

A G E N D A

Northern Area Planning Sub- Committee

Date: **Wednesday, 7th May, 2008**

Time: **2.00 p.m.**

Place: **The Council Chamber, Brockington, 35
Hafod Road, Hereford**

Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

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**County of Herefordshire
District Council**

AGENDA

for the Meeting of the Northern Area Planning Sub-Committee

**To: Councillor JW Hope MBE (Chairman)
Councillor PM Morgan (Vice-Chairman)**

Councillors LO Barnett, WLS Bowen, RBA Burke, ME Cooper, JP French, JHR Goodwin, KG Grumbley, B Hunt, RC Hunt, TW Hunt, TM James, P Jones CBE, R Mills, RJ Phillips, A Seldon, RV Stockton, J Stone, JK Swinburne and PJ Watts

	Pages
<p>1. APOLOGIES FOR ABSENCE</p> <p>To receive apologies for absence.</p>	
<p>2. DECLARATIONS OF INTEREST</p> <p>To receive any declarations of interest by Members in respect of items on the Agenda.</p> <p>GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS</p> <p>The Council's Members' Code of Conduct requires Councillors to declare against an Agenda item(s) the nature of an interest and whether the interest is personal or prejudicial. Councillors have to decide first whether or not they have a personal interest in the matter under discussion. They will then have to decide whether that personal interest is also prejudicial.</p> <p>A personal interest is an interest that affects the Councillor more than most other people in the area. People in the area include those who live, work or have property in the area of the Council. Councillors will also have a personal interest if their partner, relative or a close friend, or an organisation that they or the member works for, is affected more than other people in the area. If they do have a personal interest, they must declare it but can stay and take part and vote in the meeting.</p> <p>Whether an interest is prejudicial is a matter of judgement for each Councillor. What Councillors have to do is ask themselves whether a member of the public – if he or she knew all the facts – would think that the Councillor's interest was so important that their decision would be affected by it. If a Councillor has a prejudicial interest then they must declare what that interest is and leave the meeting room.</p>	
<p>3. MINUTES</p> <p>To approve and sign the Minutes of the meeting held on 9 April 2008.</p>	1 - 10

4. ITEM FOR INFORMATION - APPEALS	11 - 16
<p>To note the contents of the attached report of the Head of Planning Services in respect of appeals for the northern area of Herefordshire.</p>	
APPLICATIONS RECEIVED	
<p>To consider and take any appropriate action in respect of the planning applications received for the northern area of Herefordshire, and to authorise the Head of Planning Services to impose any additional and varied conditions and reasons considered to be necessary.</p>	
<p>Plans relating to planning applications on this agenda will be available for inspection in the Council Chamber 30 minutes before the start of the meeting.</p>	
5. DCNW2008/0130/F - LITTLE ORCHARD FARM, EARDISLAND, LEOMINSTER, HEREFORDSHIRE,	17 - 38
<p>Proposed change of use of site to international centre for birds of prey. Proposed aviaries; clinic/research building; toilet block; vehicular access and car park; porch to cafe/shop and associated works.</p>	
6. DCNW2008/0515/F - LAND TO THE REAR OF MORTIMERS CROSS INN, MORTIMERS CROSS, LEOMINSTER, HEREFORDSHIRE, HR6 9PD.	39 - 54
<p>Change of use of land for erection of five holiday chalets in landscaped gardens.</p>	
7. DCNC2008/0155/F - THE FISHERIES, ELM GREEN, BRIERLEY COURT FARM, BRIERLEY, LEOMINSTER HEREFORDSHIRE, HR6 0NT.	55 - 74
<p>Proposed use of land for the siting of seasonal agricultural workers accommodation (caravans and pods), construction of amenity building and associated works.</p>	
8. DCNC2008/0603/F - LAND TO THE REAR OF QUAKERFIELD, 34 RADNOR VIEW, LEOMINSTER, HEREFORDSHIRE, HR6 8TF.	75 - 80
<p>Change of use of land from agricultural to residential.</p>	
9. DATE OF NEXT MEETINGS	
<p>4 June 2008 2 July 2008</p>	

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- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
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COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

MINUTES of the meeting of Northern Area Planning Sub-Committee held at : The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday, 9 April 2008 at 2.00 p.m.

Present: Councillor JW Hope MBE (Chairman)
Councillor PM Morgan (Vice Chairman)

Councillors: WLS Bowen, JP French, JHR Goodwin, KG Grumbley, B Hunt, RC Hunt, TW Hunt, TM James, P Jones CBE, R Mills, RJ Phillips, A Seldon, RV Stockton, J Stone, JK Swinburne and PJ Watts

171. APOLOGIES FOR ABSENCE

Apologies were received from Councillors LO Barnett, RBA Burke, and ME Cooper.

172. DECLARATIONS OF INTEREST

No declarations of interest were made.

173. MINUTES

RESOLVED: That the Minutes of the meeting held on 12th March, 2008 be approved as a correct record and signed by the Chairman.

174. ITEM FOR INFORMATION - APPEALS

The Sub-Committee noted the Council's current position in respect of planning appeals for the northern area of Herefordshire.

175. DCNC2008/0002/F AND DCNC2008/0003/C - PINSLEY MILL, PINSLEY ROAD, LEOMINSTER, HEREFORDSHIRE, HR6 8NX

Proposed demolition and conversion of mill, construction of glass link and new works to form three storey double block and to create nine apartments and all associated works.

The Development Control Manager requested that a further condition be added to the recommendation in respect of external lighting. He advised members that the draft heads of terms listed on page 26 of the agenda were an indication of the contribution that would have been required, had the application been submitted after April 1st, 2008.

In accordance with the criteria for public speaking, Mr Tomkins, the applicant, spoke in support of his application.

Councillor RC Hunt, one of the local ward members, thanked members for attending the site inspection. He advised members of his concerns in respect of parking issues on Pinsley Road and advised them of concerns regarding cars exiting the car park of the White Lion public house onto a busy junction. In summing up he felt that the

application was acceptable and added that the section 106 agreement should be retained in the officers recommendation.

Councillor JP French noted the comments received from the Civic Trust and the Parish Council and thanked the applicant for submitting clearer plans. She felt that the applicant should help the local community infrastructure by honouring the proposed section 106 agreement.

RESOLVED

In respect to the application ref no DCNC2008/0002/F that planning permission be granted subject to the following:

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 to secure a contribution for play and sport facilities and any additional matters and terms as he considers appropriate.

2. Upon completion of the aforementioned planning obligation that the Officers named in the Scheme of Delegation to Officers be authorised to issue planning permission 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. Notwithstanding the approved details included in the application, additional drawings and specifications in respect of the following matters shall be submitted to the local planning authority before the commencement of any works. The works to which they relate shall subsequently only be carried out in accordance with the details which have been approved by the local planning authority in writing beforehand:

- (a) submission of samples of facing and roofing materials**
- (b) treatment of the south facing painted gable of the existing mill**
- (c) colour of external finishes**
- (d) rainwater goods**
- (e) external surface materials**

Reason: To ensure that the work is carried out in accordance with details that are appropriate to the safeguarding of the architectural or historic interest of the building (as one which is in a conservation area, or of local interest) and to comply with the requirements of Policy HBA12 and HBA13 of the Herefordshire Unitary Development Plan.

3. Before work commences architectural details of windows and their openings including sills and brick arches, external doors and their openings, small metal barriers on the south facing elevation, metal staircase on the north facing elevation, acoustic fence at a minimum scale of 1:5 for general arrangements and 1:1 for joinery sections such as glazing bars, shall be submitted to the local planning authority. The work shall subsequently only be carried out in accordance with details which have been approved in writing by the local planning authority beforehand.

Reason: To ensure that the work is carried out in accordance with details that are appropriate to the safeguarding of the architectural or historic interest of the building (as one which is in a conservation area, or of local interest) and to comply with the requirements of Policy HBA12 and HBA13 of Herefordshire Unitary Development Plan.

4. Any work to the brickwork or masonry shall match the existing in materials, finishes, bonding and joint thickness and shall be in accordance with the prior written approval of the local planning authority based on the submission of a method statement stating, inter alia, the tools to be used, samples of the bricks and/or stone to be used, a trial area of repointing and scaled drawings or photographs showing the extent of the replacement of original material.

Reason: To ensure that the work is finished with materials, textures and colours that are appropriate to the safeguarding of the architectural or historic interest of the building (as one which is in a conservation area, or of local interest) and to comply with the requirements of Policy HBA12 and HBA13 of Herefordshire Unitary Development Plan.

5. E16 (Removal of permitted development rights)

Reason: To ensure that the character and appearance of the original conversion scheme is maintained.

6. G04 (Landscaping scheme (general))

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

7. G05 (Implementation of landscaping scheme (general))

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

8. Full details of all new fencing/walling/gates including the new acoustic fence and barrier between public footpath and the car park (as well as what is to be retained) and also all hard surfacing shall first be submitted to and be subject to the prior written approval of the local planning authority before any work commences on site. Development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity.

9. Unless otherwise first agreed in writing by the local planning authority the public footpath must have a minimum width of 2 metres and have a compacted rolled stone to dust level surface.

Reason: To allow satisfactory access for members of the public along the public footpath.

10. 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.

11. H29 (Secure covered cycle parking provision)

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

12. F13 (Scheme to protect new dwellings from noise)

Reason: To protect the residential amenities of the future occupiers of the properties.

13. F16 (Restriction of hours during construction)

Reason: To protect the amenity of local residents.

14. F41 (No burning of materials/substances during construction phase)

Reason: To safeguard residential amenity and prevent pollution.

15. D02 (Archaeological survey and recording)

Reason: A building of archaeological/historic/architectural significance will be affected by the proposed development. To allow for recording of the building during or prior to development. The brief will inform the scope of the recording action.

16. The recommendations set out in the ecological report by Countryside Consultants Ltd dated 14th September 2007, should be followed unless otherwise agreed in writing by the local planning authority.

An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the roof removal and ecological mitigation work.

Reason: To ensure all species of bat and their roosts are protected under the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats & C) Regulations 1994 (as amended) and policies NC1, NC5, NC6 and NC7 within the UDP.

To ensure the law is not breached with regard to nesting birds which are protected under the Wildlife and Countryside Act 1981 and policies NC1, NC5, NC6 and NC7 within the UDP.

To comply with Herefordshire Council's Policy NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of PPS9 Biodiversity and Geological Conservation and the NERC Act 2006.

To conserve and enhance protected habitat and to maintain the foraging area for protected species in compliance with UDP Policies NC6, NC7, NC8 and NC9 and PPS9.

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

2. N03 - Adjoining property rights
3. The applicant should be aware that this planning permission does not over-ride any civil/legal rights enjoyed by adjacent property owners. If in doubt the applicant is advised to seek legal advice on the matter.
4. N14 - Party Wall Act 1996
5. With respect to condition no 3 - the extent of pointing and the cutting out and replacement of brickwork/masonry should be kept to the minimum necessary. Normally the local planning authority will expect to see repairs and repointing carried out with traditional hand tools and in matching materials and finishes.
6. HN01 - Mud on highway
7. HN04 - Private apparatus within highway
8. HN05 - Works within the highway
9. HN10 - No drainage to discharge to highway
10. The Council's Public Rights of Way Manager would like to be notified on commencement of construction of the public footpath so that site inspections can be made to ensure the path is to the required specification. If development works eg demolition, erection of scaffolding, roof repairs etc are perceived to be likely to endanger members of the public then a temporary closure order must be applied for from the Public Rights of Way Manager, Herefordshire Council, Queenswood Country Park, Dinmore Hill, Leominster HR6 0PY (Tel 01432 260572), at least 6 weeks in advance of work starting.
11. ND03 - Contact Address
12. Network Rail advises the following: Additional or increased flows of surface water should not be discharged onto Network Rail land or into Network Rail's culvert or drains. In the interest of the long-term stability of the railway, it is recommended that soakaways should not be constructed within 10 metres of Network Rail's boundary.

No work should be carried out on the development site that may endanger the safe operation of the railway or the stability of Network Rail's structures and adjoining land. In particular, the demolition of buildings or other structures must be carried out in accordance with an agreed method statement. Care must be taken to ensure that no debris or other materials can fall onto Network Rail land. In view of the close proximity of these proposed works to the railway boundary the developer should contact Keith Buckland at Network Rail on opewestern@networkrail.co.uk before works begin.

The developers should be made aware that Network Rail needs to be consulted on any alterations to ground levels. No excavations should be carried out near railway embankments, retaining walls or bridges.

In the interests of safety, all new trees to be planted near Network Rail's land should be located at a distance of not less than their mature height from the boundary fence. Details of planting schemes should be submitted to this office for prior approval.

Any scaffold which is to be constructed adjacent to the railway must be erected in such a manner that at no time will any poles or cranes over-sail or fall onto the railway. All plant and scaffolding must be positioned, that in the event of failure, it will not fall on to Network Rail land.

13. N19 - Avoidance of doubt

In respect to the application ref no DCNC2008/0003/C that Conservation Area Consent be granted subject to the following conditions:

1. C01 (Time limit for commencement (Listed Building Consent))

Reason: Required to be imposed by Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

2. D02 (Archaeological survey and recording)

Reason: A building of archaeological/historic/architectural significance will be affected by the proposed development. To allow for recording of the building during or prior to development. The brief will inform the scope of the recording action.

3. The building shall not be demolished in accordance with this consent until a contract for the carrying out of the works of the conversion of the original mill has been made and planning permission has been granted for the redevelopment for which the contract provides.

Reason: Pursuant to the provisions of Section 17(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and to comply with the requirement of Policy HBA2 of Herefordshire Unitary Development Plan.

Informatives:

- 1. N15 - Reason(s) for the Grant of Conservation Area Consent**
- 2. ND03 - Contact Address**
- 3. N19 - Avoidance of doubt**

176. DCNE2008/0281/F - 2 SUNSHINE CLOSE, LEDBURY, HEREFORDSHIRE,

Re-build existing ground floor side extension and construct new first floor bedrooms above, including new rear single storey dining room.

In accordance with the criteria for public speaking, Mr O'Boyle, a neighbouring resident, spoke in objection to the application and Mrs Clayton, the applicant, spoke in support.

Councillor PJ Watts, one of the local ward members, advised members that the Parish Council had not yet had an opportunity to discuss the amended plans. He noted that there were a number of similar extensions on the New Mills estate and felt that the removal of the proposed white render finish had made the application more

acceptable. He did voice concerns in respect of the proposed dormer window and felt that a velux style window would alleviate the concerns of the neighbouring resident.

In response to the points raised by the local ward member, the ** Planning Officer advised that the dormer window looked away from the neighbouring property and that the proposed extension would have to be made considerably higher in order to accommodate a velux style window.

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 Prior to commencement of the development hereby permitted the following matters shall be submitted to the Local Planning Authority for their written approval:-

- **Written details and samples of all external materials;**

The development shall not commence until the Local Planning Authority has given such written approval. The development shall be carried out in strict accordance with the approved details and thereafter maintained as such;

Reason:- To ensure a satisfactory appearance to the development within the street scene.

3 Prior to the first use of the extension hereby permitted the car parking spaces shown upon Dwg. No. 05 (scale 1:100) received 18th March 2008 shall be fully implemented. Thereafter these car parking spaces shall be maintained and kept free of obstruction.

Reason: - To ensure satisfactory on-site car parking provision.

4 No windows shall be inserted in the first floor south-eastern elevation of the side extension hereby permitted without the prior written approval of the Local Planning Authority.

Reason: To safeguard the privacy of the occupiers of 1 Sunshine Close.

INFORMATIVES:

1 N19 - Avoidance of doubt

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

177. DCNW2008/0130/F - LITTLE ORCHARD FARM, EARDISLAND, LEOMINSTER, HEREFORDSHIRE,

Proposed change of use of site to international centre for birds of prey. Proposed aviaries; clinic/research building; toilet block; vehicular access and car park; porch to cafe/shop and associated works.

Councillor RJ Phillips felt that a site inspection would be beneficial as the setting and surroundings were fundamental to the determination or to the conditions being considered.

The Legal Practice Manager advised members that Mr Alcock, the applicant's agent, had registered to speak and in accordance with the public speaking guidance he would be required to address the committee prior to a vote being taken on the proposal for a site inspection.

At this juncture due to a disturbance in the public gallery the Chairman decided to adjourn the meeting in accordance with standing order 4.28.1. The meeting reconvened at 3.00 pm.

In accordance with the criteria for public speaking, Mr Alcock, the applicant's agent, spoke in support of the application.

Councillor JHR Goodwin, the local ward member, stated that he had initially felt that a site inspection would be beneficial to members but had some concerns regarding the welfare of the birds due to a further months delay in determining the application.

RESOLVED

THAT the determination of the application be deferred pending a site inspection on the following grounds:

- **The setting and surroundings are fundamental to the determination or to the conditions being considered.**

178. DCNW2008/0491/F - MANLEY FIELD, PEMBRIDGE, LEOMINSTER, HEREFORDSHIRE, HR6 9DR.

Proposed erection of a polytunnel and storage building/shed for bee-keeping use.

In accordance with the criteria for public speaking, Rev. Parrett spoke in objection to the application.

Councillor RJ Phillips, the local ward member, noted that the application had previously been refused under delegated powers. He was concerned that the storage building was situated opposite a residential dwelling and also noted that the application site fell within a conservation area. Finally he said that he was disappointed that the village design plan appeared to have been ignored in this instance and felt that the application should be refused as it was contrary to policies S1, S2, DR1, DR2, DR4, E11, E13, E15, HBA6 and LA3 of the unitary development plan.

A number of members expressed concerns in respect of the size of the proposed units, it was felt that the storage building was considerably larger than needed.

RESOLVED:

- That (i) The Northern Area Planning Sub-Committee is minded to refuse the application subject to the reasons for refusal set out below (and any further reasons for refusal felt to be necessary by the Head of Planning Services) provided that the Head of Planning Services does not refer the application to the Planning Committee:**

1. The application is contrary to Policies S1, S2, DR1, DR2, DR4, E11, E13, E15, HBA6, LA3, and PPS7.
2. Negative impact on the character, appearance and landscape quality of the surrounding Conservation Area.

- (ii) If the Head of Planning Services does not refer the application to the Planning Committee, Officers named in the Scheme of Delegation to Officers be instructed to refuse the application, subject to the reason for refusal referred to above.

[Note: Following the vote on this application, the Head of Planning Services advised that he would not refer the application to the Planning Committee.]

179. DATE OF NEXT MEETING

The date of the next meeting of the Northern Area Planning Sub Committee was noted.

The meeting ended at 3.45 p.m.

CHAIRMAN

ITEM FOR INFORMATION - APPEALS**APPEALS RECEIVED****Application No. DCNW2007/2430/F**

- The appeal was received on 16th April 2008
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal is brought by Glenholme Developments Ltd
- The site is located at Four Winds, Mocktree, Leintwardine, Craven Arms, Herefordshire, SY7 0LY
- The development proposed is a proposed two-storey extension and log store.
- The appeal is to be heard by Written Representations

Case Officer: Philip Mullineux on 01432 261808

Application No. DCNW2007/3207/F

- The appeal was received on 18th April 2008
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal is brought by Mr M Blake
- The site is located at Primrose Cottage, Lucton Village, Lucton, Leominster, Herefordshire, HR6 9PH
- The development proposed is a proposed two-storey extension and solar panels to south roof elevation.
- The appeal is to be heard by Written Representations

Case Officer: Philip Mullineux on 01432 261808

APPEALS DETERMINED**Application No. DCNC2007/0656/F**

- The appeal was received on 19th June 2007
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr & Mrs K Dowling
- The site is located at Plot 3, Land adjacent Village Hall, Stoke Prior, Leominster, Herefordshire
- The application, dated 27th February 2007, was refused on 29th May 2007
- The development proposed was Erection of dwelling house & garage/garden store (amendments to previous approval NC2004/0778/RM).

Further information on the subject of this report is available from the relevant Case Officer

- The main issues are:
 - i) *The effect of the proposal on the character and appearance of the local area.*
 - ii) *The effect of the proposal on the living conditions of the occupiers of "Belmont" in terms of outlook, privacy and levels of natural light.*
 - iii) *Whether the proposal complies with the principles of community involvement endorsed by national and local planning policies.*

Decision: The appeal was UPHeld on 31st March 2008
An application for the award of costs, made by the appellant against The Council, was DISMISSED

Case Officer: Peter Yates on 01432 261782

Application No. DCNW2007/1349/F

- The appeal was received on 23rd July 2007
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr & Mrs J.W. Morris
- The site is located at Portway Cottage Farm, Portway, Orleton, Herefordshire, SY8 4HG
- The application, dated 4th April 2007, was refused on 20th June 2007
- The development proposed was Construction of two timber framed dwellings
- The main issues are:
 - i) *Whether the proposal is consistent with the development plan policy*
 - ii) *The effect of the proposal on the character and appearance of the area, particularly with regard to the setting of a listed building*
 - iii) *Whether there are any other material considerations that would justify the scheme*

Decision: The appeal was UPHeld on 8th April 2008

Case Officer: Philip Mullineux on 01432 261808

Application No. DCNE2007/2937/O

- The appeal was received on 21st January 2008
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr M Hollins
- The site is located at Northcroft, Lower Eggleton, Ledbury, Herefordshire, HR8 2TZ
- The application, dated 10th September 2007, was refused on 1st November 2007
- The development proposed was Site for erection of six new dwellings and demolition of small outbuilding and removal of lorry containers.
- The main issues are whether the proposal would accord with the principles of sustainable development and the effect of the proposal on highway safety in the surrounding area.

Decision: The appeal was DIMISSED on 9th April 2008

Case Officer: Carl Brace on 01432 261795

Further information on the subject of this report is available from the relevant Case Officer

Application No. DCNE2007/0966/F

- The appeal was received on 28th November 2007
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Refined Petroleum Ltd
- The site is located at Land rear of Homend Service Station, The Homend, Ledbury, Herefordshire HR8 1DS
- The application, dated 23rd March 2007, was refused on 22nd August 2007
- The development proposed was Proposed three storey building to provide 13 apartments, with 18 parking spaces and associated cycle parking
- The main issue is the effect of the development on the character and appearance of the area.

Decision: The appeal was DISMISSED on 11th April 2008

An application for the award of costs, made by the appellant against The Council, was UPHELD (in part)

Case Officer: Kelly Gibbons on 01432 261781

Application No. DCNE2007/1258/F

- The appeal was received on 14th December 2007
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr L.R.C. Llewellyn
- The site is located at Cosy Cottage, Baddymarsh Lane, Lower Eggleton, Ledbury, Herefordshire, HR8 2UH
- The application, dated 21st April 2007, was refused on 11th June 2007
- The development proposed was a proposed detached house with garage to replace existing mobile home on adjacent site.
- The main issue is whether there is a functional need for an agricultural workers dwelling on this site in the open countryside.

Decision: The appeal was DISMISSED on 15th April 2008

Case Officer: Roland Close on 01432 261803

Application No. DCNW2007/0980/O

- The appeal was received on 20th December 2007
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mrs Edmonds
- The site is located at 13 The Birches, Shobdon, Leominster, Herefordshire, HR6 9NG
- The application, dated 26th March 2007, was refused on 22nd May 2007
- The development proposed was Site for the erection of a proposed three bedroom dwelling.

Further information on the subject of this report is available from the relevant Case Officer

- The main issues are the character and appearance of the area and the living conditions of adjoining occupiers with particular reference to privacy and visual impact.

Decision: The appeal was DISMISSED on 21st April 2008

Case Officer: Philip Mullineux on 01432 261808

Application No. DCNC2007/1591/O

- The appeal was received on 17th August 2007
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr & Mrs Cadwallader
- The site is located at Bethany, Luston, Leominster, Herefordshire, HR6 0EB
- The application, dated 30th April 2007, was refused on 16th July 2007
- The development proposed was a proposed site for the demolition of existing dwelling, and creation of new access and eight detached dwellings.
- The main issues are:
 - i) *Whether the proposal would conflict with policies aimed at limiting residential development in Luston.*
 - ii) *The effect of the proposal on the character and appearance of the Luston Conservation Area and the surrounding area.*
 - iii) *Whether the proposal would harm nature conservation interests.*

Decision: The appeal was DISMISSED on 22nd April 2008

An application for the award of costs, made by The Council against the appellant, was DISMISSED

Case Officer: Nigel Banning on 01432 383093

Application No. DCNC2007/1592/C

- The appeal was received on 17th August 2007
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr & Mrs Cadwallader
- The site is located at Bethany, Luston, Leominster, Herefordshire, HR6 0EB
- The application, dated 30th April 2007, was refused on 16th July 2007
- The development proposed was the demolition of the existing dwelling
- The main issues are:
 - i) *Whether the proposal would conflict with policies aimed at limiting residential development in Luston.*
 - ii) *The effect of the proposal on the character and appearance of the Luston Conservation Area and the surrounding area.*
 - iii) *Whether the proposal would harm nature conservation interests.*

Decision: The appeal was DISMISSED on 22nd April 2008

An application for the award of costs, made by The Council against the appellant, was DISMISSED

Case Officer: Nigel Banning on 01432 383093

Further information on the subject of this report is available from the relevant Case Officer

Enforcement Notice EN2007/0078/ZZ

- The appeal was received on 18th September 2007
- The appeal is made under Section 174 of the Town and Country Planning Act 1990 against the service of an Enforcement Notice
- The appeal is brought by Mr A Willis
- The site is located at Ledwyche Farm, Bleathwood, Little Hereford
- The breach of planning control alleged in this notice is:
Without Planning Permission, change of use of the land from agriculture and site for two holiday houses to a mixed use of agriculture, site for two holiday houses and for the siting of two conjoined mobile homes for residential purposes together with the siting of lorry containers for domestic storage and electricity generator.
- The requirements of the notice are:
 - i) *Permanently remove the mobile homes from the land.*
 - ii) *Permanently remove the lorry containers from the land.*
- The main issue is the effect of the development upon the character and appearance of the area, primarily with regard to impact upon the open countryside.

Decision: The appeal was DISMISSED on 24th April 2008

Case Officer: Andrew Banks on 01432 383085

If members wish to see the full text of decision letters copies can be provided.

5 DCNW2008/0130/F - PROPOSED CHANGE OF USE OF SITE TO INTERNATIONAL CENTRE FOR BIRDS OF PREY. PROPOSED AVIARIES; CLINIC/RESEARCH BUILDING; TOILET BLOCK; VEHICULAR ACCESS AND CAR PARK; PORCH TO CAFE/SHOP AND ASSOCIATED WORKS AT LITTLE ORCHARD FARM, EARDISLAND, LEOMINSTER, HEREFORDSHIRE, HR6 9AS.

For: Mrs J Parry-Jones per Alcocks, Chartered Surveyors, Palace Chambers, 3 King Street, Hereford HR4 9BW.

Date Received: 15 January 2008

**Ward: Golden Cross
with Weobley**

Grid Ref: 42628, 59040

Expiry Date: 15 April 2008

Local Member: Councillor JHR Goodwin

A member site visit was held at 10am on 22 April 2008 and was attended by the Case Officer and Landscape Officer (Mr C Mayes). At this site meeting, the applicant had marked out the position of each aviary structure and the Council Officers demonstrated the heights to eaves and ridge for members.

There have been a number of additional representations submitted since the last committee. These plus the updates given verbally have now been included in the report at sections 4 and 5.

Additional information has also been received from the applicants' agent in response to some of these representations and this report has been updated accordingly in section 5

1. Site Description and Proposal

- 1.1 The application site comprises a 7.5-hectare parcel of land current by a mix of orchard and agricultural. There are also two existing agricultural style buildings that were formally the farm shop/café and a storage building. In addition to this a 'flying hall' and extension to the existing building have recently been erected on the site under application number NW2007/1600/F. These are located on the south of site adjacent to the road and the existing access and parking areas.
- 1.2 The application site lies on the northern side of the C1035 that runs from Lawton Crossroads (Leominster) into the village of Eardisland and is known as Orchard Farm. The site lies approximately 500m to the east of the village.
- 1.3 The site slopes gently upwards from south to north with the orchards on the south facing slope. Beyond the brow of the hill to the north east of the site is a plantation of coniferous trees. The site has a well established mature boundary hedge of mixed native species.

- 1.4 The proposal is for the change of use of the land to an International Birds of Prey Centre. The centre would be open to the public and includes a shop, educational visitor centre and cafeteria as well as offering the opportunity to view the birds, see flying demonstrations and learn about the origins, habits and care of Birds of Prey from around the world. The applicant currently has 170 birds and this may extend to 200 over time.
- 1.5 The application has a number of elements including:
- Aviaries (14)
 - Clinic / Research Buildings (1)
 - Moulting Barn (2)
 - New Vehicular Access and Car Park and associated Works
 - Toilet Block (1)
 - New Entrance Canopy to Visitor Centre
 - Landscaping Scheme / Footpaths and boundary treatments including a areas for flying arena and an owl flying area
- 1.6 To take these in more detail:

Aviaries

The proposal includes provision for 14 aviaries located on the eastern side of the site and varying in size and scale. These will follow an educational trail starting at the south immediately in front the visitor centre and then winding upwards towards to the north east of the site and top of the incline.

There are 14 buildings proposed, detailed plans of each have been provided and range in size. The majority of these have an eaves level of 2.6 to 3m and a ridge height between 3.5 and 4.3m. These are located on the incline. Those with higher ridges are set towards the south and have maximum ridge heights of approximately 5.6m. Where these are sited on the incline they are shown to be set into the hillside and existing orchards, some of which will be removed. Plans showing the section through the site have been provided to demonstrate this. The built form of this development has been kept to the eastern half of the site.

The aviaries have tow open sides (longest sides) which will have black wire mesh through which to view the birds. The side elevations will be timber clad and the roof with be a Farmscape Anthracite with some rooflights (as per the existing building on site).

Clinic / Research Building and Moulting Barns

Three buildings are proposed to the east of the site. The first is the Research/ Veterinary building that would accommodate a critical care room, research laboratory and veterinary examination room. These are for use in connection with the Birds of Prey centre only and are not intended to be used to offer any other veterinary services. They are a necessary part of the centre in order to care properly for the birds and to continue the applicants research.

The Research / Clinic building would be 'L'-shaped with a maximum width of 10.6m, an eaves level of 2.5m and ridge height of 3.2m. The building would be timber clad, with a brick plinth and profile sheet roof to a colour to be agreed.

To the north of this are two barns that would be used to house moulting birds. These would not be open to the public but are integral parts of the welfare of the birds. These barns have a footprint of approximately 23.5m by 11.3m and an eaves level of 2.4m. The ridge is 4.3m. These barns would be timber clad to the east and west elevations but would have open sides to the north and south, a black matt mesh providing the means of enclosure for the birds.

For clarification purposes the sizes of the proposed buildings, and those already sited (for reference) are supplied below.

Drawing No	Building Name	Footprint	Eaves Height	Ridge Height
881	Moulting Barn 2	22.5m by 11.3m	2.4m	4.3m
882	Moulting Barn 2	23.m by 11.3m	2.4m	4.3m
883	Barn Owls	8.5m by 7.6m	2.6m	3.7m
884	Ty Owls	7.6m by 9.6m	2.4m	4.3m
888	Small Falcons	10.95m by 10.1m	2.6m	4m
889	Large Falcons and Caracarcus	14.4m by 13.7m	3m	5m
890	Buteos and Harriers	12.6m by 12.5m	2.6m	4.4m
891	True Eagles	22.5m by 12.5m	3.35m	5.7m
892	Old World Vultures	24m by 15m	3.35m	5.7m
893	Kites	14.4m by 12.5m	2.7m	4.6m
894	Fish Eagles	14.95m by 25m	3.35m	5.6m
895	New World Vultures	18.28m by 14.95m	3.33m	5.6m
896	Hawk Walk	46m by 36.8m	2.2m	3.9m
906	Eagle Owls	20.4m by 11.3m	2.5m	4.1m
907	Wood Owls	21.6m by 11.3m	2.5m	4.1m
1586/5	Toilet Block	5.3m by 7.9m	2.5m	3.2m
1586/6	Research Veterinary rooms	10.65m by 10.65m Max	2.5m	3.2m
861	Flying Hall (Temporary Aviary – Existing)	31.5 m by 18.3m	3.4m	6.2m
865	Extension to barn (visitor centre and temp aviary - existing)	12m by 18m	3m	4.6m

New Vehicular Access and Car Park and associated Works

The existing access point to the site has restricted visibility to the west. As such a revised access is proposed some 40m to the east. The existing access would be closed prior to the first use of the site, a new hedge planted and grass verge planted in place of the existing concrete drive. The new access leads to a new car park with spaces for 64 cars (including 8 disabled spaces). There are also 3 coach parking spaces. It is intended that the grassed area to the north of this would be able to accommodate overspill car parking on days that this is necessary. Cycle racks have also been detailed. It is intended that the car park not be tarmac but be a permeable surface, fully drained. A designated footpath from the car park to the entrance is also detailed as is an assembly area (intended for groups etc).

Toilet Block

To the north boundary and in a central position a toilet block is shown. This building would have a footprint of 7.9m by 5.4m, an eaves level of 2.5m and ridge of 3.2m. It would be timber clad with profile sheet roof and provide male, female and disabled facilities.

New Entrance Canopy to Visitor Centre

The Café / Visitor Centre received consent for its change of use and extension in July 2007 (NW2007/1600/F). The proposal is to modify the east elevation of this building that was formally the farm shop to provide central feature in the form of an open canopy (timber posts) with a glazed arched roof. The canopy would have a footprint of 4.3m by 5m, eaves level of 2.5m and ridge of 3.3m.

Landscaping Scheme / Footpaths and boundary treatments including a areas for flying arena and an owl flying area

A proposed layout plan was submitted with the application that provides a detailed overview of the hard and soft landscaping for the site. This includes the car park, footpaths (mown tracks, grass pave (erosion resistant pathways in grass) and gravel tracks), paving, and spectator benches for the flying areas, park railings, fences and areas of the siting of picnic tables.

- 1.7 Submitted with this application are detailed plans of each building as well as a layout and landscaping plans, topographical surveys and sections. In addition to this the following were submitted with the application:

- Details of the Biodisc Treatment Plant,
- A written Outline Landscape Proposal
- Ecology Survey Report,
- Design and Access Statement
- Disposal of Aviary Waste (Method Statement)
- Flood Risk Assessment

2. Policies**2.1 National Planning Guidance**

- PPS1 - Delivering Sustainable Development
- PPS7 - Sustainable Development in Rural Areas
- PPS9 - Biodiversity and Geological Conservation
- PPS25 - Development and Flood Risk
- Good Practice Guide on Planning for Tourism

2.2 Herefordshire Unitary Development Plan 2007

- Policy S1 - Sustainable Development
- Policy S2 - Development Requirements
- Policy S7 - Natural and Historic Heritage
- Policy S8 - Recreation, Sport and Tourism
- Policy DR1 - Design
- Policy DR2 - Land Use and Activity
- Policy DR3 - Movement

Policy DR4	-	Environment
Policy DR7	-	Floodrisk
Policy DR13	-	Noise
Policy DR14	-	Lighting
Policy T11	-	Parking Provision
Policy LA2	-	Landscape Character and Areas Least Resilient to Change
Policy LA5	-	Protection of Trees, Woodlands and Hedgerows
Policy LA6	-	Landscaping Schemes
Policy NC1	-	Biodiversity and Development
Policy NC8	-	Habitat Creation, Restoration and Enhancement
Policy NC9	-	Management of Features of the Landscape Important for Fauna and Flora
Policy ARCH1	-	Archaeological Assessments and Field Evaluations
Policy RST1	-	Criteria for Recreation, Sport and Tourism Development
Policy RST13	-	Rural and Farm Tourism Development

3. Planning History

3.1	94/0539/N	Erection of a portal framed building for storage and farm shop	-	Approved
	95/0114/N	Replacement Storage Buildings	-	Approved 10.04.94
	DCNW2004/0955/F	Proposed extension to form produce store, proposed building for tea room and public toilets, admin office	-	Approved 10.05.04
	DCNW2004/3154/F	Proposed extension to form two covered areas, two polytunnels and alterations to car park	-	Approved 22.10.04
	DCNW2007/1600/F	Erection of extension and new indoor flying hall. Temporary Use of Existing and proposed structures as holding aviaries then reverting to use as a visitor centre and flying hall.	-	Approved 24.07.07
	DCNW2007/1602/F	Temporary Siting of a mobile home (12 months)	-	Approved 10.09.07

4. Consultation Summary

Statutory Consultations

4.1 Environment Agency:

"We have no objections, in principle, to the proposed development but recommend that if planning permission is granted the following planning condition is imposed:

Flood Risk

The site is located in Flood Zone 1 (low probability flood risk) where the proposed development is appropriate in accordance with PPS25 - Development and Flood Risk. The FRA as submitted confirms this and identifies that some lower parts of the site including the adjacent road is at risk of flooding based on our flood zone 3 extent. The application does not propose any buildings or raising of ground levels above existing in this area. As a 'residual risk' the FRA confirms that the site may be inaccessible by road during such a flood event and would not be open to the public.

With regard to surface water we note that soakaways are proposed, to cater for the majority of surface water runoff, which is an acceptable form of SuDS, in line with PPS25 and Policy DR7/DR4 of the Herefordshire UDP. We also acknowledge that there will be some surface water disposal to the lake as proposed, which would be appropriate.

Pollution Prevention

Given the scale of the proposed car park, with a combined capacity of more than 50 spaces in total we would recommend, in line with our Groundwater Protection Policy and Practice and PPS23, that an oil interceptor is incorporated in to the design of the car park prior to discharge to any watercourse, surface water sewer, soakaway or water body. The following condition is recommended to secure the above.

CONDITION: Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and associated hardstandings shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

REASON: To prevent pollution of the water environment.”

Internal Council Advice

4.2 The Conservation Manager makes the following comments:

Archaeology

Having re-assessed the records relating to the 'pre-historic camp' on the northern margin of the application area, and having made a full site visit to check the records against the ground evidence, I am now of the clear view that the camp is in fact the remains of an infilled quarry of comparatively recent date. Having fully appraised the topography and former land use within the application site, I also have much less concern about the impact of the proposed works. In these circumstances, I no longer think it is necessary for the applicants to submit an archaeological evaluation.

Landscape

- The proposed development of the Birds of Prey Centre is effectively in open countryside and will, therefore, represent a significant change to the character of the area; however, the proposal is unique and assessment of the impact of the development needs to reflect this. The proposal presents a rare opportunity to create a 'designed landscape' and gardens in conjunction with the avian collection: this is very much in the tradition of zoological and botanical gardens found throughout Britain. It is unlikely that any previously undeveloped site would not undergo significant change in the face of such a development and assessment of the impact of the proposal should therefore be restricted to the capacity of the site to accommodate change and the desirability of such a development in the area. I believe the proposal satisfactorily meets both of these; the site being both capable of accepting such a change and the 'redevelopment' of the site and the potential contribution of the development to the area being desirable.
- The site is located in the 'Principal Settled Farmlands' landscape type, as defined in the Herefordshire Landscape Character Assessment. This is the most common type of landscape found in the lower lying parts of the county and generally defines its agricultural core. The general pattern of the landscape is one of medium sized

fields of mixed agricultural use (including commercial fruit production), defined by closely managed hedges. The dispersed nature of settlement within the landscape results in buildings of a variety of sizes, materials and ages being generally visible at all times. Trees and hedges are a defining element of this landscape and whilst predominantly native species are present, in an around villages and towns the use of ornamental and exotic specimens becomes frequent.

- Specifically, the proposed buildings are functional in form and character and the materials used not dissimilar to many small scale agricultural and equine buildings commonly found in the landscape. Whilst the number and massing of the structures is a departure from the norm, I do not feel that the impact on the character of the area will be any more than neutral (neither making a positive contribution to the character of the landscape by enhancing or restoring existing or past elements, nor detrimental through the introduction of an incongruous element). The location of the structures reflects and respects the topography of the site, the effect being a minimal impact on the character of the landscape; the structures are not imposed on the hillside.
- The proposed landscaping and accompanying landscape strategy are clear and appear to address the functional demands of the site, realise the educational opportunities presented by the proposal (the association of flora and fauna from different parts of the world) and will create a pleasant and interesting environment for visitors. The use of native tree and shrub planting to the peripheries of the site and the retention of significant portions of the existing orchards further help to assimilate the development into the landscape.
- I consider the proposal to also compliment the cultural character of the landscape, recognising the diversity of activities present in the rural community. Amongst other things the historic associations of falconry and the wider landscape are generally unknown and misunderstood and the opportunities for interpreting this part of our cultural heritage are apparent.

I would support this application.

Ecology:

Thank you for consulting me on the above application. I have received the ecological report by Betts Ecology dated April 2007 and note that there is currently limited biodiversity value in the site, apart from the hedgerows and badger sett. A licence from NE may be required if any of the works are within 30m of the badger sett (if it is still active when development proceeds). This will need to be clarified prior to development. The current proposals do not appear to impact upon the area where the badger sett is thought to be located, but it should be ensured that no heavy machinery or equipment are used in the vicinity of the sett.

I welcome the biodiversity enhancement measures (ponds, woodland, grassland etc) that are proposed upon the site. The applicants should ensure the use of native species (preferably of local provenance) in planting schemes. My only concern is the loss of hedgerow along the roadside in order to create a new access. The Hedgerow Regulations 1997 state that a new access can be made if an existing one is blocked within 8 months of its creation. This is proposed in this application, and I am therefore satisfied that the ecological network will be maintained. I recommend that translocation of the hedgerow from where it is to be removed to where the existing access is to be blocked is attempted, and 'planted-up' if any of the shrubs fail.

I have no objection to approval of this application subject to the inclusion of the following non-standard conditions:

"The recommendations set out in the ecologist's report dated April 2007 should be followed unless otherwise agreed in writing with the Local Planning Authority. Prior to development, a habitat enhancement scheme with details of planting specifications should be submitted to the LPA and implemented as approved.

Prior to development, a habitat protection scheme to protect the area around the badger sett shall be submitted to the LPA and implemented as approved."

Reasons:

To ensure badgers are protected under the Badgers Act 1992 and policies NC1, NC5, NC6 and NC7 within the UDP.

To ensure the law is not breached with regard to nesting birds which are protected under the Wildlife and Countryside Act 1981 (and amendments) and policies NC1, NC5, NC6 and NC7 within the UDP.

To comply with Herefordshire Council's Policy NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of PPS9 Biodiversity and Geological Conservation and the NERC Act 2006.

4.3 Transportation Manager - recommends that any permission that this authority may wish to give include the following conditions: H29, H1, H30, H05 plus various informative notes.

4.4 Environmental Health Manager - notes the following:

Licensing –

That the proposal would require a Zoo's licence.

Pollution

There is the potential for noise nuisance to be caused due to the number of birds that will be kept and the proximity of the property known as Lower House. However I am not aware of any complaints that have been received regarding noise or nuisance from the farm. Good management techniques of the birds and the site will prevent excessive noise and I believe the powers under the Environmental Protection Act 1990 are sufficient to investigate and deal with any complaints received.

In addition, there may be the likelihood of increased 'people' noise from visitors to the site, particularly in areas with high vehicle movements or large numbers of people. I note that the car park is to the east side of the site, some distance from the nearest residential property and the spectator benches are also at the far end of the flying area. If changes to these plans were made in the future, the noise impact should be assessed to determine if this is likely to cause complaints.

I would therefore make the following recommendations:

E03 - Restriction on hours of opening

The use hereby permitted shall not be open to visitors between the hours of 8pm and 7am daily.

Reason: In the interests of the amenity of the existing residential property in the locality.

F32 - Details of floodlighting/ external lighting

Details of any floodlighting or external lighting proposed to illuminate the development shall be submitted to and approved in writing by the local planning authority before the use hereby permitted commences. Development shall be carried out in accordance with the approved details and there shall be no other external illumination of the development.

Reason: To safeguard local amenities

F40 - No burning of materials/ substances

No materials or substances shall be incinerated within the application site.

Reason: To safeguard residential amenity and prevent pollution

4.5 The Councils Tourism Officer has made the following comments:

I write in support of the above application to develop and establish an international Centre for Birds of Prey. This facility will provide a much-valued venue for visitors to Herefordshire and help to lift the profile of Herefordshire.

The additional investment into the provision of this facility will be beneficial both in economic terms via job creation. This will also increase investment into the local economy through the purchase of local goods and services.

Visitor attraction provision of this type is very limited in the county and with the growth of activity tourism in the county, this development will assist with the provision of a much needed facility. The development will also bring in additional economic benefit to the area.

5. Representations

5.1 Eardisland Parish Council are all in favour of this application and are very happy to support this application and feel that it will be very good for the village. We do feel that drainage and highway department should look into drainage. Also that Archaeology should be contacted as an Iron Age Fort is located within the site.

5.2 Letters of Concern have been received from:

Dr Keith Michell, Arrow Lea, Eardisland
 Dr and Mrs Ingham, Monks Cottage, Lyme Lane, Eardisland
 Gay Dobbs, Lower Hezertree, Eardisland
 Mr Beard, Crown Cottage, Eardisland
 Mr P Brown, Lawton Lea, Eardisland
 Mr and Mrs Fox, Mayfield, Eardisland
 Mr R Kirby - The Old Barn, Lyme Lane, Eardisland
 Mr Vernon (email)

Further letters of concern / objection were received since the last report was published from the following.

Mr and Mrs James, Glan Arrow, Eardisland
 B A Lloyd, Cider Hall, Eardisland
 Mr P Brown, Lawton Lea, Eardisland
 Mrs K Mitchell, Arrow Lea, Eardisland
 Mr P Beard, Crown Cottage, Eardisland

Also a copy of a joint letter sent by James MacRae, Riversdale to Cllr Phillips and signed by:

- Mr and Mrs James, Glan Arrow
- Mr and Mrs Peter Brown, Lawton Lea
- Mr and Mrs K Mitchell, Arrow Lea
- Mrs C Price, Lyme Cottage
- Ms L Watkins, Millstream Cottage
- Mr and Mrs T Lazenby – Glan Arrow Mill
- Dr and Mrs B Ingham – Monks Cottage
- Mr and Mrs H Vernon – The Oaks
- Mr John Edwards – Swandrift
- Mr Kirby – The Old Barn

A second joint letter was sent from:

- Charlotte James, Tom Lazenby, James MacCrae, Cherry Brooks, Lyn Watkins-Ray, Keith Mitchell, John Edwards

These letters can be summarised as raising the following issues:

- The development is too large for the village and will dominate with traffic, lighting and noise.
- Visual Impact - Structures on higher ground and quite extensive. What mitigation and assurances will be offered.
- The buildings will (on the basis of what is already there) have a visible impact on the approach to the village.
- Landscaping is unlikely to obscure these buildings within a reasonable time span.
- Majority of buildings proposed are small with low ridge heights, some are more substantial and of significantly greater height. These are located on higher ground.
- Light Pollution - That illumination needed for security and movement of people is restricted so that there is not 24 hour illumination.
- No lighting detail has been provided. This could cause serious light pollution.
- Sound / Noise Pollution - Sound systems/ high noise levels of amplified music announcements and commentaries throughout the day may operate and cause disturbance. Volume should be carefully scrutinised. Could individual hearing devices be used for flying areas?
- Water and Flooding - The area is well known for its serious flooding and it is essential that this development does not add to this.
- The introduction of the hard surfaced areas shown will only exacerbate the flooding situation.
- Strict Conditions should be imposed to ensure drainage is sufficient
- Landscaping and Screening - Landscaping and screening should be provided that will significantly reduce the impact on views, especially from surrounding properties.

- Traffic Impact - There will be an increase in traffic on what is a relatively busy but narrow country road. Parking on the road should be enforced against
 - Increase in numbers of traffic is considerable. Previous use was not busy and all traffic movements should be considered as new.
 - Impact on Local Wildlife - This could be significant and long term with the removal of nesting areas and feeding areas.
 - Opening hours should be restricted
 - Potential for extending the 40mph speed limit
 - The large centre would be intrusive and result in an unacceptable disturbance to the local environment
 - Request that the buildings are pegged out on site and poles erected with to the height of the building in time for the committee site visit.
 - Eardisland is a Conservation Area and so special consideration should be given to the aesthetic values of the immediate area outside of the conservation Boundary.
 - The flying hall building that was erected that year is clearly visible from many angles within the Conservation Area.
- 5.3 Some of these letters acknowledge that they do not object in principle to the Birds of Prey Centre and acknowledge its contribution to tourism in the area and the excellent facility but they do raise concerns similar to the above.:
- 5.4 One letter of support has been received from Miss S J Rumble, 24A Hayes Street, Bromley who was a former employee of the applicant. This letter can be summarised as follows:
- The National Birds of Prey centre used to get visitors from all over the world, but on occasions local residents did not even know it was there
 - There will be changes, but they won't be offensive or intrusive. The centre at Newent had minimal lighting, the visitors were always respectful of the birds and noise levels reflected this.
 - The scheme is an opportunity to boost tourism; Newent only ever reaped the rewards to having such a World Renowned significant specialist on the doorstep.
 - The applicant has unrivalled expertise and knowledge, relentless energy and enthusiasm, dedication and commitment.
- 5.5 The application also includes some supporting information submitted by the applicants' agent and this can be summarised as follows:
- The applicant (Mrs Jemima Parry-Jones) previously ran the Falconry Centre in Newent, Glos.
 - Unusually because the applicant is relocating all of her bird collection from elsewhere, the proposal entails the creation of her entire facility in one step rather than over a number of years and phases. With her extensive experience, the applicant can reasonably predict the appropriateness of the form and composition of her proposal in relation to her aims and its likely success in both conservation and tourism terms.
- 5.6 Additional information has also been provided as follows:
- The intended opening hours of the Centre are 10.30am – 5.30pm seven days a week from 1 February to the 30 November. Additionally there would be a few invitation-only evening events plus about 10 open evening per annum (including owl flying demonstrations). All of these would finish by 10pm.

- 5.7 In response to the letters of objection and concern and to queries raised by the local planning authority the applicants agent has submitted a further letter outlining the background to the application. This is as follows:

In a 12-month search of six counties, the subject site was the first one which met all the criteria, i.e:

- *In open countryside and close to an existing settlement;*
- *Not exposed to high winds;*
- *On a "white-line road" to avoid congestion but not one where the volume and speed of traffic makes achieving a safe access unviable;*
- *Commercial use already established, reducing the impact of the change of use;*
- *On a tourist route to enhance visitor numbers.*
- *Large enough to accommodate sufficient aviaries to house the whole collection in suitable conditions both with regard to the size of the aviaries and their spacing.*

It is a statutory requirement that any establishment that keeps non-indigenous species and is open to the public for 7 days or more per year must implement the following measures: participation in research from which conservation benefits accrue to the species, and/or training in relevant conservation skills, and/or the exchange of information relating to species conservation and/or, where appropriate, captive breeding, repopulation or reintroduction of species into the wild and promoting public education and awareness in relation to the conservation of biodiversity, particularly by providing information about the species exhibited and their natural habitats (source: EC Zoos Directive/Zoo Licensing Act 1981 as amended).

The site has been designed with the aviaries in taxonomic order (the order in which the groups evolved). Each group is housed together to demonstrate the differences between species within that group. Planting around aviaries will reflect where the possible the geographic range of the species housed within.

The widths of the aviaries are based on measurements of just over double the widths of the wingspan of the various birds to allow them to turn in flight. The lengths of the aviaries are calculated to allow the birds to take off and land without damaging themselves. Reducing the aviary size is not an option: the regulations were written by the applicant when chair of the Government-appointed Zoos Forum and SHE has always led in terms of standards of welfare, having been made MBE for services to bird conservation. It is intended that the new Centre will both maximise welfare of the birds and set standards for other establishments.

As well as maximising the educational facilities, careful consideration has been given to conservation. Birds of prey are generally territorial creatures and facilities have to be designed and laid out so that similar species do not see one another and so disturb their breeding. The Centre has been designed with this in mind.

The Centre will provide a new base for the applicant's research and captive breeding programmes including a major project for the Indian Government. These are not

ideas for the future, they are firmly established though currently impeded by lack of accommodation. For operational and security reasons the programmes could not be housed off-site and it would not be exaggerating to say that further delays could threaten some species.

The provision of moulting barns is also a statutory requirement.

In addition to the planting referred to above, it is intended to plant screens of semi-mature trees (8 m – 11 m high, see attached information sheet) together with other trees and shrubs over 3 m high, against an average eaves height of 2.56 m and an average ridge height of 4.45 m of the buildings, taking the buildings' highest point and ignoring their being cut into sloping ground. I enclose herewith copies of photographs of the applicant's former site when it was in her ownership, showing successful screening of the buildings in much the same way as is proposed for Eardisland.

I enclose copies of a number of testimonials to the effect that Mrs Parry-Jones has been a considerate neighbour and highlighting some of the advantages that the Centre will bring to the area.

It is to be hoped that Members will grasp the opportunity to have such a Centre of Excellence in the county, in a position where it will have neutral impact on the area and where it will be best placed to enhance tourism and provide important facilities for education and conservation

The following additional information from the agent was reported at the previous meeting:-

1. *Proposed condition for removal of buildings if present use ceases:*

All the aviary buildings, including the Hawk Walk courtyard, are demountable without concrete floors and of sectional construction. We would be content with a condition to remove them if the existing use ceases. The clinic and toilet block will be permanent construction and might be a bit more of a problem. I am assuming that this condition would only apply to the buildings the subject of the present application.

2. *Drainage:*

Stormwater from the Hawk Walk to the aviaries for New World Vultures, Kites, Fish Eagles and Old World Vultures will drain to the existing field drainage system which discharges to the river. That system is presently blocked and causes ponding on the land, which will disappear when the system is repaired. Stormwater from all other buildings will be drained to the lake. Application has been made to the Environment Agency to discharge the outlet from the bio-disc and the lake overflow directly to the river, which can be done by laying a new drain under the road but does not involve crossing anyone else's property (contrary to how the Ordnance Survey sheet looks). There will be no new impermeable ground surfacing created by the proposal: indeed, part of the existing concrete will be removed to create the new green verge across the existing access.

3. Staffing:

It is intended that the research facility will in due course be staffed by a Professor – they are already queuing up! There is already a LANTRA man working on the site who will be retained provided that the application is approved. Other projected staffing is 3 (café), 2 (shop), full-time horticulturalist and 6 specialist staff to care for the birds.

4. Clinic building:

I confirm that this will be used only in connection with the ICBP. The birds are already providing a useful increase in business for the local vets.

5. Visitor numbers:

We anticipate these increasing from an initial rate of 20,000 visitors per annum.

6. Public address system:

There is no intention to have any music whatsoever! A low-powered uni-directional system will be used for commentary when the birds are flying. The two small speakers will be housed to ensure that they are heard only by the audience. Positioning the viewing area where it is will ensure that the speakers are well away from the immediate neighbours and pointing away from them.

7. Screening:

The landscaping plan speaks for itself. Tree planting at the south-west corner and west boundary of the site will involve semi-mature trees approximately 20 ft. high. The car park area will be screened by trees/shrubs 8 – 10 ft high when planted. The 4 buildings which partly encircle the Hawk Walk on the west side will be screened by a fast-growing beech hedge, which will be allowed to grow. The “high level” buildings – i.e. the 5 owl buildings – will be more or less concealed by the existing conifer tree plantation at the top of the site, which will be augmented. The moulting barns will be screened by three existing lines of apple trees to the west and the existing tall hedge to the east. Incidentally, over and above the landscape plan, the applicant has already planted a line of chestnut trees down the east boundary. Unfortunately, the objectors have delayed the application beyond the planting season so they will have to wait until the autumn for the screening to start.

8. Traffic:

Extrapolating the Council's own traffic census for 12th – 18th September, 2007 gives a total monthly traffic-flow past the site in both directions of 9,064 for September. Our estimated traffic flow for September, 2008 is 660 vehicles which gives an increase of 7.3%. The road would of course be busier at other times, when visitors to the site would also increase in number. Our predictions are that the percentage would stay about the same. However, the annual percentage increase will be lower due to almost zero activity on the site in December, January and February.

- 5.8 The full text of these letters can be inspected at Northern Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Sub-Committee meeting.

6. Officer's Appraisal

6.1 The key issues for consideration are:

- (a) Principle of development
- (b) Landscape Impact and the character of the area
- (c) Highway Impact and sustainability
- (d) Drainage / Flooding
- (e) Potential for noise and disturbance
- (f) Lighting
- (g) Archaeology
- (h) Ecology

Principle of Development

- 6.2 Policy S8 of the Unitary Development Plan (2007) make provision for appropriate new facilities for tourism that meet the needs of communities and visitors and contribute to local economic development, employment and community regeneration. Tourism developments are expected to respect the character of the County and locality, provide for sustainable use of indigenous features and resources, offer improvements to visitor management in pressure areas and sensitive environments and avoid or minimise intrusion on local communities.
- 6.3 Policy RST1 explains the criteria that such proposals should meet. In particular developments should not harm the amenities of nearby residents, should respect the environmental character and resources and wherever possible be accessible by a choice of modes of transport. Proposals in Open Countryside, as this is, should only be permitted where the Countryside is the primary resource for the proposal and the rural landscape and environment is sustained and there are no suitable buildings capable of conversion, they are small scale and are ancillary to the primary proposal.
- 6.4 The proposal is unique in its requirements and in the level of development needed to provide the Centre. The applicants' extensive experience, knowledge and collection of Birds is a primary reason for entertaining the creation of such a centre. The benefits of such a centre as a tourism attraction for the County and for the Historic Village that is part of the 'Black and White Trail' is accepted but this must be balanced with the impact that the development would have on the landscape, locality, highway network and the impact that this may have on the amenities enjoyed by neighbouring properties.

Landscape Impact and the character of the area

- 6.5 A development of this size and scale, will undoubtedly have an impact on what is essentially agricultural land. It will, by its nature change the character of the area. I refer to the comments of the Conservation Manager (Landscape) detailed in full in paragraph 4.2 of this report, on this matter and concur with those views.
- 6.6 The views expressed by local residents are also accepted; the proposed landscaping will take time and will not be an instant 'screen' to the development. It is therefore proposed that a fully detailed planting scheme be submitted in addition to that already submitted and that some mature stock is used to promote the landscaping. It should also be noted that the mature boundary hedge and some of the existing orchards are to be retained. Whilst the eastern half of the site will have a more structured landscape

approach, the western element will be much more informal allowing for areas to walk, and for the flying demonstrations that will take place.

- 6.7 Local concerns have raised issue with the amount of and size of the buildings. These have been designed to keep the heights at a minimum but to still provide for the welfare of the birds. Care was also taken to keep the higher aviaries at the lower part of the site and to ensure that the aviaries were set into the ground where the ground rises.
- 6.8 In this respect, and having regard to the economic (tourism) value that this development would have and the long term landscape proposals that have been submitted, the proposal accords with policies S7, S8, LA2 and LA6 of the Unitary Development Plan (2007).

Highway Impact and Sustainability

- 6.9 The site is located on the C1035 which approaches the village from Leominster (B4529) and Pembridge (A44). This proposed use of the land will increase in traffic movements on these highways. The Council's Transportation Manager has raised no objection regarding the intensification of road use or the roads capabilities to cope with the increase. The applicant has been in discussion with the relevant highways department to ensure that signage (Brown Directional signs) to the site will bring people to the site from the east and not through the village and this should restrict additional movements through the village itself. It is however likely that people attracted to the area because of the Centre may wish to explore some of the surrounding tourist attractions and villages.
- 6.10 The Transportation Manager has also negotiated a new access, with improved visibility, into the site. The existing access would be closed prior to the use of the centre by the public and would be closed by means of a hedge and the grass verge reinstated to prevent persons parking within the visibility splays required by the new access. Full details of this are requested by way of a condition. There is also ample provision for vehicles on site, including overflow car parking that could be used if the necessity occurred. Secure cycle parking is also proposed and the site benefits from being on an existing bus route.
- 6.11 In terms of sustainability, the site is well placed near to a Main Village, with good highway connections to the market towns of Leominster and Kington. The site is situated on an existing bus routes (494 and 494) linking the site to Kington, Leominster, Presteigne and beyond on a regular basis. The proposal includes provisions of secure cycle parking to encourage cyclists. On this basis, and having regard to the above, the proposal is considered to comply with policies DR2, DR3 and RST1 of the Unitary Development Plan as well as guidance within PPG13 – Transport and PPS1 – Delivering Sustainable Development.

Drainage / Flooding

- 6.12 The application site lies within a flood Zone 1, within which the proposed development is considered acceptable. The extreme southern edge of the site comprising a narrow strip parallel to the road, and being the lowest part of the site falls within a Flood Zone 3. This Flood Zone is inclusive of the highway. This was identified at an early stage and raised with the applicant prior to submission. The scheme has incorporated a sustainable drainage system which will dispose of the surface water drainage within the site. Permeable surfaces have, wherever possible been included in the hard

landscaping proposals. The Environment Agency has raised no objection, as detailed above in paragraph 4.1 above, subject to the imposition of the condition suggested. Local residents have raised concern about this and it is appropriate that a full drainage scheme be submitted prior to commencement of development to ensure that these works proposed are undertaken and are capable of retaining any excess water within the site.

- 6.13 The conditions recommended require a complete drainage scheme to be submitted to and approved in writing by the local planning authority prior to commencement. These details will be checked with the relevant drainage engineer to ensure that these are sufficient and will not exacerbate flooding on the highway. Notwithstanding this, I am confident that a sustainable drainage scheme can be accommodated within the site.

Potential for noise and disturbance

- 6.14 The use of the land will increase the movements of people and will change the character of the area that is likely to be noticeable to immediate neighbours. A restriction on the hours of opening to the public is suggested in line with those indicated by the applicants as detailed in paragraph 5.5 above. This is less than suggested by the Council's Environmental Health Officer, with the exception of the potential for a few open invitation evenings and 10 evening events (Owl Flying demonstrations, normally around Christmas time). An appropriate condition is suggested.
- 6.15 The Birds of Prey Centre is likely to use some amplified sound when conducting flying demonstrations. This matter is of significant concern locally. The matter has been raised with the applicants and options discussed. A condition that restricts any amplified noise from being heard outside of the application site is suggested. Having regard to the above, the proposal is considered to comply with policy DR13 of the Unitary Development Plan (2007)

Lighting

- 6.16 The lighting of the site is also causing quite considerable concern locally. Again this has been explored with the applicant who intends that any lighting, especially around the aviaries would be low level and unobtrusive, both for the care of the birds and due to the impact that this would have on the environment. A condition is suggested which would require a full lighting scheme to be submitted and considerable weight will be placed on this being subtle and necessary. You will also note from the intended hours of opening that the majority of the time the park will only be open in daylight hours and as such extensive lighting for safety is not required. On the basis that a suitable scheme be submitted this would comply with policy DR14 of the Unitary Development (2007).

Archaeology

- 6.17 The Parish Council raised the issue of a potential site of Archaeological interest. Archaeology was contacted who confirmed this. The County Archaeologist, was then, after closer site inspection able to confirm that the site was in fact a former quarry and of no significance. As such these concerns have been addressed.
- 6.18 The application was submitted with an Ecological Survey, at officers request. The Council's Ecologist has commented on this as detailed in paragraph 4.2 above. Subject to the imposition of the suggested condition, the ecological interest of the site

has been fully considered and necessary mitigation can be implemented as part of the scheme. As such the criterion of policies NC1 and NC5 can be successfully complied with.

Conclusion

- 6.19 To conclude, the proposed scheme, although quite extensive in scale, is a rare tourism based opportunity that can be successfully integrated into the site. The site itself is well placed for visitors and offers alternative methods of transport. Conditions are proposed which will alleviate and mitigate against the valid local concerns raised in respect of landscape impact, noise, disturbance, lighting, drainage and potential to increase flooding on the highway. It is accepted that this development will change the character of the area but this must be carefully balanced against the unique tourist opportunity offered to Herefordshire and the tourism and economic benefits that this will bring. The proposal complies with the policies outlined above and with government guidance and its approval is recommended subject to the conditions listed below. At the previous meeting an additional condition was suggested to require removal of buildings upon cessation of the use of the site as a Birds of Prey Centre. This is set out at condition 21.

RECOMMENDATION

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 B01 (Samples of external materials)

Reason: To ensure that the materials harmonise with the surroundings.

3 G01 (Details of boundary treatments)

Reason: In the interests of visual amenity and to ensure dwellings have satisfactory privacy.

4 No amplified sound/noise shall be audible outside of the boundaries of the site.

Reason: To protect residential amenities.

5 The proposed Veterinary Clinic and Research Buildings shall be used as ancillary buildings to the Birds of Prey Centre and shall not be open to members of the public or for the operation of any other veterinary business.

To define the terms of this permission and ensure that the building is not operated as a veterinary business separate to the proposed centre in the interests of neighbour amenity and highway safety.

6 G31 (Details of play equipment)

Reason: To ensure the play area is suitably equipped, landscaped and has a suitable boundary treatment in the interest of neighbour amenity.

- 7** Prior to being discharged into any watercourse, surface water sewer or soak away system, all surface water drainage from parking areas and associated hardstanding shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: To prevent pollution of the water environment.

- 8** E03 (Restriction on hours of opening)

Reason: In the interests of the amenity of the existing residential property in the locality.

- 9** F32 (Details of floodlighting/external lighting)

Reason: To safeguard local amenities

- 10** F40 (No burning of material/substances)

No materials or substances shall be incinerated within the application site.

Reason: To safeguard residential amenity and prevent pollution.

- 11** The recommendations set out in the ecologist's report dated April 2007 should be followed unless otherwise agreed in writing with the Local Planning Authority. Prior to development, a habitat enhancement scheme with details of planting specifications should be submitted to the LPA and implemented as approved.

Prior to development, a habitat protection scheme to protect the area around the badger sett shall be submitted to the LPA and implemented as approved."

Reasons:

To ensure badgers are protected under the Badgers Act 1992 and policies NC1, NC5, NC6 and NC7 within the UDP.

To ensure the law is not breached with regard to nesting birds which are protected under the Wildlife and Countryside Act 1981 (and amendments) and policies NC1, NC5, NC6 and NC7 within the UDP.

To comply with Herefordshire Council's Policy NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of PPS9 Biodiversity and Geological Conservation and the NERC Act 2006.

- 12** Full details of the proposed spectator benches to the flying area should be submitted to and approved in writing prior to their installation. Works shall be undertaken in accordance with the approved details.

Reason: To ensure a satisfactory form of development and to protect the landscape character of this area of the site.

- 13** G04 (Landscaping scheme (general))

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

14 G05 (Implementation of landscaping scheme (general))

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

15 H29 (Secure covered cycle parking provision)

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

16 H10 (Parking)

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

17 H30 (Travel plans)

Reason: In order to ensure that the development is carried out in combination with a scheme aimed at promoting the use of a range of sustainable transport initiatives.

18 H05 (Access gates)

Reason: In the interests of highway safety.

19 F20 (Scheme of surface water drainage)

Reason: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal.

20 F21 (Scheme of surface water regulation)

Reason: To prevent the increased risk of flooding.

21 Should the use of the site as a Birds of Prey Centre cease, the buildings hereby approved, as well as any foundations or concrete pads laid, footpaths and any resulting debris shall be removed from the site and the land reinstated to agricultural land within 6 months.

Reason: To define the terms of this permission which has been granted given the special circumstances of the use and tourism opportunity provided having regard to policy RST1 of the Unitary Development Plan.

INFORMATIVES:

- 1 Developers should incorporate pollution prevention measures to protect ground and surface water. We have produced a range of guidance notes giving advice on statutory responsibilities and good environmental practice which include Pollution Prevention Guidance Notes (PPG's) targeted at specific activities. Pollution prevention guidance can be viewed at: <http://www.environment-agency.gov.uk/business/444251/444731/ppg/>

- 2 **HN01 - Mud on highway**
- 3 **HN04 - Private apparatus within highway**
- 4 **HN05 - Works within the highway**
- 5 **HN10 - No drainage to discharge to highway**
- 6 **HN13 - Protection of visibility splays on private land**
- 7 **HN24 - Drainage other than via highway system**
- 8 **HN25 - Travel plans**
- 9 **N19 - Avoidance of doubt**
- 10 **N15 - Reason(s) for the Grant of Planning Permission**

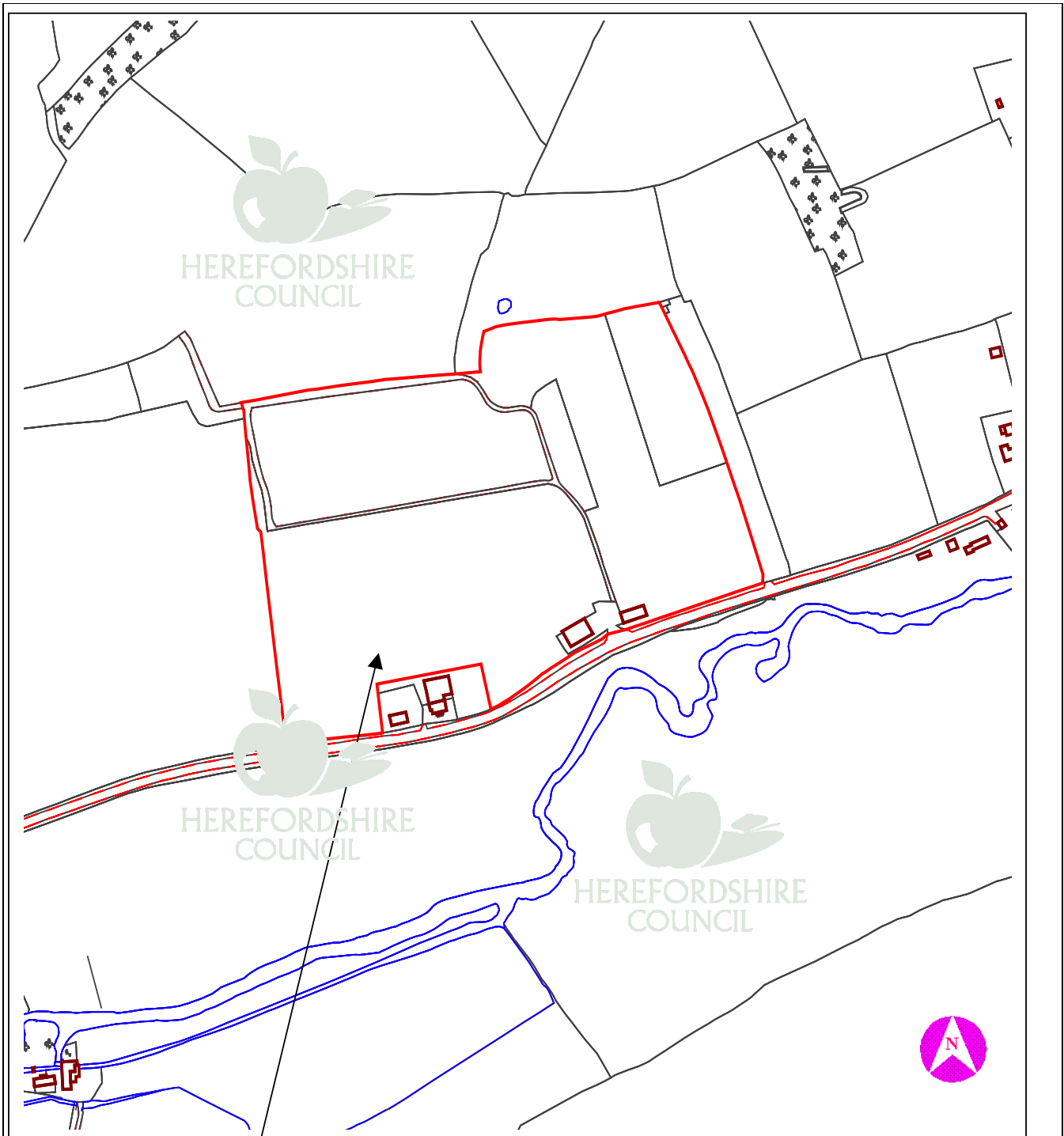
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCNW2008/0130/F

SCALE : 1 : 3967

SITE ADDRESS : Little Orchard Farm, -, Eardisland, Leominster, Herefordshire, HR6 9AS

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6 DCNW2008/0515/F - CHANGE OF USE OF LAND FOR ERECTION OF FIVE HOLIDAY CHALETS IN LANDSCAPED GARDENS. LAND TO THE REAR OF MORTIMERS CROSS INN, MORTIMERS CROSS, LEOMINSTER, HEREFORDSHIRE, HR6 9PD.

For: Mr P S Williams per Lambert Smith Hampton, Pyramus House, Roman Way, Grange Park, Northampton, NN4 5EA.

Date Received: 20 February 2008

Ward: Mortimer

Grid Ref: 42417, 63640

Expiry Date: 16 April 2008

Local Member: Councillor LO Barnett

1. Site Description and Proposal

- 1.1 The application site is located in open countryside in the hamlet of Mortimers Cross south of the village of Aymestry on the A4110. The site comprises an area of land 0.59 ha in size to the west of the Mortimers Cross Inn. The Public House occupies a prominent roadside location adjacent to the busy crossroads of the A4110 and B4362. The application site and public house were in the same ownership until July 2005 when the pub was sold. Access to the site is via the pub car park, part of which is in the ownership of the applicant.
- 1.2 The application seeks to place 5 lodge style holiday caravans on the land. The application includes a proposed site plan (drg no. 021A) detailing the proposed and existing landscaping, internal road layout, parking and siting and size of each chalet/Caravans and the concrete pads or hardstandings that these will be sited upon. The sizes of these are detailed as follows:
- Unit 1 - 4.1 m by 9.6m
 - Unit 2 - 12.2m by 6m
 - Unit 3 - 12.2m by 6m
 - Unit 4 - 9.8m by 4.2m
 - Unit 5 (already sited) - 15m by 6m
- 1.3 The units are arranged in around the periphery of the site. Access to the site is gained via an existing access gate to the north east corner of the site which exits into the pub car park. The applicant retained a strip of land 10 metres wide along the northern boundary of the pub car park and the right of access across the car park has been retained as detailed in the covenants provided. The application also includes a set of supporting documents that gives details of the types of chalet the application proposes. These indicative plans show twin units (6m by 12m).

2. Policies

- 2.1 National Planning Policies
Planning Policy Statement 7 – Sustainable Development in Rural Areas
Planning Policy Guidance Note 21 – Tourism
Good Practice Guide on Planning for Tourism
- 2.2 Herefordshire Unitary Development Plan (2007)
S1 – Sustainable Development
S6 - Transport
DR2 – Land Use and Activity
DR3 - Movement
DR4 - Environment
LA2 – Landscape Character
LA6 – Landscaping Schemes
RST 12 – Visitor Accommodation
RST 14 – Static Caravans, Chalets, Camping and Touring Caravan Sites

3. Planning History

- 3.1 DCNW2007/3059/U - Certificate of Lawfulness fro Exsiting use of mobile home as residential dwelling - Refused 8th November 2007. Currently at Appeal with public Inquiry to be held on the 28th October 2008.
- 3.2 DCNW2006/ 1672/F - Change of use of land for 8 holiday chalets - refused 21st July 2006 - Dismissed on appeal 25th July 2007.
- 3.3 DCNW2005/2590/F - Change of use to provide mobile homes / holiday lets on and to the rear of the site - refused 4th November 2005.
- 3.4 NW2004/3073/F - Erection of a dwelling - refused.
- 3.5 NW2002/1154/F - Repairs and refurbishment/extension to Mortimers Cross Inn. Approved on the 25th June 2002 with temporary consent for three mobile homes during works.
- 3.6 81C397 - Use of land as a touring caravan site to allow a total of 12 caravans on existing and proposed site – Withdrawn.
- 3.7 77C1020 - Use of land as a touring caravan site for a maximum of three caravans and three tents at any one time - Approved 24-4-1978. This permission is restricted with conditions restricting the use of caravans to no more than 5 consecutive days and no caravan being occupied between 31st October in anyone year and 1st March in the succeeding year.

4. Consultation Summary

Statutory Consultations

- 4.1 None

Internal Council Advice

- 4.2 The transportation manager recommends refusal and makes the following comments:

“Access across the car park. The primary access is via the Pub car park. This is certainly the best option as far as the access to the highway network is concerned. However, there is no way that the route to the gate to this proposal can be kept clear, because of shared ownership. This will lead to confusion and highway risk, particularly when the carpark is full, and probable difficulties maintaining a clear route between the highway and site entrance. The car park is regularly overcrowded with cars, such as on auction days. As ownership is not clearly defined, there is potential for conflict between pub car park users and chalet users.

The proposed new access onto the B4362 is not suitable for every-day use, because of queuing traffic and potential confusion for highway users. It is therefore only provided for emergency access, primarily during flooding events. It is not clear how this usage will be controlled and enforced satisfactorily. As the junction of the B4362 and A4110 has a significant accident history, it would be irresponsible to allow another access with limited visibility, adding to the potential confusion and workload of highway users at an already risky area. Until suitable robust and reliable arrangements are proposed to control and limit the use of the proposed access to emergencies only, I recommend refusal.

No arrangements for covered, secure cycle parking are proposed, contrary to the Highways Design Guide.

Whilst unlikely, pedestrian access to the B4362 via the emergency access would present risks to pedestrians, particularly the young and elderly. No way of minimising inadvertant pedestrian access to the busy B4362 is shown.

The proportion of HGV traffic on the B4362 is large and increasing. This has significant effects on the highway risk to users of the emergency access.”

4.3 The Environment Agency makes the following comments:

“The proposed chalets are located on land within flood zone 1 (low probability) base on our flood zone map, where the proposed use is not inappropriate in line with PPS25. Parts of the existing main access are located within flood zone 3 (high risk 1% annual probability flooding) and flood zone 2 (medium risk 0.1% annual probability flooding) based on the flood zone map.

We have no objection to the proposed development as a safe dry access has been demonstrated, to be employed on the southern boundary for the site, onto the B4362 towards Mortimers Rock, on land within flood zone 1. This is shown on drawing no. 021A, job no. 34212 dated 28/08/07 as submitted.

We would advise the applicant and LPA that the main access road may be liable to flood based on our flood zone map. However, the proposed 'alternative entrance' should enable access by Emergency Services etc, and evacuation of potential occupants in the event of a flood. The LPA should be satisfied on this aspect.

We also note the comments provided by the Applicant regarding surface water. The proposed use of soakaways would be an acceptable form of SuDS.

Foul Drainage

In line with our amended Table 1 and in accordance with Article 10 - (1) (iii) of the GDPO (1995), the Environment Agency (West Area) has no comments to make with regard to foul drainage, in respect of this application. You might seek the completion of the 'foul drainage assessment form' for your consideration."

5. Representations

5.1 Aymestrey Parish Council makes the following comments:

"The Parish Council unanimously agreed to oppose the plans on the following basis:

a) *Objection to similar plans for mobile home / holiday chalets on this site still apply. Viz;*

August 2005:

- *The proposal is inappropriate*
- *The 'emergency' access is onto a busy road*

October 2005:

- *Already 8-10 mobile homes at Mortimers Cross*

June 2006:

- *The emergency access is dangerous*
- *There are already sufficient mobile homes in the locality*
- *The proposal does not reinstate the character of a water meadow*
- *Overflow parking from the pub is a problem*

b) *The application is for 3 x 2 bedroom chalets plus 2 x 3 bedroom chalets, but the site plan appears to show 3 x 3 bedroom and 2 x 2 bedroom chalets.*

c) *The Council does not believe there has been 30 years of thriving caravan trade on site. Also, it is understood that there is no current planning permission for caravans on site so this application involved more than a minor change of use."*

5.2 Letters of objection have been received from the following:

- Mr Wozencroft - Bankfield, Lucton, Leominster
- Mr and Mrs J Scamp - Hillside Cottage Aymestrey
- Kevin Williams - Aymestrey Lodges, Aymestrey
- Mr and Mrs Raymond, Mortimers Cross Farm, Kingsland
- Mr Ken Holland - The Cottage, Aymestrey
- Mr Probert (no address given)
- Helen Hamilton - Little Covenhope, Aymestrey

These letters raise the following issues:

- a) The proposed exit will be a real danger due to the speed of the traffic from the Shobdon Direction
- b) Commend Mr Williams from his resurrection of an amenity to the area, the loss of this land to the hotel has restricted its potential by reducing its parking area, and any sizeable event leads to cars being parked all over the vicinity.

- c) The reduction of 8 (dismissed on appeal) to 5 does not change anything materially.
- d) The site was formerly a meadow that has been allowed to be altered this to become an eyesore and has not been made to restore this land after the building works were complete. The site has suffered severe urbanisation in the hands of the applicant (tarmac and hardstandings)
- e) Where is the need for additional log cabin accommodation. There is currently a 5 cabin complex, an application for 2 further holiday homes, a five bed B and B, The riverside Inn with 5 guest rooms and Mortimers Cross Inn (8 Guest rooms)
- f) There are two pubs but no other facilities in the parish which means travelling for shopping, stamps recreation and entertainment.
- g) Aymestrey has an excess of holiday accommodation. Some of this accommodation has taken up land that could have been used to provide affordable accommodation for local people
- h) The chalets are out of keeping with the local architecture. The chalets in the village are incongruous and no amount of landscaping can make them blend in to this environment

5.3 The full text of these letters can be inspected at Northern Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Sub-Committee meeting.

6. Officer's Appraisal

6.1 The main issues that should be considered in relation to this application are:

- a) The principle of development.
- b) The appeal decision.
- c) Scale of development and the impact on the character and appearance in relation to policy LA2 and LA5.
- d) Highway Safety.
- e) Control of tourist based use.
- f) Local Need for additional tourist facilities.

6.2 Policy RST14 of the Unitary Development Plans deals explicitly with the creation of new chalet and caravan sites. In particular new parks will not be permitted where they would cause harm to the character and appearance of the countryside. Elsewhere the success of proposals will depend on a number of criteria. Amongst others these include requirement that the site is well screened, or capable of being screened, from roads viewpoints and other public places. The proposal would also need to be of a scale, which relates sensitively to its location, is well laid out, designed and landscaped. Traffic generated must be safely accommodated on the local highway network and arrangements must be made to ensure that the units are retained for holiday use. The site must also be sited outside of a functional flood plain (Zone 3c).

6.3 In July 2007 an appeal was dismissed on this site for a proposal for the siting of 8 chalets sited around the periphery of the site and being shown as 8 units with a footprint of 12.2m by 6m. A copy of the appeal decision has been provided as an Annexe to this report. The inspector dismissed the appeal having reference to the scale of the development and the impact that this would have on the character and appearance of the countryside.

6.4 The applicant has taken note of the inspectors particular issues and has moved the units away from the northern boundary and has shown more significant planting along all of the boundaries. The application site plans also details more area of grassland with

some scattered planting. Having regard to the reduction in scale of the development, including the reduction in size of the hardstandings (and mobile units) shown on the submitted plan it is now considered that with the appropriate landscaping conditions and conditions in relation to the size and siting of the mobile homes (caravans) the concerns originally raised can be overcome and that this part of policy LA2 can be complied with. The landscaping condition can also include and hard landscaping (paths, patios etc).

- 6.5 In the previous application, the transportation manager did not raise concern relating to highway safety implications of introducing 8 units onto this site. Notwithstanding this officers included this as a reason for refusal. The appeal decision quite clearly considers this point and concludes that he is satisfied that safe access could be provided to the appeal site. The Transportation Manager has, in this instance, raised an objection. But given the recent appeal decision on this matter, which would have been for a greater number of units, it is considered that the inspectors stance on this matter outweighs this. In order to ensure that the safe access is provided conditions are suggested that further details of how the main access (across the existing pub car park) is to be kept clear of obstruction should be submitted and that this should remain so in perpetuity. Likewise, the proposed emergency access should be blocked and signed informatively in a manner to be agreed by the Local Planning Authority, but still allowing emergency access in the event of flooding.
- 6.6 Policy RST14 of the Herefordshire Unitary Development Plan (2007) lists in its criteria that arrangements be made to ensure that the resultant chalets or caravan remain in holiday use and are not used for residential purposes. The good practice guide on Planning for Tourism provides additional guidance on how to impose conditions that ensure this. As such the appropriate conditions are recommended.
- 6.7 Local residents have raised the actual' need for further chalet style accommodation in the area. During the appeal stage this was considered by the inspector who notes the marketing that was submitted and the encouragement from the public house in its hope to boost trade. Whilst tourism often comment that there findings are that this type of accommodation is reaching a tipping point in the County it is also acknowledged that we have policies which would resist the change from holiday to residential accommodation should the venture fail. This permission is for the siting of static / mobile homes only, that could be removed from the site if they are no longer viable. Having particular regard to the inspector's decision it is not felt that this matter warrants a reason for refusal.
- 6.8 In conclusion, having regard to the planning history and in particular the planning appeal on this site. It is considered that although this matter is finely balanced, the applicant has addressed successfully the issues raised by the inspector and this proposal, with the appropriate conditions, would comply with the relevant policies of the Herefordshire Unitary Development Plan (2007). AS such this proposal is recommended for approval.

RECOMMENDATION

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 B02 (Development in accordance with approved plans and materials)

Reason: To ensure adherence to the approved plans and to protect the general character and amenities of the area in accordance with the requirements of Policy DR1 of Herefordshire Unitary Development Plan

3 Prior to any further static caravans being brought onto site, details of the size, siting and external appearance of each static caravan shall be submitted to and approved in writing by the local planning authority. These shall not be replaced or altered without prior agreement in writing by the local planning authority.

Reason: To ensure that the static caravans do not exceed the size indicated on the approved plans and to ensure a satisfactory external appearance in the interests of the character and appearance of the countryside having regard to policies LA2 and RST14 of the Herefordshire Unitary Development Plan (2007).

4 F30 (Use as holiday accommodation)

Reason: Having regard to Policy RST14 of the Herefordshire Unitary Development Plan the local planning authority are not prepared to allow the introduction of an unencumbered residential accommodation, in this rural location.

5 The mobile homes (chalets) shall not be occupied as a persons sole, or main place of residence

Reason: To ensure that the accommodation is used for holiday accommodation having regard to Policy RST14 of the Herefordshire Unitary Development Plan (2007)

6 The owners / operators shall maintain an up-to date register of the names of all owner / occupiers of individual mobile home (chalets) on the site, and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority.

Reason: To ensure that the accommodation is used for holiday accommodation having regard to Policy RST14 of the Herefordshire Unitary Development Plan (2007)

7 Prior to the commencement of any works on the site, details of the barrier, including the method of securing this barrier and signage that will form part of the emergency access shall be submitted to and approved in writing by the local planning authority. Works shall be carried out strictly in accordance with the approved details and shall be retained thereafter unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that the access onto the B4362 is retained as an emergency access in the interests of highway safety having regard to policy DR3 of the Herefordshire Unitary Development Plan (2007).

8 G10 (Landscaping scheme)

Reason: In order to maintain the visual amenities of the area and to conform with Policy LA6 of Herefordshire Unitary Development Plan.

9 G11 (Landscaping scheme - implementation)

Reason: In order to maintain the visual amenities of the area and to comply with Policy LA6 of Herefordshire Unitary Development Plan.

Informatives:

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

2 N19 - Avoidance of doubt - Approved Plans

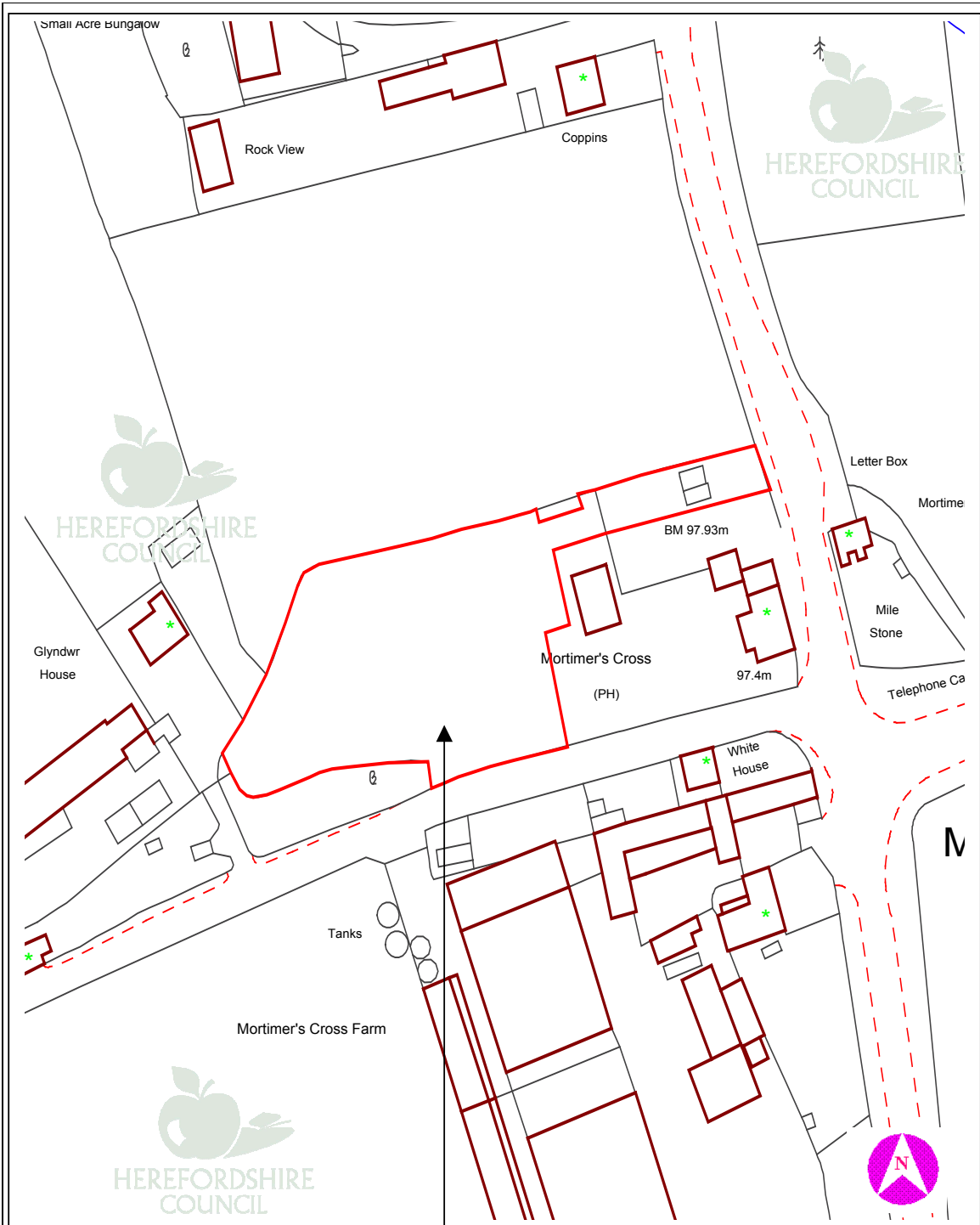
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCNW2008/0515/F

SCALE : 1 : 1250

SITE ADDRESS : Land to the rear of Mortimers Cross Inn, Mortimers Cross, Leominster, Herefordshire, HR6 9PD

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Appeal Decision

Site visit made on 22 June 2007

by **R J Yuille** Msc Dip TP MRTPI

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
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Temple Quay House
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Bristol BS1 6PN

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Date: 25 July 2007

Appeal Ref: APP/W1850/A/07/2035174

Land to the rear of Mortimers Cross Inn, Mortimers Cross, Nr Leominster, HR6 9PD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Paul Williams against the decision of Herefordshire Council.
- The application Ref: DCNW2006/1672/F, dated 24/05/06, was refused by notice dated 21/07/06.
- The development proposed is the change of use of camping/caravan site (Planning application 77C1020) Certified Site No:149/083 to holiday chalet development - erection of 8 chalets in landscaped gardens.

Summary of Decision: I dismiss the appeal.

Background – use of the site

1. The appeal site has planning permission (Ref: 77C1020) as a touring caravan site for a maximum of three caravans and three tents at one time. Conditions attached to this permission restrict the use of caravans to no more than 5 consecutive days with no caravan being occupied between 31 October in one year and 1 March in the next.
2. In 2002 the Camping and Caravanning Club issued a 5 Caravan Certificate for the site (No:149/083) but has since confirmed that this licence no longer exists as it was understood that the site was closed and sold for building. The appellants position is that he simply sought to give warning that the site was due to close when the chalets were erected but in the event it did not close. It would be a formality to rectify this misunderstanding. My view is that while this may be the case the site does not currently have a Camping and Caravanning Club certificate.
3. Part of the site has in the past been used as a builder's storage area in conjunction with works to refurbish Mortimers Cross Inn but I saw little evidence of this use at my site inspection. Much of the site is hardsurfaced and when I visited it contained a mobile home, 2 portacabins, a shed and 2 liquid gas containers all of which are the subject of enforcement action. A touring caravan was also stationed on the site.
4. The appellant states that the appeal site is by definition brownfield land but does not develop this argument. The definitions in question are those in the *Herefordshire Unitary Development Plan* and in Annex B to Planning Policy Statement 3: *Housing* with their references to permanent structures and associated fixed surface infrastructure. However, with the pending

enforcement action it is not clear to me whether the structures on the site, or indeed the hardsurface, are lawful and I am not in a position therefore to determine whether the site falls into the category of brownfield land.

Procedural Matters - plans

5. The appeal site is located at the junction of the A4110 and the B4362, immediately to the rear of Mortimers Cross Inn. The appellant previously owned both the appeal site and the public house and when he sold the latter he retained both part ownership of a 10 metre wide strip across the northern part of the pub car park and rights of way across any part of that car park. Access to the proposed chalets would be gained across this car park. The plans originally submitted with the application the subject of this appeal did not show this land as being in the appellant's ownership but a revised plan rectifying this was submitted before the Council determined this application. I will, therefore, take account of this plan in determining this appeal.
6. No drawings showing the plans and elevations of the proposed chalets are provided but the supporting documents submitted with the application the subject of this appeal includes photocopies of photographs of a Napier type lodge together with a general layout plan and two elevations. I will take these into account in determining this appeal.

Procedural matters –scope of this appeal

7. The purpose of this appeal is to determine whether or not planning permission should be granted for the appeal scheme as submitted.
8. The appellant invites me to find that the mobile home on the site has a lawful use as a "dwelling house" and for information submits a plan showing how it could be accommodated on the site (Ref: 34212/020A). However, this plan does not form part of the appeal that is before me and the lawfulness or otherwise of the mobile home is not a matter over which I have jurisdiction.
9. An emergency access onto the B4362 is proposed as part of the appeal scheme. The appellant is involved in a dispute with the Council regarding a former access from the site onto this road that was lost at the time that highway improvements were carried out. Again this is not a matter that is before me.
10. The appellant asks me to determine the appropriate number of chalets for this site. Once again this is not a matter for me to determine.

Policy

11. At the time that the Council determined the planning application the subject of this appeal the *Leominster Local Plan* formed part of the development plan. However, this has now been replaced by the *Herefordshire Unitary Development Plan* (UDP) adopted in March 2007 and it is on the basis of the policies in the UDP that I will determine this appeal. All development plan policies referred to subsequently in this decision are from the UDP.
12. While the appellant provides an exhaustive commentary on the contents of the development plan I consider the most relevant policies to be Policy RST14, as referred to by the Council in its evidence rather than in its reasons

for refusal, and Policy LA2. My reason for attaching such significance to the former policy is that, amongst other things, it this deals specifically with the siting of chalets while the latter policy deals with landscape character. I will deal subsequently with the content of these policies.

13. Planning Policy Statement 7: *Sustainable Development in Rural Areas* cautions against the use of rigid landscape designations that may restrict sustainable development and the economic activity that underpins the vitality of rural areas. *The Good Practice Guide on Planning for Tourism* stresses the need in considering applications for developments such as chalets to carefully weigh the objective of providing adequate facilities and sites with the need to protect landscapes.

Main issues

14. I consider the main issues in this appeal to be; firstly, the effect of the proposed development on the character and appearance of the countryside; and, secondly, its effect on highway safety.

Reasons

Character and Appearance

15. The appeal site is located to the rear of Mortimers Cross Inn and is seen in the context of that building and its car park and of other farm buildings and dwellings in the vicinity. Nonetheless the site is in the countryside; Policy RST14 states that new chalet parks will not be permitted if they would cause harm to the character and appearance of the countryside.
16. It is, moreover, in a part of the countryside which is identified by the Council in its Landscape Character Assessment as being an area of Riverside Meadows. Policy LA2 seeks to resist development that would adversely affect the character of such a landscape or its key attributes.
17. The appeal site is well screened to the east by the Inn, to the south by close boarded fencing along the B4362 and to the west by trees, predominantly conifers. However, from points on the road and footway to the north it is open to views across a low fence and through an intermittent hedgerow that marks the boundary with the adjoining meadow.
18. It is proposed to locate four closely spaced chalets along this boundary in a position where they would be clearly visible from the north. The landscaping proposed in this position would do little to alleviate this, certainly in its early years, and one of the chalets (chalet 8) would be so close to the boundary that no hedging is proposed. I acknowledge that the proposed landscaping follows advice given by the Council's Landscape Officer but that officer also expressed concern about the scale and character of the proposed development, concerns that I share.
19. The eight chalets, together with their parking and circulation areas, would occupy much of the appeal site. The evidence available to me indicates that these would be substantial buildings and that they would be closely spaced. I consider that such an intense form of development would extend the built up area of Mortimers Cross in an unacceptable manner, particularly when seen from the north.

20. The appeal site, which is largely hardsurfaced, is clearly not a riverside meadow at present nor does it resemble one. Nonetheless, elements of the 'Riverside Meadow' landscape are to be found in the vicinity, for example the open meadow to the north. Policy LA2 makes clear that proposed developments should demonstrate that such landscape character has influenced its design and scale. With the appeal scheme in place the whole of the site would be dominated by the presence of the chalets and to my mind no obvious attempt has been made in the design of this scheme to recreate the character of a riverside meadow.
21. A marketing report prepared on behalf of the appellant gives some indication of a demand for chalets in Herefordshire. Certainly local people are of the opinion that these chalets would be of benefit to the local economy, a view shared by the owners and tenant of the Mortimer Cross Inn who consider that they could provide a vital boost to trade. However, I do not consider that these are matters that outweigh the significant harm that the proposed development would cause to the character and appearance of the countryside.
22. I consider, therefore, that the appeal scheme would conflict with the aims of Policies RST14 and LA2 of the Herefordshire Unitary Development Plan.

Highway safety

23. The Council's Area Engineer raised no objection to the appeal scheme on the grounds of highway safety. As has been established the proposed access onto the A4110 would be across the car park to Mortimers Cross Inn. I saw on my site inspection visibility at the access of that car park onto the A4110 is good. Much of the Council's concern about the proposed access relates to its uncertainty as to whether the appellant owned or controlled the access, the lack of clarity as to what is proposed, the loss of parking spaces and an inability to impose a planning condition on the whole car park requiring the demarcation of parking spaces.
24. It has now been established that the appellant does own or control sufficient land to enable an access to be provided across the car park and I consider that the precise details of this could be dealt with by way of an appropriately worded planning condition. This could involve the loss of some parking spaces but given that the appellant owns part of the land now used as a car park there is no certainty that this will always remain available for parking. If the access were provided on the land owned by the appellant there would be no need to require that parking spaces be marked out on the remainder of the site.
25. As to the proposed emergency access, I consider that visibility at the proposed junction, while not ideal, is adequate for emergency use. I understand the Council's desire to ensure that it is not used on a regular basis but, like the Area Engineer, I consider that this could be achieved by way of a planning condition requiring the erection of signs and the construction of a barrier capable of being broken in emergency. The proposed development would, therefore, meet the relevant aims of Policy RST14 of the Herefordshire Unitary Development Plan in that traffic generated by it could be safely accommodated on the local highway network.

Other Matters

26. The appellant refers to numerous other examples of caravan and chalet developments, some in close proximity to the appeal site and others further afield, where higher density development than is proposed in the appeal scheme has been permitted or which he considers to be more prominently located than the appeal scheme. However, these simply illustrate that decisions in cases such as these are highly site specific and what may be considered acceptable on one site is not necessarily acceptable on another.
27. I do not consider, therefore, that this extensive list of sites sets a convincing precedent for granting planning permission for the appeal scheme nor indeed does the fact that planning permission has been granted for the refurbishment of Mortimers Cross Inn.

Conclusions

28. While I am satisfied that a safe access could be provided to the appeal site this is outweighed by my concerns about the unacceptable effect that the proposed development would have on the character and appearance of the countryside. For these reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Formal Decision

29. I dismiss the appeal.

RJ Yuille

Inspector

parking and turning areas, foul water drainage, workers' recreation facilities, landscaping and tree planting are all shown contained within the bunded area. Workers' accommodation is shown as a combination of 192 static caravans and 313 accommodation pods, which are metal containers. The combination of these accommodation types makes provision for up to 2100 workers. A number of support facilities will be distributed around the site in similar pod accommodation. These are in the form of 17 individual kitchen pods and 54 toilet and shower pods in groups of three.

- 1.7 The proposed amenity building is shown as a single storey structure of a height of 4 metres to its ridge. The plans demonstrate a building with a shallow pitched roof and an L-shaped footprint. The building is simple in appearance and of a utilitarian design. Both its roof and walls are clad in profiled coated steel cladding, over a steel frame, of a construction similar to that of a modern agricultural building.
- 1.8 The plans submitted with the application also show a series of sports pitches and an area set aside for nature conservation on the meadows to the north of the fishery site. However, this is not included within the red line and therefore does not form part of the proposal.
- 1.9 The application is supported by a series of documents including a design and access statement, planning statement, flood risk assessment and landscape assessment. Also included is a layout plan showing the position of the amenity building central to the site with caravans and pods arranged to the east and west. Vehicular access is gained via the road constructed under an earlier planning permission by the applicants. An area of car parking is provided to the fore of the amenity building for visitors to the site. Workers are not permitted to bring their own vehicles to the site and therefore no other parking provision is made.
- 1.10 A detailed survey of existing site levels has also been completed, and plans indicating proposed levels submitted. The latter show that the water bodies contained within the site will be filled to create a level surface for the siting of the caravans and pods. The material for this infilling is to be sourced from the applicant's own land.
- 1.11 In addition an interim ecological report has also been submitted and was completed in January 2008. This acknowledges that the site may provide habitats that are suitable for protected species, particularly reptiles and bats, but the time of year which the study was undertaken was not optimum for finding them. It concludes that further survey work is necessary.

2. Policies

2.1 National Planning Guidance

PPS1 - Delivering Sustainable Development
 PPS7 - Sustainable Development in Rural Areas
 PPS9 - Biodiversity and Geological Conservation
 PPS11 - Regional Spatial Strategies
 PPS25 - Development and Flood Risk

2.2 Herefordshire Unitary Development Plan

S1 - Sustainable development
 S2 - Development requirements
 DR1 - Design
 DR2 - Land use and activity
 DR3 - Movement

DR4 - Environment
DR7 - Flood risk
H8 - Agricultural and forestry dwellings and dwellings associated with rural businesses
E13 - Agricultural and forestry development
LA2 - Landscape character and areas least resilient to change
LA3 - Setting of settlements
NC1 - Biodiversity and development
NC8 - Habitat creation, restoration and enhancement
CF2 - Foul drainage

3. Planning History

3.1 The following applications are all relevant to this particular site either in part or in their entirety:

- NC1999/3179/F - Change of use to allow the siting of 12 caravans for temporary accommodation and creation of a reed bed sewage system - Withdrawn.
- NC2000/3153/F - Retrospective application for ancillary storage and wc buildings for use in connection with fisheries operation - Refused 09/01/2001
- NC2001/0289/F - Retrospective application for ancillary storage and wc buildings for use in connection with fisheries operation - Approved 19/06/2001
- NC2004/0224/S - Construction of new access roads - Prior approval not required - 06/02/2004
- NC2004/2725/F - Variation of conditions 2 and 3 of approval under NC2001/0289/F to allow temporary buildings to remain on site for a further three years - Refused 25/10/2004
- NC2007/1801/S - Proposed general purpose storage building for the housing of irrigation equipment - Prior approval required - 06/07/2007

3.2 The following application is also directly relevant to this application although it relates to another part of the applicant's land:

- NC2004/0321/F - Construction of amenity building, toilet buildings and site works for 300 unit caravan standing (change of use) for farm workers accommodation - Refused 12/05/2004 and dismissed on appeal.

3.3 The same site was also the subject of a dismissed enforcement appeal. At the time of writing this report work is almost complete to remove the caravans and all of the associated site works from the land and to return the land to its original condition. The caravans and pods are currently sited on an adjacent field are being tolerated pending the determination of the current applications. The developer claims that the caravans are permitted development by virtue of Part 5 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, by reference to Paragraph 7 of Schedule 1 of the Caravan Sites and Control of Development Act 1960 which permits the use of land as a caravan site for the,

"accommodation during a particular season of a person or persons employed in farming operations on land in the same occupation"

- 3.4 However, in the appeal decisions in respect of Brierley Court the Secretary of State set out four tests to establish whether permitted development rights were being correctly applied. It is clear that, in the current case, those tests are not all satisfied and, therefore, the current caravan site is unauthorised. The decision on further enforcement proceedings has been postponed until the outcome of the current applications is known.

4. Consultation Summary

Statutory Consultations

- 4.1 Environment Agency - comment as follows:

Flood Risk

- 4.2 Although the site is shown to lie within the 1 in 100 year floodplain of the River Arrow, Brierley Cut and Little Arrow, based on the current Flood Zone Map, the FRA has demonstrated that the existing site (fishery) is contained within a substantial earth embankment, which excludes floodwater for events up to and including the 1 in 1000 year flood. Section 6 of the FRA states that 'these bund top elevations offer between 0.03m and 4.26m freeboard above the 1 in 100 year plus 20% flood level.'
- 4.3 We also note the comments in section 11 of the FRA regarding the Sequential test and that the accommodation units would be sited within flood zone 1 on the basis of the above.

Proposed Development

- 4.4 The proposals for the caravan site include the filling in of the fishing lakes (within the perimeter bunding) and raising of the internal level of the site to 67.98mAOD, which is 30mm above the 1 in 100 year plus 20% flood level. This will ensure that the site lies above the 1 in 100 year plus 20% flood level of 67.95mAOD. The FRA also states that the 'infill material will provide the bund with enhanced stability at the internal toe'. Sourcing of infill material, as proposed, from within the floodplain area (associated wildlife enhancement works) would also increase local flood storage and act as betterment in the flood risk regime, which meets the 'policy aims' of PPS25 (Table D1).
- 4.5 As a result of the existing earth embankment we consider that this area has been removed from the floodplain and therefore potential loss of floodplain storage volume as a result of this aspect of the proposal would not be an issue.
- 4.6 If the local planning authority are minded to approve this application the Environment Agency recommends the imposition of a number of conditions relating to site levels and floor levels within the accommodation units.

Internal Council Consultations

- 4.7 Transportation Manager - First, I wish to acknowledge and express thanks for S & A Group's approach to transport matters generally. Their approach has been good, and the effort is appreciated and acknowledged.
- 4.8 The fact remains that the proposed development is very significant in its effect on the transport network in the vicinity and surrounding area. It is our duty to ensure that these effects are not detrimental to highway safety or the free flow of traffic. Given that the population of the proposed camp is greater than many main villages in

Herefordshire, there will undoubtedly be some effect on the Highway, both in increased risks and traffic generation.

- 4.9 I acknowledge that measures are in place to provide workplace transport, travel at the start and end of employment, and some travel to tourist and entertainment venues, as well as shopping shuttle bus provision.
- 4.10 I remain concerned about the residents who wish to travel independently between the site and Leominster, and further afield. It is likely that residents will wish to visit entertainment providers (pubs and clubs particularly) outside the hours that the shuttle bus operates. They will also wish to visit Hereford, and to meet workers housed on other sites around the County. They will travel by bus, or walk, or cycle. There is evidence of significant pedestrian traffic into Leominster in the evenings, and a fatal collision history between the site and Leominster involving a pedestrian.
- 4.11 Following the collision, informal temporary improvements were made to the western verge of the B4361. These improvements have partially improved the verge for pedestrian use. Unfortunately, there remain areas with slip and trip hazards, pinch points at bridges, no dropped kerbs, and the width is well below accepted standards. I would wish to see the western verge converted to a 2.0m wide footway, with kerbs, for the full length between the site and the existing footway north of Broadward.
- 4.12 However, I acknowledge that the work required to provide a footway meeting current standards is significant and expensive, because of the embankment that carries the road over the flood plain would need widening, and several bridges would need widening (or extra footbridges provided adjacent). I acknowledge that the residents of the camp are likely to be young and fit, by the very nature of the work they are employed to perform. This reduces the significance of full width footway provision with dropped kerbs. However, tripping hazards remain, and the surface will require on-going maintenance. There is also a slipping risk at the muddy/grassed verge outside "Broadward". Because of this, I would consider that it is reasonable to require the existing temporary improvements to be further improved by asphalt surfacing, and a new footway built linking the existing footway to the verge south of Broadward.
- 4.13 I also consider that bus shelters and improved bus stops should be provided at the junction of the private road and the B4361. This will accommodate those wishing to use the service bus towards Leominster and Hereford.
- 4.14 I would be grateful for details of cycle provision, and details of how cycle use is promoted."

Conservation Manager

Landscape

- 4.15 The majority of the site of the former fishery falls within the Landscape Type Riverside Meadows. This landscape type is described as 'linear, riverine landscapes associated with a flat, generally well-defined, alluvial floodplain, in places framed by steeply rising ground'. With regards to settlement pattern, it is stated that 'These are essentially unsettled landscapes with occasional mills or other buildings directly associated with the river'. The conservation aims include: 'Discourage further drainage of waterside meadows', 'Discourage built development' and 'Discourage construction works that would interrupt the linear unity of the landscape'.

- 4.16 While the site is in the form of a fishery at present, it is evident that it was previously a level, floodplain meadow, part of a managed water meadow system associated with Broadward Hall, which lies on the northern bank of the River Arrow. Brierley Cut (also called Arrow Cut) a drainage channel that runs along the northern boundary of the fishery site is part of the historic system of drainage channels that ran through the water meadows.
- 4.17 While the fishery pools are clearly a man-made element, pools are in keeping with the character of Riverside Meadows.
- 4.18 I am concerned that the proposed development would introduce a very large-scale built element into open countryside. In terms of landscape character, this would clearly be inappropriate and uncharacteristic of Riverside Meadows and contrary to the conservation aims for this landscape type.
- 4.19 The adverse impact of the proposed development on the character of the Riverside Meadows is acknowledged in the Landscape Assessment, which states that 'the proposed structures will be a notable landscape element within the immediate area of the Riverside Meadows due to the general absence of built structures within this Landscape Type'.
- 4.20 In my view, this conflict, between the proposed development and the character of Riverside Meadows, cannot be reconciled.

Ecology

- 4.21 At the time of writing this report a full ecological survey has yet to be completed. In the absence of such a report it is not possible to conclude whether the proposals will directly affect any protected species. However, there are concerns about the scale of development proposed.

Archaeology

- 4.22 In relation to archaeological issues this is a good choice of site. It is well away from any monuments with sensitive settings, and by virtue of the previous land use, of almost no potential in terms of below ground archaeology.

- 4.23 Public Rights of Way Manager - The proposed use of land for seasonal agricultural accommodation (191 caravans, 313 accommodation 'pods' and ancillary buildings) will affect the two public rights of way crossing the application site, and the development proposal does not satisfy all the elements contained in UDP Policy T6. Consequently, at least until further information is provided, and because the proposal appears to be in conflict with UDP Policy T6, the PROW Manager recommends refusal of this application.

- 4.24 A number of PROW issues directly relevant to Policy T6 need to be resolved before a determination is made on this application. A meeting is due to take place before the NAPSC meeting to resolve these and the Committee will be updated accordingly.

- 4.25 Environmental Health and Trading Standards Manager - No objection

- 4.26 Emergency Planning Manager - Has had sight of the comments from the Environment Agency and does not wish to add anything further to them.

5. Representations

- 5.1 Leominster Town Council - Recommends approval subject to the results of the additional ecological surveys and its confirmation that there will be no effect on any European protected species.
- 5.2 River Lugg Drainage Board - Objected to the original submission on the basis of a lack of information in relation to the disposal of surface water. No response has been received to further consultation following the submission of a detailed flood risk assessment.
- 5.3 The Ramblers Association - There are rights of way close to the proposed site and the visual impact would mar the ability of the public to enjoy the use of these. Should the work be undertaken, there should be no interference with, or blocking of, the existing rights of way.
- 5.4 CPRE - Object for the following reasons:
1. Out of scale with rural location.
 2. 2,100 people for nine months constitutes settlement with burden on services.
 3. Proximity to previous site and flood plain.
 4. Contrary to policies DR1, P6 and P7 and para 9.4.4.
 5. Biodiversity report compiled wrong time of year for great crested newt, and others.
- 5.5 Leominster Civic Society - Opposes the application for the following reasons:
1. The appearance of the landscape would be altogether altered by the proposal.
 2. It is both unsympathetic and unsustainable.
 3. The scale of the proposal is grossly out of keeping with the historic Herefordshire landscape.
 4. The proposal constitutes a settlement and it will have major ramifications in terms of its social and economic impact on the community.
 5. The proposal is for a period of 10 years and hence is not a short term application but will continue to have significant effects on Leominster.
 6. No decision should be made without the completion of a full biodiversity report.
 7. There is a potential for flooding in the area
 8. The enterprise will damage people's perception of Herefordshire as a tourist destination.
 9. Adequate transport facilities are not provided for workers.
 10. The proposal does not ensure effective protection of the environment or prudent use of natural resources.
- 5.6 Arrow Valley Residents Association - Object to the application for the following reasons:
1. Contrary to the consultant's report, local knowledge suggests that the site is well within the 1 in 100 year flood plain, and is shown by photographs submitted to the Council.
 2. Possibility of pollution of Brierley Cut
 3. The site will house over 2000 people and is far too large for its rural situation.
 4. The site will house pickers for other sites, necessitating convoys of buses along narrow lanes.
 5. The site is close to private houses and will have a negative impact upon them.

6. The development plans to use an unauthorised sewage treatment plant.
 7. The amenity value of public footpaths to either side of the site would be ruined by the development.
- 5.7 Eights letters of objection have been received from the following:
1. Mr A Greene, Ivington Park, Leominster
 2. Ms F Galliers Pratt, Upper Wintercott, Ivington
 3. Mr & Mrs Fereday, 2 New Orchard Cottage, Broadward
 4. Mr & Mrs Biddle, Brierley Lodge, Elms Green
 5. Mr & Mrs Hooper, Upper Court, Aulden
 6. Mr & Mrs Braithwaite, Onslow, Elms Green
 7. Mr & Mrs Ferron, The Paddocks, Elms Green
 8. Mr A Batty, 29 Wegnalls Way, Leominster
- 5.8 As well as making many of the points raised by both Leominster Civic Society and Arrow Valley Residents Association, the letters received from the objectors also raise the following additional points:
1. The polytunnels that the proposal will serve do not benefit from planning permission. Therefore the need for the development is questionable.
 2. The application does not state whether the units will be sited permanently sited or removed off season. If it assumed that they will be permanent, this is considered unnecessary when the applicants can rely on agricultural permitted development rights to accommodate workers.
 3. The previous site caused problems of noise and light pollution, social issues and intimidation of local people by groups of workers carrying alcohol.
 4. Claims that the proposal allows food to be grown locally and reduces food miles are unfounded. Workers travel from Eastern Europe and non EU countries and their carbon footprint should be included in any assessment.
 5. Inappropriate location for 3,000 people.
- 5.9 One letter of support have been received from Ms E Henderson, Pear Tree Cottage, Brierley who considers that this is an excellent location for the proposal as site has easier access to public transport and Leominster for workers.
- 5.10 Two non-committal letters have also been received from Mr J Howe, 59 South Street, Leominster who raises no objection to the proposal but simply queries what will happen to the pair of nesting swans on the site; and Mr J Clark, Brierley Cottage, Brierley who considers the scheme to be well designed but closer to dwellings than the original site and queries why it cannot continue to be used.

The applicant's supporting documents are summarised on the following pages:

Landscape Assessment

Summary

- 5.11 The applicant concludes that the proposed development would not have a significant impact on the wider landscape character for the following reasons:
1. There are very few existing views of the site from the surrounding landscape, due to the local topography and intervening vegetation;
 2. Where views do exist, such as from elevated viewpoints to the south, the new development will sit within the context of existing woodland. They also note

- that the industrial estate south of Leominster is likely to be a more intrusive feature in the landscape than the proposed development; and
3. The more sensitive 'Riverside Meadows' landscape type has greater potential to be significantly affected by the proposals. However, the boundary of this landscape type crosses the proposed site with no apparent justification using physical features (eg. field boundary/road/track/contour) on the ground.
- 5.12 It is their opinion that the boundary should more accurately be redrawn along the 'Arrow cut' just north of the proposed site, and that the site be placed wholly within the 'Principal Settled Farmlands'. Furthermore, the characteristics of the site do not readily fall within the description of the 'Riverside Meadows', including 'extensive areas of seasonally grazed waterside meadows', 'meandering tree lined rivers' and a 'flat generally well defined, alluvial floodplain'.
- 5.13 It is their conclusion that the proposed development would not have a significant visual impact for the following reasons:
1. There are very few existing open views of the site from the surrounding landscape, due to the local topography and intervening vegetation;
 2. Where views do exist, such as from elevated viewpoints to the south, the new development will be partially screened by vegetation along the southern bund, and viewed against existing woodland, and will not break the skyline; and
 3. The significant visual impact from public right of way ZC85 as it passes over the top of the western bund is experienced for only a very short length.
- 5.14 The landscape enhancement and mitigation proposals are shown on the schematic layout plan submitted with the Planning Application. The principal elements of the scheme are:
1. Strengthening of perimeter planting with new tree planting; and
 2. Tree planting in association with retained trees within the site area to better integrate the proposed development into the surrounding landscape.
- 5.15 The proposed planting will consist of native species to reflect the mix of existing tree and scrub both within and adjacent to the site, including willow, ash, alder, hawthorn and blackthorn.
- 5.16 They consider that the principals outlined above are appropriate in terms of the mitigation for the proposed development and provide a suitable basis develop a detailed landscape strategy.
- 5.17 Following recent discussions with the Public Rights of Way Officer, the applicant notes that there is potential for the re-routing of public right of way ZC85 from the top of the bund, to run along the western side of the bund. The views of the proposed development, should the footpath diverted, would be screened by the bund and the existing scrub vegetation.

Conclusions

- 5.18 From the landscape and site assessment, it is apparent that the proposed structures will be a notable landscape element within the immediate area of the 'Riverside Meadows' due to the general absence of built structures within this Landscape Type. However, the impact of these structures within the wider context will be reduced due to the partial screening from existing woodland and scrub vegetation on the bunds.

- 5.19 The effects on public rights of way have been assessed, and one significant visual impact has been identified where public right of way ZC85 crosses the top of the western bund. However, this is a transitory impact, and furthermore we note the potential to re-route this footpath if it is felt necessary.
- 5.20 There will be no adverse visual impacts on the small number of residential receptors at Elms Green, approximately 0.2km south-east of the proposed site.

Flood Risk Assessment

- 5.21 The S&A Group proposes to re-develop the currently unused Brierley Fisheries site into a caravan site and amenity block for their seasonal workers.
- 5.22 Although shown on Environment Agency flood maps to be within the 1 in 100 year and 1 in 1000 year floodplain, recent ground elevation surveys of the site have shown that this is in fact not the case.
- 5.23 The existing perimeter bunding around the site removes the site from the 'actual' 1 in 100 year +20% and 1 in 1000 year flood plain areas.
- 5.24 The interior of the site will be in-filled to a finished level of approximately 67.98mOD; 0.03m above the 1 in 100 year + 20% flood level.
- 5.25 The infilling of the site will act to stabilise the perimeter bund.
- 5.26 An emergency egress route above the level of the 1 in 100 year +20% and 1 in 1000 year flood plain areas will be provided to the south of the site.
- 5.27 The site is contained and therefore surface runoff will be limited to precipitation falling within the site itself. This will not exit the site but will be allowed to infiltrate across the site area.
- 5.28 The proposals will not increase any ground elevations outside the perimeter bunding and as a result do not pose a risk to increasing flooding of areas downstream of the site.
- 5.29 Sourcing of infill material for within the perimeter bunding and wildlife enhancement works associated with this, to the north of the Brierley Cut stands to increase local floodplain storage.

Planning Statement

- 5.30 The subject development is clearly necessary in support of the agricultural operations of the S&A Group for the following reasons:
1. The operations are dependent on a sizeable and reliable seasonal workforce engaged in picking and other related tasks;
 2. Workers need to be located in proximity to the farm to enable picking at short notice when conditions are optimal;
 3. Accommodation for workers needs to be provided by the S&A Group as there is no existing accommodation available in the locality for the required number of workers;

4. Accommodation and supporting facilities need to meet appropriate standards required by SAWS and relevant legislation; and
5. An appropriate range of facilities for seasonal workers is needed to the farm to ensure their day-to-day self sufficiency, welfare, amenity and contentment, particularly given the limited facilities existing in the locality.

5.31 The subject proposals are a direct response to concerns relating to the existing accommodation and facilities provided at Brierley Court Farm. In particular, the facilities are proposed to move off best and most versatile agricultural land to a site that is well screened and where the visual impact of the development will be acceptable.

5.32 Furthermore:

1. The subject development is appropriately sited and designed having regard to the character of the surrounding rural area;
2. The subject development will have no materially adverse effect on the residential amenity of the occupiers of neighbouring dwellings;
3. The subject development is consistent with the transport policies outlined in the UDP;
4. The development is located outside the floodplain; and
5. There are no other material planning reasons why planning permission should be withheld.

5.33 Further targeted ecological survey work has been identified and will be submitted in due course in order to properly consider any impacts arising and the need for mitigation.

5.34 There are bona fide material planning benefits resulting from the subject development in terms of ensuring the successful assimilation of a large seasonal workforce into a rural area, and the promotion of sustainable transport objectives. Such benefits would not be realised if the subject development is refused and the S&A Group cannot properly meet the day to-day needs of its seasonal workforce and ensure their contentment and enjoyment.

5.35 The thrust of planning policy and guidance is to support the needs of agriculture where there are no adverse impacts arising. Subject to the findings of further ecological survey work, the proposed development is consistent with relevant provisions of the development plan and government guidance.

5.36 Following a request for information on the need for the size of the workforce, especially in the context that none of the polytunnels at Brierley, Ivington or Wickton has planning permission, the applicant has produced the following table:

Method	Picking (persons per hectare per day)	Ancillary (persons per hectare per day)	Total (persons per hectare per day)
Table-top Polytunnels	10	5	15
Temporary Polytunnels	18	6	24
Micro-tunnels	27	9	36

5.37 The current total of polytunnel coverage at present is:

Brierley Court Farm	50 ha
Ivington Bury Farm	25 ha

Wickton 112 ha

5.38 By implication the total workforce for the three cultivation methods is:

Table Top	2,815
Polytunnels	4,488
Micro-tunnels	6,732

5.39 The implication of these figures is discussed in the Officer's Appraisal below.

5.40 The full text of these letters can be inspected at Northern Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Sub-Committee meeting.

6. Officer's Appraisal

6.1 As Members are undoubtedly aware an extensive planning history exists, not only in relation to the applicant's holding at Brierley Court Farm, but also in relation to the base for his enterprise at Marden, and also on land at Wickton and Ivington. It is important, that this application is determined on its own merits, taking into account current Unitary Development Plan policies, Government advice and any other material planning considerations including any relevant planning history. The first two of these are set out in detail in the Policies section of this report. .

6.2 The following factors are considered to be key to the determination of this application. Their order is not an indication of their importance, but does attempt to give some logical structure to the assessment of the proposal and how each issue impacts upon others:

6.3 Flooding

Is the site within the flood plain?

Does the alteration of ground levels alter flood capacity elsewhere in the immediate locality?

Does the scheme ensure the safety of the workers in a flood event?

6.4 Need

What need has been demonstrated for workers on the land?

What alternatives exist for housing seasonal workers?

6.5 Landscape Impact

What impact will there be?

Is it justified?

6.6 Once these key issues have been considered, a further assessment will be made of the other matters that have been raised.

Flooding

6.7 The site lies within the 1 in 100 year fluvial flood plain (zone 3) of the Brierley Cut, Little Arrow and River Arrow. With construction of the original fishery site, the flood risk assessment contends that the area within the bunds was in effect removed from the 1 in 100 year, 1 in 100 year +20% and 1 in 1000 year 'actual' flood zone in that it does not flood.

6.8 There can be no doubt that the areas surrounding the application site are prone to flooding and this is evidenced by the photographs that have been submitted by some

of the objectors. Whilst the site does fall within the flood plain as currently defined by the Environment Agency's zoning system, the evidence provided by the flood risk assessment demonstrates that **the site itself** does not flood. This view is endorsed by the comments received from the Environment Agency who acknowledge that as a result of the bunding the site falls outside of the floodplain.

- 6.9 The proposal suggests that the materials required to infill the water bodies will be obtained from the surrounding land controlled by the applicant through land scrapes and through the excavation of wildlife ponds on land immediately to the north of the application site. It should be noted that this does not form part of the proposal and would have to be the subject of a separate planning application if this one were to be approved. However, in light of the fact that the proposal has been shown to be outside of the floodplain and it does not propose to add any landforms within it, the flood risk assessment demonstrates that there will not be any impact on the flood capacity of the area.
- 6.10 The site is totally contained by the perimeter bunding so there is no direct flow route for water in or out. Surface runoff within the site will be generated by storm events above the site alone. This water will remain contained within the perimeter bunding and will be allowed to infiltrate over the site area.
- 6.11 In order to ensure that workers safety is ensured in a flooding event, the provision of an access route, dry during the 1 in 100 year +20% event is necessary.
- 6.12 The flood risk assessment shows a route on the south western edge of the site heading up-slope from the main access road which is at an elevation of 68.35mOD in this vicinity. This level is 0.37m above the 1 in 100 year +20% flood level.
- 6.13 It is proposed to construct a set of steps up the inside of the bund, over the top and down the outside of the bund, to the access road. A bridge will be provided over the ditch that runs parallel to the access road. The route then strikes up the hill to the south of the site. The route will be clearly signed as an emergency egress and is entirely clear of the 1 in 100 year, 1 in 100 year +20% and 1 in 1000 year flood levels.
- 6.14 The interior of the site is to be in-filled to a finished level of 67.98mOD; 0.03m above the 1 in 100 year +20% flood level. However, in the event of flooding, Flood Zones 2 and 3 and the 1 in 100 year +20% flood extent do not surround the site entirely and therefore a dry island is not created.
- 6.15 In these circumstances the safety of the workers in terms of minimizing risk in a flood event is secured.
- 6.16 It is therefore concluded that the scheme meets the requirements set out by policy DR7 of the UDP and the guiding principles of PPS25 in that it ensures dry access and egress to the site, it does not result in a net loss of floodplain storage and it will not impede water flows or increase flood risk elsewhere.

Need

- 6.17 One of the key matters for debate in the earlier appeals at Brierley Court Farm related to the need for workers to be accommodated within a reasonable distance of the farmed areas. Both the Inspector and Secretary of State agreed that the applicant's business relies on a very large temporary workforce and that the business of growing soft fruit is labour intensive at certain times of the year. It was also agreed that there is

a need for temporary accommodation within a reasonable distance of the sites where soft fruit is being grown. However, the appeals failed in part due to a lack of explanation of what might constitute a 'reasonable distance' and the failure to examine alternative sites.

- 6.18 The current proposal addresses this by assessing alternatives in the accompanying planning statement. Three alternatives are considered:
1. The use of residential/hostel facilities within Hereford or Leominster
 2. Previously developed sites
 3. The use of sites allocated for employment uses at Leominster and Moreton on Lugg.
- 6.19 None of these are considered to be realistic or viable alternatives. The use of HMOs or hostels would not be socially acceptable at such a large scale that would be required to house such numbers of workers. It is also highly unlikely that a number of properties either exist or are available to provide accommodation at the level required. Furthermore it would not appear to be economically viable or sustainable as workers housed in outlying towns or villages would then have to be transported to work on a daily basis.
- 6.20 There are no known previously developed sites, other than the site that is the subject of this application, within reasonable proximity to the land at Brierley Court Farm and therefore this option can be readily discounted.
- 6.21 Similarly, the use of land allocated for employment uses can be discounted as it would be fundamentally contrary to policy and would prejudice the economic vitality of those sites referred to.
- 6.22 Other land that is controlled by the applicant is either equally or more visually prominent as the dismissed appeal site and is also positioned on the best and most versatile agricultural land. The current site has been used previously for a non-agricultural use and is afforded a degree of visual screening by virtue of existing vegetation and the bund that surrounds the site. In your Officer's opinion it is the most appropriate site for a development of this nature **if** the need for it can be substantiated.
- 6.23 As the situation currently exists, the applicant has yet to submit a planning application for any of the polytunnels at Brierley, Ivington or Wickton. The planning statement suggests that the Inspector and Secretary of State both concurred that the enterprise relied on a large workforce that needs to be accommodated within a reasonable distance to the farmed area. There is no contention with this. However, it goes on to suggest that there has been no change in circumstance since that time to suggest that the SoS would reach a different conclusion. This is clearly not the case as at that time there was still uncertainty as to whether the polytunnels would require the benefit of planning permission. This has now been resolved by the Tuesley appeal decision and planning permission is indeed required.
- 6.24 In the absence of planning permission for any of the polytunnels it is quite clear that a long term need for workers accommodation at Brierley Court Farm cannot be substantiated. There is no guarantee that permission will be granted at a scale that would warrant the level of accommodation proposed here, and therefore this application is premature. Until the matter is resolved, the applicant does have the ability to house workers by virtue of his agricultural permitted development rights

subject to the test set out by the Secretary of State with regard to those permitted development rights. .

- 6.25 The applicant has sought to address this point by suggesting that the need for a workforce exists with or without polytunnels. The proposal seeks to accommodate a total of 2,100 workers and yet, on the basis of the data submitted by the applicant the need ranges from 2,815 (if production is by table top means), to 4,488 (if production continues under polytunnels) to a maximum of 6,732 (if production is based on micro-tunnels which do not need planning permission). These numbers do not appear to be realistic. In any event no planning application has been lodged for tabletop growing at the three sites, no polytunnels at these sites have planning permission, and neither is soft fruit grown under micro-tunnels at these sites. The alleged need therefore depends on either development which needs permission and hasn't got it, or growing techniques which are not used.
- 6.26 The proposal therefore fails the tests set out by Policy H8 of the UDP as it has not been demonstrated to the satisfaction of the local planning authority that a genuine and long term need exists for accommodation at this scale.

Landscape Impact

- 6.27 The site is within an area identified as "Riverside Meadows" in the County Landscape Character Assessment where the Management Guidelines propose that built development should be actively discouraged. The Management Guidelines are based on the principles of conserving and restoring the undeveloped and open character of the landscape to the benefit of landscape, floodplain and biodiversity interests.
- 6.28 It is accepted that in a wider landscape context there are fairly limited views of the site from the surrounding landscape, due to the local topography, the intervening vegetation, in particular the plantations to the north and west of the fishery site and the presence of the bund around it.
- 6.29 However, some of the short and middle distance views of the site do have more of an adverse impact, particularly from footpath ZC85 which passes over the top of the bund and from footpath ZC84 from rising ground to the south of the site. From both of these viewpoints most of the proposed development would be visible and there would be an adverse impact on the amenity of the users of those footpaths and, critically, on the rural landscape.
- 6.30 As stated by the Conservation Manager, the fishery pools are clearly a man-made element but its pools are considered to be in keeping with the character of Riverside Meadows.
- 6.31 The proposed development would introduce a very large-scale built element into open countryside which, in the absence of an overriding need is unwarranted. The proposal therefore fails under Policies E13 and LA2 of the UDP.

Other Material Considerations

- 6.32 The report will now go on to consider the other issues that have been raised. These are considered to be the economic impact of the proposal (including tourism), the impact of proposal on the residential amenity of nearby dwellings, transport issues and ecology.

Economic Impact

- 6.33 The issue of the impact of polytunnels on the rural economy is an issue that was rehearsed in the recent appeal decision at Pennoxstone Court. On this subject the Inspector concluded as follows:

“...the benefits of the polytunnels in enabling the production of increased quantities and quality of soft fruit; the sustainability benefits of reducing food miles, and the positive contribution made to the rural economy are all matters to which considerable weight should be accorded in the balance of considerations.”

- 6.34 It is quite clear from this that the Inspector considered that there were economic benefits to be derived from that particular development and the same principle can be applied to this proposal.
- 6.35 The suggestion of some of the objectors is that the proposal does nothing to contribute to the local economy of Leominster as facilities and retail opportunities are provided on site for the workers. However, the continuous movement of workers to and from the earlier unauthorised development to Leominster does not bear this out. It is highly unlikely that a retail element contained within the amenity building would be sufficient to cater for 2100 workers and the only realistic alternative is for them to travel to Leominster. It is therefore concluded that there is also some economic benefit in this respect.
- 6.36 A suggestion is also made that the provision of large areas of polytunnels and the associated accommodation for workers will damage local tourism. No evidence has been provided to suggest that this is the case. The proposed development is not immediately adjacent to a major tourist generator such as Croft Castle or Berrington Hall and, with the lack of any evidence, it is difficult to substantiate a suggestion that this development would have any impact upon them, or the enjoyment of the countryside as a tourist attraction for its own sake.

Impact on Residential Amenity

- 6.37 The closest property to the application site is The Paddocks and it lies approximately 200 metres to the south east. Workers entering and leaving the site, either to go to work or to Leominster would not need to pass the property.
- 6.38 The unauthorised site did not give rise to frequent complaints to the Council's Environmental Health department and there is nothing to suggest that this site would be any different. In fact, as submitted, the proposal does not include outdoor recreation areas other than those immediately adjacent to the amenity building, and these are considered to be the most likely noise generators.
- 6.39 Any concerns that might arise in terms of light spill beyond the boundaries of the application site could be addressed by condition. However, the fact that the site is surrounded by bunding would suggest that any low level lighting would be contained within the site and would not give rise to nuisance.

Transport

- 6.40 There has been a commitment from the applicant to enhance a section of verge to provide a better footway. However it is considered inappropriate to site a bus shelter in such a location.

Ecology

6.41 A detailed ecological assessment of the site has yet to be completed and in light of this any potential impact of the development on protected species cannot be determined. As a result the proposal fails to meet the requirements of Policy NC1 of the UDP. The ecological assessment is expected to be received prior to the committee meeting and will be commented upon further in the update to the report.

Conclusion

6.42 The principal concerns in this proposal are:

- (1) the scale and intensity of the development, which brings it into conflict with the development plan in the form of Unitary Development Plan Policy LA2;
- (2) the need for the development, which could be balanced against the conflict with the landscape policy, but depends on methods of cultivation, which are either not used or are without planning permission and subject to enforcement;
- (3) the, as yet, unknown impact on local biodiversity.

Notwithstanding the need to give considerable weight to the economic arguments in favour of this development, it is not considered that a need has been established, which is sufficient to overcome the landscape objection, and the biodiversity issue remained unresolved at the time of drafting this report.

6.43 As a result the proposal is contrary to Unitary Development Plan policies concerned with protecting the landscape and biodiversity of the area. Without an identified need for workers' accommodation, it is also contrary to Policies relating to residential development in rural areas.

6.44 Although the proposal derives some support from policies that encourage economic development, and it has been demonstrated that the site falls beyond the floodplain and will not adversely impact upon the residential amenity of nearby dwellings, these issues are outweighed by the conflict with other Development Plan policies as outlined above. It is therefore recommended that this application is refused.

RECOMMENDATION

That planning permission be refused for the following reasons:

- 1 The need for this development is dependent upon the use of the land at Brierley Court Farm for soft fruit production under polytunnels. At the time at which this application has been determined, no planning permission exists for the siting of polytunnels on the land, and those which are currently on the site are subject to enforcement proceedings. In the absence of any lawfully sited polytunnels, the long term use of the land for the production of soft fruit is not assured and therefore the siting of 576 caravans, accommodation pods, service pods and an amenity building cannot be justified. Accordingly the proposal is contrary to Policy H8 of the Herefordshire Unitary Development Plan.**

- 2 The site lies within an area defined by the Council's Landscape Character Assessment as Riverside Meadow. In the absence of an overriding need for the accommodation, the proposal has an unacceptably adverse visual impact which will detract from the character of this landscape particularly by virtue of the introduction of 576 caravans, accommodation pods and service pods and a large amenity building into a landscape characterised by its open nature and absence of built structures. The proposal is thereby contrary to Policy LA2 of the Herefordshire Unitary Development Plan.

- 3 In the absence of an ecological survey of the site, the local planning authority is unable to assess the impact of the proposal on its ecology, whether it will affect any recognised protected species and if so what mitigation strategies will be employed to ensure its acceptability. As a result the proposal is contrary to Policy NC1 of the Herefordshire Unitary Development Plan.

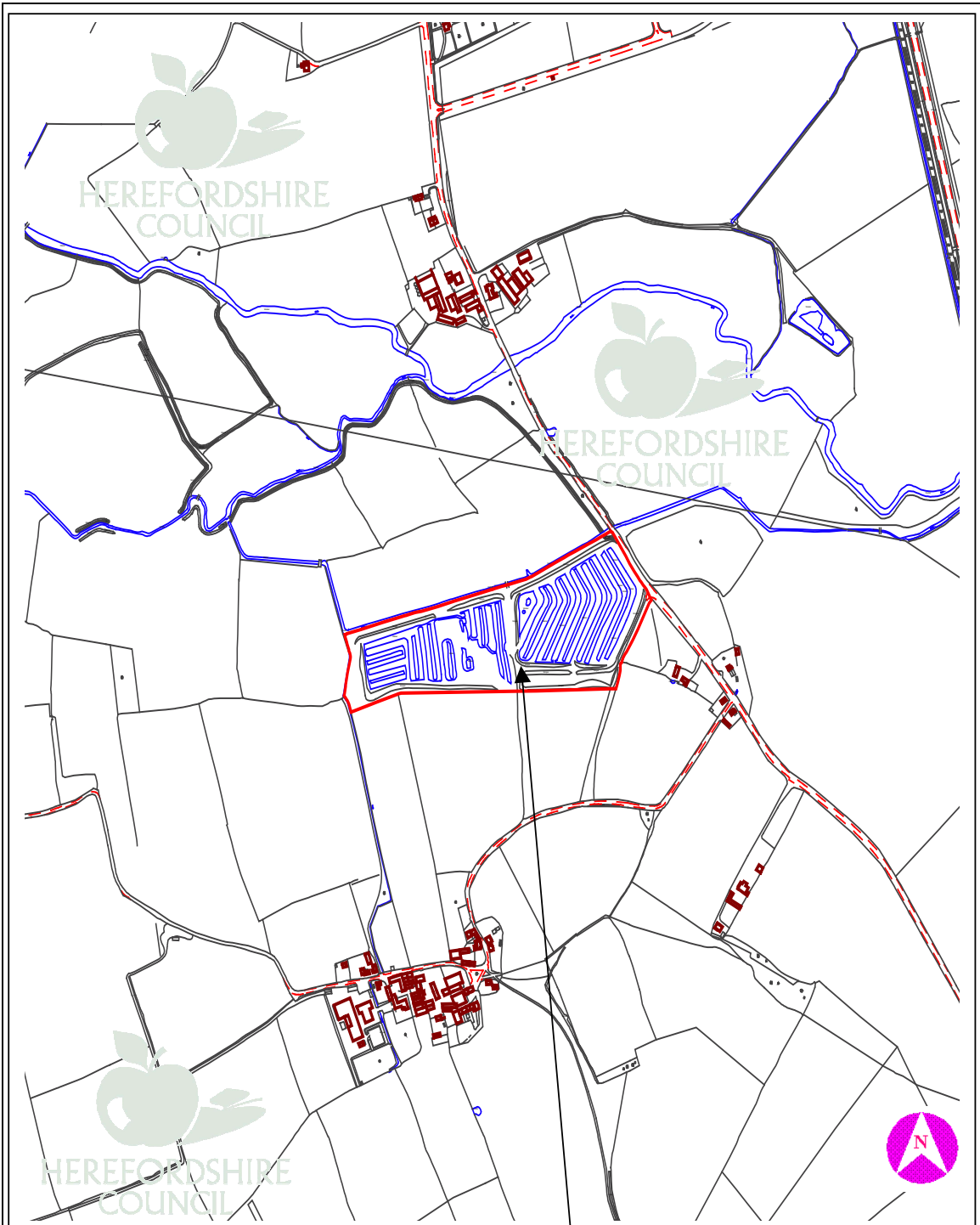
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCNC2008/0155/F

SCALE : 1 : 10000

SITE ADDRESS : The Fisheries, Elm Green, Brierley Court Farm Brierley Leominster Herefordshire HR6 0NT

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8 DCNC2008/0603/F - CHANGE OF USE OF LAND FROM AGRICULTURAL TO RESIDENTIAL. LAND TO THE REAR OF QUAKERFIELD, 34 RADNOR VIEW, LEOMINSTER, HEREFORDSHIRE, HR6 8TF.

For: Mr & Mrs EGW Brooks per Caldicotts, 21 Burgess Street, Leominster, Herefordshire, HR6 8DE.

Date Received: 28 February 2008

Ward:

Grid Ref:

Expiry Date: 24 April 2008

Leominster North

48804, 59307

Local Member: Councillor J French and Brigadier P Jones

1. Site Description and Proposal

- 1.1 The applicant's bungalow is located in a housing estate within the town boundary of Leominster. There are open fields directly to the north of the applicant's dwelling. The town boundary runs along the rear (northern) boundary of the applicant's garden. The application site itself is a small section of the large field which backs directly onto the applicant's rear garden. The site measures 12 metres by 12.5 metres and the proposal is to change the use of this land from agricultural to residential in order to enlarge the residential curtilage, ie garden area, of the applicant's dwelling.

2. Policies

2.1 Planning Policy Guidance/Statements:

PPS1 - Delivering Sustainable Development

PPS7 - Sustainable Development in Rural Areas

2.2 Herefordshire Unitary Development Plan:

Policy S2 - Development Requirements

Policy DR1 - Design

Policy LA2 - Landscape Character and Areas Least Resilient to Change

Policy LA3 - Setting of Settlements

2.3 Herefordshire Council's Supplementary Planning Guidance:

Design and Development Requirements

3. Planning History

3.1 None.

3.2 On adjacent site - DCNC2007/3028/F - Change of use of land from agricultural to residential at 32 Radnor View. Planning permission with conditions granted 20th November 2007.

4. Consultation Summary

Statutory Consultations

4.1 None.

Internal Council Advice

4.2 The Traffic Manager has no objections.

5. Representations

5.1 The applicant's agent states that there is no operational development involved in this application to change the use of the agricultural land into use as a garden to be used by the applicant once he has purchased the land.

5.2 The Leominster Town Council states:

"Town Council recommends refusal. The change of use is outside the settlement boundary."

5.3 A letter of objection has been received from:

- Mr RF Oliver, Chairman of Leominster Civic Society, 118 Godiva Road, Leominster, Hfds, HR6 8TA

The main points being:

- In 1996-1998 Hintons tried to develop field north of The Rugg, Leominster. The application was rejected on access and environmental grounds. The application was for a significant encroachment into countryside.
- Last year permission was granted for No 32 Radnor View for change of use of agricultural land to residential ie land at bottom of their garden. Now there is current application next door for same type of proposal.
- There should be no built development outside the existing settlement boundary. If permission is granted then it should be for the exclusive domestic recreational use of the residents or owners of the existing bungalow.

5.4 The full text of these letters can be inspected at Northern Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Sub-Committee meeting.

6. Officers Appraisal

6.1 The main issues relate to:

- The principle of extending the curtilage/garden area of the dwelling into the field.
- The effect of the proposal on the visual amenities and character of the area.

The most relevant policies with respect to these issues are: S2, DR1, LA2 and LA3 of the Herefordshire Unitary Development Plan.

6.2 The principle of extending the garden area into the adjacent field as shown, on the submitted drawing, is in general terms considered to be acceptable. The additional area is only small and is located in the corner of this large field. In addition the proposal will be viewed against the backdrop of the existing residential development on the Town's boundary.

- 6.3 However, during the inspection of the site by the case officer it was noted that the application site had already been enclosed by a wooden fence approximately 1.8 metres high. The fence consists of wooden panels (vertical tannalized boarding) with concrete posts and plinth. It is considered that as the site projects into the field, and in effect into open countryside, that the outside boundary should be in the form of a hedgerow of native indigenous species. This will ensure that the development does not adversely affect the character and appearance of the landscape. However the new wooden fence that has been erected is quite prominent on the landscape to the extent that it does adversely affect the visual appearance and character of the landscape. If the fence was erected on the inside of a new hedgerow then this would be acceptable.
- 6.4 The adjacent dwelling to the east ie No 32 Radnor View, recently received planning permission for essentially the same proposal ie extending the garden into the field to the same depth but a narrower width, on 20th November 2007 – ref No DCNC2007/3028/F. Conditions 2 and 3 on the planning permission required that details of the intended boundary treatment be submitted for approval and that a new hedgerow be planted along the edge of the new boundary (ie on the outside of any new fencing/walling that may be erected) of a species to be first agreed by the local planning authority. The new hedgerow is required by the condition to be planted in the first planting season following commencement of the residential use of the land. At the time of the case officer site inspection (with respect to the current planning application) it was noted that a wooden fence identical to the one erected around the current application site had also been erected along the boundary of the site approved for change of use at No 32 Radnor View. No hedgerow or fencing details have been received by the local planning authority with respect to this planning permission. No hedgerow has been planted. Given the position of the fence line in both cases a hedge cannot be planted on the outside of the fence, whilst remaining within the application site.
- 6.5 In conclusion it is considered that with respect to the current application site the proposed change of use would be acceptable provided a native hedgerow is planted along the site boundary (ie north and west) and the newly erected fencing, which is currently positioned directly on the boundary line, is repositioned behind (ie on the inside) of the new hedgerow. This will however require the dismantling and repositioning of the fence.

RECOMMENDATION

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 Unless otherwise first agreed in writing by the local planning authority, a new hedgerow shall be planted along the edge of the new boundary (ie northern and western sides and also outside of any new fencing/walling that may also be erected) of a species first agreed in writing by the local planning authority in the first planting season following the commencement of the residential use of the land. In the event of this new hedgerow being seriously damaged or destroyed then it shall be replaced by a new hedgerow of the same species in the next

planting season unless otherwise first agreed in writing by the local planning authority.

Reason: In order to protect the visual amenities and character of the surrounding rural area.

- 3 Before the use hereby approved commences and unless otherwise first agreed in writing by the local planning authority the existing newly erected fencing on the north and west boundaries of the site shall be repositioned within the application site (ie on the inside of the new hedgerow required by condition 2) in accordance with details showing the new position to be first submitted to and be subject to the prior written approval of the local planning authority. Full details of any alternative fencing would also need to be submitted for the written approval of the local planning authority prior to its erection.

Reason: In the interests of protecting the visual amenities and character of the surrounding rural area.

Informatives:

- 1 N15 - Reason(s) for the Grant of PP/LBC/CAC
- 2 N03 - Adjoining property rights
- 3 The applicants should be aware that this planning permission does not override any civil/legal rights enjoyed by adjacent property owners and that any development which physically affects or encroaches onto any adjoining property may well affect these rights. If in doubt the applicants are advised to seek legal advice on the matter and contact the owners of adjacent properties where these rights may be affected prior to undertaking any development.
- 4 N14 - Party Wall Act 1996
- 5 N19 - Avoidance of doubt - Approved Plans

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCNC2008/0603/F

SCALE : 1 : 1250

SITE ADDRESS : Land to the rear of Quakerfield, 34 Radnor View, Leominster, Herefordshire, HR6 8TF

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