

**MINUTES of the meeting of Planning Committee held at
The Council Chamber, Brockington, 35 Hafod Road,
Hereford on Friday, 9 January 2009 at 10.00 a.m.**

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, PM Morgan, JE Pemberton, AP Taylor, DC Taylor,
WJ Walling, PJ Watts and JD Woodward

In attendance: Councillors PJ Edwards, MJ Fishley, JG Jarvis and RH Smith

68. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor ACR Chappell.

69. NAMED SUBSTITUTES (IF ANY)

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

70. DECLARATIONS OF INTEREST

There were no declarations of interest made at the meeting.

71. MINUTES

RESOLVED: That the Minutes of the meeting held on 14th November, 2008 be approved as a correct record and signed by the Chairman

72. CHAIRMAN'S ANNOUNCEMENTS

Reeves Hill Wind Turbine Planning Application

The Chairman drew attention to the special meeting of the Committee which had been arranged on 12th February to consider the planning application.

NI 157 – Determination of Planning Applications

The Head of Planning and Transportation drew attention to the following development control performance, which had considerably exceeded the Governments NI 157 targets in the determination of planning applications. He thanked the Team leaders and their staff for their achievements :

April to December 2008	Performance	Target
Major applications in under 13 weeks	72%	60%
Minor applications in under 8 weeks	72%	65%
Other applications in under 8 weeks	86%	80%

73. NORTHERN AREA PLANNING SUB-COMMITTEE

RESOLVED: That the report of the meetings held on 19th November and 17th December, 2008 be received and noted.

74. CENTRAL AREA PLANNING SUB-COMMITTEE

RESOLVED: That the report of the meeting held on 3rd December be received and noted.

75. SOUTHERN AREA PLANNING SUB-COMMITTEE

RESOLVED: That the report of the meetings held on 12th November and 10th December, 2008 be received and noted.

76. LOCAL DEVELOPMENT SCHEME

The Planning Policy Manager presented the report of the Head of Planning and Transportation about a suggested approach to the fourth review of the Council's Local Development Scheme. He said that one of the requirements of the Planning and Compulsory Purchase Act 2004 was that Local Planning Authorities had to publish a Local Development Scheme (LDS) setting out how their forward planning work would be organised over a three-year period. The first Scheme for Herefordshire came into effect on 1st January 2005 and had been reviewed each year and was linked in to the completion of the Annual Monitoring Report. The LDS had been reviewed in response to a number of factors and to reflect the following :-

- the need to roll the Scheme forward a year and include revised proposals for local development documents, taking account of advice from Government Office (GO) and the Planning Inspectorate (PINS) as experience of implementing the new system is accrued;
- the adoption of the Unitary Development Plan (UDP) in March 2007, and the need to "save" those policies which will need to continue in effect until the new Local Development Framework was completed;
- the need to address the emerging provisions in the current Phase 2 review of the Regional Spatial Strategy (RSS), notably new housing development for the period up to 2026, responding to the higher level of house building required by Government. There is also continuing recognition in the RSS of the role of Hereford as a "settlement of significant development" (replacing the previous designation of Hereford in the RSS as one of five sub-regional foci for development);

- the need to take forward the partnership for growth with Government set out in the identification of Hereford as a 'New Growth Point', by addressing the delivery of housing growth in and around the City. The levels of growth will be confirmed through the current RSS review process;
- changes brought about by the revised Local Development Regulations (in June 2008) and the new Planning Act 2008 (in November 2008) especially with regard to the revised status of Supplementary Planning Guidance (which no longer forms part of the Local Development Scheme), the potential introduction of the Community Infrastructure Levy and new statutory requirements regarding good design and policies to combat climate change;
- the increased emphasis being placed by GO and PINS on the development of a "sound" evidence base to underpin the LDF. Considerable work is underway across a range of topics in this regard, and this must be completed or progressed to certain stages in order to support the development of various LDF policy documents.

The revised LDS included the following main amendments :-

- provision for just three Development Plan Documents: the Core Strategy, a Hereford Area Plan and a Market Towns and Rural Areas Plan;
- the Core Strategy is moving forward following the "Developing Options" consultation in the summer of 2008, with a view to preparing the submission document during 2009/10. Its timetable has had to be revised to take account of the delay to the Regional Spatial Strategy – which will not reach Examination in Public stage until April to June 2009 and will not be adopted before mid 2010. It is currently anticipated that the Core Strategy after that, during 2011.
- Hereford Area Plan will be required for Hereford and its immediate environs, taking forward the City's Growth Point status and RSS proposals for the City in an integrated manner and including the delivery of housing, employment and retail growth in a balanced fashion. It is intended to bring this forward for adoption following the adoption of the Core Strategy.
- an equivalent allocations document will be required for the rest of the County and therefore a Market Towns and Rural Areas Plan is proposed. This will be the third DPD in the sequence, also to be adopted after the Core Strategy and the Hereford Area Plan, thereby recognising the needs created by the focus of growth on Hereford.
- in the light of the above the proposed target dates for adoption of the three DPDs are as follows:
 - i. Core Strategy – target adoption date 2011
 - ii. Hereford Area Plan – target adoption date 2012
 - iii. Market Towns and Rural Areas Plan – target adoption date 2013
- following the Planning Act 2008, SPDs are no longer included in the Local

Development Scheme. This does not mean that all work on SPDs will cease. Indeed it is proposed that a new Supplementary Planning Document is introduced (currently with the working title of a Design Code for Herefordshire) to update the Design and Development Requirements SPG 2004 and bring it up to date with the latest guidance on climate change, design and the relationship to Parish Plans and Village Design Statements. This will form an integral part of the "Place Shaping" agenda at the site-specific level. It is also anticipated that, once the associated regulations have been published, work can also commence on a Community Infrastructure Levy Charging Schedule with the intention that it be adopted as soon as possible after the Core Strategy is adopted in 2011.

The Committee discussed the main aspects of the LDS and the proposed revisions that were set out in the report. In answer to a question by Councillor B Hunt, the Planning Policy Manager said that the Community Infrastructure Levy was a new provision brought in by the Planning Act 2008 which sat alongside Planning Obligation Agreements and enabled development land value to be invested in infrastructure necessary to implement the Core Strategy. This was at a more strategic level compared to the Planning Obligation process. At present the legislation made provision for its introduction but as yet there were no further details about it. The Committee was wary about too onerous a financial burden being placed upon developers through the Planning Obligation system or the new arrangements when they were introduced and felt that the situation needed to be closely monitored. The Cabinet Member Environment & Strategic Housing said that he was well aware of the impact that Planning Obligations could have and that there was no intention of the current arrangements or any new proposals being implemented to the detriment of developers.

Councillor Mrs PM Morgan asked about the costs and arrangements for public consultation on the proposals. The Planning Policy Manager said that provision had been made in the base budget for the consultation process. Last year public consultation had been 'broad brush' but during the forthcoming year there would be a series of road shows which would focus on the issues involved and that the emphasis would be placed more on the needs of individual communities. This approach was very different to that for the Unitary Development Plan where the process first involved the production of a draft document followed by the invitation of objections. Within the LDS framework there was a much stronger emphasis on community involvement from the outset and he further explained the processes involved and how they linked into other policies and strategies. He also explained the arrangements that were in place for the issues to be discussed by the Committee and then Cabinet. The Committee agreed to the procedure recommended in the report regarding the LDS and the amendments should be recommended for acceptance.

RESOLVED THAT

It be recommended to the Cabinet Member (Environment and Strategic Housing) that the Local Development Scheme be endorsed and commended to Cabinet.

77. DCSW2008/2020/O - PROVISION OF 6 AFFORDABLE (DISCOUNTED MARKET HOUSING) DWELLINGS, BIO-DISC TREATMENT PLANT AND USE OF EXISTING ACCESS, 6 ATTACHED SINGLE GARAGES, ETNA, ORCOP HILL, MUCH DEWCHURCH, HEREFORDSHIRE, HR2 8EW

The Southern Team Leader presented the report of the Head of Planning and Transportation. He said that at its meeting on 24th September, 2008, the Southern Area Planning Sub Committee was mindful to approve the application contrary to Council policy and officer advice. The Sub-Committee was of the view that the six dwellings proposed in the application were needed in the area and that local need could be met through a planning obligation under Section 106 of the Town and Country Planning Act 1990 to secure affordability in perpetuity, allocation to local people and an appropriate standard of accommodation provided. He reported that the applicant had submitted a further statement which largely reiterated the case put forward within the Committee report. The key points raised were as follows:-

- flexibility is required relating to the issue of "affordability" otherwise schemes will not come to fruition;
- there is little difference between the 40% discount on offer and the value derived from the use of the Councils average earnings methodology;
- 40% discount has been accepted on other sites in Herefordshire;
- UDP policies do not specify the actual methodology for calculating affordability;
- the Sub-Committee considered that landscape and sustainability issues are acceptable;
- the Parish Council and majority of local people support the scheme;
- PPS3-Housing offers support for this type of housing; and
- S106 Agreement would ensure discounted value would remain in the future.

The view of the officers was that in order for the application to meet the affordability test, all six dwellings must accord with the Councils adopted policy based upon average earnings. The applicant acknowledged that this was not the case but maintained that a flexible approach was required in order to promote the supply of affordable housing in rural areas. Notwithstanding that, there had been much discussion about the extent of the discount required to achieve a level of affordability that accorded with Council policy. It was stressed that there remained a fundamental policy objection to the application because Orcop was not a defined settlement and as such Policy H10 only allowed for the construction of a single affordable dwelling. There also remained strong concerns regarding the landscape impact of the scheme and the unsustainable location of the site having regard to access to local services and public transport.

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

Councillor RH Smith, a local Ward Member, noted the reasons for refusal outlined in the report. He felt that despite the housing needs survey having identified a need in the area, the Herefordshire Unitary Development Plan left no scope for the provision of new housing in Orcop whether it was discounted or not. He said that there was

still a need for seven affordable dwellings there. He also questioned the concerns raised about the visual impact of housing on the area. The site was brownfield and set below the skyline and he felt that the proposed scheme would not detract from the character and appearance of the area and therefore was not contrary to Policies DR1 and H13 of the Herefordshire Unitary Development Plan. He also felt that although Orcop was in a very rural location, there were existing facilities and transport links or access to them, which would make new development sustainable. In summing up, he felt that the applicant had addressed the majority of the Officers concerns but felt that the 40% reduction in open market cost failed to qualify the development as affordable and that he therefore opposed the application.

Councillor MJ Fishley, another local ward member, noted that the 2003 housing needs survey had identified a need for eighteen affordable or full-market dwellings, but that only six of these had been provided through a previous application. She said that the application had the full support of the local parish council and that the six recently constructed houses had been allocated to local people. She added that she did not consider the site to be in the open countryside and felt that the 40% market value discount would enable the dwellings to be affordable by local people. She was of the view that the application merited provided that it would be the subject of a Planning Obligation under the terms recommended by the Sub-Committee.

The Committee discussed the merits of the application and in particular the issues which had been raised about whether the dwellings would be affordable in the long term, the sustainability issues and the impact of the site on the locality. The planning policy implications in relation to the application were debated at some length and were reiterated by the officers. The Head of Planning and Transportation confirmed that the site was in an isolated rural location and did not fulfil any of the Council's planning policies for affordable housing in such areas. The Committee explored the issue of whether a Planning Obligation could support the application but decided that on balance it should be refused because of the reasons set out in the report of the Head of Planning and Transportation.

RESOLVED

That planning permission be refused for the following reasons:

- 1. the proposal constitutes development in open countryside where there is a strong presumption against new residential development unless there are exceptional circumstances to justify otherwise. The development will not meet an identified local need for affordable housing and does not satisfy the requirements of the rural exceptions policy. The proposal is therefore contrary to Policies H7 and H10 of the Herefordshire Unitary Development Plan and the guiding principles of PPS7 – Sustainable Development in Rural Areas.**
- 2. the proposed development by reason of the layout and elevated position of the site would detract from the character and appearance of this part of Orcop Hill and the surrounding countryside and therefore the proposal is contrary to Policies DR1 and H13 of the Herefordshire Unitary Development Plan.**
- 3. the proposal by reason of its isolated rural location would not be sustainable in terms of reducing the need to travel by private car as required by Policies S1, S6 and DR2 and as set out in Government advice contained in PPS7 – Sustainable Development in Rural Areas and PPG13-Transport.**

78. DCCW2008/2101/F - VARIATION OF CONDITION 1 OF PLANNING PERMISSION DCCW2007/1229/F TO ALLOW FOR DOT.COM OPERATIONS ON SUNDAYS BETWEEN THE HOURS OF 9.00AM AND 4.30PM AT TESCO STORES LTD, ABBOTSMEAD ROAD, BELMONT, HEREFORD, HEREFORDSHIRE, HR2 7XS

The Central Team Leader presented the report of the Head of Planning and Transportation. He said that at its meeting on 5th November, 2008, the Central Area Planning Sub Committee had been mindful to refuse the application contrary to Council policy and officer advice. The Sub-Committee was concerned at the failure of the company to maintain the noise barrier and leylandii screen along the boundary, that the noise barrier was inadequate and there was pollution from vehicle engine fumes. There had been a discussion about the extent of any previous complaints and to whom they were addressed. A number of suggestions had been proposed including a further trial period with additional conditions requiring further noise and attenuation work. The Sub-Committee was of the view however that the result of the trial period was that the operation of the business on a Sunday was not acceptable. He informed the Committee that the Sub-Committee had been advised that the only record of complaint was during the planning application process and not through the trial period. A noise assessment had been considered by the Environmental Protection Manager who had concluded that subject to control over the hours of work there was no objection to the proposal. The Central Team Leader was of the view that if the applicants lodged an appeal, it would be difficult for the Council to defend a refusal. He suggested that the following alterations to the proposed conditions attached to an approval of the application would help to overcome the concerns that had been raised by the Sub-Committee and the Local Ward Members :-

delete recommended condition 1;

insert the following conditions: -

1. No machinery shall be operated or delivery vehicles loaded in association with the dot.com deliveries before 0700 hours or after 2300 hours on weekdays and Saturdays or outside the hours of 1000 hours – 1630 hours on a Sunday or at any time on a Bank and Public Holiday.

Reason: In order to protect the residential amenity of the area and to comply with Policy DR2 of Herefordshire Unitary Development Plan.

2. On a Sunday no dot.com delivery vehicles shall leave or enter the premises outside the hours of 1100 hours – 1600 hours.

Reason: In order to protect the residential amenity of the area and to comply with Policy DR2 of Herefordshire Unitary Development Plan.

3. All access to the dot.com services area on Sundays shall be via Abbotsmead Road access which shall not be open until 1100 hours and thereafter shall be kept closed at all times other than to allow the immediate entry and exit of delivery vehicles and unless otherwise agreed in writing by the local planning authority.

Reason: In order to protect the residential amenity of the area and to comply with Policy DR2 of Herefordshire Unitary Development Plan.

Add the following Informative Note.

2. For the avoidance of doubt the term dot.com delivery service refers to the internet home.

Councillor PJ Edwards, one of the Local Ward Members, said that he had found the company to have little regard for the impact of their business on neighbouring

properties and that they had failed to properly maintain the boundary leylandii tree screening and the acoustic fence. He accepted that it would be difficult to refuse the application but felt that the fence, trees and hedges needed to be properly maintained and that the acoustic fence needed to be extended beyond the second gate for it to be properly effective. Councillor H Davies, another Ward Member, shared these concerns and also felt that the applicants had not observed the planning conditions and had no consideration for local residents. The Central Team Leader said that the proposed planning conditions would overcome the objections. He was also prepared to monitor the situation to ensure that the company complied with those conditions. He pointed out that two trial periods had been granted to the company and that no objections had been received during that time.

The Committee discussed the details of the application together with the suggestions that had been made to limit the noise disturbance to local residents. Councillor KS Guthrie asked if conditions could be imposed to ensure maintenance of the hedge. The Head of Planning and Transportation said that it would be difficult to impose conditions but that the company could be written to about the concerns. The Central Team Leader said that he was prepared to meet the manager of the store to discuss these matters. Having considered all the issues that had been raised, the Committee felt that the application could be approved with the changes to the conditions proposed by the Central Team Leader.

RESOLVED THAT

planning permission be granted subject to the following conditions:

- 1. No machinery shall be operated or delivery vehicles loaded in association with the dot.com deliveries before 0700 hours or after 2300 hours on weekdays and Saturdays or outside the hours of 1000 hours – 1630 hours on a Sunday or at any time on a Bank and Public Holiday.**

Reason: In order to protect the residential amenity of the area and to comply with Policy DR2 of Herefordshire Unitary Development Plan.

- 2. On a Sunday no dot.com delivery vehicles shall leave or enter the premises outside the hours of 1100 hours – 1600 hours.**

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- 3. All access to the dot.com services area on Sundays shall be via Abbotsmead Road access which shall not be open until 1100 hours and thereafter shall be kept closed at all times other than to allow the immediate entry and exit of delivery vehicles and unless otherwise agreed in writing by the local planning authority.**

Reason: In order to protect the residential amenity of the area and to comply with Policy DR2 of Herefordshire Unitary Development Plan.

INFORMATIVES:

- 1. N15 – Reasons for the Grant of PP/LBC/CAC.**
- 2. For the avoidance of doubt the term dot.com delivery service refers to the internet home**

79. DCNE2008/2955/F - PROPOSED SUBDIVISION OF DWELLING INTO TWO UNITS WITH TWO ADDITIONAL CAR PARKING SPACES. 2 STANLEY HILL COURT, STANLEY HILL, BOSBURY, LEDBURY, HEREFORDSHIRE, HR8 1HE

The Northern Team Leader presented the report of the Head of Planning and Transportation on an application for the subdivision of a five-bedroomed dwelling at Stanley Hill Court into a two-bedroomed dwelling and a three-bedroomed dwelling. He advised that no representations had been received from the local parish council and that although the observations of the highways department had not yet been received, the same conditions were proposed as for the previous permission for the five-bedroomed house. Councillor RV Stockton, one of the Local Ward Members, recommended that the application should be approved, feeling that the proposal would enable a more sensible housing provision on the site. The Committee was in agreement.

RESOLVED THAT

- 1) **The Legal Practice Manager be authorised to complete a planning obligation under Section 106 of the Town and Country Planning Act 1990 in accordance with the Heads of Terms appended in this report and any additional matters and terms as he considers appropriate.**
- 2) **Upon completion of aforementioned planning obligation that the officers names in the Scheme of Delegation to Officers be authorised to issue planning permission subject to the following conditions:**
 - 1 **A01 (Time limits for commencement (full permission))**

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
 - 2 **Non Standard (Non Standard Condition)**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no fences, gates, walls, garages, building, extension or dormer windows (other than those expressly authorised by this permission) shall be erected or constructed.

Reason: In order to define the terms of the permission and in the interests of visual and residential amenity.
 - 3 **H08 (Access Closure)**

Reason: To ensure the safe and free flow of traffic using the adjoining County highway.
 - 4 **H03 (Visibility Splays) – (C1152)**

Reason: In the interests of highway safety.
 - 5 **H03 (Visibility Splays) – (B4214)**

Reason: In the interests of highway safety.
 - 6 **H05 (Access Gates)**

Reason: In the interests of highway safety.

6 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.

8 Non Standard (Non Standard Condition)

No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the dwellings are occupied. Development shall be carried out in accordance with the approved details.

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

9 Non Standard (Non Standard Condition)

No development shall take place until there has been submitted to and approved by the local planning authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and any necessary tree surgery. All proposed planting shall be clearly described with species, sizes and planting numbers.

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

10 Non Standard (Non Standard Condition)

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5 year defects period.

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

11 H09 (Driveway Gradient)

Reason: In the interests of highway safety.

INFORMATIVES

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

2 N19 - Avoidance of doubt - Approved Plans

3 Non Standard

The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

4 Non Standard

This permission does not authorise the laying of private apparatus within the confines of the public highway. The applicant should apply to Mrs R Rice, Area Manager (North), Thorn Business Park, Rotherwas, Hereford, HR2 6JT Tel: 01432-261776, for consent under the New Roads and Streetworks Act 1991 to install private apparatus within the confines of the public highway. Precise details of all works within the public highway must be agreed on site with the Highway Authority.

5 Non Standard

This planning permission does not authorise the applicant to carry out works within the publicly maintained highway and Mrs R Rice, Area Manager (North), Thorn Business Park, Rotherwas, Hereford, HR2 6JT Tel: 01432-261776, shall be given at least 28 days' notice of the applicant's intention to commence any works affecting the public highway so that the applicant can be provided with an approved specification for the works together with a list of approved contractors.

6 Non Standard

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

7 Non Standard

Any work involving the removal or disturbance of ground or structures supporting or abutting the publicly maintained highway should be carried out in accordance with details to be submitted to and approved in writing by the Highway Authority or their agent. Please contact Mrs R Rice, Area Manager (North), Tel: 01432-261776 Thorn Business Park, Rotherwas, Hereford, HR2 6JT

80. DATES OF FORTHCOMING MEETINGS

14/02/09; 20/02/09 and 03/04/09.

The meeting ended at 12.00 p.m.

CHAIRMAN