme become available.

Overall, the proposal does not raise any significant concerns at this point in terms of compatibility with location and impact upon nearby residential amenity. Provided the points above are addressed in any forthcoming application, it is my view that conflict with SD1 and RA6 in these terms can be avoided.

Sustainability and Low Carbon Energy

In recent years, ever increasing scrutiny is being given to proposals in terms of how they contribute to promoting sustainable development and respond to climate change. This is reflected at a political level by Herefordshire Council's declaration of a climate and ecological emergency in 2019. From the CS, a range of policies are relevant including SD1, SD2 and SS7.

The proposal here would appear to offer good opportunities for sustainability measures to be incorporated within the development from the outset. Amongst other things, this might include providing renewable energy generation such as solar, biomass or wind, rainwater harvesting, cycle storage or electric vehicle charging points. From the building's point of view, consideration should be given to how existing materials can be reused as part of the conversion and how these will be insulated. Details of this should be included within the Planning Statement or within a separate sustainability statement. From an ecological perspective, the scheme should incorporate biodiversity enhancements to achieve net gain to habitats and species. This should be delivered through both soft landscaping and fixed habitat features, such as bird and bat boxes, bug hotels and hedgehog homes, as appropriate.

The Council is asking all applicants to complete and return its Climate Change and Ecology checklist as part of their submissions. Details of this can be found at the foot of this letter.

Ecology, Protected Species and Green Infrastructure

Policy LD2 of the CS states that all development proposals should conserve, restore and enhance the counties biodiversity assets wherever possible. Amongst other things, this should be achieved through the retention and protection of nature conservation sites and habitats in accordance with their status. In the context that the proposal would entail the re-use of rural buildings, policy RA5 is also relevant in so far as this states that proposals made adequate provision for the protected and priority species. In relation to trees and green infrastructure assets, policies LD1 and LD3 recognizes the positive contribution these can make to local amenity and biodiversity value. LD3 in particular requires that development proposals should protect, manage and plan for the preservation of existing and delivery of new green infrastructure such as trees, woodlands and hedgerows. These policies are all underpinned by the principles established through Chapter 15 of the NPFF.

I have sought the views of the Council's Ecologist and their comments are appended to this letter. It is noted that a recent ecology report has been completed towards the planning application 214327/F and this identified that the site offers potential for a range of protected species, including the presence of a

bat roost within some of the buildings. All existing buildings proposed for conversion or demolition should therefore be subject to a detailed ecological assessment and any identified species specific optimal period surveys (eg for bat roosting-activity) must be fully completed and supplied in support of any future planning application. I would highlight that we are currently within the 'optimal period' (May to August) and hence you may want to commission up-to-date surveys sooner rather than later.

I have also sought comments from the Council's Landscape and Tree Officer. Again these are appended to this letter. If any trees or hedgerows are affected by the development, then these should be subject of an appropriate survey in accordance with BS5837:2012 methodology with subsequent findings and recommendations set out in an arboriculture report. A comprehensive scheme of landscaping should also be presented to ensure that the scheme assimilates appropriately.

I would also highlight that the majority of planning applications submitted after November 2023 will be expected to deliver a 'biodiversity net gain' of at least 10%. This is a new requirement being introduced nationally by central government and guidance in terms of how to achieve and quantify net gains is still emerging at the time of writing. Given the nature of the site and land available to you however, I would anticipate that there is ample scope to deliver the net gains required. Your consulting ecologist will be able to advise on this and I include a link to further guidance below:

[https://www.gov.uk/guidance/understanding-biodiversity-net-gain#:~:text=Biodiversity%20net%20gain%20\(%20BNG%20\)%20is,Planning%20Act%201990%2C%20unless%20exempt.](https://www.gov.uk/guidance/understanding-biodiversity-net-gain#:~:text=Biodiversity%20net%20gain%20(%20BNG%20)%20is,Planning%20Act%201990%2C%20unless%20exempt.)

Foul and Surface Water Drainage

Should you decide to proceed with an application, foul and surface water drainage arrangements would need to be provided to support the scheme in accordance with policies SD3 and SD4 of the CS.

In relation to foul water, policy SD4 sets out a hierarchal approach whereby a connection to the mains sewer is the preferred option of management. Where this is not possible, private alternatives should be provided with the order of preference being package treatment plants with discharge to a soakaways, septic tanks, and (in exceptional circumstances) cess pits. In all circumstances, proposals will need to demonstrate that the development would have no likely significant unmitigated adverse effect on water quality and the River Wye Special Area of Conservation (SAC).

In relation to surface water, policy SD3 requires that measures for sustainable water management form an integral element of all new development. This includes through managing flood risk and ensuring that developments include appropriate sustainable drainage systems (SuDS) to manage surface water. Development should not result in an increase in run-off rates and aim to ensure a reduction in runoff rates is achieved where possible.

The site here is not proximal to a mains sewer and the current drainage arrangements are unknown. It is anticipated that a new package treatment plant and drainage filed however would need to be installed to manage the additional flows that would be created by the commercial use of the site, including waste water from manufacturing processes and associated with staff welfare facilities. Full details of this should be provided with any future application, which will need to include consideration of potential impacts upon local water quality and the River Lugg (further guidance on this is set out in the following section).

I have sought the advice of the Councils Land Drainage Engineer and their full comments are appended to this letter for reference. It is recommended that you engage the services of a suitably qualified drainage consultant to deal with this aspect of the proposals.

Habitats Regulations Assessment – The River Lugg

As we have discussed previously, the site here falls within the River Lugg sub-catchment of the River Wye Special Area of Conservation (SAC). The River Wye SAC is an internationally important conservation site which has been designated for its special features of ecological and biodiversity value. Under the Conservation of Habitats and Species Regulations 2017 (as amended), Herefordshire Council has a legal duty to assess the potential impact of new developments in this area by screening and undertaking an 'Appropriate Assessment' (AA), where necessary, which must be able to determine with scientific certainty that there would be no 'likely significant effects' upon the designated site. The obligations are embodied with CS policies LD2 and SD4.

The River Lugg, which is a tributary of the River Wye and forms part of the SAC designated site, is currently failing its conservation targets on phosphate levels. This as a result of water pollution from 'point' source, particularly sewage outlets, and 'diffuse' source, particularly from agricultural run-off. The failing status of the Lugg has significant implications for development proposals within the catchment when considered alongside a recent ruling in the Court of Justice of the European Union (the CJEU) on the interpretation of the Habitats Directive, from which the Habitats Regulations arise in UK law, in the case of *Cooperatie Mobilisatie* (AKA the 'Dutch Case') (Joined Cases C-293/17 and C-294/17). Following this ruling, the statutory body Natural England have advised that where a site is already failing its water quality objectives, and is therefore classed as in unfavourable condition, there is limited scope for the approval of additional damaging effects.

In essence, this means that Herefordshire Council is currently unable to approve any development proposals in the Lugg catchment unless they can be shown to represent neutrality or betterment in terms of phosphate and nutrient generation. Further information can be found in the link below:

<https://www.herefordshire.gov.uk/downloads/download/2039/development-in-the-river-lugg-catchment>

The issue regarding phosphates would apply to your proposal if an application were to be made at present time. The site is within the Lugg catchment and there are a number of means through which the development could potentially have an effect designated site. As part of any application, the Council's Ecologist on behalf of the local planning authority will be required to 'screen' your proposal to ascertain if the development or processes associated with the operation of the factory would have any 'likely significant effect' on the designated site. In doing so, they will essentially be looking to identify any potential 'pathways' through which the development could impact upon the environment or add nutrients to the hydrological system that may eventually enter the catchment of the River Lugg. Based on our discussions, this might include:

- Foul water generation and discharge of treated effluent from private treatment works, such as septic tank or package treatment plant, to soakaways or watercourses
- Surface water generation and management
- Any waste associated with industrial or manufacturing processes. This might include waste water containing cleaning detergents or other chemicals. Or other waste products from the manufacturing process, such as cocoa shells and husks that contain nutrients.

It will be important that your application be supported by a comprehensive supporting statement which identifies any potential pathways for impact on the Lugg. If such pathways are found, this will then trigger the need for the LPA to make a further assessment whereby it will consider if the effects of the development can be effectively mitigated against in order to avoid any detriment to the Lugg. The onus will be upon yourself as the Applicant to identify such pathways and propose suitable mitigation in the first instance, and the Council will then consider the effectiveness of this in conjunction with

Natural England as the relevant statutory consultee. Permission could only be granted at the present time if it can be concluded with certainty that the proposal would have a neutral effect upon the Lugg.

In making this assessment however it is pertinent that the site is currently an operational farm where the buildings are designed primarily to accommodate livestock. The site in its current form therefore is likely to have a relatively high nutrient export and this is something that the Council may be able to take into account in their assessment. This is in the sense that the proposed use as a food manufacturing should could conceivably lead to less phosphates entering the Lugg than if the established farming use continued – meaning the development would represent ‘betterment’ and a positive HRA would be possible. However, assessment under the Habitats Regulations is an evidence based process that runs on the precautionary principle. In order for the LPA to conclude there would be no adverse effect on the Lugg, the avoidance of harm would need to have been proven with ‘scientific certainty’ and the onus would be on yourselves as the Applicant to provide the evidence to demonstrate this. In my opinion, it is imperative that a suitably qualified consultant be engaged to assist with demonstrating your case for nutrient neutrality. Whilst the Council cannot recommend any such consultants to you for reasons of impartiality, a number of specialists have emerged in recent years who deal exclusively with assessing whether a development can be made ‘nutrient neutral and I would imagine that these could be readily found through an internet search. I could also point you to examples of comparable planning applications, if this is useful.

Summary and Conclusions

The enquiry in this case is ‘pre-purchase’ and this advice is offered based on a broad overview of your intentions for the site going forward. The absence of a fully formed proposal to review is such that the advice I can offer is inherently ‘high level’ and I’m afraid that I cannot offer you any firm assurances that any formal application will be permitted going forwards. To offer such an assurance at this point would be premature and frankly irresponsible, as at this point it is not clear exactly what form the proposals will take and thus a fully informed appraisal is not possible.

That being said however, I do consider that there is clear policy support for the development ‘in principle’ with regards to policies RA6 and LG8 in particular. The scheme would fulfil the aspirations of the development plan to promote growth and vitality in the rural economy, delivering tangible benefits which would contribute to fulfilling the economic and social objective of sustainable development.

Whether a formal application can be permitted however will depend on the specific details of what is proposed. Given the high level nature of the enquiry, my review has been mainly focused on identifying any potential ‘red flags’ or significant site constraints that might suggest that Homelands Farm is not suitable for the use you are proposing. At this stage, I can advise that I have not identified any issues which I consider to be a ‘showstopper’. There are a number of sensitivities associated with the site which will need to be addressed as part of a formal application (e.g. access, HRA, protected species, heritage buildings etc), but these are fairly standard material considerations and I consider it unlikely that any of these matters will pose issues that are insurmountable. It will however be imperative that you seek early advice from suitably qualified specialists to assist with the preparation of an application in order to give it good prospects of success.

To summarise therefore, whilst I cannot give you any guarantees that permission will be granted I have also not identified any concerns or policy conflicts at this point which would lead me to actively discourage you from purchasing the site. Provided any formal application is supported by good quality supporting information that responds positively to the issues set out in the preceding paragraphs, I would consider this to have a reasonable prospect of success.

Should you decide to proceed with an application, the following should be supplied in support:

- Completed Application Form and requisite fee.
- Relevant plans and drawings:

- Site Location plan to recognised metric scale (identifying all land needed to carry out the development, including the site access to the public highway and any areas needed for supporting infrastructure such as drainage fields, outlined in red. Any other land within the control of the Applicant outlined in blue).
- Existing and Proposed Site Plans
- Existing and Proposed elevations
- Existing and Proposed floor plans
- Proposed Landscaping Plan – including any planting and hard landscaping
- Planning, Design and Access Statement – incorporating the points set out above
- Transport Assessment (including ATC survey, access and splays plans as relevant)
- Ecological survey and biodiversity enhancement details (incorporated to landscaping plan)
- Tree and hedgerow survey to BS5837:2012 (if relevant works proposed)
- Foul and Surface Water Management Strategy
- Habitats Regulations Assessment – Nutrient Neutrality Strategy
- Completed Climate Change Measures compliance checklist – refer to the website: <https://www.herefordshire.gov.uk/downloads/file/21421/ss-sd1-climate-change-compliance-checklist>
- Completed Biodiversity & Ecology measures compliance checklist – refer to the website: <https://www.herefordshire.gov.uk/downloads/file/21420/ss6-ld2-biodiversity-ecology-compliance-checklist>

Please note that pre-application enquiries are confidential within the Council. Details of the enquiry have not been shared with local residents, the Parish Council or the Local Ward Councillor. The NPPF however does encourage applicants to work closely with those potentially affected by schemes to evolve proposals, where possible taking into account the views and wishes of the community. Therefore the LPA actively encourages early engagement with the local community, parish council and ward councillor if you wish to proceed with a submission. As mentioned on site, early engagement to keep nearby residents informed and hopefully allay any concerns they may have can often be beneficial in terms of supporting a smooth application process. The details of the local Parish Council and Ward Member can be found below for ease of reference;

Luston Group Parish Council - <https://lustonparishes.gov.uk/>

Cllr Dan Hurcomb – <https://councillors.herefordshire.gov.uk/mgUserInfo.aspx?UID=50005705>

This advice is given in the context of your request and the information provided in support and has regard to the Council's planning policy. Should you wish to submit a planning application I would recommend that this advice is taken into account. However this advice is offered without prejudice to any future decision the Council may make following the formal consideration of a planning application

Yours sincerely

ADAM LEWIS
PRINCIPAL PLANNING OFFICER

Please note

Environmental Information Regulations

Please note that pre-application advice is subject to the Environmental Information Regulations, which means that members of the public can make requests to see the recorded information we hold on pre-application matters.

Although there are various exceptions within the legislation that might prevent release of information, all these have to be seen against the 'public interest' test. This means that the Council may refuse to disclose information only if in all the circumstances of the case the public interest in maintaining the exception outweighs the public interest in releasing the information.

If there are any reasons why you consider that the information should not be made public in accordance with the exceptions set out in the Regulations, for example, where there are issues of commercial sensitivity, please outline them below. We will usually consult you further if a request is made involving information giving to you as pre-application advice, as the situation may have changed by the time a request is received. Herefordshire Council reserves the right to release the information where appropriate in accordance with the requirements of the legislation.