

MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 10 February 2010 at 10.00 am

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

Councillors: ACR Chappell, PGH Cutter, H Davies, GFM Dawe, PJ Edwards, DW Greenow, KS Guthrie, JW Hope MBE, B Hunt, RC Hunt, G Lucas, JE Pemberton, AP Taylor, DC Taylor, WJ Walling, PJ Watts and JD Woodward

In attendance: Councillors KG Grumbley, JG Jarvis, AT Oliver, SJ Robertson and RH Smith

66. APOLOGIES FOR ABSENCE

Apologies for absence had been received from Councillor RI Matthews.

67. NAMED SUBSTITUTES

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillor PJ Edwards was a substitute member for Councillor RI Matthews.

68. DECLARATIONS OF INTEREST

None.

69. MINUTES

RESOLVED: That the Minutes of the meeting held on 4 December 2009 be approved as a correct record and signed by the Chairman.

70. CHAIRMAN'S ANNOUNCEMENTS

The Chairman advised that this was the first meeting of the Planning Committee following amendments to the Council's Constitution and he explained consequential revisions to the room layout, seating plan and arrangements for the relevant local ward member(s) to address the committee.

The committee was also advised about arrangements for the 'Shaping Our Place 2026 Consultation' taking place between 18 January and 12 March 2010.

71. ITEM FOR INFORMATION - APPEALS

The Committee received an information report.

RESOLVED: That the report be noted.

72. AREA PLANNING SUB-COMMITTEES

RESOLVED: That the report of the meetings of the Area Planning Sub-Committee meetings held in November and December 2009 be received and noted.

[Note: For the efficient transaction of business at the meeting, agenda item 10 was considered before agenda item 8 and agenda item 17 was considered before agenda item 11. However, the original agenda order has been retained in the minutes below for ease of reference]

73. DMCW/092179/F - LEVANTE, BELLE BANK AVENUE, HOLMER, HEREFORDSHIRE, HR4 9RL

Construction of new detached two storey house with additional single storey ground floor accommodation, provision of new private vehicle access drive.

The Senior Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided as follows:

- A letter of objection had been received from Mr. A. Davies and Miss C. Lloyd. The contents of the letter were summarised.

Officer comments were also provided as follows:

- *'Levante' has a window in its southern flank which overlooks 3 Belle Bank Avenue. Therefore, whilst it is acknowledged that the new dwelling will be closer to the boundary, it is not considered that the proposed development will result in a demonstrable degree of overlooking on the ground floor window.*
- *It is not considered that the proposed development will give rise to a loss of light, as 3 Belle Bank Avenue lies south of the application site.*
- *Any future development of 3 Belle Bank Avenue would be determined on its merits and the mere presence of the new dwelling would not in itself prohibit any extension, but it would be a material consideration.*
- *Property values are not a material planning consideration.*
- *Conditions are recommended to secure the retention of the existing landscaping.*
- *Consideration of the relationship between the proposed development and all of the surrounding neighbours including the potential affect on existing levels of amenity and privacy has been addressed in the committee report.*

In accordance with the criteria for public speaking, Miss. Lloyd and Mr. Pontin spoke in objection to the application.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor SJ Robertson, the local ward member, expressed a number of concerns about the proposal, including:

- Holmer Parish Council were unable to attend the meeting but had asked for attention to be drawn to their strong objections.
- Belle Bank Avenue was of a unique design and a fine example of 1950s architecture and should be protected.
- The proposal represented an over intensive form of development which would have a detrimental impact on the character of the area.
- The views of the speakers and others in the community should not be dismissed.
- Too many gardens were being lost to infill development and comments made by a Shadow Cabinet Minister about the impact of 'garden grabbing' were outlined.
- Councillor Robertson expressed surprise that the Traffic Manager had no objections given the problems with parking and congestion in the locality.

A number of Members expressed concerns about the application, including:

- ◆ The need to preserve the heritage of the area and to maintain the environment and quality of life for local residents.
- ◆ The potential impact of the development on the character of the area.
- ◆ Problems with on street parking.
- ◆ The position and scale of the proposed dwelling was considered cramped.
- ◆ The potential for setting a precedent.

Given the potential impact of the development on neighbouring dwellings and on the character of the area, a motion to refuse the application was proposed.

In response to comments by Members, the Senior Planning Officer advised that: there would be sufficient separation distances between dwellings; it was not considered that the proposal would result in an unacceptable level of overlooking or overbearing impact; account needed to be taken of the mixed architectural character of the established residential area; and the level of amenity space was considered reasonable.

In response to a question, the Head of Planning and Transportation confirmed that local distinctiveness was a matter for Members to take a view on, alongside other material considerations.

A Member acknowledged the concerns of others but noted the various styles and positions of dwellings in the wider locality. In response to a question about the potential to defend a refusal of planning permission on appeal, the Locum Lawyer noted that officers considered the proposal to be in compliance with the Unitary Development Plan and Members would need to have solid reasons to reject the application if they were so minded. The Head of Planning and Transportation explained that national and local planning policies supported appropriate infill development, it was not considered that this proposal would have a significant impact on residential amenity, and a judgement on the impact on the character of the area needed to be made by the committee. Some Members questioned the relevance of any future challenge to the discussion and determination of any particular application by the committee.

A number of Members supported the views expressed by the local ward member and local residents.

In response to questions by Members: the Senior Planning Officer clarified the dimensions of the proposed dwelling and the distances between buildings and boundaries; the Senior Planning Officer advised that conditions were recommended in respect of the retention of trees and hedgerows and a condition could be added to omit a window in the southern elevation; the Development Control Manager explained that each application had to be considered on its own merits and it was for potential occupants of the dwelling to decide whether the accommodation was of sufficient size; and the Head of Planning and Transportation emphasised that it was the duty of officers to provide professional and impartial advice to the Committee on each application in the context of the planning policies and all other material considerations.

Councillor Robertson was given the opportunity to close the debate in accordance with the Council's Constitution; she maintained objections to the application, particularly in view of the comments of the Parish Council and local residents, and re-iterated the concern that the proposal would have a harmful impact on the character of the street scene.

Although the motion was contrary to the officer recommendation, in view of the debate and the reasons put forward by Members, the Head of Planning and Transportation and the Locum Lawyer did not consider that a Further Information Report was required in this instance.

RESOLVED:

That planning permission be refused for the following reason:

- 1. The proposal by reason of its scale and form would result in a cramped and intrusive form of development which is out of keeping with the design and character which defines the immediate vicinity, contrary to Policies DR1 and H13 of the Herefordshire Unitary Development Plan 2007.**

74. DMSW/092133/O - LAND ADJACENT TO SUN COTTAGE, GARWAY HILL, HEREFORDSHIRE, HR2 8EZ

Outline planning application for construction of a three bedroom dwelling.

The Principal Planning gave a presentation on the application. Updates received following the publication of the agenda were provided as follows:

- A letter of objection had been received from Mrs West and a letter of support had been received from Mr Whistance. The contents of the letters were summarised.

Officer comments were also provided as follows:

- *The workshop referred to in the Committee report was approved on 23 December 2009 by the Southern Area Planning Sub-Committee. The site for the workshop is approximately one kilometre away from the application site. No new issues are raised. The refusals referred to above relate to the adjoining site which is between the application site and the C1234 road.*

In accordance with the criteria for public speaking, Mr Macrae spoke in objection to the application and Mr Heath, the applicant, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's constitution, Councillor RH Smith, the local ward member, spoke in support of the application and raised a number of points, including:

- An application for the applicant's workshop had been approved by the Southern Area Planning Sub-Committee.
- The applicant would like to live nearer to his workshop but could not live on the workshop site as this land was owned by his grandfather.
- Under paragraph 1.3 of the report it was stated that the applicant had a 'desire' to live in the proposed location, the application was submitted as the applicant needed to live near the workshop.
- Garway Parish Council had not responded as the site did not fall within the Parish Council Boundary.
- The applicant offered a local service to agricultural workers and employed one other person.
- The applicant's business had been growing for the previous 3 years. This had been evidenced through the submission of the applicant's accounts.

- The applicant and his fiancée had previously lived in Brilley but had deemed this too far away from the workshop to be an acceptable housing solution.
- The application was in accordance with H7.1, H7.2, H8.1 and H8.2 of the Unitary Development Plan.
- The application site was associated with the small settlement of Garway and was walking distance away from the workshop.
- The proposed dwelling would be in keeping with policies H8.3 and H8.4 of the Unitary Development Plan.
- The applicant was happy for an agricultural tie to be added as a condition of any approval, he was also happy to have any permission restricted to a bungalow if the committee so required.
- Approval of the application would be in accordance with Policy S6 of the UDP as it would reduce the applicant's need to travel to his place of work.
- The application should be approved in accordance with policies H7 and H8 of the Herefordshire Council's Unitary Development Plan.

The Development Control Manager advised Members that PPS7 did not state that a dwelling could be permitted now that the workshop had been approved and that both the financial test and the functional need tests had to be satisfied. He noted that the applicant had stated that it was not possible for the proposed dwelling to be sited at the farm where the workshop permission had been recently approved. He added that in his opinion the functional need could not be met as the business could not be served from a dwelling situated 1 mile away from the workshop.

Councillor ACR Chappell noted the applicant's comments in respect of the lack of affordable housing in the area. He felt that young people should be retained in rural areas and felt that the applicant was offering a valuable service to Herefordshire's agricultural workers. He noted that the map submitted with the application was outdated as there were a number of new dwellings in the area and therefore the application would not be setting a precedent. He did voice his concerns in respect of the access onto the C road although he noted that there had been very few accidents on this road and felt that any concerns in respect of highways could be addressed through appropriate conditions.

Councillor DW Greenow congratulated the applicant for establishing a profitable business in the current economical climate. He noted the lack of affordable housing in the area and added that the applicant was in ownership of the land proposed for development. He also felt that the business was of great importance to local agriculture in the area and felt that the application should be approved in accordance with Policies H7, H8 and H10 of the Unitary Development Plan.

Some Members had reservations regarding any possible tie between the house and the workshop due to the distance and the difference in ownership of the two separate developments, they noted that the two nearest dwellings to the application site had not objected but felt that it would be easier to support the application if it was closer to the workshop.

The Committee noted that the application had been fully supported by the Southern Area Planning Sub-Committee

Other Members supported the Officer's recommendation and stated that the application was clearly contrary to the Unitary Development Plan. A member also felt that the application would not be looked on so favourably if the applicant was not working in an agricultural based trade.

Councillor B Hunt spoke in support of the application, he noted the policy issues but felt that they should be flexible to deal with exceptional applications. He requested clarification regarding the possibility of an agricultural tie between the workshop and the proposed dwelling. In response to the question the Development Control Manager confirmed that it could prove problematic to tie the dwelling to land that was outside the control of the applicant. He added that this could be investigated more thoroughly by the Planning Department if members were minded to approve the application contrary to Officer's recommendation.

Members noted the Officer's recommendation but they were minded to approve the application as they felt that the applicant offered a vital service to the local agricultural industry. They also noted the lack of affordable housing in the locality and felt that the applicant should be given the opportunity to live near to his workplace. They did however feel that the dwelling and the business enterprise should be tied through appropriate conditions and a section 106 agreement.

Councillor RH Smith was given the opportunity to close the debate in accordance with paragraph 4.8.2.2 of the Council's Constitution. He made the following comments:

- The dwelling was key to the management of a rural business.
- The applicant's grandfather was not in a position to give the applicant additional land for a dwelling at the farm.
- The proposed site was the nearest practical site to the workshop.
- The lack of affordable housing in the area meant that the proposed dwelling was the applicant's only realistic option of housing in Garway.
- Any concerns regarding access and landscaping could be addressed through conditions.

The Democratic Services Officer noted that the Committee were minded to approve the application contrary to Officer's recommendation and drew Members attention to paragraph 5.14.11.4 of the Council's Constitution. The Head of Planning and Transportation felt that there were fundamental policy issues at stake and that a further information report was necessary in order to address any possible conditions. The Locum Solicitor, representing the Monitoring Officer concurred that a further information report would be required to address these concerns.

RESOLVED

THAT the application be approved subject to appropriate conditions to be recommended by Officers and approved by members through a further information report.

75. DMCE/092394/N - COURT FARM, HAMPTON BISHOP, HEREFORD, HEREFORDSHIRE, HR1 4JU

On farm anaerobic digester to generate renewable energy.

The Principal Planning Officer Minerals and Waste gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided as follows:

- A letter of objection had been received from Madeleine Townson of The Lawns, Hampton Bishop, Hereford, HR1 4JY. The contents of the letter were summarised.
- A letter had been received from the applicant's agent which sought to respond to local concerns. The contents of the letter were summarised.

- Amendments were made to paragraph 6.20 of the report, to include reference to other crops and to read 'It should be noted that the feedstock would be exclusively generated within the farm holding'.

An officer comment was provided as follows:

- *No new issues are raised, and these points have been addressed in the committee report.*

In accordance with the criteria for public speaking, Mrs. Knipe spoke in objection to the application and Mr. Morphy spoke in support of the application.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor JE Pemberton, the local ward member, acknowledged the views of the speakers and paid tribute to the content and quality of the officer's report. Key elements of the report were highlighted, including:

- There was no recorded planning history on the site.
- There were no objections from statutory or internal council consultees.
- Hampton Bishop Parish Council supported the proposal.
- The proposal would minimise the release of methane gas and odorous compounds into the atmosphere.
- The chosen site was close to existing farm buildings and other infrastructure on an area of unused derelict ground and no other properties were visible from the application site.
- Small scale plants of this type were not comparable with large municipal sewage treatment works.
- The Environment Agency would regulate the entire process and had enforcement powers to intervene if the site were not up to standard.
- The applicant's proposed to set up a complaints system and site diary and, on this basis, officers accepted that air quality would be adequately monitored and protected in accordance with the Unitary Development Plan policies.
- The application explained that a minimal amount of gas would be held at any one time and site management, including safety, would fall within the scope of the Environmental Permit.
- Measures to mitigate light and noise impact were noted.
- The reduction in the number of HGV movements was welcomed; Councillor Pemberton commented on the damage caused by large farm vehicles to the margins of roadside banks.
- Officers were satisfied that flood risk factors had been adequately addressed by the application.
- The site was currently used for the storage of vehicles, scrap metal and other equipment; Councillor Pemberton suggested that these items should be cleared as part of any planning permission granted.
- An extended Phase 1 Habitat Survey had been undertaken and the findings accepted by both Natural England and the Conservation Officer.

Councillor Pemberton advised that the Chairman of the Parish Council had held a public meeting about the application and that the majority of attendees were in favour of the proposal subject to the necessary controls.

A number of Members made comments about the proposal, including:

- ◆ Conditions in respect of noise mitigation, landscaping, flood evacuation management plan, and the implementation of a complaints system were supported. The local ward member's comment about the need for the site to be cleared was also supported.
- ◆ It was noted that elements of the application relied on Environment Agency advice, monitoring and action and a concern was expressed about the lack of an area office in Herefordshire. It was hoped that work could be undertaken with the applicant and the local community to maximise the benefits of the development.
- ◆ Clarification was sought about the amount of energy to be generated by the anaerobic digester.
- ◆ Subject to no feedstock being imported to the site from outside the landholding, the principle of the development was supported; particularly given the gains in terms of generating renewable energy and limiting greenhouse gases.

The Cabinet Member (Environment and Strategic Housing), commenting on general policy issues rather than on this specific proposal, said that the principle of anaerobic digestion to generate energy was supported, with the caveat that fuel should not be grown at the expense of food production.

In response to questions by Members, the Principal Planning Officer Minerals and Waste advised that: the electricity produced would go into the national grid; no utility poles were included as part of the application; it was not considered that a Section 106 contribution could be justified in this instance, furthermore the identified benefits of the scheme could be regarded as contributing to the local environment and community; the scheme would reduce stockpiles of animal waste compared to existing farm practices; and a condition was recommended to require details of external finishes to mitigate visual impact.

Councillor Pemberton was given the opportunity to close the debate in accordance with the Council's Constitution; she commented that the community was acutely aware of the need for appropriate flood evacuation management plans.

RESOLVED:

That the officers named in the Scheme of Delegation to Officers be authorised to issue planning permission subject to the following conditions and any additional conditions considered necessary

- 1 A01 Time limit for commencement (full permission)**
- 2 B01 Development in accordance with the approved plans**
- 3 No development shall take place until final specifications for the plant and equipment have been submitted to and approved in writing by the local planning authority. The details shall be implemented as approved unless otherwise agreed in writing in advance by the local planning authority.**

Reason: To ensure a satisfactory form of development in accordance with Policies S1, S2 and DR1 of the Herefordshire Unitary Development Plan 2007.

- 4 M07 Evacuation management plan**
- 5 C10 Details of external finishes and cladding**

- 6 **G10 Landscaping scheme**
- 7 **G11 Landscaping scheme - implementation**
- 8 **G04 Protection of trees/hedgerows that are to be retained**
- 9 **I55 Site Waste Management**
- 10 **No development shall take place until a detailed method statement for setting up and maintaining a site diary and complaints system has been submitted to and approved in writing by the local planning authority. The scheme shall include in particular, details of:**
- i) **A named appointed person having a duty to maintain the diary and complaints record**
 - ii) **Site diary methodology, including the recording of daily farm activities**
 - iii) **Means of receiving and recording any complaints relating to the development hereby permitted**
 - iv) **Permanent location for keeping documentation, and its availability for inspection**
 - v) **Details of action to be taken in the event that a complaint is substantiated**
 - vi) **Provision for monitoring and review of the complaints system**
 - vii) **Timescales for implementation and proposed period for maintaining the record.**

The scheme shall be implemented as approved unless otherwise agreed in writing in advance by the local planning authority.

Reason: To ensure that any substantiated complaints would be adequately recorded and promptly addressed, in accordance with Policies S1, S2, DR4 and DR9 of the Herefordshire Unitary Development Plan.

- 11 **I33 External lighting**
- 12 **I09 Sound insulation of plant and machinery**
- 13 **I16 Restriction of hours during construction**
- 14 **No materials shall be imported to the site from outside the landholding to be used as feedstock in the development hereby permitted, unless full details of source/s, type/s and quantities have been submitted to in advance and approved in writing by the local planning authority.**
- Reason: Because further consideration by the local planning authority would be necessary, to protect local amenity and ensure a satisfactory form of development in accordance with Policies S1, S2, DR2, DR4 and DR9 of the Herefordshire Unitary Development Plan.**
- 15 **No vehicles, which are in the control of the applicant and used in connection with the development hereby permitted, shall be fitted with reversing alarms unless those alarms are of a 'white noise' type.**

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

- 16 I26 Interception of surface water run off**
- 17 I28 No discharge of foul/contaminated drainage**
- 18 I25 Bunding facilities for oils/fuels/chemicals**
- 19 I44 No burning of materials/substances during construction phase**
- 20 I46 Restriction on height of open air storage**
- 21 K4 Nature Conservation - Implementation**
- 22 F14 Removal of permitted development rights**

INFORMATIVES:

- 1 N15 Reason(s) for the Grant of Planning Permission**
- 2 N19 Avoidance of doubt - Approved Plans**
- 3 N11A Wildlife and Countryside Act 1981 (as amended) - Birds**
- 4 N11C General**
- 5 The peripheral wildlife habitats required as part of Condition 6 could include small pools, earth banks, stone and/or log piles to attract invertebrates and small mammals.**
- 6 HN16 Sky glow**
- 7 Developers should incorporate pollution prevention measures to protect ground and surface water. The Environment Agency has produced a range of guidance notes giving advice on statutory responsibilities and good environmental practice which include Pollution Prevention Guidance Notes (PPGs) targeted at specific activities. These can be viewed at:**

<http://www.environmentagency.gov.uk/business/topics/pollution/39083.aspx>

76. DMCE/092387/F - 28 MANOR ROAD, HEREFORD, HR2 6HN

Proposed detached bungalow and garage to rear of 28 Manor Road.

The Planning Officer gave a presentation on the application.

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

In accordance with paragraph 4.8.2.2 of the Council's constitution, Councillor ACR Chappell, one of the local ward members, spoke in support of the application and raised a number of points, including:

- He supported the application.
- The application site was situated in a very large garden with a number of large out houses that had previously housed a business.
- There were no issues of overlooking.
- He had concerns in respect of the Environment Agency's flood assessment as in his opinion Manor Road was extremely unlikely to suffer from floods.

Councillor AT Oliver, the other local ward member also raised a number of points, including:

- The site was parallel to Ministry of Defence land.
- The application site would be accessed from the side of 28 Manor Road, through the front garden of the existing property.
- Loss of amenity to the owners of 28 Manor Road.
- A bungalow on the site would be acceptable, concerns were expressed in respect of a dormer bungalow or house.

RESOLVED

That planning permission be granted subject to the following conditions:

- 1 A01 Time limit for commencement (full permission) (12 months)**
- 2 B01 Development in accordance with the approved plans**
- 3 C01 Samples of external materials**
- 4 F14 Removal of permitted development rights**
- 5 G09 Details of boundary treatments**
- 6 G10 Landscaping scheme**
- 7 G11 Landscaping scheme – implementation**
- 8 H06 Vehicular access construction**
- 9 H13 Access, turning area and parking**
- 10 I16 Restriction of hours during construction**
- 11 L01 Foul/surface water drainage**
- 12 L02 No surface water to connect to public system**
- 13 L03 No drainage run-off to public system**
- 14 M06 Finished floor levels**

Informatives:

- 1 HN01 Mud on highway**
- 2 HN05 Works within the highway**
- 3 HN10 No drainage to discharge to highway**

- 4 **N03 Adjoining property rights**
- 5 **N14 Party Wall Act 1996**
- 6 **N19 Avoidance of doubt - Approved Plans**
- 7 **N15 Reason(s) for the Grant of Planning Permission**

77. DMCE/092625/F - LAND TO THE REAR, 9 KYRLE STREET, HEREFORD, HR1 2ET

Proposed single storey two bed dwelling.

The Senior Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided as follows:

- The Conservation Manager had advised that 'Although the design is contemporary it would have minimal impact on the character of the area due to its location and single storey design. There will therefore be no detrimental impact on the character of the Conservation Area.'

Some Members questioned the architectural style proposed, particularly given the impact of the development on the outlook from neighbouring properties, and concerns were expressed about the layout and limited amenity space. However, other Members noted that the applicant's agent had comprehensively redesigned the scheme following a previous refusal of planning permission for a two storey dwelling (DCCE0009/1380/F refers) and considered the new proposal to be an acceptable form of development.

RESOLVED:

That planning permission be granted subject to the following conditions:

- 1 **A01 Time limit for commencement (full permission) (one year)**
- 2 **C01 Samples of external materials**
- 3 **F14 Removal of permitted development rights**
- 4 **G09 Details of boundary treatments**
- 5 **H13 Access, turning area and parking**
- 6 **I16 Restriction of hours during construction**
- 7 **L01 Foul/surface water drainage**
- 8 **L02 No surface water to connect to public system**
- 9 **E01 Site investigation - archaeology**

INFORMATIVES:

- 1 **N01 Access for all**
- 2 **N19 Avoidance of doubt - Approved Plans**
- 3 **N15 Reason(s) for the Grant of Planning Permission**

78. DMCE/091754/F AND DMCE/091755/L - NEW INN, BARTESTREE, HEREFORD, HR1 4BX

Erection of free standing timber deck to front of public house, deck to include ambulant stepped access. Provision of satellite dish to building frontage.

The Senior Planning Officer gave a presentation on the application. Updates received following the publication of the agenda were provided as follows:

- The Traffic Manager commented that the decking resulted in the loss of some parking area but that adequate parking remained to serve the public house
- One letter of support had been received from Geoffrey Watts of Hagley House, Bartestree commenting that the decked area was well constructed, had caused no nuisance and provided a valuable asset to the public house.
- Copies of a further ten letters of support sent to Councillor Greenow had also recently been received.

In accordance with the criteria for public speaking, Mr Brunt, a local resident, spoke in support of the application.

In accordance with paragraph 4.8.2.2 of the Council's constitution, Councillor DW Greenow, the local ward member, spoke in support of the application and raised a number of points, including:

- The satellite dish referred to in the application had not been erected by the applicant and they would be happy to move it to a less visibly intrusive location on the premises as requested by the Parish Council.
- 52 public houses had closed each week in 2009, up from 39 per week in 2008.
- Licensees had to diversify to attract new trade, hence the application for the new decking at the New Inn.
- The decking would give families the opportunity to sit outside and supervise children playing in the outside play area.
- The decking had been constructed at the same level as the public house interior floor to allow staff to deliver food and drinks to patrons using the decking safely and conveniently.
- The decking had trebled the income for the public house over a difficult period.
- Without the decking there was a real possibility that the New Inn would close, the decking had been key to attracting families to the public house.
- The application was in keeping with section 9.6.9 of the Council's Unitary Development Plan as the character of the building had not been affected by the decking as it was not attached to the original building.
- The UDP also stated under 7.6.2 that 'public houses perform a vital economic and social function and should be retained wherever possible'.
- There had been a number of letters of support submitted to the planning department in respect of the application.
- The decking could be stained in a natural colour to alleviate any concerns regarding visual impact.

In response to a question, the Senior Planning Officer confirmed that the ramp would be removed from the decking in order to limit the visual impact of the decking. Members were concerned that the removal of the ramp could be contrary to DDA guidance.

The Committee was of the opinion that the current decking was contrary to planning policy and felt that issues in respect of landscaping, colour and disabled access had to be addressed before any permission could be granted. Members discussed the possibility of approving the application subject to a number of conditions to address these concerns but on balance felt that the determination of the application should be deferred pending further discussions with the applicant.

Councillor DW Greenow was given the opportunity to close the debate in accordance with paragraph 4.8.2.2 of the Council's Constitution. He made the following comments:

- The applicant would be happy to keep the ramp but had been advised to remove it.
- The colour of the decking was due to be changed to a more natural colour.
- He supported the committee's opinion that appropriate landscaping be added as a condition.
- The Council should support such applications to improve small businesses.

RESOLVED

That the determination of the applications be deferred pending further discussions with the applicant in respect of landscaping, the colour and finish of the decking, and disabled access.

79. DMNW/092501/F - LEMORE MANOR, EARDISLEY, HEREFORDSHIRE, HR3 6LR

Change of use to allow for the erection of a marquee up to 12 times a year for functions primarily for wedding receptions.

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided as follows:

- Further letters of objection had been received from Mr. and Mrs. B. Whittle, 2 New House Farm. The contents of the letters were summarised.
- Letters in support of the application had been received from: Burgoyne's (Lyonshall), Lyonshall, Kington; A2Zest Events, 10 Prior Street, Hereford; and E.C Williams, The Bower, Eardisley. The contents of the letters were summarised.

Officer comments were also provided as follows:

- *The local concern regarding the technical capability of using limiters has been noted. The Environmental Health Officer has made this recommendation. This is not an unusual solution/requirement. The methods will need to be agreed with the local planning authority prior to the next use of a marquee on the site.*
- *The request for mediation is noted but the application is already recommended for a temporary approval. The officer would be happy to meet with all parties concerned during the temporary period to discuss options and concerns if the applicant is agreeable.*
- A condition was recommended in relation to functions being separated by at least 14 days, unless otherwise agreed by the local planning authority.

In accordance with the criteria for public speaking, Mrs. Glyn-Jones spoke in objection to the application and Mr. Spreckley spoke in support of the application.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor JW Hope MBE, the local ward member, commented on the following issues:

- The need for a change of use was queried given that events could occur on agricultural land for up to 28 days per year; the Principal Planning Officer clarified that such permitted development rights only applied to areas outside residential curtilage.
- The conclusions in paragraph 6.8 of the report were supported.

A Member noted that there was a proliferation of this type of activity in the County and it could cause significant distress to nearby residents. However, it was felt that the benefits to the local economy also had to be considered and that the application was acceptable subject to strict observance of the conditions by the applicants, particularly in respect of event frequency and timings. Other Members also spoke in support of the application.

A view was expressed that the position of the marquee should be moved away from the nearest neighbour and closer to holiday lets so that the impact on permanent residents would be reduced. The Principal Planning Officer advised that there would be limited difference in noise levels and the suggested positions were considered the most acceptable in terms of screening and relationship with the property.

In response to questions, the Principal Planning Officer advised that: the recommended timings were considered appropriate for the intended functions; the requirements in respect of the erection and removal of marquees would protect the amenity of nearby residents; and an informative note could be included to highlight the concerns about the use of Chinese lanterns.

The committee noted that a temporary permission for one year would provide the opportunity to monitor the activities and any related complaints received.

RESOLVED:

That planning permission be granted subject to the following conditions:

- 1 This permission shall expire on 10 February 2011, after which the use hereby approved shall permanently cease.**

Reason: To enable the local planning authority to give further consideration to the acceptability of the proposed use after the temporary period has expired and to allow time for acoustic testing/monitoring and to comply with Policies DR2 and DR13 of Herefordshire Unitary Development Plan.

- 2 The property shall only be let for the purpose of functions during periods where there is a management presence on site.**

Reason: In order to protect the amenity of nearby residents in accordance into Policy DR2 of this Herefordshire Unitary Development Plan.

- 3 A marquee shall be erected for no more than 12 functions until the expiry of this consent. The marquee shall not be erected more than 2 days prior to the function (that being the day that the function began)**

and shall be removed within 2 days following the day of the function.

Reason: In order to define the terms of this permission.

- 4 The loading and unloading of service and delivery vehicles together with their arrival and departure from the site shall not take place outside the hours of 0800 to 1800 pm Mondays to Fridays and 0800 to 1300 pm on Saturdays nor at any time on Sundays, Bank or Public Holidays, unless otherwise agreed in writing by the local planning authority.

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

- 5 Before the commencement of the use of marquees for the holding of events which involve the use of amplification, a scheme shall be agreed with the local planning authority which specifies the provisions to be made for the control of noise emanating from the site. The use shall be carried out in accordance with the approved details.

Reason: In the interests of the amenities of existing residential property in the locality and to comply with Policy DR1 and DR2 of Herefordshire Unitary Development Plan.

- 6 No live, amplified or other music shall be played outside after 23:00 or before 10.00am on Sundays to Thursdays or Bank and Public holidays and 00:00 and 10am respectively on Fridays and Saturdays. Outside is defined as not being within the building known as Lemore Manor and includes any PA system or speakers located in the garden, field or in a temporary structure, including marquees.

Reason: In the interests of the amenities of existing residential property in the locality and to comply with Policy DR1 and DR2 of Herefordshire Unitary Development Plan.

- 7 A record of the times and dates of functions shall be kept, and shall be made available for inspection by the local planning authority at their request. The local planning authority shall be given a minimum of 5 days written notice of a function being held unless otherwise agreed in writing by the local planning authority.

Reason: To allow the local planning authority to monitor the use having regard to the restrictions imposed in the above conditions having regard to policies DR2 and DR13 of the Herefordshire Unitary Development Plan.

- 8 Prior to the commencement of development a plan showing the existing and proposed overflow car parking (for use during functions) shall be submitted to and approved in writing by the local planning authority. These areas shall be kept clear and available for the parking of guests vehicles during functions.

Reason: To prevent indiscriminate parking on the highway and driveway in the interest of highway safety having regard to policy DR3 of the Herefordshire Unitary Development Plan.

- 9 A function shall be separated by any previous or subsequent event by

at least 14 days, unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of amenity of local residents having regard to policies DR2 and DR13 of the Herefordshire Unitary Development Plan.

INFORMATIVES:

- 1 The local planning authority would encourage the applicants to contact and agree the method of acoustic testing and monitoring with them as a matter of urgency prior to any other functions being undertaken.
- 2 In the interest of neighbourliness, the applicants are requested to refrain from the use of chinese lanterns at the site.
- 3 The decision to grant planning permission has been taken having regard to the policies and proposals in the Herefordshire Unitary Development Plan 2007 set out below, and to all relevant material considerations including Supplementary Planning Guidance:

RST12	-	Visitor Accommodation
RST13	-	Rural and Farm Tourism Development
S1	-	Sustainable Development
S8	-	Recreation, Sport & Tourism
DR2	-	Land use & Activity
DR3	-	Movement
DR13	-	Noise
NC4	-	Sites of Local Importance

In reaching this decision the local planning authority was mindful of the particular circumstances of the case, namely the extent to which the development complied with policy and the way in which local issues of amenity and highway safety were addressed.

This informative is only intended as a summary of the reasons for grant of planning permission. For further detail on the decision please see the application report by contacting The Hereford Centre, Garrick House, Widemarsh Street, Hereford (tel: 01432 261563).

- 4 For the avoidance of any doubt the plans for the development hereby approved are the 1:5000 scale site plan detailing the two positions for the siting of the marquee.

80. DCNW0009/1693/F - CHAPEL STILE COTTAGE, WOONTON, HEREFORD, HEREFORDSHIRE, HR3 6QN

Change of use of land from agricultural to mixed agricultural and as a landing field for a light aircraft, change of use of a barn from agricultural and equipment storage to include a vintage light aircraft. (Retrospective application)

The Principal Planning Officer gave a presentation on the application.

In accordance with paragraph 4.8.2.2 of the Council's constitution, Councillor JW Hope MBE, the local ward member, spoke in support of the application and noted that none of the local residents had objected to the application.

Members discussed the application and had concerns in respect of the lack of signage on the site as well as the hours of operation in respect of winter usage. In order to address their concerns members requested that conditions be added to exclude any usage of the landing strip in the hours of darkness and also to restrict any crop spraying.

RESOLVED

That planning permission be granted subject to the following conditions:

1 F26 Personal condition

2 A detailed log of all take-off and landings at the application site shall be kept and made available for inspection on reasonable request from the Local Planning Authority.

Reason: To enable the planning authority to monitor the use in the interests of the residential amenity of local residents having regard to policies DR1, DR2 and DR13 of the Unitary Development Plan.

3 Except in emergency, the use of the airstrip shall be restricted to use by light aircraft with a maximum take off weight of 995kg and shall not be used by microlights at any time unless otherwise agreed in writing by the local planning authority.

Reason: In order to define the terms to which the application relates.

4 The number of aircraft movements (with take off and landing counting as separate movements) from the airstrip shall not exceed 8 per week (Monday to Sunday).

Reason: To enable the planning authority to retain control over the development in the interests of the residential amenity of local residents having regard to policies DR1, DR2 and DR13 of the Unitary Development Plan.

5 Except in emergency no touch-and-go activity shall take place.

Reason: To enable the planning authority to retain control over the development in the interests of the residential amenity of local residents having regard to policies DR1, DR2 and DR13 of the UDP.

6 The airstrip shall be grassed and shall be no more than 400m in length and 20m in width.

Reason: For the avoidance of doubt and to comply with the requirements of policy DR1 of the UDP.

7 There shall be no take offs or landings between the hours of 9pm and 9am daily.

Reason: To enable the planning authority to retain control over the development in the interests of the residential amenity of local residents having regard to policies DR1, DR2 and DR13 of the UDP.

8 There shall be no parachuting, aerobatics or pilot training taking place at or operating from the site.

Reason: To enable the planning authority to retain control over the development in the interests of the residential amenity of local residents having regard to policies DR1, DR2 and DR13 of the UDP.

- 9 Within 2 months of the date of this permission details of warning signs to be erected adjacent to the Public Right of Way shall be submitted to and approved in writing by the local planning authority. These signs shall be erected within 3 months of the date of this permission and shall be maintained and retained until such time that the use permanently ceases.**

Reason: To warn users of the Public Right of Way of the adjoining landing strip in the interest of safety having regard to policy DR3 of the Unitary Development Plan.

INFORMATIVES:

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

2 N19 Avoidance of doubt - Approved Plans

81. DMSE/092530/F - WOODHOUSE FARM, UPTON BISHOP, ROSS-ON-WYE, HEREFORDSHIRE, HR9 7UW

Removal of 3 large sheds and their replacement with a single group holiday let.

The Senior Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided as follows:

- The applicant had provided documentary evidence which demonstrated that the proposed access had the necessary authorisation. This was obtained from the Forest of Dean District Council in 2005.

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

A Member commented that considerable thought had gone into the application and supported the application.

RESOLVED:

That planning permission be granted subject to the following conditions:

- 1 A01 Time limit for commencement (full permission)**
- 2 C01 Samples of external materials**
- 3 G09 Details of boundary treatments**
- 4 G10 Landscaping scheme**
- 5 G11 Landscaping scheme - implementation**
- 6 H06 Vehicular access construction**
- 7 H13 Access, turning area and parking**
- 8 H29 Secure covered cycle parking provision**

- 9 H30 Travel plans
- 10 F30 Use as holiday accommodation
- 11 The recommendations set out in the ecological report dated 4 December 2009 should be followed, unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a full wildlife protection and enhancement scheme should be submitted to and be approved in writing by the local planning authority, and the work shall be implemented as approved. An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological work.

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policies NC1, NC5, NC6 and NC7 of the Herefordshire Unitary Development Plan.006.

- 12 CCP Code Level 4.
- 13 CCK Slab levels.
- 14 A scheme for the demolition and re-cladding of the poultry unit shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. Development shall be carried out in accordance with the approved details and completed prior to the first use of the development hereby permitted.

Reason: In the interests of visual amenity and to ensure the appropriate provision of car parking in accordance with DR1, LA2 and T11 of the Herefordshire Unitary Development Plan.

INFORMATIVES:

- 1 N15 Reason(s) for the Grant of Planning Permission
- 2 N11A Wildlife and Countryside Act 1981 (as amended) – Birds

82. DMNC/092391/O - LAND AT WOODHOUSE LANE, BODENHAM, HEREFORDSHIRE, HR1 3LB

Proposed two dwellings.

The Principal Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mr Parry, a neighbouring resident, spoke in objection to the application and Mrs Hunt, the applicant, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's constitution, Councillor KG Grumbley, the local ward member, spoke in support of the application and raised a number of points, including:

- The applicants had been offered the land by Mr Hunt's employer.

- The family were committed to the welfare of their son and wanted to continue to assist in his care whilst giving him the independence of his own home.
- The applicant's son needed to live independently to qualify for grants to assist with his care.
- The reasons for refusal were fully understood but the application should not be refused lightly.
- Conditions or a section 106 agreement could be utilised to ensure that the dwellings remained affordable.
- There were concerns in respect of visibility onto Woodhouse Lane but the increase in traffic would be minimal and the Traffic Manager did not object to the application.
- The construction phase would have to be monitored closely to ensure that the highway impact to the local residents was minimal.

Members felt that the increase in vehicle movements to the site would be minimal and noted that the Transport Officer had raised no objections. They also noted that the applicants had agreed to a section 106 agreement in order to ensure that the dwellings remained affordable in perpetuity.

In response to a question, the Principal Planning Officer confirmed that there had been no recorded accidents on the road in question for 5 years. He confirmed that the visibility splay could not be improved as the land at either side of the entrance to the site was not in the ownership of the applicants.

The Committee noted the Officer's recommendation but on balance supported the application in principle. They had some concerns in respect of the application for a two storey dwelling as some members were of the opinion that two bungalows would be more suitable on the site. A motion to approve the application contrary to the Officer's recommendation was seconded and a vote was taken following the local ward member's closing statement.

Councillor KG Grumbley was given the opportunity to close the debate in accordance with paragraph 4.8.2.2 of the Council's Constitution. He made the following comments:

- The inclusion of a section 106 agreement to address the affordable nature of the dwellings could be
- The dwelling for Mr and Mrs Hunt's son would remain 25% in the ownership of the charitable organisation who would be assisting in the funding.
- There had been no accidents on the access for 5 years.
- The construction phase could be conditioned in order to reduce any impact on the local residents.
- Mr Hunt's current dwelling would be surrendered when he ceased his employment as Farm Manager.

The Head of Planning and Transportation, in consultation with the Locum Lawyer, noted that Members were minded to approve the application contrary to Officer's recommendation and advised that a further information report would not be required subject to the delegation of the completion of a Section 106 agreement in consultation with the Chairman and the local ward member.

RESOLVED

THAT officers named in the Scheme of Delegation to Officers be authorised to issue planning permission subject to the receipt of a Section 106 agreement and subject to conditions considered necessary by officers.

83. DMNE/092736/F - HAZLE MILL, HAZLE FARM, DYMOCK ROAD, LEDBURY, HEREFORD, HR8 2HT

Proposed conversion of redundant mill to form livework unit.

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided as follows:

- Correspondence had been received from Herefordshire and Gloucestershire Canal Trust. The contents of the correspondence were summarised. It was reported that the Canal Trust had attempted to negotiate with the landowner without success in respect of the land in the vicinity of the canal.
- Further representations had been submitted by the agent for the applicant with regard to the flooding issue. This suggested that the historic flood level was 1.45 metres lower than the floor level of the building.

Officer comments were also provided as follows:

- *The safeguarded route of the Herefordshire and Gloucestershire Canal crosses the application site (bi-sects the driveway) and traverses adjoining land within the applicant's control.*
- *Under the provisions of policy RST 9 of the Herefordshire Unitary Development Plan 2007 the Local Planning Authority would normally require the applicant to enter into a Section 106 legal agreement securing the transfer of the land the subject of the safeguarded canal corridor to the Herefordshire and Gloucestershire Canal at no cost and in this instance to commit to a single access and bridge across the restored canal in the vicinity of Hazle Mill to be shared with the owners of Hazle Mill House.*
- *The agent for the applicant has not submitted any form of draft heads of terms in respect of a legal agreement to address this issue. As such the proposal is also contrary to policy RST 9 of the Herefordshire Unitary Development Plan 2007 and a further ground of refusal is recommended.*
- *With regard the flooding issue, the agent has not undertaken any modelling and relies on anecdotal evidence from the applicant. To require full modelling in such a small-scale case may be rather excessive and as no new built development (additional footprint) is proposed there would be no impact on flood storage or flood flows. However, the agent for the applicant has still not overcome the sequential test. The site remains in Flood Zone 2 (Medium Risk) and he has failed to provide any evidence that there are no suitable alternative sites entirely in Flood Zone 1 (Low Risk).*
- *As a matter of clarification I understand that the building upon the site has no remnants of the original Mill and that the timbers within it were inserted by a person who operated a scrap yard business upon the site in the late twentieth century.*
- *With regard the recently revised Central Government advice contained within Planning Policy Statement 4 'Planning for Sustainable Growth', there is no mention within that document of "live-work" units. Furthermore with regard the re-use of rural buildings to employment related purposes the advice remains the same. Whilst the Government continue to encourage the re-use of rural buildings for employment related purposes they advise Local Planning Authorities to adopt criteria based policies. The Herefordshire Unitary Development Plan 2007 has*

such criteria based policies and as such remains compliant with Central Government advice.

The following changes to the recommendation were indicated:

- Amend reason for refusal 1 by deleting its last sentence only.
- Add a further ground of refusal:-
 7. The proposal fails to provide any legal mechanism to secure the transfer of the land within and adjoining the application site that is upon the safeguarded route of the Herefordshire and Gloucestershire Canal to the Herefordshire and Gloucestershire Canal Trust. Nor does the proposal provide for any other mechanism to secure the restoration of canal hereabouts. As such the proposal would prejudice the long-term policy objective of restoring the canal contrary to policy RST 9 of the Herefordshire Unitary Development Plan 2007.

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

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor PJ Watts, a local ward member, raised a number of issues, including:

- Flooding: the flood risk assessment indicated that even an extreme flood event should not reach the side elevation of the building given the topography of the site; and the landowner had confirmed that the site had been unaffected by floods in 1998 and 2007.
- Renovation: an engineer's report in July 2009 had indicated that the building was capable of conversion; a building in the location was illustrated on historic maps; as there was an opportunity to bring a building back into use, it was not considered that housing need had to be demonstrated; the proposed charcoal burning activity required supervision; and reference in the report to the applicant's proposed business as a 'hobby' was considered disingenuous.
- Ecology: a full baseline protect species survey had been submitted.
- Access and egress: the access had been used for a considerable time, particularly by slow-moving farm vehicles and by vehicles accessing the former scrapyards; whilst the visibility splay might not conform to modern criteria, there had not been any recorded accidents in the past year and there were many similar accesses throughout the County; the speeds of approaching vehicles on the B4216 were limited by factors such as hedges, road camber and slight bends; the proposed use would result in only a minor uplift in traffic movements per day.

A Member noted the enterprise of the applicant but did not consider that a good case had been made for this scheme, with substantial amounts of evidence still to be received or improved.

The Development Control Manager commented that a number of reasons for refusal had been identified in the report and a key issue for the committee was whether the proposal could be considered to comply with policy HBA13 (Re-use of Rural Buildings for Residential Purposes) of the Herefordshire Unitary Development Plan. In the opinion of officers, the proposal failed to meet any of the exception criteria set out in the policy.

A number of Members commented on the need to support rural businesses and felt that consideration of the application should be deferred for further information and

discussions with the applicant; comments included the need for clarity about the source materials and about flood risk.

Some Members questioned the purpose of deferral if it was not considered that the building was worthy of retention or capable of conversion. A comment was made that a number of different types of business could be considered to have important functions in rural areas but it did not necessarily follow that developments in open countryside should be permitted for such businesses.

The Head of Planning and Transportation requested Members to guide officers in respect of areas which they considered could be resolved to their satisfaction to overcome the policy objections.

Councillor Watts was given the opportunity to close the debate in accordance with the Council's Constitution; he re-iterated that a survey had assessed the ecological considerations, that engineers had advised that the building was sound, and he said that emerging businesses needed to be encouraged.

RESOLVED:

That consideration of planning application DMNE/092736/F be deferred for further information and discussions with the applicant.

84. DATE OF NEXT MEETINGS

24 February 2010 and 17 March 2010.

The meeting ended at 4.30 pm

CHAIRMAN