

# AGENDA

## Southern Area Planning Sub-Committee

Date: **Wednesday 10 June 2009**

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Time: **2.00 pm**

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

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

For any further information please contact:

**Ricky Clarke, Democratic Services Officer**

Tel: 01432 261885

Email: [rclarke@herefordshire.gov.uk](mailto:rclarke@herefordshire.gov.uk)

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If you would like help to understand this document, or would like it in another format or language, please call Ricky Clarke, Democratic Services Officer on 01432 261885 or e-mail [rclarke@herefordshire.gov.uk](mailto:rclarke@herefordshire.gov.uk) in advance of the meeting.

# **Agenda for the Meeting of the Southern Area Planning Sub-Committee**

## **Membership**

**Councillor CM Bartrum  
Councillor H Bramer  
Councillor PGH Cutter  
Councillor BA Durkin  
Councillor MJ Fishley  
Councillor AE Gray  
Councillor JA Hyde  
Councillor JG Jarvis  
Councillor G Lucas  
Councillor PD Price  
Councillor RH Smith  
Councillor DC Taylor  
Councillor JB Williams**

## **GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS**

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.

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.

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. A Councillor who has declared a prejudicial interest at a meeting may nevertheless be able to address that meeting, but only in circumstances where an ordinary member of the public would be also allowed to speak. In such circumstances, the Councillor concerned will have the same opportunity to address the meeting and on the same terms. However, a Councillor exercising their ability to speak in these circumstances must leave the meeting immediately after they have spoken.

**AGENDA**

		Pages
1.	<b>CHAIRMAN AND VICE-CHAIRMAN</b> To note the arrangements for the election of Chairman and appointment of Vice-Chairman following the recent Annual Council.	
2.	<b>APOLOGIES FOR ABSENCE</b> To receive apologies for absence.	
3.	<b>DECLARATIONS OF INTEREST</b> To receive any declarations of interest by Members in respect of items on the Agenda.	
4.	<b>MINUTES</b> To approve and sign the Minutes of the meeting held on 13 May 2009.	1 - 6
5.	<b>ITEM FOR INFORMATION - APPEALS</b> To be noted.	7 - 8
 <b>PLANNING APPLICATIONS</b>		
To consider and take any appropriate action in respect of the planning applications received for the southern area and to authorise the Head of Planning and Transportation to impose any additional or varied conditions and reasons considered to be necessary.		
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.		
6.	<b>DCSE2009/0800/F - TAN HOUSE FARM, UPTON BISHOP, ROSS-ON-WYE, HEREFORDSHIRE, HR9 7UP</b> Provision of a mobile log cabin for use as an agricultural dwelling during the lifetime of the applicant.	9 - 18
7.	<b>DATE OF NEXT MEETING</b> 8 July 2009	



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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.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
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- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
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## **HEREFORDSHIRE COUNCIL**

**BROCKINGTON, 35 HAFOD ROAD, HEREFORD.**

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HEREFORDSHIRE COUNCIL

**MINUTES of the meeting of Southern Area Planning Sub-Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 13 May 2009 at 2.00 pm**

**Present:** Councillor PGH Cutter (Chairman)  
Councillor MJ Fishley (Vice-Chairman)

**Councillors:** H Bramer, AE Gray, JA Hyde, JG Jarvis, G Lucas, PD Price, RH Smith, DC Taylor and JB Williams

**In attendance:** Councillors TW Hunt and RV Stockton

**107. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors CM Bartrum and BA Durkin.

**108. DECLARATIONS OF INTEREST**

No declarations of Interest were received.

**109. MINUTES**

Councillor RH Smith noted that the public speaker in respect of item DCSW2009/0298/O was Mrs Morriss and not Mrs Morris as stated in the minutes. He also noted that the word addition had been used instead of additional in paragraph 4 of the same item. The Democratic Services Officer noted that the end time of the meeting had not been specified.

**RESOLVED: That subject to the aforementioned amendments, the Minutes of the meeting held on 15 April 2009 be approved as a correct record and signed by the Chairman.**

**110. ITEM FOR INFORMATION - APPEALS**

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

**111. DCSE2009/0130/F - PLOT ADJACENT TO FORGE HOUSE, BROMSASH, ROSS-ON-WYE, HEREFORDSHIRE, HR9 7PJ.**

*New vehicular access.*

Councillor H Bramer, the Local Ward Member, requested clarification regarding the visibility splay.

The Senior Planning Officer confirmed that the access was set 2 metres back from the roadside and that the 90 metre required visibility was achievable although it did cut over the junction.

In response to a question the Senior Planning Officer confirmed that the access was used as a vehicular access to the applicant's garden and that there was no application for a dwelling.

Councillor Bramer felt that the presence of an access near the junction would slow vehicles down. He noted the comments of the Traffic Manager and moved the recommendation.

**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. **H06 (Vehicular access construction)**

**Reason:** In the interests of highway safety and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan.

3. **H03 (Visibility splays)**

**Reason:** In the interests of highway safety and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan.

4. **H05 (Access gates)**

**Reason:** In the interests of highway safety and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan.

5. **H09 (Driveway gradient)**

**Reason:** In the interests of highway safety and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan.

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 and to conform with the requirements of Policy T11 of Herefordshire Unitary Development Plan.

7. **G12 (Hedgerow planting)**

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

**Informatives:**

1. **HN01 - Mud on highway**
2. **HN05 - Works within the highway**
3. **HN10 - No drainage to discharge to highway**
4. **N19 - Avoidance of doubt - Approved Plans**
5. **N15 - Reason(s) for the Grant of Planning Permission**

112. **DCSE2009/0489/F - HARTLETON LODGE, BROMSASH, ROSS-ON-WYE, HEREFORDSHIRE, HR9 7SB.**

*Single storey extensions with first floor en-suite within new roof space.*



In accordance with the criteria for public speaking, Mrs Mitchell, a neighbouring resident, spoke in objection to the application.

Councillor H Bramer, the Local Ward Member, noted the concerns raised by Mrs Mitchell. He felt that the extension would be overpowering and proposed that the application be refused.

The Principal Planning Officer advised Members that changes had been made to the permitted development rights which had removed the cubic metre tolerance in respect of domestic extensions. He confirmed that historically any extension to Hartleton Lodge would have required planning permission but the proposed extension would be allowed under permitted development rights if it was moved to the side elevation of the dwelling. He added that a condition could be added to the recommendation to remove permitted development rights if the proposed application was approved.

Councillor RH Smith felt that approving the application would result in a detrimental impact on the neighbouring properties and therefore felt that a site inspection would be beneficial to Members.

Councillor PD Price noted that the existing first floor window was to be removed as part of the proposal. He felt that the removal of the window would improve the issue of overlooking.

#### **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. C01 (Samples of external materials)**

**Reason: To ensure that the materials harmonise with the surroundings so as to ensure that the development complies with the requirements of Policy DR1 of Herefordshire Unitary Development Plan**

**3. I16 (Restriction of hours during construction)**

**Reason: To protect the amenity of local residents and to comply with Policy DR13 of Herefordshire Unitary Development Plan.**

**4. Notwithstanding the provisions of Article 3(1) and Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, (or any order revoking or re-enacting that Order with or without modification), no development which would otherwise be permitted under Classes A or B of Part 1 of Schedule 2, shall be carried out.**

**Reason In order to protect the character and amenity of the locality, to maintain the amenities of adjoining property and to comply with Policy H18 of Herefordshire Unitary Development Plan.**

#### **Informatives:**

**1. N19 - Avoidance of doubt - Approved Plans.**

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

**113. DCSE2009/0533/F - A TIMBER FRAMED SMOKING SHELTER, THE KING CHARLES II, 13 BROAD STREET, ROSS-ON-WYE, HEREFORDSHIRE, HR9 7EA.**

*A timber framed smoking shelter.*

In accordance with the criteria for public speaking, Mrs Clark, a neighbouring resident, spoke in objection to the application.

The Legal Practice Manager advised Members that in summer 2007, England introduced a new law to make virtually all enclosed public places and workplaces in England smokefree. He detailed the requirements of smoking shelters specifically that 50% of the sides of the shelters needed to be open. Finally he noted that a number of licensed premises had chosen to erect Jumbrellas, and that these large parasols, often with heating and seating, did not require planning permission.

Councillor G Lucas, one of the Local Ward Members, noted the concerns raised by the local residents but felt that application was acceptable.

In response to a question, the Legal Practice Manager advised Members that smoking was not deemed to be a licensable activity under the terms of the Licensing Act 2003. He advised that the beer garden was licensed for the consumption of alcohol until midnight but that smoking could continue in the garden until 1.30 am on a weekend. The Southern Team Leader added that controls could be added in line with the Regulatory Committee but that restrictive conditions could be deemed as unreasonable if an appeal was lodged.

The Principal Planning Officer advised Members that the applicant could erect umbrellas in the garden without requiring planning permission. He added that moving the proposed smoking shelter could result in noise concerns for other local residents.

Councillor RH Smith felt that the application was unreasonable and that noise would be concentrated in one area of the garden, he therefore moved that the application be refused.

In response to a question from Councillor Bramer, the Principal Planning Officer advised Members that moving the shelter would result in more noise issues for the public speaker, Mrs Clark.

**RESOLVED**

**That retrospective planning permission be granted subject to the following condition:**

**1. I15 (Scheme of noise insulation)**

**Reason: To safeguard the amenity of the area and to comply with Policy DR13 of Herefordshire Unitary Development Plan.**

**Informatives:**

**1. N19 - Avoidance of doubt - Approved Plans.**

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

**114. DCSW2009/0593/F - BOURNEVILLE, KERRYS GATE, NEAR ABBEYDORE, HEREFORD, HEREFORDSHIRE, HR2 0AH.**

*Retention of part of existing dwelling forming store and boiler house. Provision of new single storey element to replace 2 bedroom bungalow. Provision of double garage.*

The Principal Planning Officer reported the following updates:

Further plans had been received specifying how the double garage would be settled into the site.

The Principal Planning Officer stated that it was not evident, with reference to the plans originally submitted, how the double garage would be settled into the north-east slope of the site. This issue was highlighted in the Officer's appraisal of the report and had been the subject of ongoing discussion. It was evident from the sectional plan submitted that the garage would be cut into the site such that it would be consistent with that of the new dwelling and therefore would be well assimilated into the landscape.

The updates sheet circulated to Members at the meeting also requested that the recommendation be amended to require the agreement of slab levels for the double garage as well as the dwelling prior to commencement of works.

In accordance with the criteria for public speaking, Mr Burgess, a local resident, spoke in objection to the application.

Councillor JB Williams, the Local Ward Member, noted the concerns of the Parish Council. He had concerns in respect of the workshop and felt that this should not be used for any activities that could cause a disturbance to the neighbouring residents. He felt that the Case Officer had addressed all of the concerns raised and therefore he supported the application.

Members discussed the application and on balance felt that a bungalow on the site would be acceptable.

## **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. 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. C01 (Samples of external materials)**

**Reason: To ensure that the materials harmonise with the surroundings so as to ensure that the development complies with the requirements of Policy DR1 of Herefordshire Unitary Development Plan**

**4. F14 (Removal of permitted development rights)**

**Reason: In order to protect the character and amenity of the locality, to maintain the amenities of adjoining property and to comply with Policy H18 of Herefordshire Unitary Development Plan.**

**5. G01 (Earthworks)**

**Reason: To safeguard the amenity of the area given the works required and in order to ensure that the development conforms with Policies DR1 and LA5 of Herefordshire Unitary Development Plan.**

**6. H05 (Access gates)**

**Reason: In the interests of highway safety and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan**

**7. 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 and to conform with the requirements of Policy T11 of Herefordshire Unitary Development Plan**

**8. I16 (Restriction of hours during construction)**

**Reason: To protect the amenity of local residents and to comply with Policy DR13 of Herefordshire Unitary Development Plan.**

**9. I51 (Details of slab levels)**

**Reason: In order to define the permission and ensure that the development is of a scale and height appropriate to the site so as to comply with Policy DR1 of Herefordshire Unitary Development Plan.**

**Informatives:**

- 1. N19 - Avoidance of doubt - Approved Plans.**
- 2. N15 - Reason(s) for the Grant of Planning Permission.**

The meeting ended at 3.10 pm

**CHAIRMAN**

**ITEM FOR INFORMATION - APPEALS****APPEALS RECEIVED****Application No. DCSE2008/2930/O**

- The appeal was received on 5 May 2009.
- 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 Steadman.
- The site is located at Mayfield, Upton Bishop, Nr. Ross-On-Wye, Herefordshire, HR9 7TX.
- The development proposed is Erection of dwelling and garage, construction of new vehicular access and associated works.
- The appeal is to be heard by Written Representations.

**Case Officer: Yvonne Coleman 01432 383083**

**Application No. DCSE2009/0297/F**

- The appeal was received on 11 May 2009.
- 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 D Gundy.
- The site is located at Little Trewern Farm, Whitchurch, Ross-On-Wye, Herefordshire, HR9 6ER
- The development proposed is Change of use of 3 no. bays of an existing agricultural building (six bays in size) to use for storage and distribution.
- The appeal is to be heard by Hearing.

**Case Officer: Yvonne Coleman on 01432 261970**

**APPEALS DETERMINED**

None.

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



**6 DCSE2009/0800/F - PROVISION OF A MOBILE LOG CABIN FOR USE AS AN AGRICULTURAL DWELLING DURING THE LIFETIME OF THE APPLICANT, TAN HOUSE FARM, UPTON BISHOP, ROSS-ON-WYE, HEREFORDSHIRE, HR9 7UP.**

**For: Miss M Rigby, Tan House Farm, Little Puckmoor, Upton Bishop, Ross-on-Wye, Herefordshire, HR9 7UP.**

**Date Received: 21 April 2009**

**Ward: Old Gore**

**Grid Ref: 66282, 27020**

**Expiry Date: 16 June 2009**

Local Member: Councillor BA Durkin

**1. Site Description and Proposal**

- 1.1 The site, which is known as Tan House Farm, Little Puckmoor, lies in open countryside to the east of Upton Bishop, approximately 6 kilometres to the north-east of Ross-on-Wye. The applicant's holding comprises 25 acres (10 hectares) of agricultural land. On the land there are two modern agricultural buildings and a mobile home. Within the site the levels slope down from the north-west to the south/south-east.
- 1.2 It is proposed to provide a temporary log cabin dwelling for an agricultural worker (the applicant). Access would be gained via an existing farm access off an unclassified road. The log cabin would be sited to the south-east of the existing agricultural buildings on the site and some 7 metres from the roadside hedgerow. It would be orientated so that the gable end of the cabin would be facing the hedgerow. The log cabin, which would be some 13.8 metres by 6.8 metres and 4 metres in height, incorporating a dual pitched roof, would be transported to the site in two parts and bolted together on site.
- 1.3 At present the applicant has 18 hens, 1 sow/gilt, 14 ewes and lambs, 4 cows, 1 steer, 3 in calf heifers and 1 Shetland bull. The two timber buildings have three bays, used for housing stock, straw and fodder, stabling/calving box, lock up feed and tool area and a garage for a quad bike etc.

**2. Policies**

**2.1 Department of the Environment**

PPS1	-	Delivering Sustainable Development
PPS7	-	Sustainable Development in Rural Areas

**2.2 Herefordshire Unitary Development Plan**

Part 1

Policy S1	-	Sustainable Development
Policy S3	-	Housing

Part 2

Policy DR1	-	Design
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Policy DR2	-	Land Use and Activity
Policy DR4	-	Environment
Policy H7	-	Housing in the Countryside Outside Settlements
Policy H8	-	Agricultural and Forestry Dwellings and Dwellings Associated with Rural Businesses
Policy LA2	-	Landscape Character and Areas Least Resilient to Change

### 3. Planning History

- 3.1 DCSE2007/2473/S Farm storage (fodder/equipment) - Prior Approval 03.09.07
- DCSE2008/0791/F 1. Use of permitted barn to house extensively farmed livestock on periodic basis, 2. Barn B - part use of permitted barn for use as a stable, 3. drainage provision of a grey water soakaway to serve existing office (retrospective application) - Approved 23.07.08
- DCSE2008/0870/F Erection of an agricultural workers dwelling - Withdrawn 16.05.08

### 4. Consultation Summary

#### Statutory Consultations

- 4.1 No statutory or non-statutory consultations required.

#### Internal Council Advice

- 4.2 County Land Agent: The number of stock do not justify a need to live on site. Lambing, calving and farrowing could be covered by a temporary home for a maximum period of 4 months. The holding is very small, with a subsistence output on an organic sustainable basis. It is not capable of producing a profit to cover the standard agricultural wage per annum, nor does the standard man days amount to a full time worker, even if 75% of time is added on for the farm being organic (50% is the normal amount) and 10 days for work in the woods, it does not amount to a third of the hours required for a full time agricultural worker.

### 5. Representations

- 5.1 Upton Bishop Parish Council comment:

"The unanimous view of Upton Bishop Parish Council is that this planning application should be refused.

An Extraordinary General Meeting was held on Monday the 18th May, 2009 at 19.30 hours, with a site meeting by the Parish Councillors earlier the same evening.

A number of Parishioners and the local Councillor attended the meeting, and following an outline of the application by the Chairman of the meeting, the parishioners were invited to give their opinions.

Only one person spoke in favour of granting approval.

The Parishioners' objections in summary were that the Applicant had made herself homeless, that solar panels will not supply sufficient electricity and therefore there will be continued use of



the generator which is very noisy causing unnecessary disturbance. There have not been any details of the power required for the underwater harvesting and a pump will be needed. There is no mention of the part time help which will be required, and thus in the financial plan no provision for employees wages and other associated cost. There is no proven need to actually live on the site, and the Application is requesting a retirement home for a former farmer. The plan to heat the mobile log cabin with charcoal is not sustainable as the wood would not yield sufficient timber for this purpose. There is no guarantee that the mobile log cabin will be removed in the future and is an attempt to obtain permanent residence by default. Furthermore it was stated that the site entrance is inadequate for the volume of traffic which can be anticipated and the road leading past the site is inadequate. It was also stated that by granting permission a precedent would be set to convert other existing green field sites to small holdings.

It was the unanimous opinion of the Parish Council that the Application should not be granted, and they objected on the grounds that:

1. A precedent would be set for the owners of other farms to sell the farm house, retain the land, and at a later date apply for permission to erect a semi permanent dwelling on the site which in time could become permanent.
2. Concern for the future when the Applicant either does not want or cannot live there any longer as previous planning with consent for life time use have proved difficult to resolve.
3. The financial sustainability is questionable.
4. All of these points notwithstanding, the unassailable fact is that the applicant is applying to erect a dwelling on a green field site, which until very recently, was an empty field."

5.2 A Design and Access Statement was submitted, along with other information, by the applicant. In summary these state:

- Log cabin would form a courtyard with the barns, typical of old Herefordshire farm complexes.
- Existing caravan would be removed if permission is granted for the cabin.
- Cabin conforms to the definition of a caravan for planning purposes.
- Tan House Farm is a permanent pasture mixed livestock holding, farmed biodynamically - cattle and sheep for meat production, sheep for wool, laying hens, seasonal pig production for bacon and pork, grassland management and haymaking.
- Sales are direct to the consumer.
- Holding is certified for organic production.
- South facing building for energy gathering. Farm and dwelling would be powered by the sun's energy gathered through photovoltaic cells and stored in batteries. System is in place and serves the farm and office. Woodland provides fuel for hot water, cooking and heating.
- Sewer arrangements would be non-mains, hopefully taking the form of a wetland drainage system.
- Existing farmyard can cater for parking and the proposal would result in less traffic if I live on site.
- A dwelling is required permanently on the site to enable the management of the integrated, biodynamic farming activities, many of which take place at unsocial hours.
- The care and handling of the livestock alone require a permanent presence on the site.
- Two instances where a young beast would have been dead if I had not returned to the site late at night.
- Low key timber buildings blend into the site, my executors would / can be instructed to dispose of the log cabin prior to the land being sold off.

- Number of successful appeals supporting holistic management and lifestyles, whilst living on small farms.
- Tan House Farm, a stone built farmhouse, was sold for a number of reasons. I have no dependants and the house was too large for the holistic lifestyle being developed. It was too extravagant and expensive to run for one person.
- The County Land Agent has no facility for accounting for time spent in preparing, packing, marketing, retailing and delivering to customers, neither do the man day calculations take account of the nature of the whole enterprise or concept of subsistence living.
- Nothing in PPS7 about earning a minimum agricultural wage.
- Proposal is about the future - sustainable and subsistence living, Local Food and produce for Local People, all performed in a manner to encourage wildlife on the holding and keep the carbon footprint low.

5.3 Thirteen letters of support and seven letters of objection have been received. The main points raised are:

Support:

- Proposal is for a sustainable lifestyle, with low carbon footprint, which we should all be striving for and it should be encouraged. Good example for our children.
- Proposal is in keeping with the rural location.
- Only proposed for applicant's lifetime.
- Environmental impact would be virtually nil.
- Applicant's work is useful, she's an innovative farmer who has inspired the community.
- The Pennington-Mellor-Munthe Charity Trust would hope to work with the applicant on projects for environmental programmes.
- Biodynamic farmers are required to apply specialist natural field sprays to enhance soil biology and photosynthesis, outside of normal working hours, early morning and late afternoon.
- Need to be on site for animal husbandry, regular checking of livestock and land management.
- Farmhouse is essential for organic and biodynamic livestock farming, at calving and lambing times regular checks must be made. At other times someone must be near in case of injury, illness or escape of livestock. Requirements are enshrined in the Demeter Standards and there must be compliance to be certified for organic and biodynamic farming by the Biodynamic Agricultural Association.
- Proposal would be eco-friendly and highlight the technologies that will enable us to all leave a smaller footprint, a wonderful advert for Herefordshire.
- Lifetime period proposed for the cabin is an elegant solution to the situation and has substantial merit, in the event of the applicant's death the executors would be instructed to dispose of the log cabin, before selling the land.
- Weight should be given to the need to support the local agricultural industry.
- There's no separation between "job" and "play" for a good farmer, farming is their life. The applicant is in tune with her animals and land and needs to live on site to practice this, rather than visit the site like an 'office'.
- The produce is superior to any other.

Objection:

- Applicant sold Tan House Farm (house, outbuildings and 6 acres) raising just over half a million pounds and intentionally severed the farm house and land. She has now installed a caravan on the application site.
- There are barns at Tan House Farm that could have been converted for residential use, if the farmhouse was too big. The sales particulars etc even stated this possibility. Applicant could have reused the barns to provide an eco-friendly, single storey property, thus allowing the land to be retained and farmed, with a dwelling on site.

- When Tan House Farm was sold by the applicant a bungalow, known as Fairfields, which is closer to the application site than the original farm, was sold subject to an agricultural occupancy condition.
- Applicant has intended to occupy the site for some time, making herself deliberately and unnecessarily homeless.
- Financially the business would not sustain the applicant and the new home, rather the applicant would rely on savings.
- The log cabin would be sizeable and appears rather permanent.
- Lack of detail regarding the proposed underground rain water harvesting and drainage, however the wet system would be permanent, for a dwelling that is proposed to be temporary.
- Applicant's land drains into a pond that is not in her ownership.
- Previous application was withdrawn. Parish Council, County Land Agent and the Senior Planning Officer did not support the application, a functional need had not been demonstrated and there was the issue of severance of the farm house and land.
- This application has been made a whole year after the withdrawal of the previous application, this does not demonstrate any urgency or functional requirement to be on site.
- Life time proposal, is actually a permanent basis, unlike the usual three year period granted for mobile homes. Could result in the cabin being on site for 20 years, making it difficult to be removed. Also applicant would not have to provide the additional justification that is usually required for mobile homes after the three year period.
- Application is contrary to national and local planning policies and the recommendations of the Parish Plan.
- The proposal is effectively for a dwelling for 'hobby' farming and ultimately a retirement home, this is contrary to the requirements of PPS7 - Annex A.
- To allow permission for this proposal would set a dangerous precedent, permitting farmers to sell off the farmhouses and and some land and move into small properties that can be more easily managed. The resultant effect on the countryside would be disastrous.
- There is no justification for a dwelling on the site.
- Proposal would detract from the openness of the area.
- The open field resembles a tip, the applicant has been initially successful in achieving her objective by stealth.
- Applicant moved into the mobile home used for an office, until forced to move out.
- Contrary to information on the application form, the applicant has not discussed her proposals with neighbours and local community and does on occasion employ a part time worker.
- Proposal proclaims a biodynamic and eco-friendly operation, however there is a diesel generator that runs for hours, both during the day and night, because the photovoltaic cells and storage system are inadequate. Even during May it is still operating. The generator produces an interminable drone, which is particularly intrusive at nighttime.
- Concerns regarding the safety of the vehicular access.

The notification period does not elapse until 27 May 2009. Any additional representations received, after this report was produced will be summarised in the update sheet.

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

## 6. Officer's Appraisal

- 6.1 The main considerations in the determination of this application are whether there is a functional requirement for a dwelling; whether the enterprise meets the financial tests; if the siting, size and design of the log cabin are acceptable in general planning terms and if a 'life-time' planning condition would be acceptable.

- 6.2 The application site is in open countryside where normally planning permission would not be granted for a new dwelling. Policy H7 of the Unitary Development Plan sets out the exceptions to the normal strict general presumption against new residential development in the open countryside. One of these exceptions is a dwelling required for an agricultural worker. In this case it is stated that the dwelling is required for the applicant who works in agriculture.
- 6.3 In accordance with policy H8 of the Unitary Development Plan and PPS7 – Annex A functional and financial tests must be met for planning permission to be granted for an agricultural dwelling. PPS7, Annex A states that when assessing the functional need a new dwelling must be essential to support the farming activity and for the first three years should be provided in a temporary home. There should be clear evidence of a firm intention and ability to develop the enterprise, a functional need to be there, clear evidence that the enterprise has been planned on a sound financial basis, that the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area and other normal planning considerations are satisfied.
- 6.4 It would appear that there has been a firm intention to commence and develop the site for agriculture, as shown through the erection of buildings and investment in livestock. In terms of the functional test it is necessary to demonstrate that it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times. It is the needs of the enterprise that are important and not the personal preferences of the applicant. At PPS7, Annex A, 5, it states that where there is concern about possible abuse, of the exception against the normal presumption to allow a dwelling in the open countryside, an investigation should be carried out into the holding's history, to establish whether any dwellings or buildings suitable for conversion have been sold separately to the farmland concerned. Such a sale could constitute evidence of a lack of agricultural need. Furthermore, Policy H8 of the Unitary Development Plan states that dwellings should, wherever possible, make use of existing buildings in preference to new development. With respect to this application, as recently as 2007, the farmhouse (Tan House Farm) together with a range of buildings with potential for conversion were sold separately by the applicant, from the land now subject to this proposal. Development of new agricultural buildings on the application site commenced in the same year. Whilst the reasons given by the applicant for this sale are noted, it is clear that severance of the farmhouse and potentially convertible buildings has been carried out, which could reasonably have provided a dwelling for the applicant, whilst carrying out the agricultural activities. As stipulated in PPS7, Annex A, it is the needs of the holding and not the applicant's preferences that are relevant.
- 6.5 With regards the functional need to have a temporary dwelling on the site it is stated that this is to care for the livestock and farm holistically. The lambing and calving requirements would not take place all year and as advised by the County Land Agent could be satisfied by occupation of a temporary caravan, as has indeed been the case on the holding to date. Furthermore, the number of livestock is relatively low and would not justify a need to be on site. The applicant has stated that the time spent in preparing, packing, marketing, retailing and delivering to customers has not been taken into account. However, as stated in PPS7, Annex A, section 6, 'Requirements arising from food processing, as opposed to agriculture, cannot be used to justify an agricultural dwelling.' Turning to the biodynamic nature of the farming on the site it is stated, by the applicant, that this entails farming activity during unsociable hours. No details have been given about the number of times that this is required, per day/week/year or indeed what time of day or night the activities take place. In the absence of such information a functional need has not been demonstrated in respect of this. Therefore, a functional need has not been demonstrated in respect of either the livestock or the biodynamic farming.
- 6.6 Policy H8 of the Unitary Development Plan states that where evidence of a long term need for a dwelling is inconclusive a maximum period of three years may be given. Successive extensions to this three year period will not normally be granted. The applicant is effectively seeking a

personal permission, which would exceed the usual 3 year period. In the absence of a demonstrated functional need this is unjustified. Notwithstanding the above, the applicant could have met any perceived need or desire to be on site through either the occupation of the farmhouse, or conversion of a building on the site. In addition, local objectors have also stated that at the time of the sale of the farmhouse and the erection of buildings at the application site, a property, known as Fairfields, was for sale some 365 metres away from the site.

- 6.7 Turning to the financial position of the enterprise, as set out in Annex A of the PPS7, in respect of an application for a temporary dwelling it is required that the enterprise has been planned on a sound financial basis. The enterprise does not, nor is it planned to, produce a large income. It appears, on the basis of the financial information provided, to be based on a combination of self-sufficiency and limited sales. The business would not provide an agricultural wage and it is not clearly demonstrated that it would cover all of the applicant's outgoings. In light of this, it is speculated that the business would be subsidised by the applicant's capital and therefore the financing of the proposed dwelling would not be from the agricultural need it purports to be necessary for. Unusually the proposal is for the lifetime of the applicant, and therefore could exceed the 3 year temporary permission usually considered to be appropriate for new and establishing enterprises. For permanent dwellings, i.e. not a three year temporary period, the financial test is much more stringent, requiring the unit and agricultural activity to be profitable for at least one of the three years that it has been established for and a clear prospect of remaining so. In this case this has not been demonstrated. If it is to be accepted that the enterprise is based on a self-sufficiency basis, then the financial test would never be satisfied. PPS7, Annex A takes account of this, stating that such enterprises may provide wider benefits. However, it still remains essential for compliance with the PPS7 requirement, as set out in case law, that the functional need to be on site is demonstrated.
- 6.8 On the basis of the information submitted the requirements of the functional and financial tests have not been met and as such the proposal is contrary to the relevant Development Plan policies and PPS7, Annex A. Consequently, the unjustified log cabin would be harmful to the open countryside. It would be contrary to the well established policies that seek to restrict new development in the open countryside and could be repeated too often, to the detriment of the countryside.

## RECOMMENDATION

**That planning permission be refused for the following reasons:**

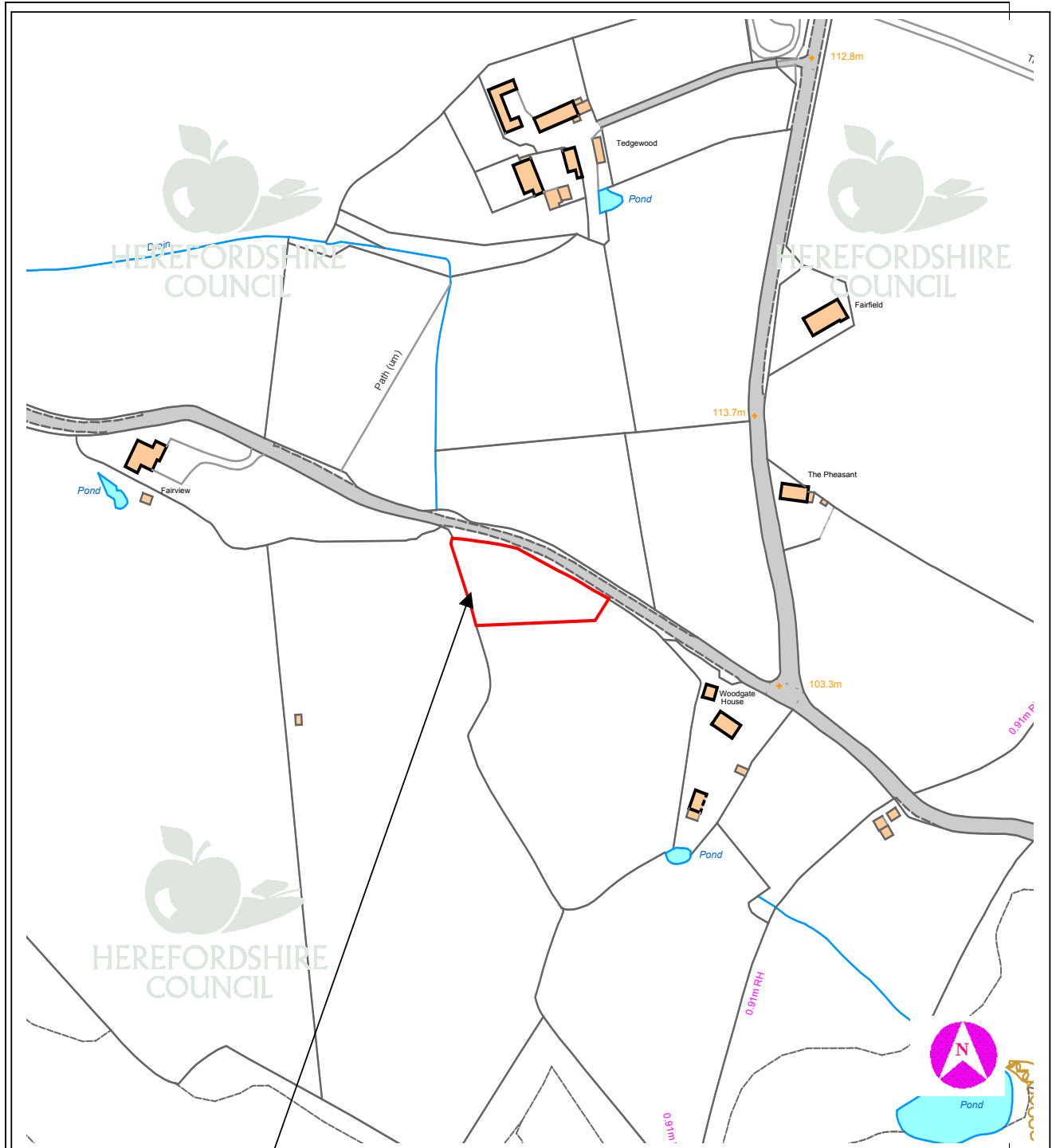
- 1. On the basis of the submitted information the Local Planning Authority is not satisfied that either a functional need or the financial requirements for a dwelling in this location has been demonstrated to warrant a departure from national and local planning policies to control residential development in the open countryside. As such, the need for an agricultural worker's dwelling has not been established as required by Annex A of Planning Policy Statement 7 (Sustainable Development in Rural Areas) and Policies H7 and H8 of the Herefordshire Unitary Development Plan.**
- 2. In the absence of a demonstrated functional need for an agricultural worker's dwelling on the site, the unjustified log cabin would, in principle, be harmful to the open countryside and the policies which seek to protect it from unjustified residential development. As such, the proposal is contrary to Policies H7 and LA2 of the Herefordshire Unitary Development Plan and the principles of PPS7 (Sustainable Development in Rural Areas).**

Decision: .....

Notes: .....

**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** DCSE2009/0800/F

**SCALE :** 1 : 2500

**SITE ADDRESS :** Tan House Farm, Upton Bishop, Ross-on-Wye, Herefordshire, HR9 7UP

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