

## Brendan Beal

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**From:** Brendan Beal  
**Sent:** 14 April 2023 16:55  
**To:** Withers, Simon; Webster, Gemma  
**Subject:** RE: 220525 - land to the northern side of C1297  
**Attachments:** HYG1081 220815 JW Broken Gate Cottage Soakaway Test Summary.pdf

Dear Simon, Gemma,

Please see attached the original drainage test results, which specifically consider and reject a drainage mound. I had thought I had submitted these with the SUDS strategy but perhaps not, apologies if that was the case.

I trust this clears things up on that front?

Kind regards,

Managing Director

**Brendan Beal** MSc, CertDIR  
01432 607 407

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**From:** Withers, Simon <Simon.Withers@herefordshire.gov.uk>  
**Sent:** Tuesday, April 11, 2023 3:45 PM  
**To:** Brendan Beal <brendan@bgbuk.com>; Webster, Gemma <Gemma.Webster3@herefordshire.gov.uk>  
**Subject:** RE: 220525 - land to the northern side of C1297

Good afternoon Brendan

There is certainly no need for an apology and we will await the additional information.

Regarding the drainage, now is the time when we need to agree the principles of the strategy and assess whether the circumstances are exceptional or otherwise. In this regard we really do need to discount more sustainable alternatives and by my reading of the report, the engineer didn't really go beyond the site testing. I think this is important to address at this stage.

With regard to the principle, our position is unchanged and we will review the proposal as a whole once we have tackled the technical issues.

Best wishes

# Herefordshire.gov.uk

## 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

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**From:** Brendan Beal <[brendan@bgbuk.com](mailto:brendan@bgbuk.com)>  
**Sent:** 11 April 2023 13:23  
**To:** Withers, Simon <[Simon.Withers@herefordshire.gov.uk](mailto:Simon.Withers@herefordshire.gov.uk)>; Webster, Gemma <[Gemma.Webster3@herefordshire.gov.uk](mailto:Gemma.Webster3@herefordshire.gov.uk)>  
**Subject:** RE: 220525 - land to the northern side of C1297

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Good afternoon Simon,

Yes, thanks we are just waiting on the bat survey but all else is together so shouldn't be too long now. Please accept my apologies for the delay.

RE the drainage I appreciate your comments and the opportunity to discuss. Did you see the percolation results? There is really very little option for ground infiltration of any kind so a bio-disc or PTP will not work, and the likelihood of a drainage mound working is extremely low (for the same reason). I would say that is pretty exceptional, and nowhere does policy state that *all* other options must be exhausted first. Further, the scheme proposed is very much viable (particularly if accompanied by a service agreement, which could be conditioned), compliant with national policy and legislation and so I see no reason why it should not also satisfy policy SD4. If absolutely necessary then I see no reason why this issue shouldn't be further considered in a detailed application, at which point further design and background information will of course be available. If there really is no way you can see fit to discharge this particular point then I will approach the drainage engineer for a simple statement as to the likelihood of a drainage mound working, given the percolation results.

I'm glad you raised the "in principle" objection, are you certain the LPA wishes to take this stance? It seems quite clear to me that the residential use remains and has not been abandoned. Whilst paragraph 4.8.25 does indeed refer to the existing 'building' the actual policy wording does not, and it is my opinion that, were this the only ground for refusal by the LPA then it would be approved at appeal by the SoS. Given the infill-nature of the plot and it's previous history it seems ideally suited to residential use in any case. The LPA could surely count it as a windfall dwelling towards its housing delivery (yes I am aware there is a good 5YHLS, but that doesn't necessarily mean more should not be delivered...), and one that has the potential to have a very positive contribution to the local area at that. And given the lack of the usual NIMBY-related objections (notably there are none from the PC...) I would have

thought this plot moving forwards could be seen as a positive development? I believe it is unique enough that there is no precedent being set for other sites...

Kind regards,

Managing Director

Brendan Beal MSc, CertDIR

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**From:** Withers, Simon <[Simon.Withers@herefordshire.gov.uk](mailto:Simon.Withers@herefordshire.gov.uk)>

**Sent:** Tuesday, April 11, 2023 12:45 PM

**To:** Brendan Beal <[brendan@bgbuk.com](mailto:brendan@bgbuk.com)>; Webster, Gemma <[Gemma.Webster3@herefordshire.gov.uk](mailto:Gemma.Webster3@herefordshire.gov.uk)>

**Subject:** RE: 220525 - land to the northern side of C1297

Good afternoon Brendan

I hope you are well?

I am just reaching out to establish what progress is being made in relation to the ecology survey that I understand from the latest exchange was to be commissioned and submitted?

In reviewing the case, I also note that a sealed cess pit is being recommended. I can see some drainage work was undertaken but is not complete as the potential for other SUDS arrangements fell outside of the consultants remit.

Core Strategy policy SD4 makes clear that cess pits will only be allowed where exceptional circumstances apply and it does not appear to me that other potentially more suitable options have been considered. On this basis, I am not persuaded that the requirements of policy SD4 have been met.

I appreciate that we maintain an "in principle" objection to any new residential development upon the site and as such further investment by your client may not be appropriate. However, I wanted to offer an opportunity to tackle this separate point alongside the agreed additional time to provide the ecology survey.

I'd be grateful for an update on the ecology survey and clarification as to whether you wish to further consider the drainage strategy (see BBLP comments attached)

I look forward to hearing back in due course.

Kind regards

## 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

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**From:** Withers, Simon

**Sent:** 17 January 2023 17:22

**To:** 'Brendan Beal' <[brendan@bgbuk.com](mailto:brendan@bgbuk.com)>; Webster, Gemma <[Gemma.Webster3@herefordshire.gov.uk](mailto:Gemma.Webster3@herefordshire.gov.uk)>

**Subject:** RE: 220525 - land to the northern side of C1297

Good afternoon Brendan

I've picked up your voicemail from earlier and can see that Gemma has since made contact with you. I'm sorry this wasn't quite in accordance with the assurance I gave last week. I have taken the liberty of responding to this follow up email as I know Gemma is focussed on Committee work ahead of a meeting tomorrow and it seemed appropriate for me to step in.

In my view, she has summarised the planning policy position quite clearly and having read your supporting report, I am not persuaded that there is any basis upon which we will be able to support the principle of a dwelling on this case. I appreciate the efforts that you have gone to set out the history of the site (and the adjacent one) but nothing within that document convinces me that there is an existing dwelling with established use rights upon which we can substantiate the acceptability of a replacement dwelling. In truth that could only be substantiated by an application for a Certificate of Lawful Development and in my view it would be very difficult to establish this due to the combination of the condition of the purported dwelling and the length of time that has elapsed since the fire

I stand by our offer to allow you/the client the further time to provide technical reports but in the light of the overriding in principle objection you are advised that this would only serve to focus the reason for refusal upon the principle itself. There would be a benefit to this but also a cost of course.

I'm sorry that I can't offer a positive response in relation to the application but it is entirely consistent with more recent pre-application advice and in the context of currently adopted policy is a clear cut refusal I'm afraid.

We'll await confirmation of how you wish us to proceed and act accordingly

Best wishes

@ [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

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**From:** Brendan Beal <[brendan@bgbuk.com](mailto:brendan@bgbuk.com)>  
**Sent:** 17 January 2023 15:26  
**To:** Webster, Gemma <[Gemma.Webster3@herefordshire.gov.uk](mailto:Gemma.Webster3@herefordshire.gov.uk)>  
**Cc:** Withers, Simon <[Simon.Withers@herefordshire.gov.uk](mailto:Simon.Withers@herefordshire.gov.uk)>  
**Subject:** RE: 220525 - land to the northern side of C1297

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Dear Gemma,

Thank you for your response. May I ask please, whether you have read the supporting planning statement, in particular paragraphs 4.8 – 4.10 inclusive? And if so, is it still the LA's position that it believes the use has been abandoned?

I will converse with the applicant and respond.

Regards,

Managing Director

**Brendan Beal** MSc, CertDIR

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**From:** Webster, Gemma <[Gemma.Webster3@herefordshire.gov.uk](mailto:Gemma.Webster3@herefordshire.gov.uk)>  
**Sent:** 17 January 2023 15:17  
**To:** Brendan Beal <[brendan@bgbuk.com](mailto:brendan@bgbuk.com)>  
**Cc:** Withers, Simon <[Simon.Withers@herefordshire.gov.uk](mailto:Simon.Withers@herefordshire.gov.uk)>  
**Subject:** RE: 220525 - land to the northern side of C1297

Dear Brendan,

The Local Authority's position is as stated in my email on 29<sup>th</sup> November, the site is located within open countryside and therefore has strict policy requirements for new development, one of these is a replacement dwelling. However, it is not considered that there is an existing residential dwelling on this site for the proposal to replace. It is noted that historically there was a dwelling on this site but has subsequently been lost through a fire and never replaced, the site not any building resembling a residential home since. Paragraph 4.8.25 of the Core Strategy states that 'Replacement dwellings will only be permitted provided that the existing building has established and continuing residential use rights and has not been abandoned'.

There have been two pre-applications undertaken on this site by the current applicant regarding a replacement dwelling, both of these stated that a new dwelling would not be supported.

Attached are the Land Drainage comments, they have requested that other options are explored before a cesspit arrangement is proposed.

The principle of development is not considered acceptable, and there are technical issues which likely could be overcome, but the principle would still be for refusal of the application.

If you wish for the application to proceed to determination, which would be for refusal, to allow opportunity to appeal, please let me know if you wish to provide the additional ecological and drainage details prior to determination. You will note that the ecological objection requires surveys that cannot be undertaken until later in the spring.

Kind regards  
Gemma

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**From:** Brendan Beal <[brendan@bgbuk.com](mailto:brendan@bgbuk.com)>  
**Sent:** 29 November 2022 11:22  
**To:** Webster, Gemma <[Gemma.Webster3@herefordshire.gov.uk](mailto:Gemma.Webster3@herefordshire.gov.uk)>  
**Subject:** RE: 220525 - land to the northern side of C1297

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Dear Gemma,

Thank you for your detailed email.

However, contrary to your penultimate paragraph, I don't believe I've received any information regarding considerations of the proposal against policy. There doesn't appear to be any such objection published on the LA website, and I can find no record of my having received such information, [REDACTED]

This is really the main test of this application – all other matters can likely be resolved, including ecology, in due course. Could you provide more detail on the LA's position in this regard please? It will inform how the applicant moves forwards, as the ecological works will be costly and there would seem little point if the LA is of the opinion that the development could not proceed for other reasons, anyway. If you are not willing/able to provide such information at this time please do inform me.

Kind regards,

Managing Director  
Brendan Beal CertDIR  
01432 607 407

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**From:** Webster, Gemma <[Gemma.Webster3@herefordshire.gov.uk](mailto:Gemma.Webster3@herefordshire.gov.uk)>

**Sent:** 29 November 2022 11:04

**To:** Brendan Beal <[brendan@bgbuk.com](mailto:brendan@bgbuk.com)>

**Subject:** 220525 - land to the northern side of C1297

Dear Brendan,

Please see the attached Ecologists comments, the drainage information that was submitted has been sufficient for the Ecologists' to undertake the HRA screening and this screening report has now been sent off to Natural England this morning for their 3 week consultation. However, you will note that the objection in regards to the requirement for an Ecological survey still stands. Due to the location of the site adjacent to the SSSI and Nature Reserve it is a requirement for the ecology survey to be undertaken prior to any planning permission being granted to ensure there is no adverse impact upon protected species. I have attached the original Ecology comments from June for your information. The optimal period for undertaking the ecology surveys have now expired for this year and do not start until spring next year.

I am currently still awaiting comments from Land Drainage, but expect those within the next week.

In the light of the maintained objection from Ecology in regards to the lack of ecology survey, there are two ways of moving forward, withdraw the application and resubmit in the spring once the survey has been undertaken or I can determine the application as it is before me currently. This would be with a refusal reason on the lack of information in regards to the ecology survey, but allows you right of appeal if you wish.

As you are aware we also have an in principle objection to the proposal, as it is not considered to comply with planning policy for new development (as it is located some distance from the main built up areas of Woolhope and Mordiford and is therefore considered open countryside), and it is not considered to comply with the Core Strategy policy of a replacement dwelling, in Policy RA3 and paragraph 4.8.25.

Please let me know whether you wish to withdraw the application or for me to determine the application as it stands once I receive the final comments from NE and Land Drainage?

Kind regards

Gemma

Gemma Webster  
Senior Planning Officer  
Development Management  
Herefordshire Council | Plough Lane | Hereford | HR4 0LE  
Email: [gemma.webster3@herefordshire.gov.uk](mailto:gemma.webster3@herefordshire.gov.uk)

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