

**MINUTES of the meeting of Planning Committee held at
The Council Chamber, Brockington, 35 Hafod Road,
Hereford on Friday 3 April 2009 at 10.00 am**

Present: Councillor TW Hunt (Chairman)
Councillor RV Stockton (Vice Chairman)

Councillors: WU Attfield, PGH Cutter, H Davies, GFM Dawe,
DW Greenow, KS Guthrie, JW Hope MBE, B Hunt, G Lucas,
RI Matthews, JE Pemberton, DC Taylor, WJ Walling, PJ Watts and
JD Woodward

105. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors ACR Chappell and PM Morgan.

106. NAMED SUBSTITUTES (IF ANY)

Councillor WU Attfield was appointed named substitute for Councillor ACR Chappell.

107. DECLARATIONS OF INTEREST

There were no declarations of interest made at the meeting.

108. MINUTES

RESOLVED: That the Minutes of the meeting held on 12th February, 20th February and 13th March, 2009 be approved as a correct record and signed by the Chairman, subject to the following:-

12th February 2009 - Minute 86 page 8 - replace 'Mr S Goulay' with 'Sir Simon Gourlay'.

13th March, 2009 – page 31 Resolution 8(i) - replace 'the erection of litter-proof fencing if and when necessary' with 'the erection of a permanent litter-proof fence around the site, to be of sufficient height on the side of the site facing St Donats'

109. CHAIRMAN'S ANNOUNCEMENTS

There were no announcements from the Chairman.

110. NORTHERN AREA PLANNING SUB-COMMITTEE

RESOLVED: That the report of the meeting held on 11th March, 2009 be received and noted.

111. CENTRAL AREA PLANNING SUB-COMMITTEE

RESOLVED: That the report of the meeting held on 4th March, 2009 be received and noted.

112. SOUTHERN AREA PLANNING SUB-COMMITTEE

RESOLVED: That the report of the meetings held on 18th February and 18th March, 2009 be received and noted.

113. DCNW2008/1289/F - PROPOSED ERECTION AND OPERATION OF 4 WIND TURBINES AND ASSOCIATED ACCESS TRACKS, HARDSTANDING AND SUB STATION BUILDING REEVES HILL, REEVES LANE, NEAR KNIGHTON, HEREFORDSHIRE

The Head of Planning and Transportation presented his report which updated the Committee about developments regarding the planning application which was considered at a special meeting held on 12th February, 2009. At that time the Secretary of State for Communities and Local Government had issued an Article 14 Direction which prevented the Council from being able to grant planning permission for the proposal. He said that the Secretary of State had recently withdrawn the Article 14 Direction and had decided that the application should be determined by the Council. In her letter to the Council, the Secretary of State had recognised the importance of the jurisdiction of Local Planning Authorities. She had also recognised that the Committee had given considerable consideration to the application in relation to national Planning Policy Statements PPS 1, PPS 7 and PPS 22 regarding sustainable development and renewable energy.

On the basis of the letter, the Head of Planning and Transportation said that detailed work was progressing on the following areas:

- a) modifying the noise conditions in the officer report to reflect industry standards and to respond to comments made in relation to their ability to be enforced; and
- b) the conclusion of the Section 106 Agreement.

He advised that the Section 106 Agreement was more complicated than usual, given the complexity of the proposal and the need to secure the agreement of three highway authorities on the issues of abnormal load, vehicle routeing and bonds/indemnities. It was therefore likely to be several months before all the issues had been addressed.

In answer to a question from Councillor RV Stockton, the Head of Planning and Transportation said that the applicants still needed to obtain permission from Powys County Council for the access road to the site. If an alternative route for the access needed to be found within Herefordshire, it would be the subject of a fresh planning application.

RESOLVED THAT

the report be received and noted.

114. DCCW2008/2887/F - CHANGE OF USE FROM BAKERY TO CHIP SHOP AT 17 MEADOW DRIVE, CREDEHILL, HEREFORD, HEREFORDSHIRE, HR4 7EF

The Central Team Leader presented the report of the Head of Planning and Transportation. He said that at its meeting on 4th March, 2009, the Central Area Planning Sub Committee was mindful to refuse the application on the following grounds, contrary to Council policy and officer advice:-

1. harm to the residential amenity of the residents in the area particularly those above and adjacent to the premises;
2. harm the character of the area in terms of social activities outside normal business hours;
3. increased noise and litter;
4. emanating fumes and odours; and
5. fear of crime.

The Central Team Leader provided details of updates / additional representations received following the publication of the agenda as follows:

The Head of Environmental Health had provided the further comments: -

I can advise that this Service is not aware of any complaints about the extraction system at a nearby restaurant. We have however in the past dealt with noise from food preparation carried out on an unauthorised structure at the back of this restaurant, and have investigated complaints about noise from refrigeration units at a general/convenience food shop located within the shopping arcade. Although investigations did not substantiate the existence of noise nuisance from these units some noise attenuation works were done at the time to try and appease the situation. The information provided with the above application indicates that odour and noise from the proposed extraction system will be effectively controlled, however I am still seeking some clarification on the predicted noise levels.

The local Police Officer and CSO had reported that there is anti social behaviour in Credenhill that seems to focus on this area and that this may increase with a chip shop.

OFFICER COMMENTS

Taking into account the advice of the Environmental Health Manager regarding noise and odours, the view of the Officers was that the matter could be reasonably dealt with by the installation of a suitable extract ventilation system. Condition No 4 in the recommendation of the report addressed this.

With regard to crime/anti social behaviour it was clear that this could be a material planning consideration and UDP Policy DR2 refers to this issue. There are remedies available through licensing and law enforcement. To refuse planning permission on this ground would require clear evidence that the permission would result in law breaking routinely occurring in the vicinity, and that conditions could not be imposed that would remedy the problem. In this case the opening hours proposed would involve a closure at 11.00 pm, which coincided with the opening hours of the adjoining shop, and a condition was recommended to cover this. Additional recommended conditions also required a litter management plan and external lighting. Having regard to this, the

Officers do not consider that a refusal of permission on this ground could be justified.

Councillor RI Matthews, the Local Ward Member said that a chip shop in a shopping area might appear acceptable but that with the full facts, he felt unable to support the application. He was disappointed with the comments of the Environmental Health Manager and felt that the impact on the properties to the rear of the centre had been underestimated. Occupants had found that they could not leave their windows open in the warmer weather due to the noise from extractor fans and refrigeration units on the existing premises. He was of the view that the situation would be made worse if there was an additional shop with an extraction unit. He also felt that the system for the proposed chip shop might not adequately control fumes and odours. He was also concerned that the proposal would exacerbate the already existing parking difficulties associated with the parade of shops. There had been issues with anti-social behaviour in the locality, requiring additional police patrols, and this particular type of use could increase the difficulty. Litter problems were also likely to increase in the vicinity of the chip shop. Councillor Matthews proposed that the application should be refused on the grounds recommended by the Central Area Sub-Committee.

Councillor GW Greenow concurred with the view of the Local Ward Member, he felt that although it was difficult to know to what degree there would be anti-social problems until the premises were operational, the Ward Member was best placed to use his local knowledge and give a view on the likely situation. Councillor B Hunt also supported this view, he said that the Police already had concerns about anti-social behaviour increasing and that their concerns needed to be heeded. The local residents had also raised a number of issues that needed to be taken into account and he felt that there was already adequate provision for take-away food in the area. Councillor H Davies also had concerns about youngsters congregating in the area late at night and the additional problems of litter that could be generated. The demands for take-away food were already met by another shop.

The Head of Planning and Transportation said that although material concerns had been raised about the application, the Committee needed to give careful consideration to the weight they gave to those concerns in relation to a new enterprise in an existing local shopping centre. The view could be taken that it was not an ideal situation but that alternatively, bringing a local shop back into use in a sustainable location should be encouraged as long as it met the appropriate conditions. He emphasised that in the case of this application there were conditions proposed which addressed the concerns which had been raised about external lighting, hours of opening, the potential environmental impact and the way in which litter was dealt with. He said that the Traffic Manager had no objection to the proposal and that it would not be appropriate to impose any conditions in respect of car parking.

Councillor PGH Cutter noted the popularity of take-away food outlets during economic downturns. He noted the concerns that had been raised but felt that this was a retail outlet in a parade of shops. Modern extraction systems should not create too much noise and he felt that if the Police had any concerns about anti-social behaviour they should deal with them. He therefore recommended that the application should be approved. Councillor JE Pemberton was in agreement and Councillor RV Stockton was of the view that it would not be appropriate to restrict trade in a local shopping centre by refusing the application.

The Committee discussed all the issues that had been raised about the application

and the way in which the objections could be met. There was also a discussion about the opening hours which should be permitted and in particular whether there should be any restrictions late at night, on Sundays or on bank holidays.

A motion that the application should be refused on the grounds recommended by the Central Area Planning Sub-Committee was lost.

The Committee concluded that in the interests of local residents the hours of opening should be limited to 10:30 pm and that no opening should be permitted on Sundays. Discussion centred upon whether there should be any restrictions on Bank Holidays and it was felt that opening was acceptable on such days.

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. The use hereby permitted shall be open to customers between the hours of 1130 to 1400 and 1630 to 2230 Mondays to Saturdays and Bank and Public Holidays but shall exclude all Sundays.**

Reason: To safeguard the amenities of the locality and to comply with Policy DR1 of Herefordshire Unitary Development Plan.

- 3. Prior to the commencement of development, a litter management plan shall be submitted to and approved in writing by the local planning authority. The management plan should include the provision of litter bins on the premises and infrastructure relating to regular litter patrols. The approved details shall be implemented prior to the first use of the premises which shall thereafter be operated in accordance with the management plan.**

Reason: In the interest of amenity of the area and in accordance with Policy DR1.

- 4. Notwithstanding the details submitted, prior to the use commencing, full details of the extraction ventilation system shall be submitted for approval in writing of the local planning authority. The approved details shall be installed in their entirety and appropriately maintained.**

Reason: In the interest of amenity of the area and in accordance with Policy DR1.

- 5. A scheme for the provision of external lighting for the front of the premises shall be submitted to and approved in writing by the local planning authority prior to the use commencing. The lighting shall be installed in accordance with the approved details.**

Reason: In the interest of amenity of the area and in accordance with Policy DR1.

Informatives:

1. **N19 - Avoidance of doubt - Approved Plans.**
2. **N15 - Reason(s) for the Grant of PP/LBC/CAC.**

115. DATE OF NEXT MEETING

15th May, 2009.

The meeting ended at 11.43 am

CHAIRMAN