

**PLANNING
COMMITTEE**

16th February 2022

Planning Application 21/00249/FUL

Change of use from agriculture to a mixed use of agriculture and the keeping of horses, erection of two mobile stables, a mobile hay store and retention of a vehicular access and parking area.

Land North of Droitwich Road, Droitwich Road, Feckenham, Worcestershire

**Applicant: Mrs Sarah Watts
Ward: Astwood Bank and Feckenham**

(see additional papers for site plan)

The case officer of this application is Simon Jones, Planning Officer (DM), who can be contacted on Tel: 01527 548211 Email: simon.jones@bromsgroveandredditch.gov.uk for more information.

Site Description

The application site is situated to the northeast of the junction of Berrowhill Lane and the Droitwich Road / (B4090) Salt Way.

The site comprises two agricultural fields totalling approximately 2.1 hectares. These are accessed by two field gates, one situated near the southwest corner of Berrowhill Lane and the other approximately 100 metres from the junction. Stradling the field boundary, towards the western edge of the site is a pond.

The southern field contains remnant ridge and furrow which is a feature contemporary with and part of the historic setting of Feckenham's medieval manorial site, situated approximately 350m to the west, which is a scheduled monument.

Proposal Description

Full planning permission is sought for the change of use from agriculture to a mixed use of agriculture and the keeping of horses, erection of two stables, a hay store and a vehicular access and parking area. The proposal also entails the permanent closure of the southern vehicular access and would require alterations to the retained access including loss of 12 metres of hedgerow to facilitate visibility

The stable buildings would comprise a pair of stables measuring approximately 7.5m long by 4 m deep with and a single stable building measuring approximately 4m long by 4 m deep. Both structures would have a 1m roof overhang and be approximately 3.5 m high with a pitched roof. The hay store would measure approximately 6 metres long by 4 metres deep and 3m high with a pitched roof. These structures would be of timber construction with onduline composite sheet roofing. The applicant has described the stables and the hay store as 'mobile structures. Member's attention is also drawn to the fact that the vehicular access and parking area have already been provided on site.

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Relevant Policies

Borough of Redditch Local Plan No. 4

Policy 1: Presumption in Favour of Sustainable Development
Policy 8: Green Belt
Policy 16: Natural Environment
Policy 17: Flood Risk Management
Policy 18: Sustainable Water Management
Policy 20: Transport Requirements for New Development
Policy 36: Historic Environment
Policy 39: Built Environment
Policy 40: High Quality Design and Safer Communities

Others

NPPF National Planning Policy Framework July 2021
NPPG National Planning Practice Guidance

Relevant Planning History

20/00228/INV	Enforcement Notice	SERVED 17 th June 2020
		WITHDRAWN 9 th February 2021
20/01377/ENFGA	Appeal against Enforcement Notice 19/00228/INV dated 17-06-2020	Notice Withdrawn
20/00194/FUL	Installation of hard standing area and upgraded access and change of use to equestrian and erection of four stable buildings and a storage unit. Part retrospective.	REFUSED 19.05.2020

There were 6 reasons for refusal –

- *Loss of ridge and furrow impact on setting of SAM*
- *Unsafe Accesses*
- *Openness of Green Belt*
- *Loss of hedgerow*
- *Ecological Impact*
- *Insufficient detail in relation to surface water drainage*

Consultations

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Feckenham Parish Council OBJECTION

- i) The application should not have been validated
- ii) Approval of the application would signal that undertaking development without planning permission is acceptable
- iii) The LPA failed to prevent destruction of the ridge and furrow

Before considering the details as set out in the application documents it is necessary to consider the validity of the current application and the decision of the LPA to register it.

On the basis of the Government advice set out in the PPG*, the applicant therefore no longer has the privilege of submitting further applications and as a result application 21.00249 is invalid and should not have been registered by the Local Authority.

This case has been put to the LPA, who have failed to acknowledge the view, or respect the request for a meeting to discuss the matter.

Notwithstanding the above the application, if valid, is fundamentally flawed, in that both the planning statement and the Heritage Statement base their case on the fact that this is a "virgin" site, glossing over the fact that unlawful works and total disregard for the planning process have caused significant harm to both a heritage and scientific site.

The argument that the harm that the current application is less than that already caused is naive and unacceptable. The land Can and Should be reinstated to its original condition before any such application could be considered. The Lidar information (shown below) clearly sets out the extent and location of the ridge and furrow, and although not authentic it can be reproduced. The pond and pasture, if left to their own devices will regenerate.

The argument that less intrusive works are some form of gain, is again naïve and unacceptable, if what was originally required is what is now being applied for why has the work that has been undertaken been done.

To allow this application would set a very dangerous precedent for the LPA, "It's ok just do it no one will challenge you". On this basis alone it should be refused

The Parish Council thinks that 21/00249/FUL should be refused because, amongst other factors, the public benefit of a private car park in green belt land, is very obviously outweighed by the destruction and damage of important heritage assets on this site. One of the assets in question is the Ridge and Furrow artefact, which is described in your letter dated 22.4.21 as County Archaeologist, as

"Of above local significance for its clear medieval character integral to the setting of the Scheduled Monument (Feckenham Manorial Moated site – 1018361)".

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Furthermore, Historic England in their letter dated 30.4.21, come to a similar conclusion, when they say,

“any loss of Ridge & Furrow would be considered a negative impact on the setting of the nearby scheduled monument, resulting in a degree of harm to its significance. This would apply to the retrospective works in the west of the southern field”, and “we would consider this site a positive part of the scheduled monument’s setting. It contributes to our understanding of the monument and its significance”.

In determining the Planning Application, the LPA will need to be mindful of the following NPPF paragraphs: 195, 196, 197, 200 Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, **or from development within its setting**

The Parish Council adduce from these paragraphs, combined with the comments from Historic England and the County Archaeologist detailed above, that: -

1. The determination of the current planning application should **only** take account of the good pre-existing state of the Ridge and Furrow artefact and not its current damaged state (Para 196). This is because it has clearly been deliberately harmed during the unauthorised works. Specifically, the damage caused by the building of the car park should not be used as an excuse for granting permission because this might be an “easier option” or avoid the need for subsequent restitution or the need for enforcement procedures. In other words, the determination of this planning application should be considered from first principles as though it was a new planning application for a “virgin” site and not a retrospective application containing a damaged asset which might be hard to restore.
2. The County Archaeologist’s view that the Ridge and Furrow artefact is of above local importance, and Historic England’s view that it is part of the **setting** of a National Monument means that any harm or loss should require clear and convincing justification and should be **wholly exceptional** (Para’s 195, 200).
3. That the Ridge and furrow artefact should be retained and not damaged, destroyed, or covered over. Instead, it should be preserved and put to future use consistent with its conservation and inherent significance to the setting of the Scheduled National Monument, to which it is connected – i.e. there should be no grounds **whatever** to turn part of the ridge and furrow site into a car park which is clearly not, and never has been, part of the setting of the Moated Manorial Site (Para 197).

With these published NPPF criteria in mind, the Parish Council believes that **great weight** in the planning balance should be attached to the value of conserving the heritage assets on this site. This weight must be compared to the total absence of any public benefit accruing from the unauthorised construction of a private car park on Green Belt Land, which is clearly against policy in the BORLP4 Development Plan, and which

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has already damaged important heritage assets. If this process is applied correctly, Parish Council therefore maintains that it is obvious to any fool that Planning Permission **must be refused** in this application.

We also refer you to the following 3 recent Planning Inspectorate Decisions where loss of Ridge and furrow artefact was an important determinate in the decision to refuse planning permission. This is not an exhaustive list and there are several other similar appeals.

1. Appeal Ref: APP/J3720/W/18/3214028 Land west of Avon Dasset Road, Fenny Compton CV47 2FW Planning permission refused for residential development, the Inspector gave substantial weight given to loss of Ridge and Furrow in this case.
2. Appeal Ref: APP/J3720/A/14/2215276 Land south of Oxhill Road, Tysoe, Warwickshire Planning permission refused for residential development causing damage to Ridge and Furrow
3. Appeal Ref: APP/F2415/W/17/3167654 Land to the north of Oaks Road, Great Glen, Leicestershire LE8 9EG Planning Permission Refused for residential development where there was loss of Ridge and Furrow and historic hedgerow

Highways Redditch

Worcestershire County Council acting in its role as the Highway Authority has undertaken a full assessment of this planning application. Based on the appraisal of the development proposals the Transport Planning and Development Management Team Leader on behalf of the County Council, under Article 18 of the Town and Country Planning (Development Management Procedure) (England) Order, 2015 has **no objection subject to conditions**.

The justification for this decision is provided below.

I have no highway objections to the proposed change of use from agriculture to a mixed use of agriculture and the keeping of horses, erection two mobile stables, a mobile hay store and retention of a vehicular access and parking area.

Site observations:

The application site is located in a rural location and accessed via 2 vehicular access from Berrowhill Lane which is an unclassified road which, immediately south of the site, forms the minor arm of a priority junction with B4090 Salt Way/Droitwich Rd. The site originally benefited from two simple field gated accesses from Berrowhill Lane located 20 metres and 100 metres north of the priority junction to which improvements were carried out without consent. Both accesses were deemed not to meet the highway design standards and a previous planning application Ref 20/00194/FUL was refused. This new planning application has addressed our concerns which were highlighted to the applicant.

Relevant extracts from the Note to WCC.

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*DTA Drawing 22214-01 proposed changes which include closing/removing the southern access and using the northern access to solely access the site – **noted.***

*This access is shown widened to 5.5m with the gates relocated to 10m off Berrowhill Lane in accordance with WCC's comments – **acceptable.***

*2.4 Visibility splays of 2.4m x 43m visibility are shown from the access with an additional 0.6m set back – **the splays provided are deemed acceptable in this instance.***

*Any vegetation/hedges will need to be relocated behind this point or removed -**noted.***

*Vehicle tracking for a 4x4 with horse box trailer is also shown on DTA Drawing 22214-01. The vehicle can enter the access and remain off the carriageway with the gates relocated – **noted and acceptable.***

*Within the site itself this vehicle can manoeuvre and turn without the need to reverse onto the carriageway – **noted.***

Applicant to note the proposed access will need to be provided with appropriate drainage as per WCC standards. It is noted alterations to the means of access have already been made. The applicant has carried out works to both vehicular accesses with parts of the works at both locations being on highway land. Had the applicant submitted a planning application in advance of those works they would have been advised of specific design requirements and a construction specification. In addition, they would have been made aware that works to the highway can only be undertaken by a WCC approved contractor following a technical approval.

Applicant to note appropriate drainage must be installed and all works within the public highway must be undertaken by a WCC approved contractor following technical approval.

The surface of the vehicular access is indicated to be finished in a bound material – acceptable.

I have not requested a speed survey in this instance to determine 85th%tile speeds for this retrospective vehicular access since the 2.4m x 43m splays had been agreed within the previously refused planning application.

The Highway Authority has undertaken a robust assessment of the planning application. Based on the analysis of the information submitted the Highway Authority concludes that there would not be a unacceptable impact and therefore there are no justifiable grounds on which an objection could be maintained.

Conditions:

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Pedestrian visibility splays

The Development hereby approved shall not be occupied until pedestrian visibility splays of 2m x 2m measured perpendicularly back from the back of grass verge shall be provided on both sides of the access. The splays shall thereafter be maintained free of obstruction exceeding a height of 0.6m above the adjacent ground level.

REASON: In the interests of highway safety.

Access gates

The Development hereby approved shall not be occupied until the proposed access gates have been set back 10 metres from the adjoining carriageway edge and made to open inwards only.

REASON: In the interests of highway safety.

North Worcestershire Water Management

No objection subject to condition

The submission of an outline drainage strategy is noted

Within 2 months of this decision, a scheme for surface water drainage shall be submitted to, and approved in writing by the Local Planning Authority. This scheme shall include a drainage plan indicating the position and extent of all proposed surface and subsurface drainage features designed to attenuate surface water runoff. The scheme shall be implemented and carried out in accordance with the approved details within 2 months from the date of approval of those details and thereafter retained in that form for the lifetime of the development.

Reason: In order to ensure drainage conditions will not create or exacerbate flood risk on site or within the surrounding local area.

Worcestershire Wildlife Trust

1. We note the contents of the various associated documents and in particular the findings and recommendations set out in the Ecological Impact Assessment by Ecolocation. We also note that the site falls partially within the Brook House Meadow and Feckenham Bank Local Wildlife Site (LWS).
2. We welcome the findings and recommendations set out in the ecological report and provided that they can be implemented in full we do not wish to object to the proposed development. However, as the ecological assessment makes clear, there are serious implications for the LWS should anything not go according to plan and so our position is contingent on the council being able to impose appropriate biodiversity conditions to any permission it may be otherwise minded to grant. In particular, the revised access and restoration of the southern meadow from hardstanding to species rich grassland will be important, as will control of grazing density, especially in the southern field.

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3. Accordingly, in order to protect and enhance biodiversity in line with planning policy expectations and your legal obligations, we would strongly recommend that you append conditions covering the following matters to any permission you may be otherwise minded to grant.
 - a) CEMP - to include protection for retained ecological features and prevention of pollution during construction and remediation works, especially in relation to any direct harm, runoff, noise, extraneous light or dust risks to the LWS, mature trees and hedgerows. Timing of works to avoid nesting birds and method statements to minimise risk to other protected species may also be needed.
 - b) Lighting - To ensure that the development, both during construction and once operational, does not cause harm to nocturnal wildlife within, and commuting to and from, the adjacent LWS and other habitats.
 - c) LEMP - to include biodiversity enhancement and site management in line with the recommendations in the ecological report and planning policy.

Appropriate model wording for ecological conditions can be found in Annex D of BS42020:2013 Biodiversity - Code of practice for planning and development

Natural England

No Objection

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes. Natural England's generic advice on other natural environment issues is set out at Annex A.

Historic England

No Objection

Summary

The application site contains medieval ridge & furrow and lies within the setting of Feckenham's medieval manorial site, which is a scheduled monument.

Advice

Significance

The application site lies c. 350m to the west of the Feckenham manorial site scheduled monument. It contains a well-defined area of medieval ridge & furrow and is part of the monument's wider landscape setting.

As it contains archaeological features which are potentially contemporary with the manorial site's use, it provides evidence for the management of its agricultural hinterland and helps us understand its medieval surroundings. We would consider this site a

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positive part of the scheduled monument's setting. It contributes to our understanding of the monument and its significance.

Previous Application

Historic England provided advice on a previous application for this site on 13th May 2020 (Application No. 20/00194/FUL). This proposed the change of use to equestrian and the erection of four stable buildings and a storage unit, and retrospective permission for the installation of hard standing and access.

We noted that the damage to evidence of ridge & furrow and could negatively impact upon the setting of the scheduled manorial site. We also highlighted that the application was not supported by any form of heritage statement or archaeological desk-based assessment.

Current Application

The current application is seeking retrospective permission for the hard standing and access, and installation of several movable stable structures. A heritage statement has been provided which assess the impact and has noted some possible mitigation.

Physical Impact

The physical impact of these works and any potential damage or harm to the non designated archaeology should be discussed with the County Archaeologist at the Worcestershire Archive and Archaeology Service.

Impact on Setting of the Scheduled Monument

As noted in our previous advice, any loss of preserved medieval ridge & furrow would be considered a negative impact on the setting of the nearby scheduled monument, resulting in a degree of harm to significance. This would apply to the retrospective works in the west of the southern field.

Impact on Character

We understand the remaining areas of ridge & furrow in the southern field would not be removed, however we do note with caution the north-south subdivision of this area with - what appears to be - quite small paddocks, and fence lines running against the alignment of the medieval ridge & furrow.

Whilst this would not result in harm to the scheduled monument, it could impact the ability to understand and appreciate this site. The small size of the paddocks could also increase pressure on this site and potential for erosion or stock poaching of these archaeological features.

Policy and Position

The application is supported by heritage statement and we are satisfied that it meets the minimum requirements of the National Planning Policy Framework 194 -195.

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In terms of the setting of the scheduled medieval manorial site, there has been a degree of harm from the loss of ridge & furrow in the west of the southern field. Given the size of this area and proximity to the scheduled monument, this is not a high level of harm.

In line with NPPF 199, 200 and 202, the Council must consider if this harm has clear and convincing justification and weigh it against the public benefits of the proposals. The treatment of the southern field and ridge & furrow is important. Given the increasing rarity of ridge & furrow, an appropriate land-use and beneficial on-going management is needed to ensure this evidence of Feckenham's medieval landscape is preserved in a good long-term condition.

The Council could consider if a management agreement with the landowner, secured via condition (if approved), might be appropriate in this location. This could set out an agreed collection of principles and actions needed to maintain the ridge & furrow and conserve their historic importance. For example, maintaining a continuous grass sward, preventing bare patches or erosion, managing scrub vegetation, controlling stock numbers and supplementary feeding, agreeing alignment of fence lines and size of paddocks. If this option is considered, we would recommend consultation with the County Archaeologist on this matter.

Recommendation

Historic England has no objection in principle. There has been a degree of impact and harm from works already undertaken. The Council must be satisfied that there is justification for that harm, and weigh it against any public benefits of the proposals. We would recommend on-going consultation with the County Archaeologist at the Worcestershire Archive and Archaeology Service on these proposals and any future agreements for this site. Your authority should take these representations into account in determining the application.

Worcestershire Archive And Archaeological Service

The Heritage

The application affects two undesignated heritage assets recorded on the Historic Environment Record. In the southern field WSM69882 – Ridge and furrow west of Feckenham. The ridge and furrow were recorded by field survey on the 13th January 2013 as being an earthwork of good to moderate preservation and under pasture. The survey recorded 13 ridges running east to west with an average width of 5m and average ridge height of 15 to 18 inches. In the northern field WSM69883 - Ridge and Furrow west of Feckenham. Intermittent and less well-defined ridge and furrow on an east-west alignment.

The site also lies adjacent to the Roman Road and close to Feckenham village, a settlement likely continuously inhabited since the Roman period. There is good potential for below ground archaeology from the Roman period onwards to survive below the ridge and furrow in the southern field. Earthworks directly to the north of the site also highlight

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potential for archaeology to exist further up Berrow Lane. The lane is likely to be medieval or earlier in date.

The ridge and furrow is considered to be of above local significance for its clear medieval character and as part of the wider surviving medieval landscape, and it has the potential to be considered integral to the setting of the Scheduled Monument (Feckenham manorial moated site - 1018361). Given the potential setting of a designated Heritage Asset, Historic England should also be consulted on this application.

The Impact

The application includes a heritage statement, which acknowledges the damage to the ridge and furrow in the southern field. It is disappointing that the damage has already occurred as this field has the best-preserved earthworks on the site and is adjacent to the Roman road.

It is welcome to see the change in design from the previous application, with stables now sited in the northern field, away from the well-preserved ridge and furrow and away from the Roman road and Listed buildings. This reduces the impact and is a significant improvement in design from a heritage perspective. It is also welcome to see the proposed closure of the southern entrance, as the visual splays required for both entrances would have had a significant impact on the historic hedgerows. There is still an impact on the historic hedgerows and of course the existing impact of the loss of the ridge and furrow.

On balance it is considered that this loss is regrettable, but acceptable.

We have asked for further details of the drainage, but haven't received this yet. Any groundworks on this site have the potential to cause harm to buried deposits, and groundworks will be required to create the areas of hard standing for the mobile buildings. All groundworks should be undertaken with a smooth bladed bucket and be subject to an archaeological watching brief.

The Recommended Mitigation

Should the application be refused and a requirement imposed for the applicant to reinstate the pasture, an archaeological watching brief should occur on that reinstatement. There would be little point in trying to 're-create' the ridge and furrow now lost, but it is imperative that no further damage occurs in the rest of the field during the reinstatement. There is also the potential for the reinstatement works to uncover archaeological remains beneath the hardstanding.

Should the application be granted, a condition should be imposed on any grant of consent for a watching brief on any groundworks.

The County and the District has a responsibility to protect, either by preservation or record, cultural remains within its jurisdiction, and this is emphasised by the National Planning Policy Framework section 16, paragraph 199:

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"...Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted." In order to comply with policy, we recommend that the following two conditions should be attached to any consent:

1) No development shall take place until a programme of archaeological work (watching brief) including a Written Scheme of Investigation(s), has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:

- a) The programme and methodology of site investigation and recording
- b) The programme for post investigation assessment
- c) Provision to be made for analysis of the site investigation and recording
- d) Provision to be made for publication and dissemination of the analysis and records of the site investigation
- e) Provision to be made for archive deposition of the analysis and records of the site investigation
- f) Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

2) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme(s) of Investigation approved under condition (1) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: In accordance with the requirements of paragraph 199 of the National Planning Policy Framework.

Public Consultation Response

A site notice was displayed on 9th April 2021 and the proposal was advertised in The Redditch Standard on 29th March 2021

12 objections have been received raising the following issues -

Status of Application The application is retrospective and being the second one is invalid and should be rejected as defective and without any consideration of its merits, in so far as it has any. Enforcement action should then be taken for the land to be reinstated to its original condition.

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Surface water flooding The entire site slopes west and southwards, meaning that rainwater runs off towards the junction of Droitwich Road with Berrow Hill Lane. This often drains across the road. The unauthorised development, principally the hard standing, has exacerbated surface water flooding on the adjacent highway, and if retained in its present form would continue to exacerbate surface water flooding issues at the junction with Droitwich Road, where lying surface water forms a hazard particularly in the winter when it freezes. Causing dangerous conditions for pedestrians and vehicles alike. Without large-scale drainage work (exceeding that proposed) the flooding and freezing hazard from the increased hard-standing run-off will be considerable.

The ditches have been completely dug out which has removed all natural dams, so in effect has caused a free fast flowing volume of water, combined with the large plastic drainage pipes that have been used to reduce the flooding on the land, all water now spills directly out onto the road and neighbouring properties.

Special Wildlife Site / Ecology

There is no reference to the site being a protected Special Wildlife site (No: SP06/02) which is a National Biodiversity Action Plan Priority Habitat of historic terrain and contains many priority species

The biodiversity of this site of special natural importance should be protected. The important natural habitat now needs to be restored following its illegal destruction - not further developed.

The landscape was once an open field with hedgerows and wildflowers, so the development that has already taken place has massively impacted the outlook. Whilst the original meadow grass and flowers cannot be replanted as they have been torn up to accommodate the large hardstanding, This material can be removed, and cultivated soil and meadow grass can be planted. The field is bordered and separated by hedgerows. Sections these have been destroyed and should be reinstated.

Among other wildlife, the pond is a safe haven for Great Crested Newts, the work that has been carried out has surely disrupted their habitat, for this reason alone the area should be returned to its original state.

Visual Intrusion The application site is a very prominent and visible site. Horse boxes, mobile stables and intrusive appearance of high boarded fences, not in keeping with the area will have a negative visual impact to an area of beauty enjoyed by many local people and visitors.

Since the proposed buildings are mobile they could be moved to any other even less appropriate part of the site.

Loss of hedgerows / Access and Visibility

Sections of hedgerow have already been removed.

Equestrian activity inevitably involves the use of vehicle-drawn horse boxes and trailers of combined length exceeding 12 metres. The access point recently-created without

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permission is self-evidently dangerous (sited right on the corner of the road junction) and is inadequate to safely accommodate vehicle combinations of this length. The provision of an alternative access would inevitably mean yet more destruction of hedgerows, made greater by the need for a driveway splayed sufficiently for this length of combined vehicle.

Loss Openness of Green Belt The development would be inappropriate

Damage to Heritage Assets (Ridge and Furrow) The proposed development has resulted in the loss and damage of heritage assets in the form of ridge and furrow

Highway Safety The proposed access onto a narrow lane is dangerous and the proposal would generate increased traffic which would be a significant hazard to other road users at a junction with restricted visibility and adjacent to a blind rise out of the village of Feckenham

Changes in levels

The site levels have been significantly altered with levelling works resulting in up to 1m. of earth being pushed up against the hedge using the hedge as a retainer, this will fail overtime.

Unauthorised Development / Precedent

The applicant should not receive a planning permission for unauthorised development which would set a precedent for others.

This is an example of proposed development by stealth.

The applicant has paid no regard to planning protocols and has continued to develop the site. The historic terrain has been unlawfully and substantially damaged.

The Council should firmly reject this proposal, both on the basis of the above and as a matter of principle.

The previously erroneous enforcement notice should be re-issued and enforcement actions initiated that damage already caused to this beautiful site should be fully repaired. Local residents who regularly take walks past this site, are horrified by the damage that has already occurred. The Council should recognise these feelings and represent them in rejecting this improper proposal.

The blatant attitude of the purchasers that they can obtain land and carry out works without obtaining any planning permission whatsoever.

Background

Should the application have been validated ?

It has been contended by the Parish Council, and a number of objectors, whom have made reference to Guidance from Central Government (reproduced below), that it was not necessary and erroneous for the Local Planning Authority to validate the current application, mindful that the applicant's previous submission had afforded them their one

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opportunity to regularise the unauthorised works and they were not entitled to submit another.

Guidance from Government does not address the question of whether such a course of action would be reasonable where a second application is a revised proposal which entails more than seeking retrospective permission for some of the works which have been undertaken, and contains other proposals which merit consideration. The Local Planning Authority decided to validate and consider the second application, mindful that doing so does not prejudice its ability to serve a revised enforcement notice in the event that planning permission is refused. Furthermore, no further unauthorised activity was occurring which would have warranted the urgent intervention of the Local Planning Authority to halt it at that time.

“Are there any restrictions on retrospective applications?”

*A person who has undertaken unauthorised development has only one opportunity to obtain planning permission after the event. This can either be by means of a retrospective planning application (under section 73A of the Town and Country Planning Act 1990) or by means of an appeal against an enforcement notice on ground that planning permission ought to be granted or the condition or limitation concerned ought to be discharged – this is referred to as a ground (a) appeal. The local planning authority **can** decline to determine a retrospective planning application if an enforcement notice has previously been issued (section 70C of the Town and Country Planning Act 1990). No appeal under ground (a) may be made if an enforcement notice is issued within the time allowed for determination of a retrospective planning application.”*

Paragraph: 013 Reference ID: 17b-013-20140306 Revision date: 06 03 2014”

The guidance does not state that the Local Planning Authority must decline to determine a retrospective application, after an enforcement notice has been served. The Local Planning Authority has discretion and has exercised it.

Assessment of Proposal

This application follows refusal of an earlier part-retrospective application and service and subsequent withdrawal of an enforcement notice.

Main Issues

The main issues to consider are -

Heritage

Highway Safety

Green Belt

Drainage

Ecology

Heritage

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Paragraph 194 of the NPPF states :

“ In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.”

The current application, unlike its predecessor is accompanied by a Heritage Statement and members will note that Historic England have confirmed that it meets the requirements of the NPPF.

The application site contains a well-defined area of medieval ridge and furrow on the southern field, thought to be in a good state of preservation and under pasture. The ridge and furrow is identified on the Historic Environment Record.

Apart from the effect of the development on the two fields themselves (WSM’s 69882 and 69883) the impact on the setting of neighbouring heritage assets also need to be taken into account. The principal issue is that WSM’s 69882 and 69883 form part of a wider Medieval landscape focused on the village of Feckenham, and, in particular, Feckenham manorial moated site which is a scheduled ancient monument (SAM 1018361). The moated site lies approximately 350m to the east of WSM’s 69882 and 69883, on the western edge of the village and at the heart of this agrarian landscape, the main distinguishing component of which is the ridged and furrowed fields. Individual examples of ridge and furrow are not rare, but here at Feckenham it is arguable that they take on a greater significance as a component part of the greater settlement complex, and as elements within the setting of a designated heritage asset (SAM 1018361).

Ridge and furrow earthworks are a series of long, raised ridges separated by ditches used to prepare the ground for arable cultivation. As well as covering the appeal site the ridge and furrow continues to the south. The significance of the ridge and furrow derives from being closely associated with medieval villages of the midland region, and often remained in use, according to Historic England, for a long time after that date. It is also part of its significance that the ridge and furrow has survived into the twenty-first century.

The applicant’s Heritage Statement acknowledges :

“There is no visual relationship between WSM’s 69882, 69883 and the Feckenham manorial moated site (SAM 1018361) other than from the air or on maps. However, because there is a strong probability that they are coeval, there is a historical connection, and it is through this historical connection that the fields could be considered to be part of the setting of the moated site.”

The ridge and furrow in the southern field is therefore regarded as part of the monument’s wider landscape setting and contains archaeological features which are potentially

contemporary with the manorial site's use and represent evidence of the management of its agricultural hinterland. It therefore contributes to the understanding of the monument's setting and significance, albeit not physically part of the scheduled ancient monument itself.

There are examples of ridge and furrow elsewhere in Worcestershire but instances in Redditch Borough are scarce. The Local Plan seeks to preserve such features, Paragraph 36.7 of the Reasoned Justification relating to BoRLP Policy 36 Historic Environment states :

“The landscape setting of Redditch and, particularly, the southern rural part of the Borough is distinctive for its inherited character derived from the medieval and post-medieval Forest of Feckenham landscape. This is expressed in a diverse historic environment that includes multi-period field patterns; areas of relic parkland; medieval and post-medieval earthworks and dispersed wayside settlement associated with former woodland and unenclosed common landscapes. Applications for development that will harm or result in the loss of a heritage asset of greatest significance will be resisted.”

NPPF paragraph 199 states that *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”*

NPPF paragraph 200 states that *“ Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.”*

There are two aspects to consider:

- Firstly, the impact of the development upon the setting of the designated asset which is Feckenham manorial site scheduled monument (SAM)
- Secondly, the impact of the development upon the ridge and furrow in the southern field which is a non-designated heritage asset

Setting of Feckenham Manorial Site Scheduled Ancient Monument (SAM)

Historic England comment that

“In terms of the setting of the scheduled medieval manorial site, there has been a degree of harm from the loss of ridge & furrow in the west of the southern field. Given the size of this area and proximity to the scheduled monument, this is not a high level of harm.”

The area of ridge and furrow damaged, through the creation of the hard standing, amounts to approximately 7% of the area of the southern field.

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Consequently, I concur with views expressed by Historic England as to the degree of harm, and have therefore taken the view that this would represent less than substantial harm to the heritage asset

Accordingly, Paragraph 202 of the NPPF states:

“ Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”

This matter is discussed further in the Conclusion.

Impact upon ridge and furrow

NPPF paragraph 200 states that *“ Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.”* **Substantial harm to or loss of:**

a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;

b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional”*⁶⁸.

Footnote 68 states “non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.”

As identified above the amount of ridge and furrow lost as a consequence of the development is approximately 7% of the total in that field. That is not considered to amount to the substantial harm or loss of the asset. Nonetheless, if one were to follow footnote 68, on the basis that some loss of the ridge and furrow had occurred, that would lead to an assessment of the proposal against paragraph 202 of the NPPF. It would not lead to an assessment against paragraph 201 of the NPPF, which is only engaged *“Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset”* That has not occurred here.

NPPF paragraph 203 states that *“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”*

In this case, the wider public benefits of granting the proposal (as identified in paragraph NPPF 202) come from the ability to control the longer-term future management of the ridge and furrow and thereby preserve its interest via the control afforded through planning conditions which could be reasonably imposed. This is consistent with the

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advice from Historic England who suggest that a management plan could provide such a framework for future management of the asset. That opportunity does not present itself where there is no grant of permission for the change of use of the land or indeed through any subsequent enforcement action which could only restore the land but cannot secure its longer-term management. That cannot be secured just by resisting development proposals. Securing the long-term management of the asset through a management plan would increase the opportunity for greater public understanding of the asset. Heritage England recognise that poaching from animal movements can cause erosion of ridge and furrow. There are no planning controls over the subdivision of agricultural land or the keeping of livestock which could result in such erosion, whereas the proposed use would facilitate such control because permitted development rights for means of enclosure could be removed and a management plan required.

Summary

The applicant's archaeologist concedes *"It is considered here that the proposals will have a negative impact on the setting Feckenham Manorial Moated Site (SAM 1018361) and a direct physical impact on the remains of Medieval ridge and furrow (WSM's 69882 and 69883)"*

The Parish Council consider that there would be substantial harm to the ridge and furrow. Historic England takes the view that this would represent less than substantial harm to the heritage asset. The Council concurs with the view of Historic England as to the degree of harm.

The site lies outside and over 100 metres from the western edge of the Feckenham Conservation Area. I am satisfied that the proposal does not impact to any significant degree upon its character or setting.

Highway Safety

The application site is in a rural location and accessed from Berrowhill Lane, an unclassified road which lies immediately south of the site, and forms the minor arm of a priority junction with B4090 Salt Way/Droitwich Rd. The two agricultural fields comprising the application site were originally accessed via two field gates from Berrowhill Lane located approximately 20 metres and 100 metres north of the road junction. Berrowhill Lane is a narrow unlit lane with no footpaths.

Policy 20 of the BoRLP states at 20.1(iii) that

"all proposals should incorporate safe and convenient access arrangements in their design for all potential users (including pedestrians, cyclists, emergency services and waste collection vehicles). Access arrangements should be designed to reflect the function and character of the development and its wider surroundings;"

The current access nearest the junction of Berrowhill Lane and Droitwich Road emerges at an acute angle, The proposal includes the permanent closure of that access which was

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previously found to be unsuitable for the proposed use due to its position and limited visibility. That is a material difference between the current and former application.

The northern access is not currently configured, or has the requisite visibility splays to currently serve the proposed use safely. This is because visibility is obstructed by unauthorised fencing and existing established hedgerow, which means that vehicles leaving the site would have an impeded view of pedestrian and vehicular traffic on the adjacent public highway;

Officers requested a plan to accurately quantify the amount of hedgerow loss which would be necessary to achieve the requisite access and visibility splays. The submitted plan shows 10m of hedge to the north and 2 metres to the south would need to be removed to achieve the required visibility splays. Therefore, in order to facilitate satisfactory visibility at the access it would be necessary to remove 12 metres of hedgerow. New hedgerow could be reinstated behind the visibility splay and the details of that conditioned accordingly.

The potential for intensification of use of the access could be addressed by limiting the use of the land so that it is not used for commercial livery.

Subject to the recommended conditions, it is considered that the proposal would be acceptable in highway safety terms and would not be detrimental to the safety of other road users. Therefore, on this issue, I consider the proposal would accord with Policy 20 of the BoRLP and paragraph 110 of the NPPF.

Drainage

Policy 18 of the BoRLP seeks to ensure that discharge rates from the development do not exceed and, if possible improve upon existing runoff rates with respect to surface water.

The site is located in the catchment of the Bow Brook, based on the EA fluvial and surface water flood mapping there is no significant flood risk to the site. There are known existing drainage issues at the junction of Droitwich Road and Berrow Hill Lane, it is important that works for this scheme do not contribute to this issue.

The latest application is accompanied by a detailed drainage report unlike its predecessor includes details of proposals to manage runoff from the hard standing and proposed structures and includes a number of recommendations for drainage features to mitigate and manage surface water from the development.

Your officers consider that measures are sufficient to mitigate and manage surface water drainage subject to consideration of a detailed scheme which could be required by condition.

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Ecology

Policy 16 of the BoRLP states:

16.3 “..... Applications for development should aim to conserve and enhance biodiversity by applying the principles of the NPPF”

16.5 “New development or land use changes likely to have an adverse effect on Sites of Special Scientific Interest, Local Wildlife Sites and Local Nature Reserves, directly or indirectly, will not be allowed unless there are no reasonable alternative means of meeting that development need and the reasons for development clearly outweigh the intrinsic nature conservation and/or geological value of the site or network of sites.”

Whilst the hard standing has resulted in the loss of part of the meadow on the southern field, the use of the land for the keeping of horses is not at odds with the preservation of the land. Indeed, a proposal which requires planning permission provides an opportunity to positively manage such land via a management plan in a way which the Local Planning Authority would be unable to do if the land were in agricultural use.

Worcestershire Wildlife Trust have raised no objection, and benefits would arise from the control over the management of the land which could be achieved by the imposition of conditions.

Green Belt

BoRLP Policy 8 states :

8.3 Applications for development in the Green Belt will be determined in line with national planning guidance on Green Belts and other relevant policies within the development plan.

A change of use of the land to mixed use incorporating equestrian use and provision of appropriate facilities would fall within paragraphs 150(e) and 149 (b) respectively. Both exceptions are caveated such that proposals must preserve the openness of the Green Belt and not conflict with the purposes of including land within it.

The current application proposes 3 structures. A stable block containing 2 stables, a single stable and a hay store with a cumulative floor area of approximately 70 sqm Taking the hardstanding and buildings together this amounts to approximately 4% of the site (both fields 2.1 hectares)

The built element of the proposal has been scaled back from that previously advanced, and officers consider that the relatively modest scale of the structures are reasonably proportionate to the area of land and the siting shown (subject to them remaining sited in that position) against the western boundary. Taken together I consider the proposals would preserve the openness of the green belt and not conflict with the purposes of including land within it.

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The applicant has described the stables and hay store as being “mobile”. This essentially means that the structures are capable of being moved around the site, but not necessarily that they would be moved. The choice for the design was motivated by a desire to avoid the need for foundations and disruption to underlying archaeology. For the purposes of this application, officers have considered the proposal on the basis of the siting of the structure shown on the submitted plan and recommend a condition limiting their siting to that location in the interests of maintaining the openness of the green belt and selecting a siting where the structures are grouped together and not scattered in different locations on the application site.

Conclusion

The Council’s decision with respect of the previous application was based upon the proposal at that time which entailed more than the development which had been undertaken without permission and upon the representations from the technical consultees. The subsequent decision to take enforcement action was based upon the circumstances and information which prevailed at the time that action was taken. Subsequently, both English Heritage and Worcestershire County Council Archaeology have changed their position in respect of the revised proposal. That remains a material consideration irrespective the decision of planning committee in respect of this application.

The proposal provides an opportunity to permanently close the access at the southwest corner of the site which is an outcome which could not be achieved other than via an application.

Having taken into account all the relevant considerations, I consider that the proposal is compliant with the relevant policies of the development plan and National Planning Policy Framework referred to above.

In addition, in this case, officers consider that a grant of permission offers a better prospect of securing long-term management of the historic interest, ecology and surface drainage of the site than that which could be achieved via a refusal and enforcement action which could only mitigate some of the harm which has resulted. A planning permission offers a opportunity for mitigation with the ability to enforce conditions imposed if required and better control of the management of the land.

Subject to the recommended conditions, it is considered that planning permission should be granted.

RECOMMENDATION:

That having regard to the development plan and to all other material considerations, planning permission be **GRANTED subject to the following conditions:**

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Conditions:

- 1) The development hereby approved shall be carried out in accordance with the following plans and drawings
22214-01 – Proposed Site Access and Tracking
22214-03 Visibility Splays and Hedgerow Loss
237-003 Proposed Site Plan, Site Location Plan and Proposed Plans and Elevations

Reason: To provide certainty to the extent of the development hereby approved in the interests of proper planning.

- 2) i) No development shall take place until a programme of archaeological work (watching brief) including a Written Scheme of Investigation(s), has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:
- a) The programme and methodology of site investigation and recording
 - b) The programme for post investigation assessment
 - c) Provision to be made for analysis of the site investigation and recording
 - d) Provision to be made for publication and dissemination of the analysis and records of the site investigation
 - e) Provision to be made for archive deposition of the analysis and records of the site investigation
 - f) Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

ii) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme(s) of Investigation approved under condition (2) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: In accordance with the requirements of paragraph 199 of the National Planning Policy Framework.

- 3) Within 2 months from the date of this permission, a construction environmental management plan (CEMP) shall be submitted to the Local Planning Authority. The CEMP shall include
- Identification of "biodiversity protection zones" including protection of retained trees as per BS5837:2012.
 - Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction
 - The timing of sensitive works to avoid nesting birds and harm to biodiversity.

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- The times during construction when specialist ecologists need to be present on site to oversee works.
- Prevention of pollution during development including measures to suppress dust arising from groundworks

The development shall thereafter be carried out in accordance with the approved CEMP.

Reason: To safeguard the habitat and species on the site

- 4) Within 2 months from the date of this permission a lighting strategy shall be submitted to the Local Planning Authority. The scheme shall be implemented and carried out in accordance with the approved details within 2 months from the date of approval of those details and thereafter retained in that form for the lifetime of the development

Reason: To ensure that the development, both during construction and once operational, does not cause harm to nocturnal wildlife within, and commuting to and from, the adjacent LWS and other habitats.

- 5) Within 2 months from the date of this permission a Landscape Environmental Management Plan (LEMP) to include biodiversity enhancement and site management in line with the recommendations in the ecological report shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved LEMP

Reason: To ensure that the long-term biodiversity enhancement of the special wildlife site.

- 6) Within 2 months of this decision, a scheme for surface water drainage shall be submitted to, and approved in writing by the Local Planning Authority. This scheme shall include a drainage plan indicating the position and extent of all proposed surface and subsurface drainage features designed to attenuate surface water runoff. The scheme shall be implemented and carried out in accordance with the approved details within 2 months from the date of approval of those details and thereafter retained in that form for the lifetime of the development.

Reason: In order to ensure drainage conditions will not create or exacerbate flood risk on site or within the surrounding local area.

- 7) Within 2 months of the date of this permission visibility splays of 2.4m x 43m measured perpendicularly back from the back of grass verge shall be provided on both sides of the access. The splays shall thereafter be maintained free of obstruction exceeding a height of 0.6m above the adjacent ground level

Reason: In the interests of highway safety.

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- 8) Within 2 months of the date of this permission the proposed access gates shall be set back 10 metres from the adjoining carriageway edge and made to open inwards only.

REASON: In the interests of highway safety

- 9) Within 2 months of the completion of the works required by condition 7 and 8,. Details for the means of permanent closure of the southern access shall be submitted to the Local Planning Authority. These details shall include the proposed ground levels and details of the position, type and height of fencing, and position size and species of native hedgerow plants to be used to close the opening in the hedge. The approved details shall be shall carried out in accordance with the approved details within 2 months from the date of approval of those details and thereafter retained in that form for the lifetime of the development

Reason: In the interests of visual amenity and highway safety

- 10) Within 2 months of the date of this permission a management agreement which sets out the principles and actions needed to maintain the ridge & furrow and conserve their historic importance shall be submitted to and approved in writing by the Local Planning Authority. This shall include –

- maintaining a continuous grass sward,
- measures for preventing bare patches or erosion,
- measures for managing scrub vegetation,
- measures for controlling stock numbers and supplementary feeding,
- details of the alignment of fence lines and size of paddocks

The development shall thereafter be carried out in accordance with the approved Management Agreement for the lifetime of the use.

Reason: To ensure the long-term protection and management of the heritage asset.

- 11) The stables and haystore shall remain sited in the position shown on drawing x for the lifetime of the use.

Reason: In the interests of visual amenity and to preserve the openness of the Green Belt as an alternative siting could have a greater impact.

- 12) If the use of the land for equestrian purposes should cease, the stables and hay store shall be permanently removed within 2 months of the cessation of the use of the land for that purpose

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Reason: To preserve the openness of the Green Belt.

13) The land and stabling shall not be used for any commercial livery.

Reason: To ensure the scale and intensity of the use does not have an adverse impact upon highway safety or the heritage asset.

Procedural matters

This application is being reported to the Planning Committee because:

- an objection has been received from the Parish Council. As such the application has resulted in a formal objection being received (and has not been resolved through Officer negotiation) from a statutory consultee.
and
- The application is a major development because it exceeds 2 hectares in area.

As such the application falls outside the scheme of delegation to Officers