



Appeal Decisions

Hearing held on 20 and 21 May 2025

Site visit made on 21 May 2025

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State

Decision date: 21 August 2025

Appeal A: APP/W1850/W/24/3355953

Land at Mahollam Road, Huntington, Kington HR5 3PU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Angus Davison of Haygrove Ltd against the decision of Herefordshire Council.
 - The application reference is 240655.
 - The development proposed is the erection of polytunnels and associated infrastructure essential for blueberry and cherry production.
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Appeal B: APP/W1850/W/24/3351880

Land at Mahollam Road, Huntington, Kington HR5 3PU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Angus Davison of Haygrove Ltd against the decision of Herefordshire Council.
 - The application reference is 240298.
 - The development proposed is the siting of eighteen seasonal agricultural worker static caravans, 1 No. facilities trailer and installation of associated 2 No. package sewage treatment plants and access track and landscaping and biodiversity enhancement measures.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matter

3. From the evidence before me and my observations on site it is clear that work on the development the subject of Appeal B has started. I have dealt with the appeal on that basis.

The appeal site and background

4. The land the subject of the appeals is situated in open countryside, close to the border between England and Wales and approximately 3 miles south-west of the market town of Kington. The site for the proposed polytunnels is approximately 7.28 hectares and is to the south-west of an area of approximately 19.5 hectares of established polytunnels approved in 2011.
5. Appeal A relates to the erection of polytunnels on fields known as Hawaii and Meadow which will be an extension to the existing polytunnels on adjacent land. Access would be from an existing field access onto Mahollam Road. In the

northern field would be rows of polytunnels positioned parallel to the road. These would each have a span of approximately 8.5 metres with a height of 5.1 metres. An additional group of polytunnels would be erected in the southern 'Meadow' field along a north- west to south-east axis which would each be approximately 9 metres wide with a height of 5.6 metres. The frames would be in place on a year round basis, but the plastic would cover the frames for cherry production in 'Hawaii' between 1 April to 1 August and for blueberry production in 'Meadow' between 1 April to 30 September.

6. The application the subject of Appeal B seeks permission for the siting of 18 static caravans to accommodate seasonal agricultural workers. They would be sited on a narrow strip of land at the southern end of 'Hawaii' field running parallel with the existing hedgerow. The application is part retrospective because ten caravans are already in place, a sewerage treatment plant has been installed and the facilities trailer connected to it. The static caravans would be accessed via a track which leads to Mahollam Road.
7. Each static caravan would provide accommodation for six workers, giving the site a maximum occupancy capacity of 108 people. The supporting statement advises that occupancy would commence in June with four occupants per caravan, leading up to a full occupancy in peak picking season throughout July and August. The occupancy then reduces to zero by mid-October.
8. The caravans would meet the labour requirements of the existing and proposed polytunnels because the applicant does not currently provide any accommodation in the immediate area. Workers are transported to the site daily by bus from sites in nearby settlements.
9. It is proposed that two package treatment plants would be installed to manage foul water associated with the proposed caravans. One of these is already in place, whilst the second would be a new installation on land to the south of the caravans. Outfall from the treatment plants would be directed to sealed treated effluent storage tanks to subsequently be used for crop irrigation.

Main Issues

Appeal A

10. The main issues are:

- i. The effect on the character and appearance of the area;
- ii. The effect on the setting of the nearby Huntington Castle (Scheduled Monument and Grade II listed building) and Turret Castle (Scheduled Monument); and
- iii. Whether it has been adequately demonstrated that the effect of the development on the integrity River Lugg/River Wyre Special Area of Conservation has been assessed and mitigated to avoid any adverse impact.

11. Appeal B

12. The main issues are:

- i. Whether it has been adequately demonstrated that the effect of the development on the integrity River Lugg/River Wyre Special Area of Conservation has been assessed and mitigated to avoid any adverse impact, including whether it has been adequately demonstrated that the development would not lead to an unacceptable risk of foul water flooding and pollution to the local environment;
- ii. The effect on the character and appearance of the area with particular reference to perceptual qualities of quietude and visual effects; and
- iii. The effect on the setting of the nearby Turret Castle (Scheduled Monument).

Character and appearance

13. Policy LD1 of Herefordshire Local Plan Core Strategy 2011-2031 (the CS) relates specifically to landscape and requires all development proposals to demonstrate that the character of the landscape has positively influenced the design, scale, nature and site selection, whilst incorporating new landscape schemes to ensure development integrates appropriately into its surroundings. Policy RA6 is also relevant in so far as this requires that proposals in the rural economy should ensure that the development is of a scale which would be commensurate with its location and setting. RA4 also requires that the accommodation be of a high quality, sustainable design which is appropriate to context and makes a positive contribution to the surrounding environment and rural landscape. Policy SS6 states that among other things development proposals should be shaped through an integrated approach to planning including landscape.
14. Paragraph 187 a) of the National Planning Policy Framework (the Framework) states that planning decisions should contribute to and enhance the natural and local environment by “*protecting and enhancing valued landscapes...*”. Whereas the Council considers the appeal site to be in a valued landscape, the appellant disputes this, considering the appeal site should be protected by the lesser level of protection in paragraph 187 b) of recognising the intrinsic character and beauty of the countryside.
15. There is no specific definition of “valued landscape” in the Framework, but case law on the subject makes it clear that the landscape receptor in question does not need to be subject to a statutory designation to be valued but will have “*physical attributes which take it out of the ordinary*”. The Landscape Institute guidance on “Assessing landscape value outside national designations” suggests the definition of a valued landscape should be “*an area identified as having sufficient landscape qualities to elevate it above other more everyday landscapes*”.
16. According to the Council’s Landscape Character Assessment 2023 the site is within “Wooded Limestone Uplands” which is unique to this part of Herefordshire, displaying one of the oldest historical field patterns in the County. The landscape type is characterised by sparsely populated upland hills with irregularly shaped fields and extensive pockets of mixed woodlands and conifer plantations, with built development being limited to isolated farms and cottages which are linked by narrow and winding lanes.
17. The rich history of the Marches is also reflected in the remains of numerous hill forts and defensive earthworks throughout the area. Parklands are also prevalent

landscape features, including the unregistered park and garden of Huntington Park in which the appeal sites are situated. Policy LD1 of the CS specifically states that development proposals should seek to conserve and enhance the natural, historic and scenic beauty of important landscapes and features, which includes locally designated parks and gardens.

18. The appeal site's wider landscape context is an undulating rural landscape which sits nestled between Hergest Ridge to the north and Brilley Mountain to the south, both of which are visually prominent elevated topographical features. Hergest Ridge is a particularly sensitive visual receptor because it is crossed by an extensive network of public rights of way, including part of Offa's Dyke National Trail.
19. The site is close to Huntington but is separated from the small settlement and as such is not influenced by its built form. The site is very much rural in character and other than the polytunnels in adjacent fields, does not have a close relationship with any established farms or permanent built development. The landscape is undoubtedly of a high quality and is valued for a range of qualities set out above and by receptors, including residents, visitors, those using the local rights of way network and professional landscape experts and advisors. Consequently, the area in which the appeal site is situated should benefit from an elevated status as being valued for its characteristics.
20. The fields proposed for the polytunnels are situated immediately west of the existing polytunnels and would significantly extend the expanse of tunnels closer to Huntington. The northern field sits immediately adjacent to Mahollam Road and is visible from the road. However, the field to the south is lower in terms of its elevation in the landscape and is less visually prominent. Both are bordered by mature native hedgerows.
21. As well as Mahollam Road the appeal fields are visible at close range from public rights of way and the road near to Church Coppice. From longer range vantage points, the proposed polytunnels would be visible from public viewpoints along Hergest Ridge to the north, Brilley Mountain to the south and from elevated positions on the opposite side of the Arrow river valley, such as Kingswood and Chickward to the east. It is clear to me from my own observations that the proposed and existing polytunnels are and would be prominent features within the local landscape from a range of sensitive receptors.
22. The appellant's evidence, including the Landscape Visual Statement (LVS) and associated addendum considers a relatively limited study area of 2.5km from the appeal site boundary and therefore discounts the potential impact on longer distance views. This is of some concern given the visual prominence of the existing and proposed polytunnels from wider important public vantage points on Brilley Mountain and other elevated areas.
23. There is some disagreement between the main parties about whether the impact of the polytunnels would be temporary. The proposed polytunnels would not have the degree of permanence of a more conventional building, but the appeal does not seek a time limited permission. Consequently, unless there are specific circumstances where a temporary planning permission could be granted, the polytunnels could remain in site in perpetuity. It is my understanding that the frames would be permanent but the plastic covering would be in place for up to six months

- of the year. As such, I do not agree that the visual effects of the development can be described as temporary; but there is potential for long term effects which should be taken account of.
24. In my judgement the LVS and associated evidence underestimates the visibility of the site within its close and wider valued landscape and subsequently downplays the potential effects. There are a number of public vantage points from where there are relatively clear and open views of the site. Furthermore, given the extent of the proposed polytunnels in the fields I cannot see that new landscaping, including the proposed scheme shown on Landscape Plan Drawing number 101797/HAYGROVE/PT/001/PL06 Rev 2 could effectively mitigate the impacts to levels where they would not be significant.
25. I also dispute that the impact on the Huntington Park and Garden landscape of local importance would be negligible. I have noted that the LVS addendum places significant emphasis on the lack of specific protective landscape designations as justification for the harm resulting from the development. I understand that there are higher levels of landscape protection but that does not mean that harmful development in other areas should be allowed. Indeed, the Framework clearly states that 'valued landscapes' should be protected and that development should recognise the intrinsic character and beauty of the countryside. It is clear to me from representations and observations made during the appeal process that the landscape character of the area is valued by local residents and visitors alike for various reasons, including its relatively unspoilt rural nature, level of tranquillity, heritage value and accessibility via the public rights of way network.
26. The additional polytunnels would extend coverage in the area, exacerbating the already monotonous appearance of the adjacent developed fields in contrast to the dynamic agricultural countryside landscape in the vicinity and resulting in an adverse impact upon the character of the landscape. The reflective plastic covering contrasts starkly with the agricultural rural landscape, highlighting their visual prominence in the locality. I fully recognise that the existing polytunnels are an established part of the landscape baseline, but in my judgement, they constitute a negative feature and with that in mind they should not be taken as a precedent for future development of this type in the area. The polytunnels the subject of this appeal would sprawl across the landscape, exacerbating the harm already caused; jarring with the recognised landscape of small scale enclosures which is a key characteristic of the 'Wooded Limestone Uplands' landscape character type.
27. Furthermore, the development proposed would encroach towards the historic dispersed settlement of Huntington and consequently would erode its attractive rural setting which contributes positively to its character. As such, the development would give the sense that the village is being gradually subsumed by development.
28. As previously identified, the appeal site also falls within the unregistered parkland of Huntington Park which is a landscape of recognised local aesthetic and historic value. The polytunnels would be at odds with the established historic character of the parkland, eroding the overall quality of the landscape, compromising its special characteristics which give it significance.
29. The submitted landscaping plan proposes to 'gap up' the existing mixed native species hedge around the appeal site alongside mixed native wildflower grassland and new native species tree planting within existing hedgerows. The landscape

benefit of the scheme and suggestions to amend the overall proposal to omit a row of polytunnels would be localised, with the rolling nature of the topography and position of the fields being such that they would remain prominent from public rights of way and roads to the south, in particular. From longer distance views, such as from Hergest Ridge and Brilley Mountain, the reflective nature of the polytunnels would not be screened effectively and would remain visually intrusive and discordant within the valued landscape surroundings. Therefore, in my judgement the proposed landscaping mitigation does not satisfactorily address the adverse effects of the development. Additionally, given the degree of harm I have identified, there is insufficient evidence before me that a satisfactory landscape mitigation solution can be achieved.

30. Much of the impact identified would be limited to periods of time when the tunnel structures would be covered with plastic sheeting. When this is removed, I can accept that there would be significantly less impact. However, the fact that the impacts fluctuate does not compensate for the harm occurring when the plastic is in place. The seasonal harm would last for the lifetime of the development.
31. Therefore, I conclude that the development of polytunnels and associated infrastructure would be harmful to the character and appearance of the area and would conflict with Policies RA4, RA6, SS6 and LD1 of the CS and the Framework.
32. With reference to Appeal B, the appellant's submitted LVS is limited because it only considers study area of 2.5km radius. Consequently, the effect of the proposed development on longer distance views has not been satisfactorily assessed. This is problematic in terms of the appellant's case because as I observed at my site visit and wider assessment of the appeal site, the development that has already been carried out can be seen from various vantage points on Brilley Mountain and other more elevated positions on the opposite side of the Arrow valley, such as Kingswood and Chickward. I have taken account of the appellant's argument that any visual effects are temporary, but the application seeks permission for the change of use on a permanent basis and the caravans and other infrastructure would remain on site all year around. As such the potential for a permanent long lasting impact must be assessed.
33. The proposed development would be situated along the southern edge of the Hawaii field. Due to the local topography and hedgerow screening it would not be prominent from nearby Mahollam Road. However, it would be visible at relatively close range from viewpoints to the south such as from public rights of way and the road near Church Coppice.
34. From closer views of the site from the south the existing static caravans and trailer can be seen from footpath HT1, although from this position the development would benefit from some screening provided by the field's southern boundary hedge. However, from approximately 0.5 km away the existing caravans are prominent from Church Coppice where the topography is such that hedgerows are too low to provide effective screening.
35. The positioning of the proposed development is such that the static caravans would be situated along the field boundary and on some more elevated land towards the eastern end of the field, which would increase their prominence from views to the south. As clearly shown by the existing caravans and trailer on-site, the development already has a harmful effect on the character and appearance of the

area. The design and layout of the static caravans does not take account of any local vernacular, increasing their presence within an area of the landscape. Although the current proposal includes some landscape mitigation which may contribute to reducing visual prominence in longer distance views, this would not overcome my concerns regarding the incompatibility of the proposed development with its rural surroundings. The static caravans are very much at odds with the surroundings and harmful to the aesthetic value of the landscape in which they would be situated.

36. The application proposes various mitigation measures, including painting the caravans and additional landscaping. However, in relation to the overall scale of the development proposed, the mitigation would be relatively minor, including filling in spaces in the hedgerow with native species planting, for example. However, the topography of the landscape is such that views from various elevated positions, locally and further afield means that the development would remain prominent.
37. I am also aware that the appellant has to an extent relied on the existing polytunnels as an appropriate visual context for the proposed static caravans and facilities and how they may provide some visual screening. However, when the plastic covering is not on the polytunnels the caravans and infrastructure would be far more prominent and visible within the landscape. Therefore, this argument holds little weight in addressing concerns regarding the harmful adverse effects of the development.
38. Furthermore, the proposal would introduce a new residential area which potentially is harmful to more perceptual qualities that contribute to local character and amenity. The development would be situated in a relatively isolated location, separated from existing farmsteads in a largely undeveloped landscape which is characterised by a sense of tranquillity and quietude. The static caravans would only be occupied for a few months per year, but the population would increase significantly during those periods in relation to the rural surroundings (being potentially larger than that of nearby Huntington).
39. The people occupying the site would also result in additional significant levels of activity and associated paraphernalia that goes with day-to-day living which may lead to unwarranted domestication in the landscape and in that way the increase in activity by people in this particular location would erode the tranquillity and perceptual qualities of the landscape. Disruption to the general calmness of the area would compound the visual harm caused.
40. The Council's 2023 Landscape Character Assessment notes that the area benefits from perceptual qualities of tranquillity and the lack of modern development which leads to a strong experience of dark skies. The separation of the site from Huntington means that various light sources associated with residential occupancy may increase the intrusive effect of artificial lights which would erode the contribution this makes to the perceptual qualities of the landscape.
41. Therefore, in my judgement the development would be harmful to the character and appearance of the area. There is little evidence that the scheme has been influenced by the character of the landscape as required by Policies SS6 and LD1 of the CS and the proposal fails to uphold the intrinsic character and beauty of the countryside as required by the Framework. It also fails to recognise the value of the locally designated Huntington Park unregistered park and garden because it

does not make a positive contribution to the rural landscape and conflicts with Policy RA6 in so far as the proposal is of a scale which is not commensurate with the rural location and setting.

Heritage

42. The Planning (Listed Buildings and Conservation Areas) Act 1990 (the PLBCAA) contains statutory duties in relation to designated heritage assets. Section 66(1) requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the decision-maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
43. Furthermore, advice in the Planning Practice Guidance (PPG) defines the setting of a heritage asset as *“The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.”*
44. Further clarification on the meaning of ‘setting’ in the context of the Framework has been provided in *Steer v Secretary of State for Communities and Local Government, Catesby Estates Limited, Amber Valley Borough Council* [2018] EWCA Civ 1697. The word ‘experienced’ has a broad meaning, which is capable of extending beyond the purely visual, and could include, but is not limited to, economic, social and historical relationships. However, an assessment should always be based on the particular facts and circumstances of the case in hand.
45. Scheduled Monuments are designated heritage assets and are, by definition, of national importance. Even though the 1979 Act does not impose a statutory duty equivalent to sections 66(1) or 72(1) of the PLBCAA, the “national importance” of scheduled monuments is a relevant consideration.
46. The Framework requires 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. The more important the asset, the greater the weight should be. Paragraph 206 goes on to state that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. 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.
47. The above requirements are reflected in Policies SS6 and LD4 of the CS which require that developments should be shaped through an integrated approach to planning a range of environmental components from the outset, including the historic environment and heritage assets such as listed buildings and Scheduled Monuments. Policy LD4 includes more detailed requirements including that new developments should protect, conserve, and where possible enhance heritage assets and their settings in a manner appropriate to their significance through appropriate management, uses and sympathetic design.
48. There are a number of heritage assets in the proximity of the appeal site, including those of most concern being the two scheduled monuments of Huntington Castle and Turret Castle. The remains of the fortifications of Huntington Castle are also

Grade II listed. With respect to these assets, the surroundings in which they are experienced makes an important contribution to their significance as they were designed to be dominant buildings within their surroundings to take advantage of commanding views across the Welsh Marches.

49. Both buildings were erected in open, and rural settings. To some degree the modern landscape settings reflect their original qualities and make a positive contribution and help our appreciation and understanding of these sites and their importance. The views over the landscape are important elements of the settings of each castle, contributing to our understanding of their status, form and function. Furthermore, the intervisibility between the monuments also increases our understanding of how each site functioned and is an important contributing factor to their significance.
50. Huntington Castle mainly comprises raised earthworks which are the remains of the original inner and outer baileys. The site is largely populated by trees and shrubs, but the elevated position of the mounds providing commanding views of the surrounding countryside can still be appreciated and understood. As previously identified, these are important to understanding the castle's function and strategic importance. The principal view out of the castle in this regard is eastwards towards Mahollam Road and along the natural ridge along which it runs. The relationship with the road and ridge demonstrates the importance of the castle's position for surveillance and control of surrounding approaches. The existing polytunnels intrude into this view and compromise the legibility of the road as a route along the ridge. As such, the existing authorised development is visible from the castle and intrudes within the important eastward view.
51. The appellant states in their Heritage Statement that the *'scale of change in the view would be slight and not substantial enough to adversely affect current experiences of the castle within its setting or diminish the ability to understand and appreciate the key factors which constitute its significance'*. The existing polytunnels are visible from Huntington Castle, but their intrusion within the strategic view is relatively limited because the view is directed towards the open hooped ends of the tunnels – with views being more into the tunnels, rather than looking down on them. This relationship reduces the prominence of the existing tunnels within views from the castle mound and maintains a relative sense of openness on either side of the ridge and Mahollam Road.
52. The field known as Hawaii lies closer to the castle than the existing polytunnels and it is undulating with land levels rising in the north-eastern corner of the field and then falling away to the south and west. The lower parts of the field are screened in views from the castle by the existing trees along Mahollam Road, but the north-east corner of the field is more prominent within views from the castle. The proposal would involve constructing new tunnels in this field, including on the land in the north-east corner. The removal of a row of polytunnels from land closest to the road would provide some limited relief from Mahollam Road, however the remainder of the proposed development would be visually prominent from the castle. In addition, views from the mound would be down onto the roofs of the polytunnels rather than towards their open ends resulting in them being more prominent than those found in the adjoining field. Therefore, the proposed development would intrude into the important view and increase the sense of enclosure around Mahollam Road, hindering the ability to recognise and appreciate

the road running across the ridge and the understanding of the castle's position and role as a place of observation to control the surrounding landscape.

53. The latest proposal also incorporates landscaping, including hedgerows and tree planting along Mahollam Road to screen views of the proposed development from the Castle. However, in my judgement this may partially screen the development, but the landscaping itself may also have a negative effect of drawing visual attention to the polytunnels and provide a sense of enclosure adjacent to the road, reducing the ability to appreciate the significance of the ridge. In this sense the proposed landscaping would fail to adequately mitigate the harm I have identified with respect to the setting of Huntington Castle.
54. The appeal site is also situated within the setting of Turret Castle located to the south. The Scheduled Monument is approximately 600 metres to the south of the appeal site and is on the opposite side of a river valley in a relatively elevated position with steep slopes down to the tributaries of the River Arrow. The motte element of the castle is located to the west of the bailey and the earth mound upon which it is situated provides opportunities to observe the surrounding landscape. Views from the castle form an important part of the monument's setting and significance and, in particular its defensive role and wider strategic importance in controlling the surrounding land.
55. The existing polytunnels appear within views from the castle, but they are partially screened from the motte by mature trees on the lower slopes of the castle site and hence their presence is not particularly pronounced. However, to the north of the motte there is a gap in the screening, which allows for some open views of the local landscape towards the appeal site and Huntington Castle, beyond. The unauthorised development on the appeal site features in views between the gaps in the trees and show how further development would constitute harmful intrusion into the views and hinder the ability to interpret the significant historic relationship between Turret Castle and the surrounding countryside.
56. For the above reasons I conclude that the development has a harmful effect on the setting of the Huntington Castle (Scheduled Monument and Grade II listed building) and Turret Castle (Scheduled Monument). The harm is less than substantial in this case. Therefore, the harm must be weighed against the public benefits. Given the status of the assets, any harm requires clear and convincing justification if the development is to be allowed.
57. The development does not deliver any clear benefits to the heritage assets, but instead the benefits are more general and relate to economic benefits that may arise from the development. The polytunnels would be advantageous with respect to the prosperity of the appellant's business activity by increasing crop yield, extending the growing season for fruit and providing greater levels of certainty with respect to financial and wider economic outcomes and business planning. These are mainly benefits to Haygrove Ltd, but there would be some wider public benefits in terms of the rural economy and employment opportunities. It may also encourage some secondary expenditure in the local area to businesses and services. There may also be some knock-on social benefits by supporting the vitality of the local economy. It also seems to me that there would be some wider environmental benefits by producing home grown fruit and reduce food miles by avoiding the need to import produce from abroad.

58. However, these are relatively general and wide benefits and I do not consider them to be sufficient to outweigh the harm I have identified with respect to the setting of the heritage assets. As such, clear and convincing justification has not been provided to justify the harm identified above. Consequently, the development conflicts with Policies SS6 and LD4 of the CS, the Framework and s66 of the PLBCAA 1990.

Caravans and facilities

59. The proposal site is close to Huntington Castle and Turret Castle. In terms of potential for visual impacts upon setting, the proposal site is located at the southern edge of the field known as Hawaii. The topography of the land, presence of intervening development and screening from vegetation is such that there is no intervisibility between the site and Huntington Castle. Therefore, I accept that the setting of this heritage asset would not be adversely affected by the development in a visual sense.

60. However, there would be views of the proposed development from Turret Castle, which is located approximately 650m to the south on the opposite side of the valley. Indeed, the existing caravans are visible from the Castle and the number of caravans is proposed to increase as part of the application. The effect of this would be to increase the extent of the static caravans and facilities in views from Turret Castle.

61. The appellant's evidence is that the static caravans represent a distracting and visually jarring form of development within a rural area and that there is a possibility that they would have an adverse impact on experiences of the scheduled monument. However, his evidence goes on to argue that the adverse impact would not prejudice the appreciation and understanding of the factors contributing to the historic significance of the castle. Furthermore, the appellant considers that the impact could be mitigated by landscaping, including allowing hedgerows to grow higher and by painting the caravans. In my judgement these would not be effective given the level of intrusion in the landscape.

62. The development of the static caravans and associated facilities is and would be discordant with the surrounding rural landscape and at odds with the countryside which is an important feature in appreciating and understanding the historic significance of the scheduled monument. That effect is most noticeable from the motte of Turret Castle, which is located to the west of the bailey, with the additional height of the mound upon which it is positioned providing opportunities for better observation of the surroundings. As previously identified, the views of the landscape from this location comprise an important part of the castle's setting and historical significance, mainly because they contribute to understanding of its defensive function and strategic importance in controlling the surrounding land.

63. The unauthorised residential caravans clearly show the development harmfully intrudes into the rural landscape and the proposal before me would increase that harm because they would diminish the ability to appreciate the relationship between the castle and the surrounding countryside. Therefore, the castle's historic function would be less legible and its significance harmed.

64. The degree of harm in this case is less than substantial. Therefore, in accordance with the Framework, the harm must be weighed against the public benefits. As previously stated in this decision, great weight should be given to the conservation

of the asset and, the more important the asset, the greater that weight should be. The site here is a scheduled monument and therefore of the highest significance. Any harm to its significance hence requires clear and convincing justification to be permitted.

65. The proposed development would not bring any public benefits directly related to the heritage assets, but instead the benefits are more generalised and mainly economic. I can see that there may be efficiency improvements to the appellant's business because the accommodation and facilities would reduce the need to transport labour from elsewhere. There may be some resultant knock-on wider public benefits in maintaining a strong rural economy and associated community wellbeing. The reduced need to transport staff on a daily basis by bus or cars would also reduce carbon emissions to some degree and also reduce pressure on the local road network. However, such benefits have not been specifically quantified or demonstrated through clear and unambiguous evidence. Therefore, I do not consider them to be sufficient to outweigh the harm I have identified with respect to the setting of the heritage assets. As such, clear and convincing justification has not been provided to justify the harm identified above. Consequently, the development conflicts with Policies SS6 and LD4 of the CS, the Framework and s66 of the PLBCAA 1990.

River Lugg sub-catchment of the River Wye Special Area of Conservation (SAC)

66. For the purposes of determining these appeals, the Secretary of State is the Competent Authority under Section 63 of the Habitat Regulations. Therefore, in line with Section 63 (5), planning permission should only be granted where it can be determined that the proposal would not adversely affect the integrity of the designated SAC. The appeal site is situated within the River Lugg sub-catchment of the River Wye SAC which is in 'unfavourable – declining' conservation status, meaning there is a requirement to demonstrate 'nutrient neutrality'. As established by the Regulations and case law¹, the assessment must be based on the precautionary principle and the competent authority has a responsibility to authorise a proposed development only if it has made certain that it will not adversely affect the integrity of that site.
67. There are two main arguments in the appellant's case. Firstly, that the Council, was incorrect in identifying foul water associated with workers servicing the polytunnels as a likely significant effect and; secondly, that if pathways do exist then a mitigation proposal has been put forward to ensure the scheme would achieve the required nutrient neutrality.
68. The Council contends that the polytunnels would facilitate more workers on-site throughout the season resulting in there being more foul water arising from the welfare requirements of workers and that is a pathway for a likely significant effect. However, the appellant argues that this would not be the case because the polytunnels would actually reduce the time spent on site by workers, thereby reducing the amount of waste that needs to be managed. In addition, it is submitted by the appellant that the use of polytunnels means that less fertiliser and pesticides are used to produce the fruit as it is protected from the rain and less water run-off occurs resulting in less phosphate running into watercourses and groundwater.

¹ Landelijke Vereniging tot Behoud van de Waddenzee v Staatssecretaris, 7 September 2004, C-127/02

69. Furthermore, the polytunnels means that picking is not affected by wet weather and damaged fruit and therefore pickers are more efficiently employed, spending less time in each particular field. As such it is argued that the polytunnels would result in less portaloos waste. It is also argued that the use of polytunnels does not mean that a field will produce fruit for an extended season, but it does mean a more reliable crop with the percentage of class one fruit quality being greatly improved with less waste. In my judgement, these assertions are made in generally broad terms and are unsupported by clear evidence. I can see that crop production and reliability would improve with polytunnels but do not see how that automatically leads to staff spending less time in the fields and therefore on-site using facilities such as portaloos. If this was actually the case then why is there an associated planning application to increase the number and range of welfare and residential accommodation on-site for workers? It seems far more likely to me that the polytunnels would indirectly lead to a greater employee presence on site for longer periods, including when they would otherwise be off-site in alternative residential accommodation. As such, in my judgement there is a clear pathway for a likely significant effect.
70. Secondly, having considered in detail the site location and existing site conditions the appellant has determined that the best available technology must be used and maintained in order to reduce nutrient discharges into the River Lugg catchment. It is proposed to ensure that foul drainage is kept separate from surface water and roof water drainage systems. Foul drainage from the first eight caravans would continue to discharge into the existing package sewage plant and a new after-treatment plant would be installed immediately downstream of the existing plant. In addition, a new packaged sewage treatment plant would be installed to serve the additional ten static caravans as the best available technology. A new sealed underground irrigation effluent capture tank with a capacity of at least 26,000 litres would be installed downstream of the two packaged treatment plant. The resulting effluent would then be pumped to the crop irrigation system on a daily basis. The appellant has also submitted that the irrigation system would be maintained in accordance with the manufacturer's guidelines and the foul drainage system would be maintained in accordance with manufacturer's guidelines and the Environment Agency's binding rules. Finally, the resulting phosphorus from the worker's accommodation would be used to fertilise the cherry trees and in that way 100% of the resulting phosphorus would be mitigated on site.
71. On the basis of the latest foul water drainage strategy submitted by the appellant there remain a number of concerns with respect to the impacts on the River Wye SAC and other habitats sites. I have also noted the objection from Herefordshire Council on technical grounds. The Foul Water Drainage Strategy details a non-standard approach to dealing with effluent from the proposed packaged treatment plants, the collection of that effluent in a sealed tank and then pumping the effluent for irrigation and fertilisation of the cherry crop.
72. It is my understanding from the evidence presented that the phosphate budget calculations deviate from the standard Natural England (NE) calculation methodology, do not fully take account of the change in the use of the land proposed and do not take account of the precautionary buffer required by NE in the approved methodology. There is no clear justification why the appellant's submitted phosphate budget calculation does not follow the standard NE methodology set out on the budget calculation tools issued by NE. That

methodology has been developed nationally and is standard best practice. Instead, the approach taken by the appellant is based on British Water Code of Practice - Flows and Loads. It includes some elements of the standard methodology such as considering how many people would live at the development, daily use of water per person per day and what the effluent treatment level of the packaged treatment plant would be. However, it does not take account of the proposed land use change which is a required part of the standard calculation. Although the land use element is likely to be smaller than in a standard residential development it should still be quantified using the standard methodology.

73. The approach put forward does not include the 20% precautionary buffer which is included as standard within the NE methodology, and which should be included here. On the basis that a non-standard methodology has been submitted and without clear justification for the deviation, it is not clear that the calculations are accurate or scientifically certain.
74. Furthermore, it is not clear how the flow reductions used in the latest Foul Water Drainage Strategy apply to the proposed development. If the flow reductions are not relevant, then the phosphate budget and the volume calculations relating to the storage capacity of the tank to store two days' worth of flows are incorrect and must therefore be underestimates. The methodology used allows for some flow reduction in the calculation which is not included in the standard NE methodology.
75. In any case, it is not at all clear why the flow reduction has been applied in this case. British Flows and Loads suggests that flow reduction may be appropriate for sizing packaged treatment plants on larger residential developments and for developments of larger homes with more bedrooms. The reasons for this is that occupancy numbers fall away in larger homes, that in larger homes there is an economy of water use which is achieved by shared household, and that over larger developments of more homes some flow allowance can be to allow for peaks and troughs in water use across the day. The current proposal for accommodation for seasonal workers would operate more like houses of multiple occupation. It is anticipated that at peak each caravan will be fully occupied and consequently, this justification for flow reduction cannot be relied upon. Furthermore, in my judgement it is unlikely that the caravans would be occupied or operate similarly to family homes with shared chores, using appliances and water in a way that efficiency also cannot be relied upon. Given the nature of the shift work carried out on site, use of the welfare facilities are likely to be concentrated at certain times of the day meaning that flows are likely to be concentrated rather than being spread across the day.
76. On the basis of the above I do not see that the flow rates should be adjusted and therefore the phosphate budget calculations should be higher than those presented. Consequently, if the budget calculations are underestimated, then the sizing of the proposed tank to hold two days of effluent at full occupation of the caravans is also likely to be an underestimate. As such I cannot be certain that the two day capacity of the tank is sufficient to allow effective use of the effluent to fertilise the cherries. Without detailed and justified evidence of phosphate uptake at different stages of the growing season it is not possible to be certain this might work in practice.
77. The proposed conditions suggested to this appeal fail to limit occupation of the proposed seasonal workers dwellings to 19 weeks a year and as such the

phosphate budget calculations cannot be relied upon. The calculations in the Drainage Strategy are based on seasonal occupancy of the caravans. The suggested conditions seek to ensure that all occupiers must be working at the site, that there be a maximum of 108 workers on site and that there be a maximum of eighteen static caravans, as proposed. As it currently stands there is no restriction of occupation to the summer months or to a maximum of nineteen weeks March – October. On this basis the calculations cannot be considered to be scientifically or legally certain. However, should I find it necessary to restrict the specific period of occupancy I could do so as part of any occupancy restriction conditions.

78. Finally, there is some evidence that phosphate in the effluent could be used to trickle feed the cherry trees and be taken up by those trees. However, there is no scientific certainty before me that this use of the waste water would meaningfully result in the proposal being nutrient neutral by reducing the use of phosphate fertiliser by a corresponding amount. The Drainage Strategy sets out the phosphate uptake by various growing fruit trees including cherries based on consultation with NE and supported by the Holden Fruit Consultancy Report, that sufficient trees exist on the site to accommodate the volume of waste water, and to uptake the phosphate within that water. However, given the low phosphate concentration of the treated effluent produced by the packaged treatment plants there must be a degree of uncertainty regarding how this water would fit into the cherry fertilisation program and whether its use would actually replace fertilisation using higher concentration phosphate, or mixed nutrient, fertilisers.
79. Therefore, in terms of the current proposal the key question is that of legal certainty and, in particular whether the mechanism by which the corresponding reduction in phosphate fertiliser used on the fields in question can be guaranteed for the lifetime of the development, can be legally secured and enforced by the Council through the planning system? It may be theoretically possible to replace some irrigation water to the cherries with the effluent from the proposed treatment system, but no specific mechanism has been suggested which could legally secure that reduction/replacement for the lifetime of the development.
80. In my judgement, it would be difficult for the Council to be certain that the relevant reduction in artificial fertilisation had occurred and continued for the lifetime of the development. Furthermore, there could be some conflict between the implementation of the development in accordance with planning conditions and the agricultural and horticultural regulations which govern the growing and fertilisation of fruit crops. Therefore, in the absence of mechanisms to secure mitigation the proposal cannot be considered to be nutrient neutral.
81. As such I conclude that it has not been adequately demonstrated that the effect of the development on the integrity River Lugg/River Wyre Special Area of Conservation has been assessed and mitigated to avoid any adverse impact, including whether it has been adequately demonstrated that the development would not lead to an unacceptable risk of foul water flooding and pollution to the local environment. Therefore, the proposal conflicts with Policies SS6, RA6, LD2 and SD4 of the CS and the Framework. Among other objectives these seek to ensure that development proposals conserve and enhance those environmental assets that contribute towards the county's distinctiveness, including biodiversity and especially those with specific environmental designations. Proposals should maintain and improve the effectiveness of those ecosystems essential to the health and wellbeing of residents. Development proposals should be shaped through an

integrated approach to planning, including biodiversity and geodiversity especially Special Areas of Conservation. Development should not undermine the achievement of water quality targets for rivers in the county, in particular through the treatment of waste water. Development proposals should conserve, restore and enhance the biodiversity and geodiversity assets of Herefordshire through the retention and protection of nature conservation sites and habitats, restoration and enhancement of existing biodiversity and geodiversity features on site and connectivity to wider ecological networks.

Other Matters

Protected Species

82. The fourth reason for refusal for the polytunnels development relates to the potential impact upon protected species. There have been concerns that the ecology report submitted with the application showed clear differences from another report that was submitted for substantially the same site. As such the Council was not satisfied that protected species had been satisfactorily considered. No further assessment has been submitted with the appeal, but the appellant has suggested that a scheme of further assessment could be conditioned in the event of planning permission being granted.
83. The evidence before me is that it would be reasonable to consider that subject to relevant pre-commencement condition the potential effects of the development on terrestrial habitats supporting breeding populations of great crested newts could be considered and suitable mitigation secured. Furthermore, the 2022 ecology report identified the presence of an active badger sett adjacent to the existing field with multiple entrances, snuffle pits and signs of fresh digging. The report concludes that the development would be unlikely to impact on badger activity subject to precautionary working methods being secured and implemented.
84. The 2024 report has no information on badgers. Therefore, it is advised that such survey should be conditioned to allow detailed precautionary working methodology to be drawn up based on the latest activity levels. If necessary, a Badger Licence from NE may be required. I am satisfied that in these circumstances a pre-commencement condition could be imposed.

Living conditions

85. Local residents have expressed concerns regarding the effect of the developments on potential levels of noise and disturbance. The closest dwellings to the proposed polytunnels field are approximately 250 metres away to the west in Huntington. The polytunnels themselves would not generate noise and therefore their actual presence would not give rise to additional levels of noise and disturbance. However, workers in the fields and machinery and equipment used in the fields may result in some noise and disturbance, particularly during busy periods of the fruit production season, but such activity levels could occur in the existing fields where fruit is already grown and the proposed polytunnels would not be a material change in the use of the land. Therefore, the polytunnels would not result in unacceptable levels of noise to the detriment of the living conditions of local residents and comply with Policies RA6 and SD1 of the CS and the Framework.
86. The proposed static caravans would also be approximately 250 metres from the nearest residential properties. It is my understanding that the occupation of

existing unauthorised static caravans during the 2023 harvest season led to noise complaints from some local residents. Other concerns relate to the overall management of the site and litter.

87. The proposal is for residential use of the land and this is not necessarily incompatible with other residential uses nearby. The occupants of the proposed accommodation would be managed by Haygrove Ltd as their employer and therefore it is possible to impose controls on the operation of the site to ensure that any potential for impact upon the amenity of neighbouring residents is controlled and mitigated, if necessary. Indeed, a Site Management Plan has been submitted which focuses on managing activities likely to result in noise nuisance. If necessary, further details could be required relating to other areas of concern should I be minded to grant planning permission. This would ensure that there is no unacceptable risk that the development would have a harmful effect on the living conditions of the occupants of residences in the area, ensuring compliance with Policies SD1 and RA6 of the CS and the Framework.

Conclusions

88. Although I have concluded that the developments would not be harmful to protected species or living conditions, with reference to Appeal A I have found conflict in terms of the main issues relating to character and appearance of the area, heritage interests and the integrity of the River Lugg/River Wye SAC. On Appeal B I have found conflict regarding the River Lugg/River Wye SAC, including the risk to water flooding and pollution to the local environment, the character and appearance of the area and the setting of Turret Castle. As such there is conflict with the development plan as a whole and both appeals should be dismissed.

A A Phillips

INSPECTOR

APPEARANCES

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Barry James	Chair of Huntingdon Parish Council
Glyn Jones	Vice Chair of Huntingdon Parish Council
Duncan Fallowell FRSL	
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