

**MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Friday, 19th January, 2007 at 10.00 a.m.**

**Present:** Councillor T.W. Hunt (Chairman)

**Councillors:** H. Bramer, Mrs. C.J. Davis, G.W. Davis, D.J. Fleet, P.E. Harling, J.W. Hope MBE, B. Hunt, Mrs. J.A. Hyde, Brig. P. Jones CBE, R.I. Matthews, Mrs. J.E. Pemberton, Ms. G.A. Powell, R. Preece, D.C. Taylor, Mrs E.A. Taylor, W.J.S. Thomas and W.J. Walling

**In attendance:** Councillors P.J. Edwards, J.P. Thomas and R.M. Wilson

**100. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Mrs PA Andrews, BF Ashton, PJ Dauncey, JGS Guthrie, PG Turpin and JB Williams.

**101. NAMED SUBSTITUTES (IF ANY)**

The following named substitutes were appointed:-

<b>MEMBER</b>	<b>SUBSTITUTE</b>
Mrs PA Andrews	Mrs EA Taylor
PJ Dauncey	WJS Thomas
JGS Guthrie	H Bramer
PG Turpin	Ms G Powell
JB Williams	GW Davis

**102. DECLARATIONS OF INTEREST**

There were no declarations of interest made at the meeting

**103. MINUTES**

**RESOLVED:** That the Minutes of the meeting held on 24th November, 2006 be approved as a correct record and signed by the Chairman

**104. CHAIRMAN'S ANNOUNCEMENTS**

**Award of an MBE to Dr Keith Ray, County Archaeologist.**

Congratulations were extended to Dr Keith Ray who had been created an MBE in the New Years Honours List for services to local government. This was a tribute to all the hard work Dr Ray had undertaken for a number of local authorities, and especially Herefordshire Council. Dr Ray had significantly increased the profile of the Council's archaeological service within the County. He had put a great emphasis on building capacity within local communities and helped them to interpret and understand their heritage and origins. He had engaged a wide audience and shown

that local authorities could work successfully with a number of other bodies and organisations to meet common objectives.

### **Achievement Against Best Value Performance Indicator 109 – Planning applications**

In the final quarter of 2006, the Development Control Performance against the Best Value targets were as follows:

Major applications determined within 13 weeks: 60% (target 60%)

Minor applications determined within 8 weeks: 84% (target 65%)

Other applications determined within 8 weeks: 90% (target 80%)

The cumulative figures for 2006/07 so far are as follows:

Majors: 72%

Minors: 82%

Others: 92%

These figures are particularly satisfactory because they also compare favourably with the extended targets which will be used by DCLG for the allocation of next year's Planning Delivery Grant. Those extended targets are:

Majors: 70%

Minors: 77%

Others: 92%

It is therefore hoped that, in addition to the £61,000 Planning Delivery Grant already announced (for performance to July 2006) a further (and larger) award would be made when the performance figures for the whole of 2006/07 are known.

### **Achievement Against Best Value Performance Indicator 204 – Appeals**

In the period April to December 2006 a total of 62 appeals against refusal of permission have been determined, with only 11 upheld. This gives a percentage upheld of only 18%.

There is no national Best Value Performance target for appeals upheld, although the national average is around 33%. The local target in the Directorate Service Plan is for no more than 25% of appeals to be upheld. Current performance for the first three quarters of 2006/07 is therefore very satisfactory.

### **Polytunnels**

A High Court case concerning polytunnels and other matters at Tuesley Farm in Waverley Borough was determined before Christmas. The judgement, in that case, was that the polytunnels on the site were structures which required planning permission. The High Court decision was not going to be appealed to a higher court and therefore the judgement would stand. This may have consequences for this Council's Code of Practice for polytunnels. Until the transcript of the judgement was published however, it would be difficult to draw any conclusions on the legal aspects of the case. It was therefore intended to wait until the transcript of the judgement was published and seek further legal advice before setting in progress a review of the Code of Practice.

## **105. NORTHERN AREA PLANNING SUB-COMMITTEE**

**RESOLVED:** That the reports of the meetings held on 6th December, 2006 and 3rd January, 2007 be received and noted.

**106. CENTRAL AREA PLANNING SUB-COMMITTEE**

**RESOLVED:** That the report of the meeting held on 13th December, 2006 be received and noted.

**107. SOUTHERN AREA PLANNING SUB-COMMITTEE**

**RESOLVED:** That the reports of the meetings held on 29th November and 20th December, 2006 be received and noted.

**108. PLANNING OBLIGATIONS SUPPLEMENTARY PLANNING DOCUMENT**

The Team Leader Local Planning presented the report of the Forward Planning Manager about a proposed Draft Supplementary Planning Document (SPD) which set out the Council's policy and use of planning obligations for consultation purposes. He said that the document was included within the Council's Local Development Scheme (January 2007) and was being produced in line with the regulations of the new planning system introduced under the Planning and Compulsory Purchase Act 2004. He explained the purpose of the SPD and its role in supporting the policies and proposals in the Council's Development Plan Documents. He said that Policies S1 and DR5 of the Herefordshire Unitary Development Plan referred to Planning Obligations and that the purpose of the SPD would be to clarify to all interested parties the Council's policy stance on the subject. If adopted, it would become a material consideration in the determination of planning applications where contributions were sought. The Council had undertaken an initial consultation and information gathering process in July, 2006 and had sought the views of selected Parish Councils and a number of interested organisations and stakeholders as to the form that the SPD should take. A Members Seminar had been held in November, 2006 and a number of issues arising from it had been incorporated into the SPD, the main aim of which was to:

- provide as much certainty as possible to landowners, prospective developers and other interested parties;
- ensure a uniform application of policy;
- ensure the process was fair and transparent;
- enable developers to have a 'one stop shop' approach to establishing likely contributions expected; and
- facilitate a speedier response from the authority to development proposals.

The Director of Environment said that the preparation of the SPD was the culmination of a number of years work and operational experience, and he thanked the Officers for their hard work in preparing such a comprehensive and informative document.

The Committee considered the details of the draft proposals and Councillor DJ Fleet commented that it was vital for realistic thresholds to be secured in respect of affordable housing and felt that this should be 50% rather than the 35% proposed in the report. The Team Leader Local Planning said that it was important to keep such

thresholds at a realistic level but that the situation needed to be kept under constant review as the Development Plans progressed. In answer to a question by Councillor RM Wilson, the Head of Planning Services said that a S106 monitoring officer would be the first point of contact for an applicant when making payments or serving notices as required by an agreement. The monitoring officer would then ensure that payments were allocated to the appropriate funds or supplied to the service provider as appropriate and would issue receipts and acknowledgements of compliance where necessary. The monitoring officer would track compliance with each obligation in the agreement as the development proceeds and all agreements/undertakings would be monitored through the use of a Planning Obligations database.

Councillor H Bramer asked what would happen if a developer was unwilling or refused to enter into an agreement and the Head of Planning Services said that it was important for the Council to negotiate agreements with a developer which would benefit the community, rather than giving the impression that such consents could be bought. Also if a proposal came forward that was acceptable on its own merits then an obligation should not be sought unnecessarily. Furthermore the proposals for obligations would be from a national planning standard. Councillor RI Matthews said that it was essential for affordable housing to be secured wherever possible in the rural areas but urged the officers to encourage house types that were in keeping with the existing villages architecture.

The Committee discussed further details of the draft document and commended it to the Cabinet Member (Environment).

#### **RESOLVED THAT**

**the draft Supplementary Planning Document be endorsed and commended to the Cabinet Member (Environment) for submission to Cabinet for approval.**

#### **109. REPORTS OF THE HEAD OF PLANNING SERVICES**

The Committee considered the following planning applications and authorised the Head of Planning Services to impose any additional or varied conditions and reasons which he considered to be necessary.

#### **110. DCCE2006/3117/F - DEMOLITION OF EXISTING DWELLING AND CONSTRUCTION OF 13 NO. TWO BED APARTMENTS WITH ASSOCIATED EXTERNAL WORKS. AMENDMENT TO ACCESS ROAD PREVIOUSLY APPROVED (DCCE2005/0977/F) MILL COURT VILLAGE, LEDBURY ROAD, HEREFORD (PHASE 2)**

The Development Control Manager presented his report about an application for the erection of thirteen residential units on land off Ledbury Road, Hereford. Consideration of the application had been deferred at the previous meeting for further negotiations with the applicants about the inclusion of affordable housing within the scheme. He said that the County Ecologist had required the imposition of further conditions regarding a wildlife protection plan and zone along the brook adjoining the site if permission was granted. He also said that the Transportation Manager was satisfied with the revised access arrangements from Ledbury Road.

The Development Control Manager said that investigation had revealed that the threshold for affordable housing within the Herefordshire Unitary Development Plan (UDP) in urban areas was 0.5 ha or 15 dwellings, also the new PPS3 suggests 15 dwellings as a national indicative minimum site. Permission was previously granted

on land adjoining the application site which was in a different ownership and not part of the new site. On this basis the UDP policies could not be used to insist with an element of affordable housing with the new application site because the two were separate and fell below the required threshold individually.

Councillor DJ Fleet was disappointed to learn that the site did not qualify for affordable housing and suggested that investigation be made into modifying the policies to cater for any similar applications in future. Councillor WJS Thomas felt that the two sites should be viewed as one for affordable housing because they benefited from a shared access over Council highway land.

Having considered all the facts relating to the application and the advice given by officers, the Committee decided that it should be approved.

#### **RESOLVED THAT**

- 1) **The Head of Legal and Democratic Services be authorised to complete a planning obligation under Section 106 of the Town and Country Planning Act 1990 in accordance with the Heads of Terms set out in Appendix 1 to the report of the Head of Planning Services; and any additional matters and terms as he considers appropriate.**
- 2) **Upon the completion of the aforementioned planning obligation, and subject to there being no objection from Conservation Manager in respect of the outstanding matters that the officers named in the Scheme of Delegation to Officers be authorised to issue planning permission subject to the following conditions and any further conditions considered necessary by Officers, including those required in respect of highway matters.**
  - 1 **A01 (Time limit for commencement (full permission) )**  
**Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.**
  - 2 **B01 (Samples of external materials )**  
**Reason: To ensure that the materials harmonise with the surroundings.**
  - 3 **F16 (Restriction of hours during construction )**  
**Reason: To protect the amenity of local residents.**
  - 4 **F48 (Details of slab levels )**  
**Reason: In order to define the permission and ensure that the development is of a scale and height appropriate to the site.**
  - 5 **G01 (Details of boundary treatments )**  
**Reason: In the interests of visual amenity and to ensure dwellings have satisfactory privacy.**
  - 6 **G02 (Landscaping scheme (housing development) )**  
**Reason: To ensure a satisfactory and well planned development and to preserve and enhance the quality of the environment.**

**7 G03 (Landscaping scheme (housing development) - implementation )**

**Reason: To ensure a satisfactory and well-planned development and to preserve and enhance the quality of the environment.**

**8 G09 (Retention of trees/hedgerows )**

**Reason: To safeguard the amenity of the area.**

**9 No development shall commence on the site or machinery or materials be brought on to the site for the purpose of development until adequate measures have been taken to prevent damage to Eign Brook and to those trees which are to be retained. Protective measures must include:**

**a) Protective fencing, of a type and form agreed in writing with the local planning authority, to be erected along the boundary of the 5-metre exclusion zone. This fencing must be at least 2.0 metres high and sufficiently robust to deter construction traffic.**

**b) No excavations, site works, trenches, channels, pipes, services or temporary buildings used in connection with the development or areas for the deposit of soil or waste or for the storage of construction materials, equipment or fuel or other deleterious liquids shall be sited within the exclusion zone.**

**Reason: In order to preserve the character and amenity of the area.**

**10 H09 (Driveway gradient)**

**Reason: In the interests of highway safety.**

**11 H13 (Access, turning area and parking)**

**Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway.**

**12 H21 ((Wheel washing)**

**Reason: To ensure that the wheels of vehicles are cleaned before leaving the site in the interests of highway safety.**

**13 H27 (Parking for site operatives)**

**Reason: To prevent indiscriminate parking in the interests of highway safety.**

**14 H29 (Secure cycle parking provision)**

**Reason: To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative modes of accommodation in accordance with both local and national planning policy.**

**INFORMATIVES:**

**1 Your attention is drawn to the requirements of Part M of the Building**

Regulations 1991 in respect of the need to provide access and facilities for the disabled.

- 2 N03 - Adjoining property rights
- 3 N11A - Wildlife and Countryside Act 1981 (as amended) - Birds
- 4 N11B - Wildlife & Countryside Act 1981 (as amended) and Conservation (Nat. Habitats & C.) Regs 1994 - Bats
- 4 HN1 – Mud on highway
- 5 HN5 – Works within the highway
- 6 HN8 – Section 38 Agreements
- 7 HN13 – Protection of visibility splays on private land
- 8 N15 - Reason(s) for the Grant of PP/LBC/CAC
- 10 N19 - Avoidance of doubt

*Councillor DJ Fleet abstained from the voting on this item.*

**111. DCNC2006/3364/F - PROPOSED TEMPORARY MOBILE HEALTH FACILITIES (TEMPORARY FOR SEVEN YEARS) AT BROAD STREET CAR PARK, LEOMINSTER, HEREFORDSHIRE**

The Development Control Manager presented his report about an application for temporary permission for seven years for the periodic siting of mobile health facilities on Broad Street car park at Leominster. The proposal formed part of an NHS initiative to provide diagnostic facilities through the private sector, it had been approved by Herefordshire Primary Care Trust and was intended to provide high quality health services for people living in the Leominster area. The units would be sited for periods of between one and three days per week or between 52 and 156 days per year. This fell beyond the scope of the temporary use of land for 28 days as described by the Town and Country Planning (General Permitted Development) Order 1995, and had lead to the necessity for the application.

Councillor JP Thomas one of the Local Ward Members welcomed the initiative but was concerned at the loss of key town centre car parking spaces for such long periods and the adverse affect this would have on the local economy and tourism. He felt that further investigation should be made into a more suitable location in the town that did not have the same drawbacks. Whilst recognising the importance of the proposal, the Committee shared the views of Councillor Thomas that alternative sites should be investigated for it.

**RESOLVED THAT**

**Consideration of the application be deferred for investigation to be made into an alternative location for the proposal.**

**112. DCSE2006/3238/O - PROPOSED AGRICULTURAL DWELLING WITH GARDEN AT STEPPE HOUSE FARM, PENCRAIG, ROSS-ON-WYE, HEREFORDSHIRE HR9 6HR**

The Development Control Manager said that at its meeting on 20th December, 2006 the Southern Area Planning Sub-Committee was minded to grant permission contrary to recommendation for an agricultural dwelling with garden at Steppe House Farm, Pencraig. The Head of Planning Services had referred it to the Planning Committee because of the issues involved. These centred around the fact that the need for a permanent dwelling had not been shown and the proposal would conflict with adopted and emerging policies which sought to protect the countryside, particularly the Wye Valley Area of Outstanding Natural Beauty, from unnecessary residential development.

The Development Control Manager said that a letter had been received from the agent acting for the applicants to say that they had to vacate the farmhouse at the behest of the developer so that he could incorporate it into the scheme of residential development of the existing farm buildings. The Agent had claimed that there were compelling grounds for approval to be granted because the application met the tests set out in PPG 7. The family had owned the farm for the past ninety-eight years but had encountered financial difficulties during the last five due to foot and mouth disease and had received no compensation. Approval would enable a new house to be built and the debts to be cleared. Notwithstanding this the Officers did not feel that the application met the functional and financial tests set out within the Councils policies.

In accordance with the criteria for public speaking, Mr Goldsworthy the agent acting on behalf of the applicants, spoke in favour of the application.

Councillor Mrs JA Hyde the Local Ward Member said that the Sub-Committee had considered that permission should be granted because in their opinion the functional case for a dwelling had been made and the farm had been profitable for many years but had suffered in recent years. This had created the situation where the applicant had been forced to sell the existing farmhouse and buildings. She said that it was appropriate permission to enable the family to continue to live and farm on the land and she felt that the application could be seen as an exception to policy because of the particular circumstances involved. Councillor GW Davis supported this view, feeling that because of the size of the farm and number of livestock involved it was essential for the family to have a dwelling on site because it would be difficult for them to manage it off site. Councillor Mrs JE Pemberton said that the family had demonstrated their commitment to the farm and that it was only the particular circumstances which had forced them down this route. She also felt that an exception could be made to policies. Councillor WJS Thomas also felt that it was important to support the application otherwise there was a danger of a long established family farm being lost. He also considered that the scheme had enabled much improved access and highway safety to the site.

Councillor JW Hope had considerable reservations about the application, feeling that the need had been overplayed and could be measured by first having a mobile home for three or four years. He felt that granting the application could set a dangerous precedent for other applications. The Chairman and Councillor DJ Fleet shared this view and felt that the applicants had exacerbated the problem by selling of all the buildings and that they could purchase a property elsewhere and use a mobile unit during key farming times. The Development Control Manager said that the policies referred to in the recommended reasons for refusal were those dealing with new agricultural workers' dwellings whereby national and local policies took a very restrictive stance. The fact that the applicants were selling the existing farmhouse



could be indicative of a lack of agricultural need. The relevant UDP policy similarly implied that the normally restrictive open countryside policies should not be circumvented by selling existing farmhouses simply to create a farm with no on-site residential accommodation thereby requiring a new farmhouse. Both policies advised against such practice in order to prevent the creation of sporadic residential development in open countryside. He drew attention to the view of the County Land Agent who had concluded that this largely arable farm holding did not justify a farmhouse and that a financial test had not been met by the application. Irrespective of the past existence of a farmhouse on the property, the proposal to erect a new farmhouse did not meet the policy tests for new residential development in open countryside as set out in Planning Policy Statement 7 and the UDP.

Having considered all the facts regarding the application and notwithstanding the advice of the officers, the Committee did feel that there were sufficient grounds for the application being approved with appropriate conditions.

#### **RESOLVED That**

**planning permission be granted subject to an agricultural occupancy condition and any other appropriate conditions considered to be necessary by the Head of Planning Services.**

113. **DCSE2006/1146/F - CREATION OF A GREEN SPACE FOR RECREATIONAL USE BY WHOLE COMMUNITY. LANDSCAPING TO CREATE TWO FLAT AREAS TO PROVIDE PLAYGROUND AND GENERAL USE AREA FOR CHILDREN AND ADULTS AT LAND BEHIND GOODRICH SCHOOL, GOODRICH, ROSS-ON-WYE, HEREFORDSHIRE, HR9 6HY**

A report was presented by the Development Control Manager about an application for the creation a recreational space for community use on land behind Goodrich School, Goodrich. He said that the application was included on the Committee's Agenda for 9th June 2006 but had been withdrawn arising on objections from Central Networks about a play area beneath overhead power cables. The applicants had been in discussion with Central networks and agreed arrangements for the cables to be re-routed underground. He also reported the receipt of two further letters of objection.

In accordance with the criteria for public speaking, Mr Lowe of Goodrich and Welsh Bicknor Parish Council spoke in favour of the application.

Councillor H Bramer said that the local Ward Member was generally in favour of the proposal but had some concerns about the future ongoing maintenance of the land and the funding arrangements. The Development Control Manager said that these were areas that had been addressed by the Parish Council in preparing the scheme.

#### **RESOLVED**

**That planning permission be granted subject to the following conditions:**

- 1 **A01 (Time limit for commencement (full permission) )**

**Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.**

- 2 **G01 (Details of boundary treatments )**

**Reason: In the interests of visual amenity and to ensure dwellings have**

**satisfactory privacy.**

**3 G04 (Landscaping scheme (general) )**

**Reason: In order to protect the visual amenities of the area.**

**4 G05 (Implementation of landscaping scheme (general) )**

**Reason: In order to protect the visual amenities of the area.**

**5 No development shall take place until details of the fencing, surfacing and play equipment forming part of the children's play area have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.**

**Reason: To ensure a safe and satisfactory play area.**

**Informative:**

**1 N15 - Reason(s) for the Grant of Planning Permission**

**114. PROGRAMME OF MEETINGS**

The Committee noted the following meetings which were scheduled for the remainder of the year:-

2nd March, 2007

20th April, 2007

The meeting ended at 11.46 a.m.

**CHAIRMAN**