



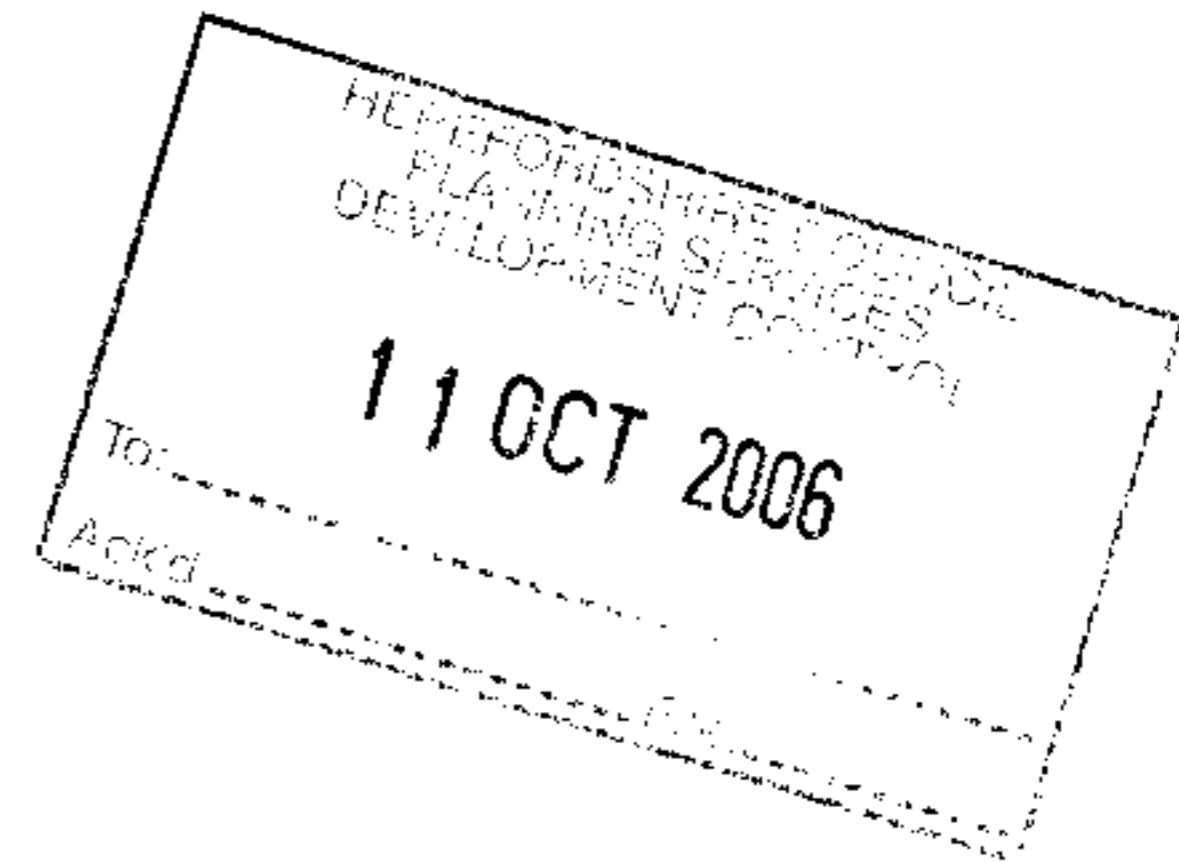
SE06/3267/F

Town Planning & Development Consultants

The Development Control Manager
Environment Directorate
County of Herefordshire District Council
Southern Planning Service
PO Box 230
Blueschool House
Blueschool Street
Hereford HR1 2ZB

11 October 2006

Our Ref.: APA/COCKB/05/0548



Dear Sir

TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED): PLANNING APPLICATION: ERECTION OF (SPANISH) POLYTUNNELS TO BE ROTATED AROUND FIELDS AS REQUIRED BY CROPS UNDER CULTIVATION: PENNOXSTONE COURT, KINGS CAPLE, HEREFORDSHIRE, HR1 4TX

Please find a planning application in respect of the above development. This letter contains additional information in support of the Application and should, accordingly, be treated as forming part thereof.

In addition to this letter, the duly completed planning application forms and ownership certificates the application material comprise:

1:10000 Ordnance Survey base Application Site Plan
Antony Aspbury Associates Limited: 'Economic Assessment'
JDIH (Water & Environmental) Limited: 'Drainage Appraisal'
Davies Light Associates: 'Landscape & Visual Appraisal'
Davies Light Associates: 'Ecological Assessment'
Design & Access Statement

This Application is submitted without prejudice to the Applicant's contention that planning permission is not in fact required for the erection of (Spanish) polytunnels for the purposes of agriculture operations as undertaken at the Application Site. You will be aware that there is a case before the High Court at the moment relating to the use of identical polytunnels for a similar soft-fruit growing enterprise at Tuesley Farm, Godalming, Surrey. Amongst other matters that the court is being asked to rule upon is the question as to whether this type of polytunnel, used in this way (see below), constitutes development requiring planning permission. This question may be settled one way or another, therefore, in the near future. In the meantime, this Application seeks to regularize the situation at Pennoxstone Court by reference to your Council's own position on the matter, that, is, that tunnels that do not accord with the strict provisions of the Council's Code of Practice, constitute development requiring planning permission.

Re; Planning Application: Erection of (Spanish) Poly tunnels: Pennoxstone Court, Kings Caple, Herefordshire, HR1 4TX

Based on that interpretation, the Council served an Enforcement Notice earlier this year in respect of certain polytunnels at Pennoxstone Court and was, apparently, minded to serve further notices in respect of other tunnel blocks. The Applicant appealed against the Notice that had been served and would have appealed against any other notices. By agreement of the parties, that Appeal has been placed in abeyance pending the outcome of this Application.

This Application is also submitted without prejudice to a separate application for a Certificate of Lawfulness for certain of the polytunnels on part of the Application Site that the Applicant intends to demonstrate have been erected for more than 4 years. This separate application will be submitted shortly.

The need for the instant Application arises because the Applicant wishes to erect and maintain tunnels in the same position for a period longer than that admitted by your Council's informal Code of Practice – currently two years. From a commercial and operational perspective this latter period is unduly restrictive as most soft fruit varieties crop for periods of more than two years, some fruits indeed cropping for a considerably longer period (see below). The Applicant wishes therefore to relate the rotation of the tunnels to the actual needs of the crop beneath them and not to the arbitrary two-year period set out in the Code of Practice. There are other advantages to the proposed arrangement, which will be discussed further below. In all other respects, the development the subject of the Application would accord fully with the terms of the Code of Practice.

This is a '*whole farm*' application seeking permission to locate polytunnels anywhere within the Application Site area for an indeterminate period. However, there are areas within the Application Site, such as the flood plain fields bordering the Wye (also the area subject to Policy LA2 – '*Landscapes Least Resilient to Change*' – of the draft UDP [see below]), where it is neither operationally possible, nor desirable to site tunnels (and where, accordingly, tunnels have never been sited before). The Applicant is willing in principle, therefore, to agree with your Authority during the life of this Application to define areas where tunnels may, or may not be positioned and to secure that agreement through the medium of (a) suitably worded planning condition(s) and/or through a Planning Obligation. He is also willing in principle to agree to a planning condition setting a ceiling on the cumulative area, or proportion, of the Farm that is devoted to polytunnelling at any one time.

The farming operation at Pennoxstone Court is conducted on an area of some 100 hectares or thereabouts, of which some 81 hectares are owned by the Applicant (comprising a compact holding around Pennoxstone Court farmstead and extending to the banks of the River Wye) and the balance rented (currently in two separate blocks, one north west of Kings Caple village and the other, smaller, block, to the east of the Village). In the current state of UK agriculture Pennoxstone Court is considered to be a *small* farm, certainly in terms of traditional indigenous farming activities, and it would be incapable of supporting a viable agricultural enterprise without soft fruit growing element of the business. (In this context it should be noted that the whole of the *rented* areas have been recently or are being used for soft fruit growing).

Re: Planning Application: Erection of (Spanish) Polytunnels: Pennoxstone Court, Kings Caple, Herefordshire, HR1 4TX

In turn, given the stringent requirements of the soft fruit market in the UK, which is dominated by the national multiple supermarket chains, particularly in terms of the duration of the period over which supply needs to be assured and the quality of product demanded, the soft fruit enterprise would not be viable without the use of polytunnels (See 'Economic Assessment').

Some 30 hectares (30% of the farmed area) is used for soft fruit crops requiring regular seasonal polytunnelling at present, although not all of this area will be covered with sheeted tunnels at the same time during the season.

The balance of the farm is used for growing cereals (currently about 21.5 hectares), for cider orchards (currently 6 hectares), for grass (about 15.5 hectares) and for set aside. Soft fruit crops are, therefore, by far the most important crop by area cultivated, but they are also the most important by value to the farming enterprise. Thus, whilst occupying 30% of the farm area, these crops account for 90% of the annual turnover of the business. Capital investment in the polytunnels and related infrastructure amounts to over £0.5 millions.

The Applicant has been growing soft fruit under polytunnels at Pennoxstone Court for some 14 years, but the scale of the operation has increased significantly in the second half of that period in response to market conditions. There are four discrete areas (three within the freehold ownership and one within the rented block) where polytunnels have been sited for more than four years and these are the areas that will be the subject of the forthcoming separate application for a Certificate of Lawfulness.

Of the 30 hectares used for fruit growing, some 24 hectares are currently used for growing *strawberries*, 5 hectares for *raspberries* and 1 hectare for *blueberries*. This balance is not constant and depends entirely on the market, customer demand, soil conditions and crop needs. All soft-fruit growing at Pennoxstone Court takes place in the ground and there is no 'table top' growing undertaken. Varieties of strawberry grown on the farm typically require seasonal polytunnel coverage for *two to four years*, raspberries for *two to seven years* and blueberries for *in excess of ten years*.

It remains necessary to rotate crops (and therefore the tunnels that cover them for part of the year) for soil management reasons, but it is not possible to predict the precise pattern of rotation more than one season ahead, as this is fundamentally dependent on market demand (which will fluctuate both year on year and within the growing season) and on prevailing soil and plant conditions. Clearly the more seasons that tunnels are permitted to be sited in one particular place, without the need for rotation enforced by factors other than agricultural considerations, the less extensive the aggregate area required for a given level of production.

Leaving polytunnels in place for a period of years has a number of other advantages over and above the commercial and operational advantages. Thus, the drainage management system (as described in Drainage Appraisal prepared *JDIH (Water & Environmental) Limited*) can be developed to be at its most effective. This is highly beneficial to regulating water run off. Secondly, tree and shrub planting for the purposes of landscaping and screening can be planted and allowed to mature in a manner that maximises beneficial visual impact.

Re; Planning Application: Erection of (Spanish) Polytunnels: Pennoxstone Court, Kings Cuple, Herefordshire, HR1 4TX

Thirdly, disturbance to neighbours associated with the repeated erection, taking down and transportation of tunnel components between sites is minimised. Finally, the reduction of the latter operations contributes to the achievement of sustainability objectives.

Under the terms of this Application the Applicant does not seek to introduce polytunnels into areas where they are not currently erected, or had not been erected in the past.

As already noted, a **Drainage Appraisal** has been undertaken by JDIH Water & Environmental, a practice with extensive experience of the hydrological issues raised by the use of polytunnels and glasshouses. The Report that is enclosed as a supporting document for the Application concludes that the development the subject of this Application will not have any detrimental impact on drainage when compared to the likely alternative arable agricultural land use, the cultivation of row crops. It notes that it is important that the drainage system is actively managed, as is currently the case, to maintain low flow velocities in the leg row channels between the tunnels and to distribute water discharge over grassed and other vegetated areas.

It further observes that the siting of polytunnels and the drainage management associated therewith has contributed to the re-watering/maintenance of water levels in a number of watercourses and ponds, notably 'Pond No. 2', over the period April to September, leading to greater biodiversity and, in particular to a viable Smooth- and Great Crested Newt population in Pond No. 2. The use of polytunnels and the active drainage management associated therewith aims, amongst other things, to reduce flow velocities for run-off water, thereby reducing soil erosion. This has resulted in an improvement in the quality of water being discharged into the ponds and watercourses, including the valuable River Wye linier ecosystem, compared with the situation previously and to other types of modern arable farming.

The Applicant would be prepared to accede to the imposition of a suitably worded planning condition securing the continued operation of the current surface water management regime.

The Applicant has commissioned a **Landscape and Visual Assessment** from Davies Light Associates, Landscape Architects and Environmental Planners, a Practice that has extensive experience of working with polytunnel development. This Assessment examines the impact of the polytunnels the subject of this Application and proposes suitable mitigation where necessary. It has been prepared in accordance with the 'Guidelines for Landscape & Visual Assessment' produced by the Landscape Institute and the Institute of Environmental Management & Assessment 1988 and 2002. The Assessment particularly addresses the impact of the development the subject of this Application on the Wye Valley AONB, as well as on other landscape character designations applying to the area.

The Landscape & Visual Assessment concludes that the localised impact of polytunnels sited on the Pennoxstone Court farm on the AONB is high, although this impact is partially mitigated and the area affected is reduced by the local topography and by the presence of extensive areas of mature vegetation, including, woodlands, orchards and hedgerows.

Re; Planning Application: Erection of (Spanish) Poly tunnels: Pennoxstone Court, Kings Caple, Herefordshire, HR1 4TX

The vegetation is a particularly significant contributor to screening and mitigation in this case because the tunnels are only covered with plastic sheeting during the seasons when the indigenous deciduous vegetation is 'in leaf'.

The Assessment recognises that the introduction of Spanish poly tunnels is part of the evolving character of the agricultural landscape; that their visual impact tends to be localised (and can be further mitigated with landscaping); is felt most strongly only during that part of the year when they are covered with plastic; and, that such impact is not in any event permanent, as they are continually being removed and re-erected according to cropping cycles. Furthermore, the adverse visual impact needs to be weighed against the benefits of their use, such as the considerable wildlife benefits compared with conventional arable farming and the contribution they make to a sustainable, diverse and competitive agricultural sector which, amongst other things, provides for the long term stewardship of the countryside, including the AONB.

It proposes certain mitigation measures, to reduce the visual impact of the poly tunnels, including the approval and implementation of a scheme of landscaping to augment and reinforce existing natural features and a 10-year Management Plan for the whole farm. As well as mitigating the landscape impact of the development, these measures will have a significant incidental positive benefit by replacing lost landscape features and sustaining existing ones, which importantly contribute towards the local distinctiveness and character of the area, as well as enhancing bio-diversity.

With this in mind, the Applicant is prepared to accede to the imposition of planning conditions securing the submission within a defined period from the date of the planning permission and the subsequent approval of: a scheme of landscaping; and, a Landscape Management Plan; and subsequent implementation of the landscaping in the first planting season after the approval of the scheme; and thereafter of the management plan;

Davies Light Associates have also undertaken an ***Ecological Survey and Assessment*** to identify the impact of the development the subject of this Application on wildlife and particularly on protected species.

This survey focussed particularly on the three ponds within the Application Site. Two of the ponds (Nos. 1 and 3) were noted to have a fish and frog populations, but one, Pond No. 2, which, it was noted, was dry until about four years ago and has been cleaned out and now accepts run-off water from the poly tunnels, has a large population of Smooth Newts and a small population of Great Crested Newts. The assessment notes that the Common Frog, Smooth- and Great Crested Newts are all breeding within this pond, for which the renewed source of water from the poly tunnels has created an aquatic habitat favourable to amphibians, including the GCN.

The Assessment notes that the retained woodland areas, the untrimmed hedgerows and the field margins utilised for the active drainage management of the Site all contribute to greater biodiversity. The augmentation of these features under the proffered landscaping scheme and the long-term management of the whole site under the proposed Management Plan will further enhance bio-diversity.

Re: Planning Application: Erection of (Spanish) Poly tunnels: Pennoxstone Court, Kings Caple, Herefordshire, HR1 4TX

The Applicant has also commissioned an ***Economic Assessment***. This addresses the economic issues underlying the Application and which constitute material planning considerations in this case.

In addition to the facts already recorded above in this letter, the Assessment notes that the agricultural business at Pennoxstone Court employs 4 full-time and 120 casual/part-time staff. Against a background of decline in agriculture and loss of agricultural employment in the UK generally and in Herefordshire in particular, the maintenance of four full-time jobs on this relatively small farm is significant. This is entirely due to the crucial role of the soft fruit-growing element in maintaining the viability and profitability of the overall farm business. Whilst the casual/part-time staff are recruited from overseas and return home at the end of the season, they nevertheless expend a substantial proportion of their income (some 65%), amounting to some £325,000 or thereabouts annually, in the area and this represents an important contribution to the sustenance of local services and facilities. It should be noted that all the part-time/casual staff are employed exclusively in the soft fruit-growing element of the Farm business and would not be there if that enterprise were not operating.

The Business purchases some £1.3 million worth of goods and services in the UK annually, supporting, it is estimated, some 30 full time jobs. Of this total, some £0.5 millions worth are purchased within Herefordshire and/or within a 20-mile radius of the Farm, helping to support some 15 jobs. The vast majority of this spending is connected with the soft fruit growing enterprise.

Adding the employee-spend to the purchase of goods and services by the Farm business in Herefordshire and environs produces a figure of some **£825,000** annually. This constitutes a very significant investment in the local economy.

Moreover, as already noted, the maintenance of a viable farming operation at Pennoxstone Court, which is wholly dependent on the soft fruit growing operation under polytunnels, ensures continuing stewardship and positive management of the agricultural landscape across the Farm. In addition to the environmental and amenity benefits arising from that stewardship, this constitutes a considerable *indirect* private financial investment in the maintenance of the countryside.

The Assessment also places the Pennoxstone Court Farm business and the development the subject of this Application in a wider economic context, describing the UK soft-fruit growing sector currently and how Spanish polytunnels now play a crucial role in the industry. This contextual commentary helps to clarify, explain and justify the development the subject of the Application.

Government guidance relevant to this case is contained in Planning Policy Statement 7 – ‘Sustainable Development in Rural Areas’. The Government’s objectives for rural areas set out at the beginning of the PPS include:

- (i) To raise the quality of life and the environment in rural areas through the promotion of:
 -
 - sustainable economic growth and diversification;

Re: Planning Application: Erection of (Spanish) Polytunnels: Pennoxstone Court, Kings Caple, Herefordshire, HR1 4TX

- good quality sustainable development that respects and, where possible, enhances local distinctiveness and the intrinsic qualities of the countryside;
- continued protection of the open countryside for the benefit of all, with the highest level of protection for our most valued landscapes and environmental resources;

-
- (iii) Promoting the development of the English regions by improving their economic performance so that all are able to reach their full potential – by developing competitive, diverse and thriving rural enterprises that provides a range of jobs and underpins strong economies.
 - (iv) To promote sustainable, diverse and adaptable agriculture sectors where farming achieves high environmental standards, minimising impact on natural resources and manages valued landscapes and biodiversity; contribute both directly and indirectly to rural economic diversity; is itself competitive and profitable; and provides high quality products that the public wants

The Application Proposals clearly accord with Clauses (i), (ii) and (iii) above.

Paragraph 16 of the PPS states that when preparing policies for LDDs and determining planning applications for development in the countryside, local planning authorities should:

- (i) support development that delivers diverse and sustainable farming enterprises;
- (ii) support other countryside-based enterprises and activities which contribute to rural economies and/or promote recreation in and the enjoyment of the countryside;
- (iii) take account of the need to protect natural resources;
- (iv)
- (v) conserve specific features and sites of landscape, wildlife and historic or architectural value, in accordance with statutory designations.

In our submission the Application Proposals comply with the guidance in all the clauses in Paragraph 16 reproduced above.

Paragraph 27 of PPS7 is concerned with agricultural development and states that the Government recognises the important and varied roles of agriculture, including the maintenance and management of the countryside and most of our valued landscapes. It goes on to state that planning policies in RSS and LDDs should support development proposals that will enable farming and farmers to:

- (i) become more competitive, sustainable and environmentally friendly;
- (ii) adapt to new and changing markets;
- (iii) comply with changing legislation and associated guidance;
- (iv) diversify into new agricultural opportunities; or
- (v) broaden their operation to 'add value' to their primary produce.

Re: Planning Application: Erection of (Spanish) Poly tunnels: Pennoxstone Court, Kings Caple, Herefordshire, HR1 4TX

This guidance is reflected in the Vision, Guiding Principles and Policies of the draft Herefordshire UDP (see below)

As the Economic Statement makes clear, the soft fruit operation at Pennoxstone Court provides the majority of its produce for UK supermarket, delivered predominantly via regional distribution depots operated by the retailers. The produce is packed on the farm, usually in the supermarkets' own branded packaging. Farming enterprises like Pennoxstone Court have contributed both to a broadening of the soft fruit market in the UK, to a longer season, to the production of crops that are both of a higher and a more consistent quality and to the substitution of UK produced fruit for foreign imports. Because much of the latter are transported very long distances, often by air (one of the least sustainable modes of transport), soft fruit grown in the UK is naturally more sustainable because it makes a major contribution to reducing food miles. The competitiveness of UK-produced soft fruit depends fundamentally on the use of Spanish poly tunnels to compensate for climatic disadvantages.

The use of tunnels also reduces the need to spray with chemicals for disease-prevention reasons. The development the subject of the Application can, therefore, be seen to comply with clauses i), ii), iv) and v) of paragraph 27 of the PPS.

We turn now to a consideration of the provisions of the development plan. For the purposes of this exercise, in view of the advanced stage that it has reached, we have relied upon the provisions of the emerging Herefordshire Unitary Development Plan. At the time of preparation of the Application 'Proposed Modifications' consequent upon the report and recommendations of the Inspector who conducted the public local inquiry into objections to the Draft Plan are the subject of a public consultation exercise.

Before addressing specific policies in the draft plan we consider it to be appropriate to address the extent to which the development the subject of this Applications accords with the Vision, the Guiding Principles and the Strategy of the Plan.

The Vision set out in the emerging UDP (at Chapter 3) comprises three interlocking elements: the creation of **fair and thriving communities**; to properly **protect and enhance the environment** through sustainable development; and, to build a **strong, competitive and innovative economy** with a balanced mix of businesses, jobs and homes.

The soft-fruit growing operation-led mixed farming enterprise at Pennoxstone Court makes a strong contribution to all three elements of The Vision. *This enterprise would not, however, be feasible or viable without the poly tunnels the subject of this Application and that development is, therefore, wholly consistent with them.*

Similarly the farming enterprise on the Application Site and the use of Spanish poly tunnels that underpins it accords with 'Guiding Principles': P1; P5; P6; P7; P11; and P12.

So far as the UDP's underlying Development Strategy is concerned, the successful farming enterprise at Pennoxstone Court, fundamentally reliant as it is on the use of Spanish poly tunnels makes a considerable contribution to 'Rural Regeneration' locally.

Re; Planning Application: Erection of (Spanish) Poly tunnels: Pennoxstone Court, Kings Caple, Herefordshire, HR1 4TX

The relevant policies in the UDP to this Application are:

Policy S1 – 'Sustainable development'; S2 – 'Development requirements'; S4 – 'Employment'; S7 – 'Natural and historic heritage'; DR1 – 'Design'; DR4 – 'Environment'; DR7 – 'Flood risk'; E6 – 'Expansion of existing businesses'; E11 – 'Employment in the smaller settlements and open countryside'; E12 – 'Farm diversification'; E13 – 'Agricultural and forestry development'; S7 – 'Natural and historic heritage'; LA1 – 'Areas of Outstanding Natural Beauty'; LA2 – 'Landscape character and areas least resilient to change'; LA5 – 'Protection of trees, woodlands and hedgerows'; LA6 – 'Landscaping schemes'; NC1 – 'Biodiversity and development'; NC3 – 'Sites of national importance'; NC4 – 'Sites of local importance'; NC5 – 'European and nationally protected species'; and, NC8 – 'Habitat creation, restoration and enhancement.

You will be familiar with the detailed provisions of these policies and it is not, therefore, intended to rehearse them here. In the Applicant's submission there is either effective compliance with all of these policies, or, there is no material conflict with them. Support for this assertion is contained in the commentary set out above in this letter and in the other supporting documents.

It is accepted that the principal planning consideration in this case is the impact of the development on the Wye Valley Areas of Outstanding Natural Beauty (draft UDP Policy LA1). In this context, however, it is important to appreciate that, as you know, poly tunnels have been erected on the Application Site for some considerable time, latterly with the explicit endorsement of the Council as 'permitted development' by virtue of their compliance with the Code of Practice, and that they could continue to be so erected, without the need for planning permission, providing they fell within the terms of the Code. This Application only arises because the Applicant wishes poly tunnels to be erected for more than two seasons over the same crop. The issue is NOT, therefore, whether the tunnels should be permitted at all on the Application Site – they are already there lawfully - but whether their siting for more than two seasons in the same place would cause harm to interests of acknowledged importance and, specifically, would damage the amenity of the AONB. In the Applicant's submission, the duration of the stationing in one place of any poly tunnel has no impact whatsoever on the amenity of the AONB. Refusal to allow the Application would merely result in the same number of poly tunnels, covering the same aggregate area being rotated within the Application Site more frequently. For reasons already cited, it is considered that this would be more intrusive within and harmful to the AONB.

Notwithstanding this submission, it is contended that the Application Proposal complies with Policy LA1 of the emerging UDP because, in the context of the AONB as a whole, and even of that part of the of the AONB that forms the visual envelope around the Application Site, the Application Proposals amount to 'small scale development'. Furthermore, the poly tunnels, although visible to varying degrees from surrounding public viewpoints, do not adversely affect the intrinsic natural beauty of the of the landscape, whilst their impact is reduced by the seasonal nature of their erection and covering and can be satisfactorily mitigated by landscaping. In addition, they clearly meet local economic needs.

Re; Planning Application: Erection of (Spanish) Polytunnels: Pennoxstone Court, Kings Caple, Herefordshire, HR1 4TX

Finally, although the tunnels in themselves cannot be said to enhance the quality of the landscape or biodiversity, the farming and management regime associated with them does, by conserving, enhancing and restoring important natural landscape and wildlife features.

In conclusion, we turn to the issue of planning conditions. In addition to those planning conditions already discussed above, the Applicant is content to accede to reasonable planning conditions securing the terms of the Code of Practice, other than that relating to the period which tunnels are erected. These include: minimum standoff distances from adjacent dwelling houses; removal from the frames and unobtrusive storage of polythene for that part of the year (not less than 6 months) when not required to protect crops; polytunnels to be fully dismantled and removed at the end of a cropping period when their use for agricultural purpose is no longer required; removal and recycling of waste polythene etc..

We are pleased therefore, to commend this Planning Application to you and look forward to an early grant of planning permission, subject to such reasonable conditions as you consider to be appropriate, including those suggested in this letter.

In the meantime, should you require any further information, or to discuss the Application at greater length, please do not hesitate to contact the writer.

Yours faithfully,



ANTONY P. ASPBURY

Director

(Direct e-mail: tony@antonyaspbury.co.uk)

Encs.