

To: Members of the Planning Committee, Herefordshire Council

From: The applicant, Joe Evans, Whitbourne Estate

**Re: Comments in reaction to the “Summary Information” document lodged
on behalf of the residents objecting to Application P194408/F –
Removal of Conditions 4 and variation of Condition 16 regarding
planning permission granted to Crumplebury.**

Throughout the planning process, the applicant has sought to follow due process, engage positively and proactively with planning officers and address local concerns sensitively and directly.

While compelling and well argued, the opposing submission is rife with inaccuracies, falsehoods and misinterpretation and therefore the applicant feels that it is vital that members are furnished with the facts in order that they can make a balanced judgement.

It appears that those opposing this application are relying in part on matters of planning law. Therefore attached with this memo (and covered in Part 5), is the Legal Opinion to reassure members that the application as proposed is lawful.

1. Inaccurate statements cited as fact
2. Sound and Light
3. Highways
4. The intention of the use of Crumplebury
5. Materiality of use in law
6. Economic impact
7. The magnitude of the swell of objection
8. The character of the applicant
9. Implications of refusal

1. Inaccurate statements cited as fact

Whilst there are a large number of tenuous assertions cited as fact in the document, the following points in particular must be corrected, as taking them as read could pervert due process.

- a) In numerous sections, the report states that the operational scale of the venue is “vastly” greater than implied by the original application. This is simply not true; the applicant has built Crumplebury as per the submitted plans.
- b) On page 6, a number of assertions are made about the building design and the sound performance of the construction materials. This is not based on fact but supposition and guesswork from a desktop study.
- c) The acoustic curtain has in fact been professionally tested and approved by an independent, certified acoustician and to imply otherwise is false.
- d) To state that doors and windows in the Grand Hall will be open in summer is false. The applicant has installed a state of the art air handling system which will be less effective if the fire doors are propped open.
- e) It is false to assert that the rejection of this application will not decimate the business.
- f) The many references which allege that the applicant has shown himself to be cavalier with respect to planning process are palpably wrong and offensive.
- g) To allege that foul water seeps into the watercourse is false. A new bio digester plant has been installed and signed off by the EA in line with the maximum occupancy of the site.

2. Sound and light

The amenity angle in terms of sound and light is the single biggest issue underpinning the passion behind the objections to this application. It was noise emanating from Crumplebury that was the trigger that caused local upset and the mobilisation of a group of objectors. In response to this, and in acknowledgement of the legitimate concerns, the applicant immediately initiated a proactive programme to reduce noise leaking from the Grand Hall. Within 8 weeks of the first event that featured live music at Crumplebury, a professional acoustic curtain was commissioned, installed and independently tested by a qualified acoustician to ensure that the noise levels were brought within acceptable parameters.

The many references to sound “nuisance” cited in the objectors missive are regrettable but were reported before ameliorative measures could be taken. It is important that members note that a wedding with a live band and dancing was hosted on 29th February 2020 and no objections were raised; the curtain was in position and doing its job effectively.

Objectors instructed their own consultants to opine on the noise and light impact of Crumplebury as a desktop exercise. This report should not be given any credence as the consultants in question did not visit the site (an open invitation was extended) nor did they inspect the actual build quality and construction composition.

The many other references to dark skies, bats, owls and moths are irrelevant to this application as Crumplebury already has planning permission and within the existing conditions is able to use the venue at night and turn the lights on. Moreover, the installation of the acoustic curtain improves light emission from the site beyond the original permitted design.

3. Highways

The applicant acknowledges that the A44 access at Norton Gated Road is suboptimal. However, the removal of Condition 4 will not give rise to any greater risk. Conferences are likely to represent the most intense impact on the junction. When Crumplebury hosts 200 delegates at a day time business conference (which is what opposers would assert is reasonable), there may be as many as 400 car

movements at peak traffic times. Conversely private events, including weddings, will result in fewer vehicular movements at less busy times of the day. Private party guests typically arrive in groups and sometimes all together in a single bus.

Crumplebury has been built and to now object to the appropriateness of the highways access is illogical. There is nothing within the existing permission that limits traffic movements via this junction and to argue otherwise is misleading and false.

The applicant would be eager to be a stakeholder in a group of councillors and neighbours to address general road safety concerns for existing and future users of the road (residents, Green Cow customers, Longlands Care Farm students, as well as Crumplebury visitors).

4. The intention of the use of Crumplebury

Given the content of the opposition report, members could be forgiven for thinking that Crumplebury is retrospectively applying to become a wedding venue. This is not true. The applicant simply wishes to be able to utilise the property as per the site description.

If members were minded to agree with objectors that “conferences” should be defined as gatherings with people in “professional mode”, then Crumplebury would be forced to abandon plans for a plethora of exciting and varied events:

- Local and National art exhibitions
- Classical music recitals
- Screening of independent movies
- Car launches
- Film productions
- TED talks
- Wine tasting classes
- Mindfulness and yoga retreats

Much is made in the objectors report of advertising, marketing and social media presence, which supposedly positions Crumplebury as a wedding venue. It is true that Crumplebury was due to host a total of 45 weddings in the 24 months from Jan 2020 to Dec 2021 (most of these were sold off plan and have had to be rescheduled due to covid), and 6 weddings are booked for 2022. Weddings were the only type of event to sell off plan, as couples wanted to be ‘amongst the first’ to use the space. Since opening, the applicant’s calendar of events has significantly diversified. Most corporate events have shorter lead times and are sold using private channels, venue scouts and agents. The true range of events that were booked in during 2020 (pre covid) has no relation to the public marketing profile and this material should not be regarded as evidence of anything.

The applicant had understood the “conference centre” element of Condition 4 to be inclusive of a wide range of events in line with the site description. It was a surprise to be issued a notice of planning breach. In hindsight, this view has proven naïve given the toxicity of this application.

5. Materiality of use in law

Mrs Kershaw cites that “the original application was never assessed as a D2 planning class wedding/party venue.” **Most similar venues in Herefordshire – including those that predominantly host wedding celebrations – do not have D2 permission** and rely on sui generis use. To name but a few: Dewsall Court, Bredenbury Court Barns and Lomore Manor. Compelling Crumplebury to be reassessed with respect to planning class could have a devastating economic impact on these venues as a result of new legal precedent.

The applicant has sought Legal Opinion, the report of which accompanies this memo. Timothy Jones, LLB FCI Arb is on the RICS / NPIERS Panel for Neighbourhood Planning Examiners and sits as an examiner of Neighbourhood Plans and Neighbourhood Development Orders. He is a member of the Planning and Environment Bar Association and the Administrative Law Bar Association. He is a member of the Bars of England and Wales, Ireland and Northern Ireland. Mr Jones' report is clear in its conclusion:

"If there is no difference material to land-use planning between a conference and a wedding reception (and I do not consider that there is), a condition preventing wedding receptions would not be necessary, or relevant to planning. It would therefore fail two of the six tests. The same applies to other events."

6. Economic Impact

It is disappointing that the opposition report casts Crumplebury as a negative force in terms of its impact on the local economy.

The restaurant is ward winning, and for events requiring more than the 11 bedrooms on site, guests book into alternative accommodation offerings around the local area.

The applicant celebrates and promotes all owner run, self-catering and glamping businesses in the area and is confident that the £3m facility will deliver long term economic benefits through the tax system, rates, employment and its wide range of suppliers and partners.

As well as supporting farmers based on the estate, Crumplebury already has supplier relationships with Chase Distillery, Wye Valley Brewery, Worcester Produce, Lightwood Cheese, Knightwick Butcher, Toads Mill, Celtic Marches and many more.

The local plans and NPPF RA6 strive for; a rural economy that supports and strengthens local food and drink production, offers commercial facilities, and promotes sustainable tourism. The policy also supports the retention and diversification of agricultural businesses. Crumplebury in a nutshell.

Whilst covid has had a devastating effect on the business this year, Crumplebury still has 14 members of staff on payroll. The applicant has plans to increase to 24 FTE when normal conditions resume.

7. The magnitude of the swell of objection

The report submitted implies that huge numbers of objectors share the views posited. Members will note that most of the written objections were lodged on the planning website before ameliorative measures were put in place. In fact, there are a number of strong supporters of Crumplebury who live in a closer proximity to the site than the principle objectors. Given the toxicity of the discourse it is unsurprising that few of these supporters have chosen to make themselves known. The applicant will rely on members being aware that contentious planning issues always receive disproportionately negative representation.

The PC has twice strongly opposed this application, but members should note that the applicant has submitted a complaint with respect to their submission on the basis that it is unbalanced and cites speculation and supposition as fact. The applicant is grateful that these matters have largely been addressed by the Planning Officers report.

8. The character of the applicant

The report suggests that the applicant has scant regard for planning process and the local community. In fact, the applicant lives a field away from Crumplebury and cares deeply that it is a force for good in the local area.

Councillors should be made aware that a full team of professional architects, planning consultants, M&E advisors, structural engineers and professional building contractors have been employed to deliver this complex and ambitious project. Whilst the applicant admits that along the way some technical errors have been made (for example installing two smaller biomass boilers rather than one large one, which was not permitted under the condition but has now been approved), this is not unusual in such a large project. The applicant has built what HC gave planning permission for and has proactively and positively worked with planning officers to regularise all outstanding issues.

9. Implications of refusal

On numerous occasions throughout the paper, the opposition implies that the ability for Crumplebury to survive as a business is not conditional on being able to operate as a multifaceted events venue. Mrs Kershaw states “most if not all permanent jobs are not dependent on the removal of condition 4”. Members should be aware that as well as being an employer, Crumplebury has significant obligations to its lender.

- 1) Hospitality businesses are notoriously low margin enterprises and to curtail the applicant’s ability to operate within the site description will be catastrophic.

Given that the planning officer report and the Legal Opinion recommends that this application be approved, the applicant is confident that any refusal at committee would be overturned by an inspector at appeal. However, the interim damage from a PR angle (The Hereford Times has already run an article suggesting that Crumplebury can’t host weddings which resulted in business being lost) and ongoing community angst could cripple the business as it also attempts to weather the economic devastation brought about by covid-19.

- 2) The objectors report states that the effect of approving this planning application would be “devastating” and “life changing” whereas the applicant would be able to operate as a restaurant and *professional mode* conference centre. Now that the noise concerns have been addressed, any negative impact of Crumplebury on neighbours has been determined by EHO as reasonable. Licensing powers exist to address any potential future nuisance claims and the applicant has already shown that he is positive and willing to work with the community and authorities to be a responsible neighbour.

Conversely the consequence of being required to cancel the events described in this report would immediately see the business fail. Crumplebury is an ambitious and risky project to diversify a traditional agricultural estate. The applicant’s financier was eager to support this vision, but has taken significant security to make it happen. Therefore, whilst not a planning policy consideration, the implication of Crumplebury failing will have a devastating impact not only on the applicant’s business and their employees, creating mass redundancies, but also on the long standing tenants and workers on the estate as the estate could be repossessed.

All this considered, the applicant is sensitive to the fact that they have a moral and neighbourly obligation to continually ensure that Crumplebury doesn’t cause unreasonable nuisance to residents on an ongoing basis. They remain committed to make Crumplebury a force for good in the local area.