

AGENDA

Planning Committee

Date: **Wednesday 10 February 2010**

Time: **10.00 am**

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

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

For any further information please contact:

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If you would like help to understand this document, or would like it in another format or language, please call Pete Martens, Committee Manager Planning & Regulatory on 01432 260248 or e-mail pmartens@herefordshire.gov.uk in advance of the meeting.

Agenda for the Meeting of the Planning Committee

Membership

Chairman	Councillor TW Hunt
Vice-Chairman	Councillor RV Stockton
	Councillor ACR Chappell
	Councillor PGH Cutter
	Councillor H Davies
	Councillor GFM Dawe
	Councillor DW Greenow
	Councillor KS Guthrie
	Councillor JW Hope MBE
	Councillor B Hunt
	Councillor RC Hunt
	Councillor G Lucas
	Councillor RI Matthews
	Councillor JE Pemberton
	Councillor AP Taylor
	Councillor DC Taylor
	Councillor WJ Walling
	Councillor PJ Watts
	Councillor JD Woodward

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.	APOLOGIES FOR ABSENCE To receive apologies for absence.	
2.	NAMED SUBSTITUTES (IF ANY) To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.	
3.	DECLARATIONS OF INTEREST To receive any declarations of interest by Members in respect of items on the Agenda.	
4.	MINUTES To approve and sign the Minutes of the meeting held on 4 December 2009.	1 - 8
5.	CHAIRMAN'S ANNOUNCEMENTS To receive any announcements from the Chairman.	
6.	ITEM FOR INFORMATION - APPEALS To be noted.	9 - 24
7.	AREA PLANNING SUB-COMMITTEES To receive the attached report of the Area Planning Sub-Committee meetings held in November and December 2009.	25 - 26
8.	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. Ward - Burghill, Holmer and Lyde	27 - 32
9.	DMSW/092133/O - LAND ADJACENT TO SUN COTTAGE, GARWAY HILL, HEREFORDSHIRE, HR2 8EZ Outline planning application for construction of a three bedroom dwelling. Ward - Pontrilas	33 - 40
10.	DMCE/092394/N - COURT FARM, HAMPTON BISHOP, HEREFORD, HEREFORDSHIRE, HR1 4JU On farm anaerobic digester to generate renewable energy. Ward - Backbury	41 - 52
11.	DMCE/092387/F - 28 MANOR ROAD, HEREFORD, HR2 6HN Proposed detached bungalow and garage to rear of 28 Manor Road. Ward - St Martins and Hinton	53 - 58

12.	<p>DMCE/092625/F - LAND TO THE REAR, 9 KYRLE STREET, HEREFORD, HR1 2ET</p> <p>Proposed single storey two bed dwelling.</p> <p>Ward - Central</p>	59 - 64
13.	<p>DMCE/091754/F AND DMCE/091755/L - NEW INN, BARTESTREE, HEREFORD, HR1 4BX</p> <p>Erection of free standing timber deck to front of public house, deck to include ambulant stepped access. Provision of satellite dish to building frontage.</p> <p>Ward - Hagley</p>	65 - 70
14.	<p>DMNW/092501/F - LEMORE MANOR, EARDISLEY, HEREFORDSHIRE, HR3 6LR</p> <p>Change of use to allow for the erection of a marquee up to 12 times a year for functions primarily for wedding receptions.</p> <p>Ward - Castle</p>	71 - 78
15.	<p>DCNW0009/1693/F - CHAPEL STILE COTTAGE, WOONTON, HEREFORD, HEREFORDSHIRE, HR3 6QN</p> <p>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)</p> <p>Ward - Castle</p>	79 - 86
16.	<p>DMSE/092530/F - WOODHOUSE FARM, UPTON BISHOP, ROSS-ON-WYE, HEREFORDSHIRE, HR9 7UW</p> <p>Removal of 3 large sheds and their replacement with a single group holiday let.</p> <p>Ward - Old Gore</p>	87 - 94
17.	<p>DMNC/092391/O - LAND AT WOODHOUSE LANE, BODENHAM, HEREFORDSHIRE, HR1 3LB</p> <p>Proposed two dwellings.</p> <p>Ward - Hampton Court</p>	95 - 100
18.	<p>DMNE/092736/F - HAZLE MILL, HAZLE FARM, DYMOCK ROAD, LEDBURY, HEREFORD, HR8 2HT</p> <p>Proposed conversion of redundant mill to form livework unit.</p> <p>Ward - Ledbury</p>	101 - 108
19.	<p>DATE OF NEXT MEETING</p> <p>Provisional Site Inspection Date - 23 February 2010</p> <p>Next Meetings of the Planning Committee - 24 February 2010 and 17 March 2010</p>	

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- 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.
- Access to a public Register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
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- 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 Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Friday 4 December 2009 at 10.00 am

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

Councillors: PGH Cutter, H Davies, GFM Dawe, DW Greenow, JW Hope MBE, G Lucas, PJ McCaull, PM Morgan, JE Pemberton, RH Smith, AM Toon, WJ Walling, PJ Watts, JB Williams and JD Woodward

In attendance: Councillors PA Andrews and PJ Edwards

54. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors ACR Chappell, KS Guthrie, RI Matthews, AP Taylor and DC Taylor.

55. NAMED SUBSTITUTES (IF ANY)

The following named substitutes were appointed:-

Councillor PJ McCaull for RI Matthews;

Councillor JB Williams for DC Taylor;

Councillor RH Smith for KG Guthrie; and

Councillor A Toon for AP Taylor.

56. DECLARATIONS OF INTEREST

Councillor PM Morgan declared a personal interest in agenda item 11 (Minute 64) - DCNE/092162/F - change of use from agricultural to school playing field and erection of security fencing and gate at Ashperton Primary School, Ashperton, Ledbury.

57. MINUTES

RESOLVED: That the Minutes of the meeting held on 23rd October, 2009 be approved as a correct record and signed by the Chairman

58. CHAIRMAN'S ANNOUNCEMENTS

The Chairman announced the arrangements for the meeting.

At the end of the meeting he outlined the arrangements for the new Planning Committee which would replace the existing system in January. He paid tribute to the past and present Chairmen and Vice Chairmen of the Committee and the three Area Planning Sub-Committees and thanked Members for their help and support over the years.

59. NORTHERN AREA PLANNING SUB-COMMITTEE

RESOLVED: That the report of the meetings held on 21st October and 18th November, 2009 be received and noted.

60. CENTRAL AREA PLANNING SUB-COMMITTEE

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

61. SOUTHERN AREA PLANNING SUB-COMMITTEE

RESOLVED: That the report of the meetings held on 26th October and 25th November, 2009 be received and noted.

62. ANNUAL MONITORING REPORT 2008-2009

The Team Leader Strategic Planning presented the report of the Planning Policy Manager about the Annual Monitoring Report 2007 – 2008. He said that The Planning and Compulsory Purchase Act 2004 had introduced new provisions and requirements for development planning. The regular review and monitoring of Development Plans through mandatory Annual Monitoring Reports (AMR's) was a fundamental feature of the new planning system. AMR's were based on the period from 1st April to 31st March and had to be submitted to the Secretary of State by no later than the following 31st December. He advised that the AMR's were required to assess the impact of the Councils planning policies and framework. The Team Leader Strategic Planning presented the following updates to his report:

The reproduction of the report in the Agenda had "clipped" the text of certain paragraphs. The "missing text" (which is in the original document) is as follows

Committee report page number	AMR page number	"Missing" text
57	Page 15 – at the top	"...April 2009, 10,395 completions were achieved, equating to 85% of the total requirement."
66	Page 24 – at the top	".. solely rely on the proximity of public transport routes as the reason for locating development in a particular area."
69	Page 27– at the top	"... there were 405 sq m convenience retail completions. In previous years the completions figure has been subdivided into over 1,000 sq metres and below 1,000 sq metres, this is no longer the case."

The Team Leader Strategic Planning also asked the Committee to note that on page 92f of the Agenda, that the partnership referred to was between Advantage West Midlands and the regional planning body (currently the West Midlands Regional Assembly).

The Committee considered the contents of the AMR and the Team Leader Strategic Planning highlighted the main features and outlined the extent to which the objectives of the Herefordshire Unitary Development Plan (UDP) policies were being met. He advised the Committee of the key findings which had revealed the following:-

- housing – for the UDP since 1996 some 10,395 new dwellings had been completed, amounting to 85% of the UDP target of 12,200 new dwellings. The downturn in the housing market had meant that 689 had been completed in the last 12 months (a fall of around 20% from the 829 completed in 2007-8. The percentage of housing completions on previously developed or brownfield land at 80% (550) had exceeded regional and national targets. 208 units of affordable housing, were completed in 2008-9, an increase over the previous year (141 units) which was the highest level recorded in the monitoring process. In addition, the preparation of the Local Development Framework had provided an opportunity to review the UDP affordable housing policies and a number of options for this were set out in the Place Shaping Paper which would be published in January.
- employment - the amount of land developed for employment uses over the monitoring period was 10.22ha, above the average recorded since the 1980's. Around 63% of the completions in the year were located on previously developed (brownfield) land.
- in areas of transport, town centres and retail, recreational and leisure, minerals, waste, development requirements, natural historic heritage and renewable energy, findings generally indicated that there had been progress towards meeting targets or monitoring requirements during the 2008-09 monitoring period. The AMR also indicated that for the reporting period, 97 planning applications were approved subject to a Section 106 agreement. The potential monetary value of those contributions was £3,939,493.00 and the AMR contained a breakdown of agreed planning obligations at parish level and the community infrastructure that those contributions would support. This was the first year that such details had been included within the AMR.

Members asked questions about the various issues which were covered in the report and in particular the trends and targets that had been identified and the effectiveness of the policies set out within the Local Development Documents. The targets and achievements in affordable and social housing provision, employment land and associated transportation issues were also debated. Unitary Development Plan Objective TCR (1) regarding central shopping and Commercial areas was also referred to and Councillor AM Toon had concerns about whether such policies could be measured and monitored effectively. The Head of Planning and Transportation said that the monitoring report reflected the transitional stage that the Council was at in moving from the older style development plan to the more recent local development framework which had a different approach to the core development and housing. He said that the replacement plans would assist with the process when they were in place. The Locum Lawyer added that the Local Development Framework addressed the spatial strategy issues and that the AMR helped to inform the Secretary of State what steps the Council had taken to deal with the matter. Councillor Toon asked if there was a change of Government whether there was likely to be a different spatial strategy approach at Regional level. She also asked about the future arrangements for dealing with Section 106 agreements. The Head of Planning and Transportation was of the view that the arrangements were well under way at Regional level regardless of a change of Government. Regarding the arrangements for dealing with Section 106 agreements, he said that this had proved to be very successful and that the contract of the S.106 Monitoring Officer had been extended by a further 12 months.

Having considered the various aspects of the AMR, the Committee decided that it should be commended to the Cabinet Member

RESOLVED THAT

the Annual Monitoring Report 2008-2009 be endorsed and recommend its approval to the Cabinet Member (Environment and Strategic Housing).

63. DMCW/092094/O - DEMOLITION OF EXISTING UNIT, CONSTRUCTION OF CIRCA 5574M2 OF B1/B2/B8 INDUSTRIAL/WAREHOUSE UNITS, ASSOCIATED SERVICE YARDS, CAR PARKING AND ACCESS IMPROVEMENTS AT THREE ELMS TRADING ESTATE, BAKERS LANE, THREE ELMS ROAD, HEREFORD, HR4 9P

The Central Team Leader presented a report about an application for outline planning permission for the construction of new B1/B2/B8 industrial/warehouse units together with associated works to create service yards, car parking and access improvements. The effect of these works would be to redevelop the redundant core of the industrial estate and to create a more vibrant and commercially viable environment. One of the key strategic objectives in redeveloping the site was to provide for viable and attractive alternative accommodation to meet the needs of local businesses relocating from the Edgar Street Grid regeneration area. He advised that although some of the open space would be lost, it would still include a reasonable amount of formal and informal open space. He added that at present the area was the subject of anti-social behaviour and vandalism and that the scheme would help to overcome this. He also drew attention to the fact that there was a considerable area of open space within easy walking distance nearby which had good access links for local residents. He presented the following updates which had been received since the preparation of the report:

ADDITIONAL REPRESENTATIONS

Valuation & Estates Manager – the capital receipt from the sale of this piece of Public Open Space (POS) will go in its entirety to the provision of improved facilities in the area. The proposed disposal of the POS was publicly advertised at the time the decision to sell the land to the Advantage West Midlands was made. There were only a few enquiries from the local residents as a consequence of the process, which were all in support of the proposal

Environmental Health & Trading Standards Manager – I have no objection to the development proposed in principle, however in order to protect the amenity of nearby residents with regards noise, I would ask that a condition be placed on the permission for a Noise Scheme to be agreed with the Planning Authority prior to occupation of the units.

Environment Agency – No objection by suggest the use of conditions to ensure that issues of flooding, contaminated land and watercourse protection are properly addressed.

OFFICER COMMENTS

The comments of the Environmental Health & Trading Standards Manager and the Environment Agency are noted and those additional conditions are recommended.

CHANGE TO RECOMMENDATION

Take out reference to 'The Environment Agency' and substitute 'Sports England' in the recommendation.

In accordance with the procedure for public speaking, Mr Watts, a local resident spoke against the application because of the loss of amenity land and the adverse impact he felt that it would have on the adjoining residential area.

Councillors PA Andrews and AN Toon, two of the Local Ward Members, spoke in favour of the application, drawing attention to the many years of complaints about anti-social behaviour, vandalism and theft which had been received from local residents whose properties adjoined the site. They asked for local residents to be kept informed about the proposals for the multi-use games area and landscaping which would be included in the scheme. Councillor Toon also drew attention to the lack of amenity space in the northern part of the City and asked for any S.106 funds raised for this purpose to be invested in that area. Councillor Cutter pointed out the importance of ensuring that the recreation areas were also available for those who would be working on the site. Councillor GFM Dawe was opposed to the scheme because of the loss of trees, shrubs and amenity area. He did not feel that making provision for those displaced from the Edgar Street Grid was a sufficient reason for the loss of amenity land.

Having carefully considered all the points raised about the application, the Committee whilst mindful of the loss of some open space, felt that there were more advantages to be gained for local businesses and the community. As well as business units, there would still be a fair amount of recreational and amenity land, with good links to a large area of amenity land nearby.

RESOLVED THAT

Subject to there being no material objection from Sports England by the end of the consultation period, the officers named in the Scheme of Delegation to Officers be authorised to approve the application subject to the following conditions and any further conditions considered necessary by officers, and also those recommended by the Environment Agency and by the Environmental Health & Trading Standards Manager:

- 1 A02 Time limit for submission of reserved matters (outline permission)**
- 2 A03 Time limit for commencement (outline permission)**
- 3 A04 Approval of reserved matters**
- 4 A05 Plans and particulars of reserved matters**
- 5 H18 On site roads - submission of details**
- 6 H29 Covered and secure cycle parking provision**
- 7 H30 Travel Plans**
- 8 I32 Details of floodlighting/external lighting**
- 9 L02 No surface water to connect to public system**
- 10 L03 No drainage run-off to public system**
- 11 L04 Comprehensive & Integrated draining of site**
- 12 Full particulars and detailed plans, sections and elevations of the proposed development, including the items below, shall be submitted to and approved in writing by the local planning authority before any works are**

commenced:

- i. The siting of all the building(s) in relation to the site boundaries and adjoining buildings including neighbouring residential properties.**
- ii. The design of the building(s) (including floor space, height, massing, internal layout, treatment of the roof and external appearance together with details of facing materials to be used and their colour and texture).**
- iii. The means of access to the building(s).**
- iv. The use of any part of the site not covered by building(s) and the treatment thereof (including hard and soft landscaping, i.e. planting, paving, walls and fences).**
- v. The extent and position of accommodation for the parking and loading and unloading of vehicles.**
- vi. The level of each floor of the building(s) in relation to the site measured from an external datum point.**

Reason: To define the terms under which this outline planning permission is granted and to ensure that the proposed development is not detrimental to the visual or residential amenity of the wider locality so as to comply with Policies DR1, DR2, DR3 and DR4 of the Herefordshire Unitary Development Plan 2007.

13 No development whatsoever shall take place until a 'Construction Method Statement' has been submitted to and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. The hours when building operations will occur. (Note: In any event the local planning authority will not allow this to exceed the following times: Monday-Friday 7.00 am-6.00pm, Saturday 8.00 am-1.00 pm or at any time on Sundays, Bank or Public Holidays).**
- ii. The parking of vehicles of site operatives and visitors.**
- iii. Loading and unloading of plant and materials.**
- iv. Storage of plant and materials used in constructing the development.**
- v. The erection and maintenance of site security hoardings, where appropriate.**
- vi. Wheel washing facilities.**
- vii. Measures to control the emission of dust and dirt during construction.**
- viii. A scheme for recycling/disposing of waste resulting from demolition and construction works.**

Reason: To define the terms under which this outline planning permission is granted and to ensure that the proposed development is not detrimental

to the environmental or residential amenity of the wider locality so as to comply with Policies DR1, DR2, DR4 and DR13 of the Herefordshire Unitary Development Plan 2007.

- 14 No development shall take place until the following has been submitted to and approved in writing by the local planning authority:
- a) A 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways and receptors, a conceptual model and a risk assessment in accordance with current best practice.
 - b) If the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risks to identified receptors.
 - c) If the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

Reason: To ensure that potential contamination of the site is satisfactorily assessed and to comply with Policy DR10 of Herefordshire Unitary Development Plan.

- 15 The Remediation Scheme, as approved pursuant to condition no. 14 above, shall be fully implemented before development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the local planning authority in advance of works being undertaken.

Reason: To ensure contamination of the site is removed or contained and to comply with Policy DR10 of Herefordshire Unitary Development Plan.

Informatives:

- 1 N01 Access for all
- 2 N03 Adjoining property rights
- 3 N04 Rights of way
- 4 N05 Council ownership
- 5 N08 Advertisements
- 6 N10 Council contract

- 7 **N11C General**
- 8 **W02 Welsh Water rights of access**
- 9 **W01 Welsh Water Connection to PSS**
- 10 **N19 Avoidance of doubt - Approved Plans**
- 11 **N15 Reason(s) for the Grant of PP/LBC/CAC**

64. DCNE/092162/F - ASHPERTON PRIMARY SCHOOL, ASHPERTON, LEDBURY, HEREFORDSHIRE, HR8 2SE

The Senior Planning Officer presented a report about an application to use part of an agricultural field as a play area with a security fence to the rear of Ashperton Primary School. Councillor PM Morgan the Local Ward Member said that the additional land as a school play area was vitally needed to improve the facilities provided by the school and help to secure its future. The Committee was supportive of the application and agreed with a suggestion from Councillor Toon that the land should revert back to agricultural use should it no longer be required by the school in future.

RESOLVED THAT

planning permission be granted subject to the following conditions:

- 1. **A01 Time limit for commencement (full permission)**
- 2. **G10 Landscaping scheme**
- 3. **G11 Landscaping scheme - implementation**
- 4. **G12 Hedgerow planting**
- 5. **the land to revert back to agricultural use should it no longer be required by the school in future**

65. DATES OF FORTHCOMING MEETINGS

20th January, 10th February, 24th February and 10th March 2010

The meeting ended at 11.40 am

CHAIRMAN

ITEM FOR INFORMATION - APPEALS

APPEALS RECEIVED**Application No. EN2009/0915/ZZ**

- The appeal was received on 27 November 2009
- The appeal is made under Section 174 of the Town and Country Planning Act 1990 against the service of an Enforcement Notice
- The appeal is brought by Mr and Mrs Marriot
- The site is located at 13 The Maltings, Dormington, Herefordshire, HR1 4FA
- The breach of planning control alleged in this notice is:
Unauthorised operational development in the form of an increase in roof height and the creation of dormer windows in the rear elevation roof of 13 The Maltings, Dormington, Hereford.
- The requirements of the notice are:
Take down and remove all of the dormer windows constructed on the rear elevation of the dwelling. Reinststate the original roof, with matching materials, to it's original height and remove all resulting waste materials from the land.
- The appeal is to be heard by Written Representations

Case Officer: Rebecca Jenman on 01432 261961

Application No. DCNE2009/0746/L

- The appeal was received on 2 December 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 and Mrs Rogers
- The site is located at Rose Cottage, Acton Green, Acton Beauchamp, Worcester, WR6 5AA
- The development proposed is Painting of exterior render
- The appeal is to be heard by Hearing

Case Officer: Roland Close on 01432 261803

NB: This Hearing will be linked to the Enforcement Notice (EN2009/0076/ZZ) currently in progress at the same site. The Enforcement Notice appeal information was reported to the Northern Area Planning Sub Committee, but is repeated below for completeness:

Application No. EN2009/0076/ZZ

- The appeal was received on 10 September 2009
- The appeal is made under Section 174 of the Town and Country Planning Act 1990 against the service of an Enforcement Notice
- The appeal is brought by Mr James Rogers
- The site is located at Rose Cottage, Acton Beauchamp, Worcester, WR6 5AA
- The breach of planning control alleged in this notice is:
The painting of the Grade 2 Listed Building in pink colour is considered to be inappropriate and has an adverse impact on the special interest of this 17th/18th Century box timber cottage whose plaster panels were previously painted white/off-white. As such, the works are considered to be contrary to the Central Government Advice contained within Planning Policy Guidance Note 15

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

entitled "Planning and the Historic Environment" and Policy HBA1 of the Herefordshire Unitary Development Plan 2007.

- The requirements of the notice are:
Paint all those areas of the Grade II Listed cottage that have been painted pink with white masonry paint.
- The appeal is to be heard by Hearing

Case Officer: Roland Close on 01432 261803

Application No. DCCE0009/1556/F

- The appeal was received on 15 December 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 Miss Trudy Spratling
- The site is located at No 1 Haven Cottages, Bartestree, Hereford, Herefordshire, HR1 4BX
- The development proposed is Erection of open lap fencing to front of property to a height of 950mm
- The appeal is to be dealt with by the Householder procedure

Case Officer: Rebecca Jenman on 01432 261961

Application No. DCNW0009/0956/F

- The appeal was received on 21 December 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 and Mrs Midwood
- The site is located at Brick Barn, Burrington, Ludlow
- The development proposed is Conversion of redundant agricultural building to form one house
- The appeal is to be heard by Written Representations

Case Officer: Philip Mullineux on 01432 261808

Application No. DMCE/092195/F

- The appeal was received on 31 December 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 I Baldwin
- The site is located at Adjacent To The Cottage, West Lydiatt Withington, Hereford, HR1 3PY
- The development proposed is Proposed barn for agricultural purposes.
- The appeal is to be heard by Hearing

Case Officer: Ms R Jenman on 01432 261961

Application No. DMDCN/083331/F

- The appeal was received on 5 January 2010
- 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 LA Pinkney and Miss Jenkins
- The site is located at Brilley Wood, Brilley, Whitney-On-Wye, Hereford, Here, HR3 6JE
- The development proposed is Proposed agricultural storage building and kennels.
- The appeal is to be heard by Written Representations

Case Officer: Miss K Gibbons on 01432 261781

Application No. DCNC0009/1759/F

- The appeal was received on 12 January 2010
- 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 P Lewis
- The site is located at Box Cottage, Little Cowarne, Bromyard, HR7 4RQ
- The development proposed is Proposed house extension by replacement of existing hay barn.
- The appeal is to be heard by the Householder procedure

Case Officer: Mr A Banks on 01432 383085

Application No. DMSW /092228/F

- The appeal was received on 15 January 2010
- 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 R Greenway
- The site is located at Land at Wernagavenny, Michaelchurch Escley, Hereford, HR2 0PU
- The development proposed is Erection of holiday chalet (removal of two static mobile homes) with ancillary works for use a rural tourism to support existing farm business
- The appeal is to be heard by Written Representations

Case Officer: Mr A Prior 01432 261932

Application No. DMSW /092229/O

- The appeal was received on 21 January 2010
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal is brought by Mr M. Davies
- The site is located at The Chalice, The Thorn, Kingsthorpe, Hereford, HR2 8AL
- The development proposed is Site for the erection of a detached dwelling with
- The appeal is to be heard by Written Representations

Case Officer: Mrs A Tyler on 01432 260372

APPEALS DETERMINED

Application No. DCCE2008/2942/F

The appeal was received on 7 May 2009

- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Dent Farms Ltd
- The site is located at The Steppes, Withington, Herefordshire, HR1 3PZ
- The application was refused on 28 January 2009
- The development proposed was the construction of one detached house
- The main issues are:
 1. Whether the development would preserve or enhance the character or appearance of Withington Conservation Area.
 2. The effect of the development on the biodiversity value of the orchard.

Decision: The application was refused under delegated powers on 28 January 2009. The appeal was **Dismissed** on 26 October 2009.

Case Officer: Russell Pryce on 01432 261957

Application No. DCCE2009/0592/F

The appeal was received on 2 July 2009

- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr Lok To
- The site is located at 10 Watermeadow Close, Hereford, Herefordshire, HR1 1JG
- The application was refused on 19 May 2009
- The development proposed was two-storey extension to form garden room with bedroom over, together with single storey extensions to form extended kitchen and utility, with link to garage to form storage room
- The main issue is the effect of the proposal on the character and appearance of the surrounding area

Decision: The application was refused under delegated powers on 19 May 2009. The appeal was **Allowed** on 27 October 2009.

Case Officer: Rebecca Jenman on 01432 261961

Application No. DCCE2008/2385/F

The appeal was received on 26 March 2009

- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr and Mrs Maltby
- The site is located at Haughley Cottage, Mordiford, Hereford, Herefordshire, HR1 4LT
- The application dated 28 August 2008, was refused on 3 December 2008
- The development proposed was Retention of replacement dwelling, less conservatory, front canopy

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

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- The main issue is whether the proposed dwelling accords with development plan policy relating to new housing in the countryside, and if not whether there are any material considerations that would justify granting planning permission for a development in conflict with the development plan

Decision: The Planning Application was refused by Committee, contrary to Officer recommendation. The appeal was **Allowed** (with new conditions) on 9 November 2009.

Case Officer: Peter Clasby on 01432 261947

Application No. EN2009/0036/ZZ

- The appeal was received on 7 May 2009
- The appeal is made under Section 174 of the Town and Country Planning Act 1990 against the service of an Enforcement Notice
- The appeal is brought by Allied Irish Bank
- The site is located at Haughley Cottage, Mordiford, Hereford, HR1 4LT
- The breach of planning control alleged in this notice is:
Without the benefit of planning permission the erection of a dwelling and detached garage
- The requirements of the notice are:
To demolish the dwelling and detached garage, and remove from the land all materials arising from the demolition
- The main issue is whether the proposed dwelling accords with development plan policy relating to new housing in the countryside, and if not whether there are any material considerations that would justify granting planning permission for a development in conflict with the development plan

Decision: The appeal was **Allowed** and the Enforcement Notice be quashed on 9 November 2009

Case Officer: Peter Clasby on 01432 261947

Application No. DCNE2008/2571/F

The appeal was received on 10 June 2009

- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr Gilbert
- The site is located at Gilberts Farm, Lilley Hall Lane, Ledbury, Herefordshire, HR8 2LD
- The application was refused on 21 November 2008
- The development proposed was Proposed garden room to side and glazed lean-to to the rear
- The main issue is whether the proposed dwelling extensions, and the resultant dwelling, are justified having regard to relevant national guidance and development plan policy for ensuring sustainable development in the countryside

Decision: The application was refused under delegated powers on 21 November 2008. The appeal was **Dismissed** on 16 November 2009.

Case Officer: Roland Close on 01432 261803

Application No. DCCE2009/0309/F

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

The appeal was received on 18 June 2009

- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mrs Jane Lisle
- The site is located at The Crickets Croft, Little Dewchurch, Hereford, Herefordshire, HR2 6PN
- The application was refused on 9 April 2009
- The development proposed was Retrospective application for ancillary accommodation for elderly
- The main issue is whether the building amounts to a new dwelling in the open countryside, contrary to the aims of local and national planning policies that seek to restrict such development

Decision: The application was refused under delegated powers on 9 April 2009.
The appeal was **Dismissed** on 18 November 2009.

Case Officer: Russell Pryce on 01432 261957

Application No. DCNE2009/0652/F

The appeal was received on 9 July 2009

- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr Anderson
- The site is located at The Bee House And The Hive, Nashend, Bosbury, Ledbury, Herefordshire, HR8 1JU
- The application was refused on 18 May 2009
- The development proposed was Removal of conditions 3 and 4 of previously approved application
- The main issues are:
 1. Whether the condition 3 is reasonable and necessary having regard to the character and appearance of the countryside, policies aimed at locating residential development in sustainable locations and the value and viability of tourist accommodation.
 2. Whether condition 4 is reasonable and necessary having regard to the living conditions of the occupiers of Nashend, with particular reference to noise and disturbance, and
 3. The effect of the proposed driveway on the setting of Nashend, a Grade II listed building.

Decision: The application was refused under delegated powers on 18 May 2009.
The appeal was **Dismissed** on 19 November 2009.

Case Officer: Roland Close on 01432 261803

Application No. EN2009/0056/ZZ

- The appeal was received on 23 April 2009
- The appeal is made under Section 174 of the Town and Country Planning Act 1990 against the service of an Enforcement Notice
- The appeal is brought by Ms Pamela Hansen
- The site is located at 5 Church Street, Ledbury, Herefordshire, HR8 1DH
- The breach of planning control alleged in this notice is:

The alteration of the Building without Listed Building consent by the removal of second floor left and right windows, second floor landing rear, first floor landing rear, ground floor utility room and ground floor door and surround and their replacement with the installation of UPVC (Unplasticised Poly Vinyl Chloride) double glazed windows to the front and rear elevation of the building and door to the rear of the building.

- The requirements of the notice are:
The existing UPVC windows and surround should be removed. These should be replaced with a timber casement window to the dimensions as required in a timber frame. The external joinery should be painted white.
- The main issue is the effect of the development on the character and appearance of the Listed Building

Decision: The appeal was **Dismissed** on 20 November 2009.
The Enforcement Notice is upheld with Variations.

Case Officer: Carl Brace on 01432 261795

Application No. EN2009/0066/ZZ

- The appeal was received on 31 July 2009
- The appeal is made under Section 174 of the Town and Country Planning Act 1990 against the service of an Enforcement Notice
- The appeal is brought by Mr J Miller
- The site is located at Old Rectory, Cradley, Malvern, Herefordshire, WR13 5LQ
- The breach of planning control alleged in this notice is:
The partial demolition of a stone wall which lies within the curtilage of the Old Rectory, Cradley, this being a listed building as recognized by the Planning (Listed Buildings and Conservation Areas) Act 1990. The unauthorised work, namely the partial demolition of the wall fails to preserve the special character of the Old Rectory by removal of a section of stone rubble wall from the south facing continuous garden wall as shown on the plan.
- The requirements of the notice are:
The reconstruction of part of the curtilage wall between the points marked on the plan, using the stone previously removed or matching stone, laid in courses to match the rubble bonding with coping stones laid upright to match the form of the adjoining undisturbed stones. The overall height and width of the said wall shall match that of the existing wall that it abuts. The jointing for the wall shall be in a lime mortar to match the existing lime mortar with a slightly brushed finish to set back the weathered arises of the stone.
- The main issues are:
 - i) *Whether a new opening is warranted on highway safety grounds*
 - ii) *Whether the special character of The Old Rectory is preserved following the creation of the new opening in the boundary wall*

Decision: The appeal was **Allowed** with new conditions on 20 November 2009

Case Officer: Roland Close on 01432 261803

Application No. EN2009/0015/ZZ

- The appeal was received on 14 April 2009
- The appeal is made under Section 174 of the Town and Country Planning Act 1990 against the service of an Enforcement Notice
- The appeal is brought by Mr John Pudge
- The site is located at Upper House Farm, Ivington, Leominster, Herefordshire
- The breach of planning control alleged in this notice is:
Without planning permission the material change of use of land to a use for the permanent stationing of a caravan for residential purposes, together with the associated operational development consisting of the laying of hardstanding and construction of a building.
- The Requirements of the Notice are:
 - i) *Permanently cease using the land for the permanent stationing of a caravan.*
 - ii) *Remove the caravan shown marked in the approximate position marked with an 'X' on the attached plan from the land subject of this Notice.*
 - iii) *Demolish the building shown coloured green on the plan attached, ensuring that any services contained within disconnected and left in a safe condition.*
 - iv) *Remove all materials resulting from both the removal of the caravan and the demolition of the building from the land subject of this Notice.*
 - v) *Take up all hardsurfacing and remove from the land subject of this Notice.*
 - vi) *Restore the land to its former condition prior to the development taking place by levelling the land and re-seeding it with grass.*
- The main issues are whether the change of use to locate a caravan on the site is acceptable in terms of local planning policy

Decision: Subject to corrections the Appeal was **Dismissed** and the enforcement notice upheld on 23 November 2009

Case Officer: Andrew Banks on 01432 383085

Application No. DCNC2008/2482/F

The appeal was received on 9 June 2009

- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr Roger Sayce
- The site is located at Little Wacton Farm, Bredenbury, Bromyard, Herefordshire, HR7 4TQ
- The application dated 18 September 2008, was refused on 8 December 2008
- The development proposed was Proposed garage (retrospective) revised height and windows
- The main issues are whether there is harm to the character and appearance of the area and secondly, whether the setting of the listed building is preserved

Decision: The Planning Application was refused under delegated powers on 8 December 2008. The appeal was **Allowed** on 2 December 2009.

Case Officer: Andrew Banks on 01432 383085

Application No. EN2009/0058/ZZ

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

- The appeal was received on 24 July 2009
- The appeal is made under Section 174 of the Town and Country Planning Act 1990 against the service of an Enforcement Notice
- The appeal is brought by Mr Roger Sayce
- The site is located at Little Wacton Farm, Bredenbury, Bromyard, Herefordshire, HR7 4TQ
- The breach of planning control alleged in this notice is that on 18 July 2007 planning permission was granted for the erection of a domestic garage, workshop and office (amendment to permission DCNC2005/2981/F). Unauthorised development has taken place in that the height of the said garage, workshop and office is 0.8m in excess of the permitted height of 5 metres. Furthermore, windows have been put in contrary to the approved plans DCNC2007/1646/F drawings NOs1239/30 & 31
- The requirements of the notice are that the building edged red on the attached plan be modified to comply with the approved plans (drawings 1239/30 & 31) of planning permission DCNC2007/1646/F, including the reduction in height of the building and the removal of the first floor windows from the east and west elevations
- The main issues are in the context of the difference between the approved plans and what has been built, firstly whether there is harm to the character and appearance of the area and secondly, whether the setting of the listed building is preserved

Decision: The appeal is allowed, the enforcement notice is quashed and planning permission is granted. The appeal was **Allowed** on 2 December 2009

Case Officer: Andrew Banks on 01432 383085

Application No DCSW0009/1235/F

The appeal was received on 12 November 2009

- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr Derek Wood
- The site is located at Brooks Farm, Pontrilas, Hereford, Herefordshire, HR2 0BL
- The application dated 28 May 2009, was refused on 22 July 2009
- The development proposed was Single storey garden room to side of existing dwelling
- The main issue is it would appear incongruous and out of character with the existing building

Decision: The application was refused under delegated powers on 22 July 2009
The appeal was **Dismissed** on 22 December 2009.

Case Officer: Andrew Prior on 01432 261932

Application No. EN0009/0094/ZZ

- The appeal was received on 9 September 2009
- The appeal is made under Section 174 of the Town and Country Planning Act 1990 against the service of an Enforcement Notice
- The appeal is brought by Dr Harrison
- The site is located at Middleton Farm, Middleton, Little Hereford, Ludlow, Herefordshire, SY8
- The breach of planning control alleged in this notice is "Without planning permission , the material change of use of the land from agriculture to domestic cartilage to the residential property of

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

Middleton Farm, together with associated operational development in the form of the construction of a driveway and turning head”

The requirements of the notice are:

- (i) Permanently cease using the land edged red on the attached plan as domestic curtilage to the residential property of Middleton Farm.
- (ii) Permanently remove the driveway and turning area from the land shown edged red on the attached plan.
- (iii) Remove all materials resulting from the removal of the driveway and turning head from the land.
- (iii) Restore the land to its former agricultural condition including reseeding areas with grass.

The period for compliance with the requirements is 13 weeks.

The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.

- The main issues are the effect of the extended residential use and the formation of the driveway and turning area on the character and appearance of the area and the living conditions of the occupiers of neighbouring properties

Decision: The appeal is **Dismissed**, the correction notice upheld and planning permission is refused on the deemed application on 22 December 2009

Case Officer: Andrew Banks on 01432 383085

Application No. DCNE0009/0962/F

The appeal was received on 20 November 2009

- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr Gareth Gwenlan
- The site is located at Putley Mill, Putley, Ledbury, Herefordshire, HR8 2QW
- The application dated 16 April 2009, was refused on 29 July 2009
- The development proposed was Erection of two post and rail fences and timber raised flower bed
- The main issues are the effects on the setting of Putley Mill and Mill Cottage and the effects on the living conditions of the occupiers of Mill Cottage

Decision: The application was refused by Committee contrary to Officer Recommendation on 29 July 2009. The appeal was **Allowed** on 4 January 2010.

Case Officer: Carl Brace on 01432 261795

Application No. DCCE2007/1655/O

- The appeal was received on 5 March 2009
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Hereford Residential Developments Limited
- The site is located at Holmer Trading Estate, College Road, Hereford, HR1 1JS
- The application was refused on 3 September 2008

- The development proposed was Mixed Use development comprising residential (115 units), employment (B1, B2 and B8), retail (A1) uses and supporting infrastructure including roads, footpaths, open space, landscaping, parking facilities and re-opening of part of Canal.
- The main issue is the effects of the proposed development on the supply of employment land and employment provision, having regard to relevant policy and other material considerations.

Decision: The application was refused by Committee contrary to Officer recommendation on 3 September 2008. The appeal was **Allowed** on 21 August 2010.

Case Officer: Mr R Pryce on 01423 261957

Application No. DCNW2008/2997/F

- The appeal was received on 15 June 2009
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr Clarke
- The site is located at Deerfold Cottage, Deerfold, Birtley, Bucknell, Herefordshire
- The application dated 27 November 2008 was refused on 30 January 2009
- The development proposed was Proposed three storey extension
- The main issue is the effect of the proposal on the character of the original dwelling

Decision: The application was refused under Delegated Powers on 30 January 2009. The appeal was **Partially Allowed** on 16 September 2009 (two-storey rear extension permitted, three-storey side extension refused)

Case Officer: Mrs J Perkins on 01432 383088

Application No. DCNW2008/2456/F

- The appeal was received on 1 May 2009
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr John Mills
- The site is located at Woonton Grange, Woonton, Almeley, Hereford, Herefordshi, HR3 6QN
- The application dated 17 September 2008 was refused on 5 November 2008
- The development proposed was Retention of temporary mobile home to house agricultural worker.
- The main issues are whether the agricultural arguments in this case are sufficient to justify making an exception to local and national policies which aim to restrain residential development in the countryside and whether the proposal would result in an increased use of the access to the site and the effect of this on highway safety

Decision: The application was refused under Delegated Powers on 5 November 2008. An application for the award of costs made by the Council against the Appellant was allowed. The appeal was **Dismissed** on 22 September 2010.

Case Officer: Mr P Mullineux 01432 261808

Application No. DCCE2009/0809/F

- The appeal was received on 28 August 2009
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr Andrew Taylor
- The site is located at Chestnut House, Shucknall Hill, Hereford, Herefordshire, HR1 3SL
- The application dated 30 March 2009 was refused on 11 June 2009
- The development proposed was Proposed alterations and extensions to the rear of the property -
- The main issue is the effect of the proposed development on the character and appearance of the existing dwelling

Decision: The Planning Application was refused under Delegated Powers on 11 June 2009. The appeal was **Allowed** on 13 October 2009.

Case Officer: Ms R Jenman 01432 261961

Application No. DCNC2009/0453/F

- The appeal was received on 10 August 2009
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against non determination
- The appeal was brought by Prof Philip Witting
- The site is located at 35 Pinsley Road, Leominster, Herefordshire, HR6 8NW
- The application was dated 24 February 2009
- The development proposed was Erection of an amateur radio antenna of commercial design (Hustler 6BTV)
- The main issues are:
 - i) The effects of the proposed development on the character and appearance of the area
 - ii) The effects of the proposed development on the health and amenity of local residents

Decision: The appeal was **Dismissed** on 8 January 2010.

Case Officer: Mr A Banks on 01432 383085

Please note that the two decisions listed below, regarding the Former Public Convenience Building at The Oval, Belmont, Hereford were decided upon the basis of a joint Hearing and Site Visit, which took place on 15 December 2009.

Application No. DCCW2008/2781/F

- The appeal was received on 25 September 2009
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr Cheung
- The site is located at Public Convenience, The Oval, Belmont Road, Hereford, Hereford, HR2 7HG
- The application dated 16 October 2008 was refused on 1 April 2009

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

PLANNING COMMITTEE

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- The development proposed was Demolish existing public convenience and replace with three storey
- The main issues are:
 - i) The effect of the proposal on the character and appearance of the locality
 - ii) The effect of the proposal on personal safety and security

Decision: The Application was refused by Committee contrary to Officer recommendation on 1 April 2009. The appeal was **Allowed** on 11 January 2010. An application for the award of costs, made by the Appellant against the Council, was Dismissed.

Case Officer: Mr P Clasby on 01432 261947

Application No. DCCW0009/1654/F

- The appeal was received on 22 October 2009
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr Cheung
- The site is located at Disused Public Toilets, The Oval, Hereford, Herefordshire, HR2 7HG
- The application dated 1 July 2009 was refused on 16 September 2009
- The development proposed was Demolition of derelict public toilet building and erection of two
- The main issues are:
 - i) The effect of the proposal on the character and appearance of the locality
 - ii) The effect of the proposal on personal safety and security

Decision: The application was refused by Committee contrary to Officer recommendation on 16 September 2009. The appeal was **Allowed** on 11 January 2010. An application for the award of costs, made by the Appellant against the Council, was Dismissed.

Case Officer: Mr P Clasby on 01432 261947

Application No DCNE2009/0145/F

- The appeal was received on 15 September 2009
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr Turner
- The site is located at Land To The Rear Of Denbrig, Walwyn Road, Colwall, Malvern, Herefordshire
- The application dated 8 January 2009 was refused on 13 March 2009
- The development proposed was Proposed two-storey dwelling
- The main issues are the effect of the proposed development on the character and appearance of the locality and on the living conditions of future occupiers of the proposed dwelling with particular reference to external amenity space.

Decision: The planning application was refused under Delegated Powers on 13 March 2009. The appeal was **Dismissed** on 18 January 2010.

Case Officer: Mr R Close 01432 261803

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

Application No. DCSE0009/0959/F

- The appeal was received on 9 October 2009
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr Martin
- The site is located at Upper Cwyn Barn, Llanrothall, Welsh Newton, Herefordshire, NP25 5RD
- The application dated 7 April 2009 was refused on 23 June 2009
- The development proposed was Conversion of ex barn to residential use
- The main issue is the sustainability issue regarding a development in the open countryside, as set out in the criteria of Planning Policy Statement 7: Sustainable Development in Rural Areas

Decision: The planning application was refused under Delegated Powers on 23 June 2009. The appeal was **Dismissed** on 26 January 2010.

Case Officer: Mr E Thomas on 01432 260479

Application No. DCNW2009/0056/F

- The appeal was received on 28 August 2009
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Ms J Grosvenor
- The site is located at Valentine's Barn, Comberton, Orleton, Ludlow
- The application dated 1 January 2009 was refused on 2 March 2009
- The development proposed was Proposed conversion of farm building to form one dwelling
- The main issues are a) the effect of the proposal on highway safety, with particular reference to visibility from the access to the west along the B4362 and b) whether there are any factors that would give support to the proposal having regard to national and local planning policies for the retention and re-use of historic buildings

Decision: The application was refused under Delegated Powers on 2 March 2009 The appeal was **Dismissed** on 22 January 2010.

Case Officer: Mr P Mullineux 01432 261808

Application No. DCNE2009/0103/F

- The appeal was received on 29 October 2009
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr David Millington
- The site is located at The Old Sawmills, Millfields, Canon Frome, Ledbury, Hereford, HR8 2TH
- The application dated 8 January 2009 was refused on 23 April 2009
- The development proposed was Retrospective application for retention of garage different from previously approved design

- The main issue is the effects of the proposed development on the character and appearance of the area

Decision: The application was refused under Delegated Powers on 23 April 2009 The appeal was **Dismissed** on 26 January 2010.

Case Officer: Mr C Brace 01432 261795

Application No DCSE0009/1700/F

- The appeal was received on 16 October 2009
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr J White
- The site is located at Land Rear Of Greytree Lodge, Second Avenue, Greytree, Ross-On-Wye
- The application dated 25 July 2009 was refused on 29 September 2009
- The development proposed was Erection of one bungalow and access drive.
- The main issues are a) the effects of the proposed development on the living conditions of adjoining occupiers with particular reference to noise and disturbance; b) whether the future occupiers of the proposed bungalow would have reasonable amenity space and outlook

Decision: The planning application was refused under Delegated Powers on 29 September 2009. The appeal was **Dismissed** on 26 January 2010.

Case Officer: Mr E Thomas 01432 260479

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

FINAL REPORT OF THE AREA PLANNING SUB-COMMITTEES

Central Area Meeting held on 9 December 2009
Northern Area Meeting held on 16 December 2009
Southern Area Meetings held on 25 November and 23 December 2009

CENTRAL AREA PLANNING SUB-COMMITTEE

1. The Sub-Committee met once since the last report and dealt with the planning applications referred to it as follows:-
 - (a) applications approved, as recommended - 3
 - (b) applications refused, contrary to recommendation - 2 (1 referred to Head of Planning Services)
 - (c) number of public speakers - 5 (2 objectors, 3 supporters)
2. The Sub-Committee received an information report about two appeals that had been received and one that had been determined (appeal dismissed).

NORTHERN AREA PLANNING SUB-COMMITTEE

3. The Sub-Committee met once since the last report and dealt with the planning applications referred to it as follows:-
 - (a) applications approved, as recommended - 5
 - (b) applications approved, contrary to recommendation - 1 (Not referred to Head of Planning Services)
 - (c) number of public speakers - 9 (3 objectors, 6 supporters)
4. The Sub-Committee received an information report about three appeals that had been received and four that had been determined (3 allowed, 1 dismissed).

SOUTHERN AREA PLANNING SUB-COMMITTEE

5. The Sub-Committee met twice since the last report and dealt with the planning applications referred to it as follows:-
 - (a) applications approved, as recommended - 8
 - (b) applications refused, contrary to recommendation - 2 (1 referred to Head of Planning Services)
 - (c) number of public speakers - 16 (7 objectors, 9 supporters)
6. The Sub-Committee received an information report about six appeals that had been received and four that had been determined (four dismissed).

- **BACKGROUND PAPERS - Agenda for the meetings held on 25 November 2009 and 9, 16, 23 December 2009.**

8 DMCW/092179/F - CONSTRUCTION OF NEW DETACHED TWO STOREY HOUSE WITH ADDITIONAL SINGLE STOREY GROUND FLOOR ACCOMMODATION, PROVISION OF NEW PRIVATE VEHICLE ACCESS DRIVE AT LEVANTE, BELLE BANK AVENUE, HOLMER, HEREFORDSHIRE, HR4 9RL

For: Mrs S Smith per Mr A Morris, 20 Ferndale Road, Hereford, Herefordshire, HR4 0RW

Date Received: 11 September 2009 **Ward: Burghill, Holmer and Lyde** **Grid Ref: 350515.0,242207.0**

Expiry Date: 13 December 2009

Local Member: Councillor SJ Robertson

Introduction:

This application was considered by the Central Area Planning Sub-Committee at its meeting on 9 December 2009 when Members resolved to refuse planning permission contrary to the recommendation of the report. The decision was accordingly referred to the Head of Planning and Transportation to determine if it should be reported to the Planning Committee for further consideration.

The Members of the Central Area Planning Sub-Committee were concerned with the over development of the site, its impact on the character of the area and highway safety.

Members were advised that the plot forms a natural infill proposal and sufficient amenity land is retained for the existing dwelling, Levante, and the new dwelling. Furthermore the Traffic Manager raises no objections.

The Head of Planning and Transportation is concerned that there are not considered to be substantive highway or amenity reasons for refusal and that such a decision might not be defensible if challenged. Consequently, the application is referred to this meeting for further consideration.

1. Site Description and Proposal

- 1.1 The application site is comprised of the southern third of the domestic curtilage serving a two storey detached dwelling known as 4 Belle Bank Avenue, located within an established residential area. The application site is bounded to the north and south by neighbouring residential development, whilst to the west the rear of the application site is bounded by the properties located in Holmer Manor Close.
- 1.2 The application seeks permission to erect a detached two storey dwelling, served by off-street parking spaces at the front and private amenity space to the rear. The dwelling will comprise two bedrooms and family bathroom above a kitchen/utility and two reception rooms.

2. Policies

- 2.1 Herefordshire Unitary Development Plan 2007:

- S1 - Sustainable Development
- S2 - Development Requirements
- S3 - Housing
- DR1 - Design
- DR2 - Land Use and Activity
- DR3 - Movement
- DR4 - Environment
- DR5 - Planning Obligations
- H1 - Hereford and the Market Towns: Settlement Boundaries and Established Residential Areas
- H13 - Sustainable Residential Design
- H14 - Re-using Previously Developed Land and Buildings
- H15 - Density
- H16 - Car Parking

3. Planning History

3.1 None.

4. Consultation Summary

Statutory Consultations

4.1 Welsh Water: No objection, but suggest the use of standard conditions.

Internal Council Advice

4.2 Traffic Manager: No objection, but comments that the hedge may need to be cut back to afford pedestrian visibility and suggests the use of conditions to control the construction of the access.

5. Representations

5.1 Holmer Parish Council: Objection. Concerned about the access being so close to the adjoining junction. Over development of the area. Overlooking of Holmer Manor Close.

5.2 Two letters of objection have been received from Mr Pontin, 9 Belle Bank Avenue and Mr Gray, Manson, Belle Bank Avenue which are summarised as follows:

- Another dwelling here would bring traffic to a standstill and/or would lead to a serious accident.
- All other neighbouring properties would be devalued.
- This is an alien development out of keeping with the surrounding houses.

5.3 A further letter has been received from Mr Pointer, 13 Holmer Manor Close stating that he has no objection to the new dwelling in principle, providing that the existing mature hedgerow remains to maintain their privacy.

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

6. Officer's Appraisal

Further information on the subject of this report is available from Mr P Clasby on 01432 261947

6.1 The application lies within a designated settlement boundary and the Herefordshire Unitary Development Plan 2007 recognises that there is scope for appropriate residential development within this area providing that the character and appearance of the wider locality is not adversely affected by the proposed development. Therefore, the primary issues in determining this application are considered to be:

- Design and Layout of the Development
- Residential Amenity
- Access and Highways Issues

Design and Layout of the Development

6.2 Having regard to the size and shape of the application site, the design, scale and massing of the proposed development are considered to be acceptable, whilst the siting takes appropriate account of the position and orientation of the adjoining properties. More specifically the proposed development takes the form of a modest two storey dwelling the design of which has been carefully considered to minimise any potential impact on the neighbouring properties.

6.3 Although it is acknowledged that its appearance will be different to that of its neighbours, there is no defining architectural style along Belle Bank Avenue (inc Dale Drive) which contains a diverse and sporadic mix of bungalows, dormer bungalows and two storey properties.

6.4 Consequently, the proposed development would not appear out of character with the urban grain of wider locality. However to ensure that the proposed dwelling continues to maintain an acceptable relationship with its neighbours, it is considered expedient to recommend a condition removing permitted development rights to erect any extensions. A condition securing prior approval of the external materials is also recommended.

6.5 The comments of both Holmer Parish Council and the third parties are noted but for the reasons set out above it is not considered that the proposal represents an unacceptable form development having proper regard for density and mixed architectural character of the established residential area.

Residential Amenity

6.6 Whilst it is acknowledged that the proposed development will inevitably alter the setting and outlook of the adjoining properties, having consideration for the pattern of development in the wider locality, it is not considered that the proposal will result in an unacceptable level of overlooking or overbearing impact.

6.7 Therefore it is not considered the proposed development will give rise to any material harm to the existing levels of residential amenity presently enjoyed, whereby it could give rise to sustainable grounds for refusal in this instance. However in order to protect the amenity of the area during the construction phase, standard conditions are recommended to control the hours of operation during the demolition and construction phases.

6.8 The comments raised about the privacy offered by the existing mature landscaping are noted, and an appropriate condition is recommended to protect its removal without prior approval from the local planning authority.

Access and Highways Issues

- 6.9 In principle the Traffic Manager has no objection to the access and parking arrangements, save for a comment that the front boundary hedge needs to be pruned back to afford pedestrian visibility.
- 6.10 Therefore whilst the comments raised in the letters of representation about the perceived risk of the new access opposite the junction are noted, in the absence of any objection from the Traffic Manager, it is not considered that the concerns can be substantiated as a defensible reason for refusal on highway safety grounds.

Planning Obligation

- 6.11 The proposed development falls within the terms of the adopted Planning Obligations SPD and as such is liable for a range of Section 106 contributions. However, in accordance with the decision of the Cabinet Member for Environment and Strategic Housing to relax the requirement for residential schemes for five dwellings or less which came into effect on the 1 April 2009, the proposed development is exempt subject to the planning permission being limited to 12 months.

Conclusion

- 6.12 Overall the proposal complies with the Development Plan, and as such, approval is recommended.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1 A01 Time limit for commencement (full permission) (twelve months)**
- 2 B01 Development in accordance with the approved plans**
- 3 C01 Samples of external materials**
- 4 F14 Removal of permitted development rights**
- 5 G02 Retention of trees and hedgerows**
- 6 G04 Protection of trees/hedgerows that are to be retained**
- 7 H02 Single access - footway**
- 8 H13 Access, turning area and parking**
- 9 I16 Restriction of hours during construction**
- 10 L01 Foul/surface water drainage**
- 11 L02 No surface water to connect to public system**

Informatives:

- 1 N01 Access for all**

- 2 **N14 Party Wall Act 1996**
- 3 **N19 Avoidance of doubt - Approved Plans**
- 4 **N15 Reason(s) for the Grant of Planning Permission**

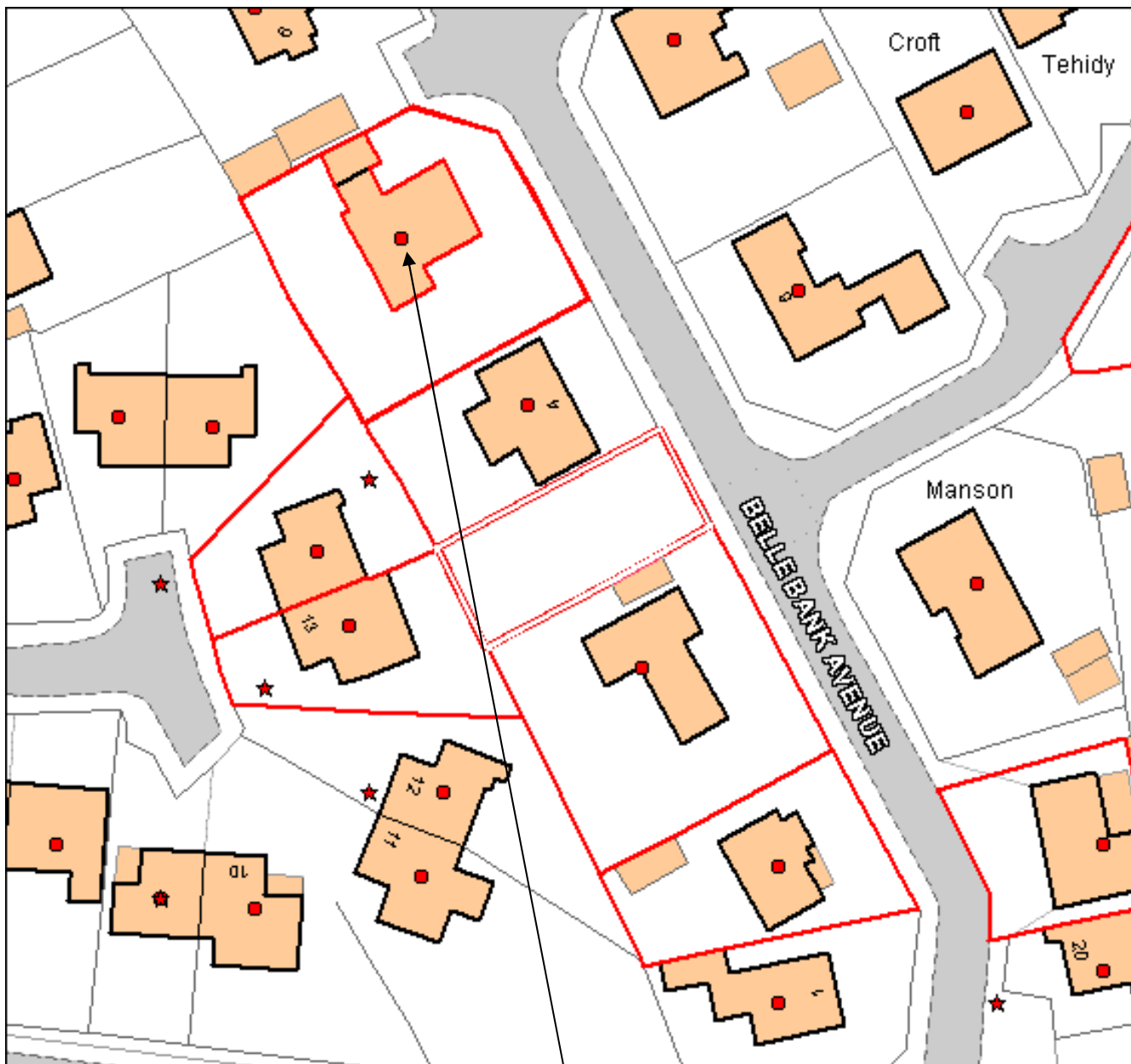
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DMCW/092179/F

SITE ADDRESS : LEVANTE, BELLE BANK AVENUE, HOLMER, HEREFORDSHIRE, HR4 9RL

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9 DMSW/092133/O - OUTLINE PLANNING APPLICATION FOR CONSTRUCTION OF A THREE BEDROOM DWELLING AT LAND ADJACENT TO SUN COTTAGE, GARWAY HILL, HEREFORDSHIRE, HR2 8EZ

For: Mr A Heath, Turpins, St Weonards, Herefordshire, HR2 8QG

Date Received: 29 September 2009

Ward: Pontrilas

Grid Ref: 344740,224877

Expiry Date: 24 November 2009

Local Member: Councillor RH Smith

Introduction

The Southern Area Planning Sub-Committee considered this application on 25 November 2009 and resolved to approve the application contrary to the Officer's recommendation. The decision was accordingly referred to the Head of Planning and Transportation to determine if it should be reported to the Planning Committee for further consideration.

The Members of the Southern Area Planning Committee attached significant weight to the importance of supporting the applicant and to enable the continuation and expansion of his existing blacksmiths business currently operating from Oldfields Farm approximately 1 kilometre away from the site for the proposed dwelling. It was stated that the business, which includes the repair and maintenance of farm equipment, was an important service to the local community and required a permanent residential presence to ensure that the business could function effectively. The currently undetermined application for a new workshop building also located at Oldfields Farm was not seen as fundamental since the applicant was already running a business from an existing building at the site.

The debate also clearly established that Members were satisfied with the future viability of the business as a basis for supporting the dwelling.

In addition to the needs of the business, the local connection of the applicant to the community was given weight as was the lack of opportunities for young people to remain resident in the Garway area due to the lack of affordable housing.

In addition to the principle of the proposed residential development, issues concerning the sustainability of the location, highway safety and landscape impact were considered but were either outweighed by the overriding justification for the dwelling or capable of being satisfactorily controlled by way of conditions and careful treatment of the design, scale and appearance of the dwelling.

Members were advised that even in the event that a case for a dwelling were substantiated, a location adjacent to the existing (and potentially new workshop) would serve to improve the sustainability of the proposal, whilst resolving concerns about the landscape impact of the dwelling.

The Head of Planning and Transportation is concerned that to grant planning permission would be fundamentally contrary to Policies H7, H8 and H10 of the Herefordshire Unitary Development Plan and the principles of sustainable residential development in isolated rural locations set out in Planning Policy Statement 7: Sustainable Development in Rural Areas and accordingly the application was referred.

1. Site Description and Proposal

Further information on the subject of this report is available from Mr A Prior on 01432 261932

- 1.1 The application site is on the southern side of the C1238 road and is opposite Upper Sun Cottage to the north. The area of ground is roughly triangular in shape which adjoins the C1234 road on the eastern side and on the northern side an unadopted track which inclines steeply towards the entrance to Garway Common and further up slope to Garway Hill. This site is elevated in the landscape enjoying views to the east and north east and is described as having been used for rough sheep grazing. Access into the site is via a gateway off the unadopted track leading to Garway Common and two other detached dwellings further south and uphill.
- 1.2 This outline planning application is made with all matters reserved. An indicative block plan submitted with the application positions the dwelling in the north west corner of the site with the means of access via an existing gateway at the most southerly point of the site, where it adjoins the C1234 road.
- 1.3 The applicant has a blacksmith enterprise at Oldfield Farm just over one kilometre to the south. The local planning authority is currently considering an application for a new detached workshop building at Oldfield Farm. This farm comprising traditional stone rubble barns and modern farm buildings which belongs to the applicant's grandfather. The proposed dwelling is submitted on the basis of the applicant's desire to live close to his blacksmiths enterprise.

2. Policies

2.1 Planning Policy Statements

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

2.2 Herefordshire Unitary Development Plan

- Policy S1 - Sustainable Development
- Policy S2 - Development Requirements
- Policy S6 - Transport
- Policy DR3 - Movement
- Policy H7 - Housing in the Countryside Outside Settlements
- Policy H8 - Agricultural and Forestry Dwellings Associated with Rural Businesses
- Policy H13 - Sustainable Residential Design
- Policy LA2 - Landscape Character and Areas Least Resilient to Change

3. Planning History

- 3.1 DCSW2009/1030/O Proposed construction of a dwelling - Withdrawn 24.6.09
- DCSW2009/0019/F Construction of new bungalow (On adjoining site in different ownership) - Refused 11.02.09
- DCSW2009/1524/F Erection of new bungalow and garage (On adjoining site in different ownership) - Refused 24.8.09

4. Consultation Summary

Statutory Consultations

- 4.1 No statutory or non-statutory consultations required.

Internal Council Advice

Further information on the subject of this report is available from Mr A Prior on 01432 261932

4.2 Traffic Manager states that the access location is substandard, visibility a lot better to the south than to the north west. A lot of hedgerow would need to be removed.

5. Representations

5.1 Orcop Parish Council fully supports this application on the grounds that young people should be encouraged to stay within the Parish.

5.2 No comment received from Garway Parish Council.

5.3 A Design and Access Statement has been submitted with the application:

- New three bedroom detached house on small piece of approximately 1.5 acres.
- Conveniently located for my place of business.
- Solely for my occupation; considered to be no impact on neighbours.
- House would be of conventional design(brick/stone). Garage would be detached.
- House approximately 15 metres in length, 6 metres wide and 7.5 metres to the ridge. Garage would be 6 metres long and 3 metres wide.
- Access would be taken from southerly point of field via an existing gateway. Road visibility good in both directions.
- Position of dwelling in field probably on south west boundary of site. Electricity and water available. Drainage will be in area sloping to east of proposed site.

5.4 In a letter that accompanied the application, the applicant makes the following main points:

- I am a 26 year old full-time working, self-employed blacksmith. I trained at Holme Lacy College. Started business from scratch over 3½ years.
- Live within a mile of the business. Need to live close to workshop in the interests of the business.
- Marrying next year. Housing projects at Orcop and Garway have not taken off.
- Need to live closeby for emergencies during busier times of the farming year.
- Access will be either off the track to Garway Hill Common or at southern most point of field directly onto highway.
- I need a new workshop as I have outgrown my existing facilities.
- Need an extra pair of hands, already have a couple of part-time workers.
- Now reasonably profitable, after struggling initially. See confidential finalised accounts, please note upward trend in business and see my turnover.
- Also included an inventory of my equipment paid for from profits or savings.
- Following concerted marketing my business profile is rising. I produce curtain poles, gates, railings, door and window furniture, household items i.e fire irons. Undertaken work for Hereford Cathedral and Chepstow Castle.
- I have demonstrated at Monmouth Show, Llagattack Ploughing Match and the Hereford Cider Museum and in local magazines.
- There are no suitable buildings on the farm, I do not own them and they are still used for storage of hay and grain.
- I enclose a statement from Merrivale Accounting Services. They demonstrate my financial viability and my need to live in close proximity to the business, in order for it to function properly.

5.5 Financial accounts were also submitted covering the three years up to 5 April 2009. These relate to Oldfield Forge, which is located at the applicant's grandfather's property Oldfield Farm further to the south along the C1234 road. A full profit and loss account was not provided but

Further information on the subject of this report is available from Mr A Prior on 01432 261932

the Chartered Accountant states that taking into account invoices raised from 6 April 2009 to 31 July 2009, and extrapolating at this rate the annual turnover and net profit is good.

5.6 The papers which accompanied the headline figures set out the applicant's case, which can be summarised as follows :

- Business growing with more rigorous promotion at agricultural shows and publicity in magazines.
- It is a soundly based rural enterprise.
- No need for external funding.
- Next step crucial i.e. taking on extra pair of hands.
- Needs to be close to workshop and be based in locality in order to carry out emergency repairs to farm machinery. Time factor is crucial.
- Needs to be able to provide supervision/advice to new apprentice.
- Often customers find it convenient to visit workshop out of hours. Better if located nearby.
- Security for new building, subject to approval. Security system would be linked to house.
- Business cannot function efficiently if applicant lives some distance away from premises.

5.7 Two letters of objection have been received from :

Mr & Mrs C Phillips, Sun Farm, Garway Hill, Herefordshire HR2 8EZ

The following main points are made:

- Site outside designated area in open countryside.
- Application site only purchased a couple of years ago.
- Have been refused twice on adjacent site for genuine health reason.
- Owned our site for over 30 years.

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

6. Officer's Appraisal

6.1 It is considered that the main issues relate to the principle of development, the visual impact of the site and the means of access off the C1234 road.

6.2 The applicant has made an application for a new workshop at Oldfield Farm which is just over a kilometre away. However, at the time of drafting this report this planning application had not been determined. This application should therefore be approached as being for an enterprise which does not have the benefit of planning permission. It is considered that the erection of a dwelling on this elevated site divorced from the enterprise which it will potentially serve, does not satisfy the functional criteria in Government advice in PPS7 or UDP Policy H8. This criteria establishes that, for agricultural enterprises and those rural enterprises which need to be located in the countryside, the new dwelling needs to be well related to the enterprise and that it is the needs of the enterprise which are the determining factor and, not the particular circumstances of the applicant. It is considered that when applying the criteria for new dwellings in the open countryside, a case has not been substantiated for a dwelling on the site as applied for. It would be convenient but would not assist with future security, since the enterprise is located on a farm lived in by the applicant's grandfather and some distance from the site. These are not reasons for setting aside established planning policy and Government advice contained in PPS7, for dwellings serving established rural businesses. It is also considered that in the absence of full profit and loss accounts, the financial case for a new dwelling has not been substantiated at this

time. The application does not satisfy the criteria of Policies H7 and H8 of the Unitary Development Plan and supporting Government advice contained in PPS7. It is also the case that the rural enterprise which the dwelling is proposed to serve does not have the benefit of planning permission and therefore it would be premature to approve the principle of a new dwelling at this time.

- 6.3 The application site is an elevated one which would be prominently viewed on what is a sensitive hillside which is publicly accessible by locals and tourists alike and visible from the adjacent track and footpath on the northern side of the application site which serves Garway Common. The erection of a dwelling would therefore in the absence of an overriding justification result in a dwelling being erected which would detract from the openness of the hillside. Government advice in PPS7 indicates that the countryside should be protected for its own sake from unwarranted development, which would be the case in this instance. There is also the need for development to reduce reliance of use of the motor vehicle. This too would not be the case for this isolated site in the open countryside and therefore the proposal is contrary to Policies S1 and S6 of the Unitary Development Plan. An issue made more concerning by the desire to provide a house in a location away from the business operation.
- 6.4 The final issue relates to the means of access. It is evident from the advice submitted by the Traffic Manager that the means of access at the southern most point of the site is severely deficient in providing visibility to the north west. It would also result in a loss of at least 40 metres of hedgerow. The applicant has indicated that alternative access could be taken onto the unadopted track serving Garway Common and two other dwellings on the northern side of the property. This is a matter which cannot be ascertained without firm details and in the absence of such details it is considered that the means of access is of sufficient concern given the limited visibility on the C1234 road, to warrant the refusal of planning permission.
- 6.5 It is not considered that a compelling case has been advanced for the erection of a dwelling on this hillside location. There is no functional reason which has been made for this dwelling given that if justified it should be sited where practical as close as possible to the enterprise it serves. This is also for an enterprise which does not currently have the benefit of planning permission and therefore it would be premature to even consider such a proposal for this reason also. The erection of a dwelling would therefore also not be sustainable. The means of access is unsatisfactory and for these reasons my recommendation is for refusal.

RECOMMENDATION

That planning permission be refused for the following reasons:

- 1 The proposal is contrary to Policies H7 and H8 of the Herefordshire Unitary Development Plan and the guidance contained in PPS7 : Sustainable Development in Rural Areas. It is not considered that a justification for a permanent new dwelling has been made either in terms of a functional need to serve the rural enterprise or on the basis of its long-term financial viability.**
- 2 The development of the site would not be sustainable and would place reliance on the use of the motor vehicle. Therefore the proposal is contrary to Policies S1 and S6 of the Herefordshire Unitary Development Plan.**
- 3 The erection of a dwelling on this elevated and prominent site in close proximity to Garway Hill would detract from the character and appearance of the landscape. The proposal is therefore contrary to Policy LA2 of the Herefordshire Unitary Development Plan.**

- 4 The proposed means of access does not demonstrate that an appropriate level of visibility can be achieved and accordingly it would be contrary to Policies DR3 and T8 of the Herefordshire Unitary Development Plan.

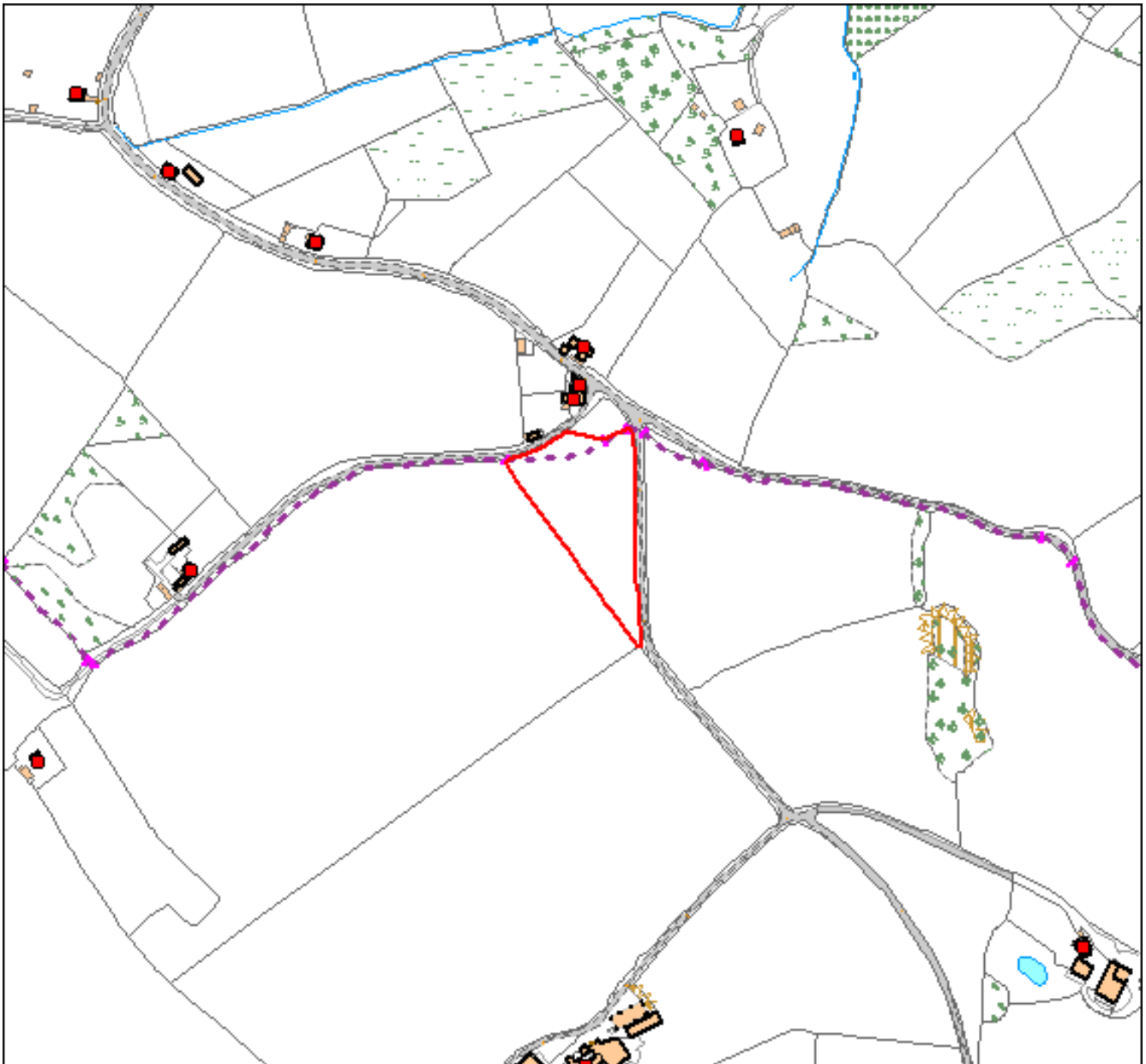
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DMSW/092133/O

SITE ADDRESS : LAND ADJACENT TO SUN COTTAGE, GARWAY HILL, HEREFORD, HR2 8EZ

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10 DMCE/092394/N - ON FARM ANAEROBIC DIGESTER TO GENERATE RENEWABLE ENERGY AT COURT FARM, HAMPTON BISHOP, HEREFORD, HEREFORDSHIRE, HR1 4JU

For: Mr N Layton Per Mr L Morphy, Bourne Works, Collingbourne Ducis, Marlborough, Wilts, SN8 3EQ

Date Received: 23 September 2009 Ward: Backbury Grid Ref: 355204,238708

Expiry Date: 20 January 2010

Local Member: Councillor JE Pemberton

1. Site Description and Proposal

- 1.1 The application site lies on land within an established dairy and poultry farm on the northern edge of Hampton Bishop village, east of Hereford.
- 1.2 The proposal is to generate up to 500kw per annum of renewable energy through anaerobic digestion (AD). Provision would be made to connect to the National Grid. The development would be self-contained, comprising 2 digester units, 2 storage tanks, a reception/generator building (18.5m x 15.4m x 6.7m to ridge), silage clamps, a storage bunker and ancillary works. The material to be digested, known as 'feedstock', would be a mix of cattle slurry, manure, poultry litter and purpose-grown biofuel (maize). All feedstock would be produced within the farm holding, with no requirement for any imported material or waste.
- 1.3 Access to the farm is via a private drive from Rectory Road. No alterations to the public highway would be necessary.
- 1.4 The farm lies between the Rivers Wye and Lugg, both of which are of designated importance (SSSI/SAC). The Council issued a formal Screening Opinion on 19 August 2009 that the proposal would fall within the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (EIA), because of the sensitivity of the site. The application was accompanied by an Environmental Statement and was publicised in accordance with the EIA Regulations.
- 1.5 The application documents comprise:
 - Design and Access Statement: Explains design specification, access to the site, and process methodology.
 - Non-technical summary: Summarises the proposal in plain language.
 - Environmental Statement: Gives the background, results of pre-application consultations, policy context and appraisal, assessment of alternatives and key environmental considerations.
 - Figures and Appendices: Further data and technical details to provide an evidence-base for the Environmental Statement.
 - Scale drawings and plans for all proposed development components.

2. Policies

National Planning Policy:

Further information on the subject of this report is available from Mrs D Klein on 01432 260136

- 2.1 PPS 1 Delivering sustainable development
- PPS 7 Sustainable development in rural areas
- PPS 10 Sustainable waste management
- PPS 22 Renewable Energy
- PPS 23 Planning and Pollution Control
- PPG 24 Planning and Noise
- PPS 25 Development and Flood Risk

Herefordshire Unitary Development Plan 2007

- 2.2 S1 - Sustainable Development
- S2 - Development requirements
- S7 - Natural and Historic Heritage
- S10 - Waste
- DR1 - Design
- DR2 - Land use and activity
- DR3 - Movement
- DR4 - Environment
- DR6 - Water resources
- DR7 - Flood risk
- DR9 - Air quality
- DR11 - Soil quality
- DR13 - Noise
- DR14 - Lighting
- E12 - Farm diversification
- E13 - Agricultural and forestry development
- LA2 - Landscape character
- LA5 - Protection of trees, woodlands and hedgerows
- LA6 - Landscaping schemes
- NC1 - Biodiversity and development
- NC2 - Sites of international importance
- NC3 - Sites of national importance
- NC7 - Compensation for loss of biodiversity
- NC8 - Habitat creation, restoration and enhancement
- NC9 - Management of features of the landscape important for fauna and flora

Other material considerations

- 2.3 Conservation (Natural Habitats, & C.) Regulations 1994 [‘the Habitats Regulations’]

3. Planning History

- 3.1 None recorded on this site.

4. Consultation Summary

Statutory Consultations

- 4.1 Environment Agency: No objection; one condition recommended to secure surface water management. Summary of comments:
 - Groundwater details and rainwater collection proposals are acceptable.
 - The site is significantly higher than the surrounding 1% flood risk area.

- The site holds an Existing Environmental Permit which could be varied appropriately to regulate the proposal. This would control emissions from the plant and any storage of raw materials, through an effective management system.
- All site operations and pollution prevention would be regulated by the Agency.
- Proposals for avoiding/minimising odour are acceptable.
- The habitat improvements and potential for significant benefits to water quality and associated species within the two designated rivers are all noted.

The above topics will be considered below.

- 4.2 Natural England: No objections; advice that planning conditions should secure the recommendations made in the Extended Phase 1 Habitat Survey.

Internal Council Advice

- 4.3 Head of Environmental Health and Trading Standards: No objection; the site would be covered by an Environmental Permit regulated by the Environment Agency. I have no comments to make regarding environmental or air quality matters.

- 4.4 Transport Manager: No objection; there would be no intensification of traffic.

- 4.5 Conservation Manager:

Landscape Officer: No objection; conditions recommended to secure final finish colour/s and appropriate planting. Lights should be directed downwards. Existing hedgerows to be protected during construction.

Planning Ecologist: No objection following receipt of the extended Phase 1 Habitat Survey; condition and informative recommended.

5. Representations

- 5.1 Hampton Bishop Parish Council: supports the proposal subject to:

- Feedstock to be sourced from within the farm;
- Vehicles to use the private farm road;
- Request for S106 contribution towards Parish Council identified priorities.

- 5.2 Five letters from local residents have been received and are summarised below. The points raised will be addressed in the appraisal in section 6 of this report.

- i) Mrs J Knipe, Upper House, Hampton Bishop raises the following points:

- Too close to residential properties;
- There will be two huge tanks storing methane gas;
- The digester system will run 24 hours a day and will create noise;
- I am not sure how pollution would be monitored;
- There will be permanent unacceptable odours;
- Household and other waste may be brought in from elsewhere;
- The system will increase vehicular movements;
- Most AD systems are located on industrial sites.

- ii) Mr K Knipe, also of Upper House, Hampton Bishop, is concerned about safety, smell, noise, traffic, light pollution, pollution of the River Lugg. He suggests that the proposal has nothing whatever to do with farming.

Further information on the subject of this report is available from Mrs D Klein on 01432 260136

- iii) GB Nairn, 15 the Park, Hereford, objects on the following grounds:
- Odour nuisance from the process and storage arrangements;
 - Road safety on the B4224;
 - Change of land use from agricultural to industrial
- iv) Mr R McLellan, 18 Braemar Gardens, Hereford explains his involvement with RAWW, a local pressure group set up to address odour issues at local sewage treatment works. Concerns are raised about the potential for odour nuisance, possible spillage during transfer operations, traffic and road safety.
- v) Mr R Keme (no address given) sent an email stating that he has no objections providing noise, odour and vehicles are properly controlled.

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

6. Officer's Appraisal

6.1 As with any proposal, this application must be determined in accordance with the provision of the current Development Plan unless material considerations indicate otherwise. Government policy statement PPS22 on renewable energy is in force and carries weight; the Herefordshire Unitary Development Plan 2007 (UDP) remains in force but is under review with the preparation of the Core Strategy for the Local Development Framework (LDF).

Principle of the development and need for the facility

6.2 The Environmental Statement sets out the methodology for a project having a twofold purpose: to generate renewable energy and to utilise/manage cattle slurry, farmyard manure and poultry litter sustainably. The farm is stated as generating a combined annual quantity of around 6,700 tonnes of slurry and manure. Currently the cattle slurry and manure are contained in open 'weeping-wall' pits and farmyard stockpiles. About 45 tonnes of litter from the poultry houses must be removed and refreshed every 60 days. This is routinely stockpiled nearby and then spread within the farm holding as fertilizer.

6.3 Slurry and manures naturally generate methane gas and odorous compounds in the process of decomposition which, under open conditions, are released to the atmosphere. Methane in particular is a greenhouse gas twenty times more powerful than CO₂. An AD plant contains and encloses the material and the gases, using well-established technology commonly used in Europe and elsewhere. The application explains the digestion process, which results in the production of biogas to be converted to electricity and heat via a Combined Heat and Power (CHP) unit using a gas engine designed to generate up to 426KWe of electricity. The residue, known as 'digestate' or 'end-substrate' would be pumped direct to sealed storage tanks, to be used on the same farm as a fertilizer. CO₂ exhaust from this process would be less harmful than the methane that would otherwise be released.

6.4 The applicant has explained that digestate is much less odorous than raw slurry or manure and that it can help to address the county-wide requirements of Nitrate Vulnerable Zones (NVZ) in reducing farmland residues. The farm's slurry and manure waste would be complemented by about 7,000 tonnes of purpose-grown biofuel such as maize to ensure the correct mix for the chosen equipment.

6.5 Although there are relatively few on-farm AD plants currently operating in the UK, the principle and technology are tried and tested, being regarded as highly beneficial in many countries.

Further information on the subject of this report is available from Mrs D Klein on 01432 260136

Germany in particular has spearheaded this approach. PPS22 supports renewable energy projects in principle, providing guidance on relevant issues to be considered. It explains the AD process and highlights the advantages of small-scale farm units. The environmental benefits are well-documented, and the process appears to be an efficient means of managing and containing a plentiful but odorous resource. In this proposal there is no intention to import any waste or other materials.

- 6.6 Officers accept that the application has adequately demonstrated the principle of the development and the combined need to address farm animal waste and renewable energy issues.
- 6.7 Hampton Bishop Parish Council has requested this project be subject to a Section 106 contribution. In consequence the Planning Obligations Manager was consulted. In her view there is no aspect of the proposal that would require payment of monies to mitigate its impact. As there would be no net traffic increase (and a likely reduction) there could be no justification for transportation contributions and the project would not fall within any of the adopted criteria. The improved management of poultry litter and farm slurry, the reduction of nitrate run-off, and the generation of renewable energy, could all be regarded as contributing to the local environment in their own right. Therefore officers consider that in this instance a S106 contribution could not be justified.

Key issues

- 6.8 The key issues for consideration in this case are:

- Site choice and alternatives
- Air quality, including odour;
- Safety;
- Lighting and noise;
- Traffic;
- Flood risk;
- Ground and surface water quality;
- Visual impact;
- Landscape;
- Biodiversity;

Site choice and alternatives considered:

- 6.9 The application states that prior to submission the applicant considered various sites within the farm holding, technology options, feedstock and output capacities, and layout for the final scheme. These were considered using a set of criteria which included:
- Optimum distance from neighbours;
 - Siting within an existing cluster of buildings;
 - Existing landscape character, topography and screening;
 - Proximity to the sources of feedstock, i.e. central to farm operations;
 - Appropriate scale of development for the site.
- 6.10 In relation to site choice and related criteria, your officers accept the applicant's reasoning and consider that this matter is satisfactorily addressed by the application. The chosen site is close to existing large farm buildings, slurry pits and silage clamps, on an area of unused derelict ground. No other properties are visible from the application site.

Air quality, including odour

- 6.11 Odour is a matter of concern to residents; in particular there have been problems with (unconnected) plants at local main sewage treatment sites operated by the sewerage undertakers. The nearest such facility to the application site is approximately 2 km from this proposal, having a variety of sewage management systems besides AD. Whilst these worries are acknowledged, it is necessary to judge each case on its own merits. Small-scale farm AD plants of the type being proposed are not comparable with large municipal sewage treatment works having a high capacity and other processes. The application states that the proposal is specifically designed to incorporate measures to control air quality throughout the process. These include fully enclosed pipework, sealed tanks, and no gas being vented to air. Prior to entering the gas engine, the biogas would be scrubbed to ensure a clean burn and all exhaust gases would be strictly limited to ensure compliance with statutory limits. The final digestate would be pumped direct into sealed tankers to prevent any emissions. The Environment Agency would regulate the entire process including all emissions from the plant and storage of raw materials, with enforcement powers to intervene if the site were not up to standard.
- 6.12 Government policy statements make it clear that the planning system should not seek to duplicate controls that are governed by other legislation and must assume that the regulatory bodies such as the Environment Agency will fulfil their role responsibly. However, such matters can be material considerations. In this instance there are no objections from the Environment Agency; conditions are recommended to secure the proposed mitigation and ensure that the site would be capable of compliance with an Environmental Permit.
- 6.13 The proposal needs to be regarded in the context of existing farm practices, which involve the open-air storage of slurry, litter and manure and extensive movement and spreading of raw effluent. Officers consider that, by comparison, the proposal presents an opportunity to reduce existing odour impacts; there would be significant potential for improvement to local air quality in the agricultural environment.
- 6.14 The applicant proposes to set up a complaints system and site diary, to allow any complaints to be logged and compared with farm activities on the day; any substantiated problems would be addressed without delay. On this basis, officers accept that air quality would be adequately monitored and protected in accordance with policies S2, DR4 and DR9 of the Herefordshire Unitary Development Plan 2007.

Safety issues

- 6.15 Some objectors are concerned about site safety, therefore clarification is necessary. The application explains that a minimal amount of gas would be held at any one time, stored at low pressure in the top of the digester tanks, using a dual membrane gas holder seal. This is necessary in order to meet any minor flow interruptions, but there is no requirement to store large volumes of gas. The system is designed routinely to match biogas production to the CHP unit's requirements, keeping gas storage to an absolute minimum. In this proposal, the CHP unit would use around 250 m³ of biogas per hour, equivalent to the amount to be produced. Only when it entered the gas engine inlet would the gas be put under high pressure. When compressed, this volume of gas is stated to equate to about 375 litres. For comparison an average household oil tank holds about 1,000 litres.
- 6.16 The application states that the development would follow guidelines and standards from proven German technology and comply with all applicable UK safety regulations. Site management including safety would fall within the scope of the Environmental Permit, regulated by the Environment Agency as the responsible body.
- 6.17 Officers have taken advice from the EA and the Health and Safety Executive and are satisfied that the details given in the application accurately reflect the proposal in terms of site safety, including that there would be no explosive risk outside a 3m radius in the event of a venting-to-

Further information on the subject of this report is available from Mrs D Klein on 01432 260136

atmosphere leak. The farm house and cattle sheds are the nearest buildings to the site; therefore it would be in the applicant's clear interest to follow correct operational guidelines.

Lighting and noise

- 6.18 The application explains that consideration for ensuring minimal noise impact has been taken into account in accordance with PPG24. It points out that the site has been chosen to be remote from sensitive receptors, although AD is not a particularly noisy process. All plant would be fully insulated and housed within a fully enclosed acoustic building. On-site vehicles would be fitted with 'white noise' reversing alarms. The proposed complaints system and site diary noted above would also include any complaints about noise. The site would be regulated by the Environment Agency through an Environmental Permit; issues of noise would fall under this control. The Agency does not consider that noise would be an issue or cause any adverse effects. The farm already uses a variety of equipment in connection with crop, dairy and poultry unit management. The proposal would not be likely to raise existing background noise levels.
- 6.19 Some external lighting would be necessary for safe winter working. However the application gives assurance that such lighting would be directed downwards and appropriately hooded. Matters of lighting would need to be regarded in the context of existing farmyard conditions. On this basis the proposals would not conflict with UDP policies DR13 and R14, and the mitigation set out in the application could be secured by conditions.

Traffic;

- 6.20 The application includes a traffic assessment which demonstrates that, due to the crop substitution of maize instead of potatoes, there would be a likely annual decrease of 350 HGV movements, offset by an increase of 66 tractor/trailer movements. It should be noted that the feedstock would be exclusively generated within the farm, and this is reflected in recommended conditions. The animal wastes would be collected close to the application site using internal private tracks; they would not need to be transported on the B4224 or other public highways and there would be no risk of spillage on those highways. Officers therefore accept there would be no highways impact from the proposal.

Flood risk

- 6.21 The application notes initial suggestions placing the site within the Environment Agency zone 2 flood risk area. According to the applicant, further investigation and a topographical survey have shown that the farm building complex, including the application site, actually lies above the zone 2 area, being generally some 10 metres higher than the flood levels studied at the River Wye/Lugg confluence. This puts the site in flood zone 1 (low probability risk). The Environment Agency accepted these findings and has confirmed that a Flood Risk Assessment (FRA) is unnecessary, noting that the development is itself classified as 'less vulnerable' and therefore less crucial. However, the Agency notes that wider access would be restricted during a local flood event. An appropriate flood evacuation management plan is recommended, to be secured through a planning condition. With this in place officers are satisfied that flood risk factors have been adequately addressed by the application.

Ground and surface water quality

- 6.22 Part of the development would be sited below the existing ground level. The Environment Agency has accepted submitted information on local water features and groundwater depths, to demonstrate that the engineering works would not be detrimental to groundwater. On surface water, the application states that roof water from the proposed building, and run-off from the biofuel silage clamp, would be collected and piped direct to the sealed underground tank for use in the process. The development would utilise sealed units to ensure full containment. The

Further information on the subject of this report is available from Mrs D Klein on 01432 260136

Environment Agency would regulate site drainage, and has not raised any objections, recommending a condition to secure the proposed sealed drainage and interceptors. No conflicts with policies DR4 and DR6 of the Herefordshire Unitary Development Plan 2007 are indicated.

Landscape and Visual impact

- 6.23 The site lies within 'Principle Settled Farmlands' characterised by mixed farming use and which is subject to frequent changes. It currently comprises an area of derelict made ground, apparently being used for long-term storage of old vehicles, scrap metal and other equipment, some clearly discarded. The proposal would necessarily involve removal of the scrap items. The made ground would need to be remodelled to accommodate the proposed equipment, and levels would be lowered. In landscape terms the proposal would be considered an improvement, and the Conservation Manager acknowledges the chosen site's position adjacent to existing farm buildings, allowing good integration.
- 6.24 On visual impact, the farm complex has no immediately visible neighbours, the nearest being about 275 metres away in Rectory Road, which lies south of the farmhouse. The cattle buildings and other barns are to the north of the house and its garden having plentiful mature trees; the proposal site lies beyond them. The proposed tanks could be visible from higher ground to the north; however the ground only starts to rise just over a kilometre away. From that distance it is unlikely that the site could be distinguished from the cluster of existing farm buildings, particularly if the tanks were finished in a suitable colour.
- 6.25 The Conservation Manager concludes that there would be no significant landscape or visual impact, and a potential for long-term benefit. Conditions are recommended to secure final colour scheme/s, tree and hedgerow protection, and additional planting which takes account of the area's character, in accordance with policies LA2, LA5, and LA6 of the Herefordshire Unitary Development Plan 2007.

Biodiversity

- 6.26 The Environmental Statement includes a third party ecological assessment of the existing site. This takes account of nationally and internationally important sites including the rivers Lugg and Wye, Hampton Meadows, Lugg Meadows and Haugh Wood. Habitat types within the farm holding are identified. Attention is drawn to existing farm practices, including raw slurry spreading and the uncontrolled release of methane, and concludes that the proposal has a potential for good planning and management which would deliver significant improvements. This would be beneficial both on the farm itself and in terms of reductions in nutrient-rich run-off to watercourses joining the designated rivers.
- 6.27 Natural England has accepted the initial assessment but requested further information to enable an Appropriate Assessment under the Habitats Regulations. An extended Phase 1 Habitat Survey was undertaken, which considered the habitats and likely species on the farm in more detail. The report made recommendations for protection and improvements. Both Natural England and the Conservation Manager have accepted the findings of this report unconditionally and are satisfied that there would be no adverse effects on designated sites. Conditions are recommended to secure the Phase 1 Habitat Survey's findings in accordance with policies NC1, NC2, NC3, NC7, NC8 and NC9 of the Herefordshire Unitary Development Plan 2007.

7. Conclusion

- 7.1 In your officers' opinion the application brings forward a proposal which accords with current thinking on farm waste management and renewable energy, using proven technology. It would provide a valuable contribution to local environmental sustainability.

Further information on the subject of this report is available from Mrs D Klein on 01432 260136

- 7.2 The proposal has been assessed against National policy and the Herefordshire Unitary Development Plan 2007 (UDP). The site is a currently derelict part of an existing farmyard. Officers accept that there is a need for such facilities and, according to professional advice, the proposal is capable of meeting environmental standards for design and management.
- 7.3 All relevant matters have been considered, and additional information requested from the applicant and consultees where necessary, in order to establish an evidence-based view. The site would be regulated by the Environment Agency through the Environmental Permit regime, under other legislation than planning, to ensure there would be no adverse environmental effects. On that basis the proposal is recommended for approval.

RECOMMENDATION

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**

Further information on the subject of this report is available from Mrs D Klein on 01432 260136

- 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

Further information on the subject of this report is available from Mrs D Klein on 01432 260136

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:

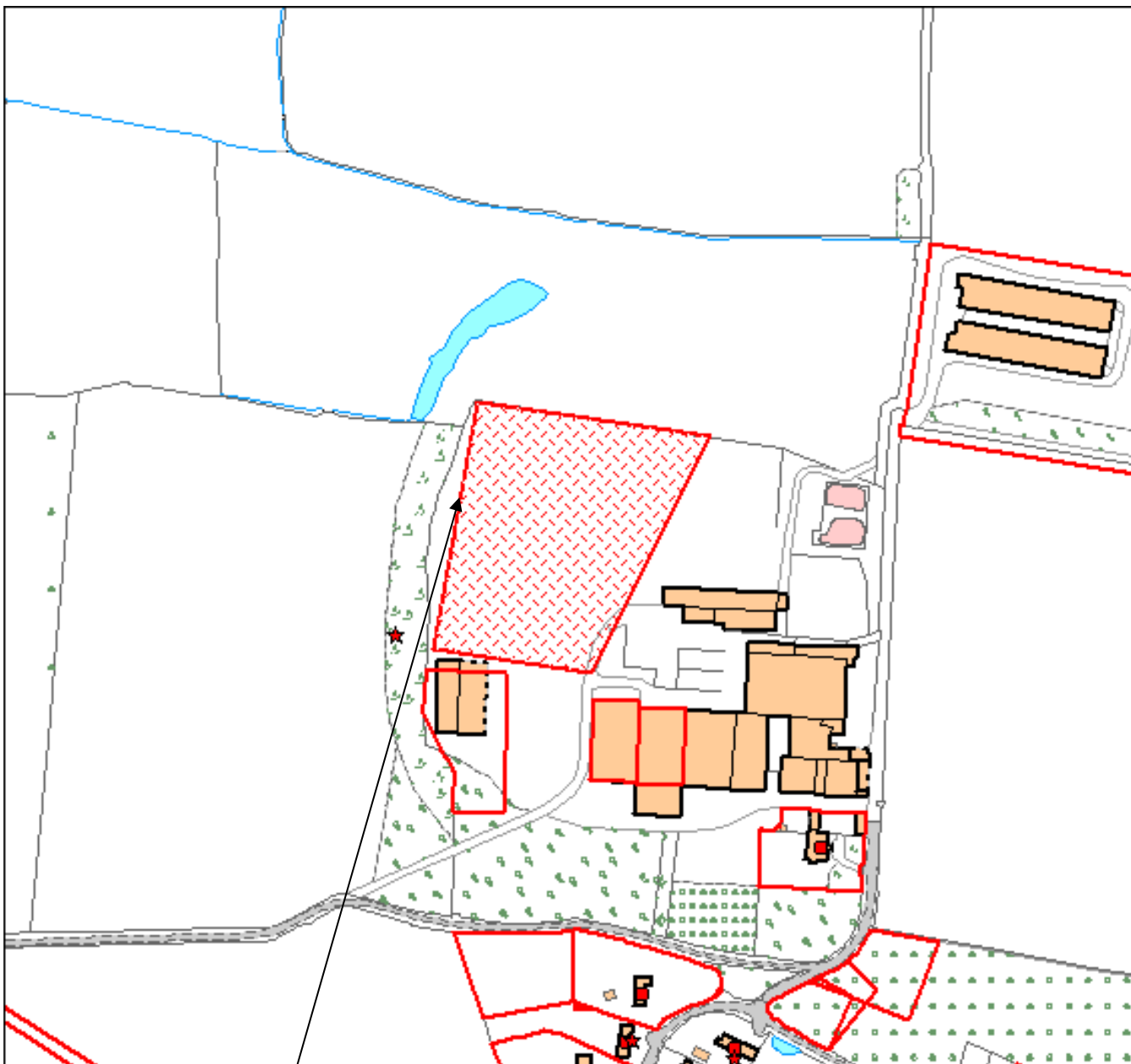
[http@//www.environmentagency.gov.uk/business/topics/pollution/39083.aspx](http://www.environmentagency.gov.uk/business/topics/pollution/39083.aspx)

Decision:

Notes:

Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DMCE/09234/N

SITE ADDRESS : COURT FARM, HAMPTON BISHOP, HEREFORD, HEREFORDSHIRE, HR1 4JU

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11 DMCE/092387/F - PROPOSED DETACHED BUNGALOW AND GARAGE TO REAR OF 28 MANOR ROAD AT 28 MANOR ROAD, HEREFORD, HR2 6HN

For: Mr R Beddoes per Stephen Potter Architectural and Building Services Ltd, Pomona Office, Kings Acre Road, Hereford, HR4 0SN

Date Received: 19 October 2009 Ward: St Martins and Hinton Grid Ref: 351476.0,238186.0

Expiry Date: 14 December 2009

Local Members: Councillors WU Atfield, ACR Chappell and AT Oliver

1. Site Description and Proposal

- 1.1 The application site lies on the southern side of Manor Road and falls within the designated established residential area at Putson. Part of the site and access also lies within the flood plain (Flood Zone 3). Adjoining to the southeast of the site is the Community Centre.
- 1.2 No. 28 is a semi-detached dwelling in single family occupation comprising as substantial garden with numerous outbuildings at the rear.
- 1.3 It is proposed to demolish all the existing outbuildings and to erect a two bedroom bungalow with a single detached garage at the bottom of the garden area of No. 28. A 4 metre wide access will be formed to the side of No. 28 leading off onto Manor Road. Two off street parking spaces will be retained to the forecourt area to serve the existing dwelling.
- 1.4 It is noted that planning permission was granted in 1995 (Reference HC950021PO) for a similar development at this location but the development has never been implemented and this permission has lapsed now.

2. Policies

2.1 Herefordshire Unitary Development Plan 2007:

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
DR7	-	Flood Risk
H1	-	Hereford and the Market Towns: Settlement Boundaries and Established Residential Areas
H13	-	Sustainable Residential Design
H15	-	Density
H16	-	Car Parking

3. Planning History

Further information on the subject of this report is available from Mr B Lin on 01432 261949

- 3.1 HC900502SZ Proposed sun lounge. Planning Permission Required 10 December 1990.
- 3.2 HC91001PF Erection of a domestic sun lounge. Approved 29 January 1991.
- 3.3 HC920126SZ Proposed front porch incorporating new pitched roof over existing bay window. Planning Permission Required 15 April 1992.
- 3.4 HC930117PF New front porch incorporating new pitched roof over existing bay window. Approved 10 May 1993.
- 3.5 HC950021PO Site for dwelling and garage after demolition of existing prefabricated garage and outbuildings. Approved 30 March 1995.
- 3.6 DCCE2006/3335/F Retrospective application for change of use of the rear garden and associated outbuildings from domestic to storage of garden ornaments - temporary for 12 months. Approved 8 December 2006.
- 3.7 DCCE2008/2474/F Proposed erection of two bungalows with attached garages. Withdrawn 11 November 2008.

4. Consultation Summary

Statutory Consultations

- 4.1 Welsh Water: No objection, but suggest the use of standard conditions to deal with the foul water and surface water arrangements.
- 4.2 Environment Agency: Comments that part of the site and access lie within Flood Zone 3 and 2, which is the high risk zone and has a 1% or greater chance of flooding in any given year. The Environment Agency have no objection to the proposed development on this location, provided that the local planning authority is satisfied on the Sequential Test. They also suggest that conditions should be attached requiring the floor levels of the new dwelling should be set at 52.65m AOD in accordance with the submitted Flood Risk Assessment and no ground level should be raised within Flood Zone 3 so as to protect the development from flooding and to alleviate the increased risk of flooding.

Internal Council Advice

- 4.3 Traffic Manager: No objection, subject to conditions.

5. Representations

- 5.1 Hereford City Council: No objection.
- 5.2 Four letters have been received from local residents. The main points raised are as follows:
1. Concerns over the access arrangement and increased traffic onto Manor Road would have impact upon the amenity within the locality.
 2. The roofline of the proposed dwelling would have considerable impact upon the visual and residential amenity of the neighbouring properties.
 3. The proposed dwelling would affect the privacy of the neighbour's property.
 4. The proposal would affect the outlook currently enjoyed by the occupiers of the neighbouring properties.
 5. The proposal would affect the value of the neighbouring properties.

Further information on the subject of this report is available from Mr B Lin on 01432 261949

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

6. Officer's Appraisal

6.1 The site is located in an established residential area within the settlement boundary for Hereford City. It is also within the curtilage of an existing dwelling. The location is one where residential development would be considered acceptable in principle subject to satisfying detailed policy requirements.

6.2 The application site is approximately 16 metres wide and 33 metres deep (excluding the new access), which is as spacious as other properties in the vicinity. It therefore is not considered so restricted that an additional residential development as proposed would appear cramped or out of character in relation to the general pattern of development in the locality. It is acknowledged that the main characteristic of the properties along Manor Road is of two storey construction and that the proposed bungalow will be different. However, the development takes the form of a simple single storey construction and the design of which has been carefully considered to minimise any potential impact on the neighbouring properties, given that the proposed development is located at the rear and adjoining to a community centre, it is not considered that a bungalow would appear to be an unsatisfactory form of development. The scale and massing of the proposed bungalow is also considered acceptable and proportionate in relation to the existing dwelling and the surrounding area. However to ensure the acceptable form of development and to safeguard the amenity of neighbouring property, it is considered expedient to remove the permitted development rights.

6.3 With regard to the impact on the residential amenity of neighbouring properties, whilst it is acknowledged that the proposed development will inevitably alter the setting and outlook of the adjoining properties, having consideration for the position and form of the development and the general pattern of development in the wider locality, it is not considered that the proposal will result in an unacceptable level of overlooking or loss of privacy impact. However, to ensure the satisfactory amenity of the adjoining property, a condition is recommended to ensure that a proper boundary treatment is put in place.

6.4 Regarding the parking and highway safety issues, it is acknowledged that the likely additional use of the existing access onto Manor Road is a concern from local residents. The alternative to create a new access to Woodhouse Way to the rear of the site has been explored, however this option is not viable as the applicant cannot secure a permanent easement to allow right of access over the land behind. Nevertheless, the Traffic Manager raises no objection in principle to this proposal, it is therefore considered that Manor Road is capable of supporting the additional traffic generated by the proposed development and with the conditions as requested, highway safety will not be detrimentally affected in this instance.

6.5 With regard to flooding issues, the comment from the Environment Agency is noted. However, the local planning authority is satisfied that no sequential test is required in this instance as the site is located within an established residential area and does not entirely lie within the flood plain. Further, it is considered that subject to the conditions as suggested by the Environment Agency, the proposal will not increase the risk of flooding of the site or the surrounding area.

6.6 The proposed development falls within the terms of the adopted Planning Obligations SPD and as such is liable for a range of Section 106 contributions. However, in accordance with the decision of the Cabinet Member for Environment and Strategic Housing to relax the requirement for residential schemes for five dwellings or less which came into effect on 1 April 2009, the proposed development is exempt subject to the planning permission being limited to 12 months.

- 6.7 The concerns of the objectors are acknowledged but having regard to the appraisal above, it is considered that subject to conditions, a new residential development could be accommodated on the proposed site without detriment to the character of the locality or the amenity of the neighbouring occupiers. The proposed development is considered in accordance with the relevant planning policies and therefore represents an acceptable form of development.

RECOMMENDATION

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**

Further information on the subject of this report is available from Mr B Lin on 01432 261949

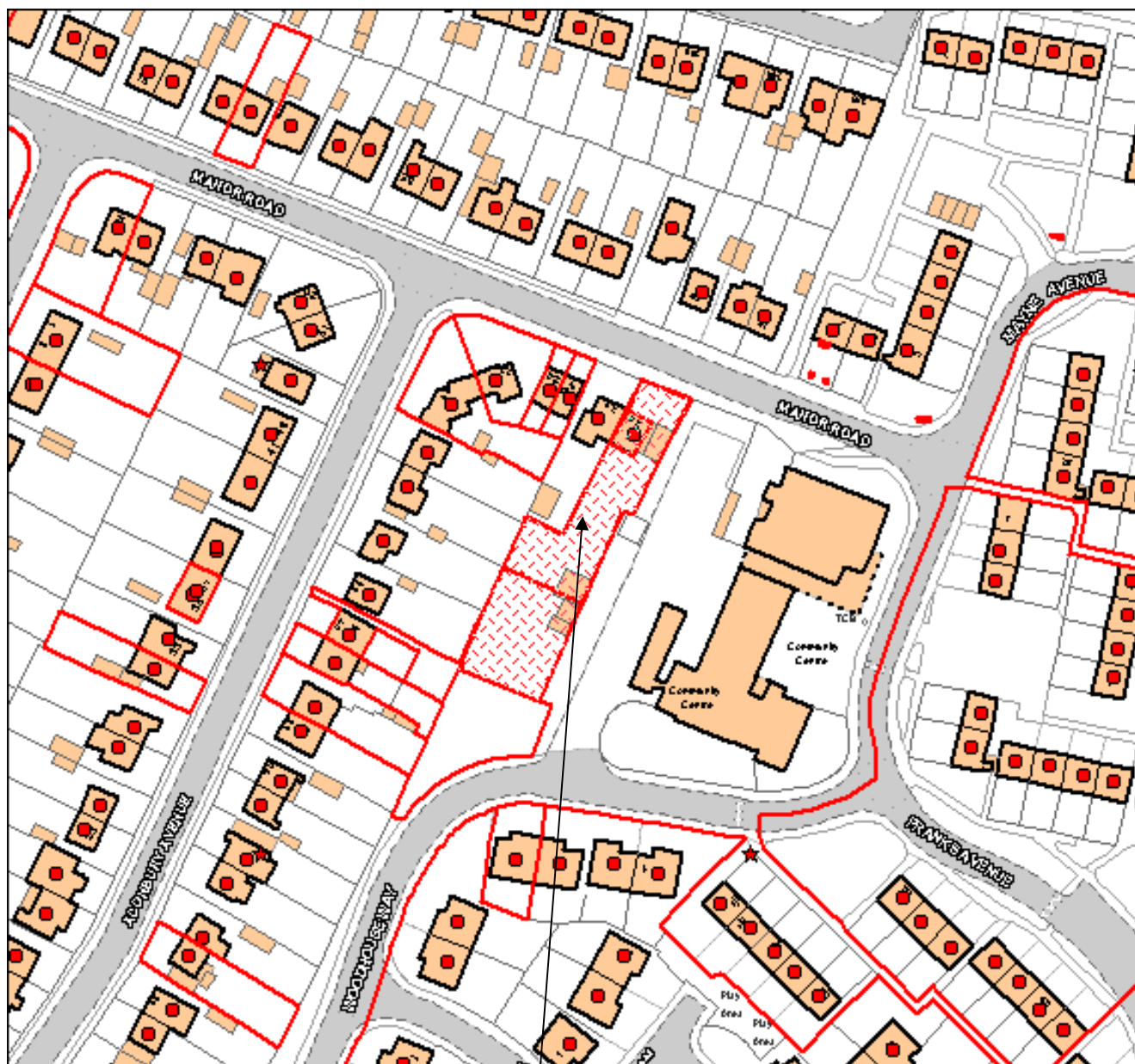
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DMCE/092387/F

SITE ADDRESS : 28 MANOR ROAD, HEREFORD, HR2 6HN

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12 DMCE/092625/F - PROPOSED SINGLE STOREY TWO BED DWELLING AT LAND TO THE REAR, 9 KYRLE STREET, HEREFORD, HR1 2ET

For: Mr J Ball per John Phipps, Bank Lodge, Coldwells Road, Holmer, Hereford, HR1 1IH

Date Received: 9 November 2009 Ward: Central Grid Ref: 351422,240133

Expiry Date: 4 January 2010

Local Member: Councillor MAF Hubbard

1. Site Description and Proposal

- 1.1 The application site is comprised of the rear garden of No. 9 Kyrle Street. The existing property is a semi detached rendered property fronting onto Kyrle Street. On the southwest boundary there is an access road serving properties and the businesses to the rear of the dwelling, which front onto Commercial Road. Also to the southwest is the boundary of the Conservation Area. To the east, in number 11 Kyrle Street's rear garden is a newly constructed red brick terraced building containing five dwellings.
- 1.2 The application follows the refusal of a previous application which proposed a two storey two bedroom property. The application was refused due to impact on the character and appearance of the established residential area and its impact on the residential amenity of adjoining properties. This application now proposes a single storey dwelling, still providing two bedroomed accommodation. The new dwelling will have a single parking space and private amenity space. The building measures 14.8 x 5.2 metres with a maximum height of 3.8 metres. The walls are constructed from cedar vertical cladding and Ibstock Priory red bricks and a barrelled roof from standing seam zinc cladding.

2. Policies

- 2.1
- | | | |
|-----|---|--|
| S1 | - | Sustainable Development |
| S2 | - | Development Requirements |
| S3 | - | Housing |
| DR1 | - | Design |
| DR2 | - | Land Use and Activity |
| DR3 | - | Movement |
| DR5 | - | Planning Obligations |
| H1 | - | Hereford and the Market Towns: Settlement Boundaries and Established Residential Areas |
| H13 | - | Sustainable Residential Design |
| H14 | - | Re-using Previously Developed Land and Buildings |
| H15 | - | Density |
| H16 | - | Car Parking |

3. Planning History

- 3.1 DCCE0009/1380/F – Proposed two bedroomed house to the rear of number 9 Kyrle Street. Refused.

3.2 DCCE2008/1458/F - Proposed development to form 5 dwellings - alterations to previously approved planning application DCCE2005/3449/F. Approved with conditions.

3.3 DCCE2005/3449/F - Proposed development to form 5 dwellings. Approved with conditions.

4. Consultation Summary

Statutory Consultations

4.1 Welsh Water: No objection, but suggest the use of standard conditions.

4.2 Hereford Civic Society: Object to the application due to the loss of green space and the proposal being out of keeping with its surroundings.

Internal Council Advice

4.3 Traffic Manager: No objection, the proposed intensification is considered minimal.

4.4 Archaeological Advisor: No objections to the proposal subject to conditions.

4.5 Conservation Officer: No comments received.

5. Representations

5.1 Hereford City Council – No objection.

5.2 One letter of objection has been received from S. Pickering, 11 Kyrle Street. The objection is summarised as follows:

- The proposed development would be overlooked by all the surrounding buildings.
- The materials are different to anything else in the area.
- Number 9 Kyrle Street will be left with very little rear garden.
- The proposed development will appear cramped on the plot.

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

6. Officer's Appraisal

6.1 The application lies within the designated settlement boundary for Hereford City and the Herefordshire Unitary Development Plan 2007 recognises that there is scope for appropriate residential development within this area providing that the character and appearance of the wider locality is not adversely affected by the proposed development. Therefore, the primary issues in determining this application are considered to be as follows:

- Design and Layout of the Development and its Impact on the Surrounding Area
- Residential Amenity

Design and Layout of the Development and its Impact on the Surrounding Area

6.2 Following the refusal of planning application DCCE0009/1380/F, the applicant's agent has comprehensively redesigned the scheme, omitting the 1st floor element and reducing the overall height and bulk of the building, in order to overcome the previous grounds of objection,

which related to the impact on the character and appearance of the established residential area and adjoining Conservation Area.

- 6.3 Having regard to the size and shape of the application site, the scale and massing of the proposed development are considered to be acceptable, with the siting and design taking appropriate account of the position and orientation of the adjoining properties. The proposed development now takes the form of a single storey linear structure which incorporates a barrel roof to reduce the ridge height in order to minimise the impact on the neighbouring properties, particularly those to the south.
- 6.4 Although its design and appearance will be different to that of its neighbours, there is no defining architectural style within the immediate area, which contains a mix of older terraced properties, modern flatted glazed developments and commercial properties.
- 6.5 The proposed development is not considered as prominent as that which has previously been refused. Consequently, the proposed development is no longer considered to be out of character with the urban character of the wider locality. There should be no harm to the character or appearance of the Conservation Area. However to ensure the satisfactory appearance of the development it is considered expedient to recommend conditions requiring the prior approval of external materials.
- 6.6 The comments of the Civic Society and neighbour are noted but for the reasons set out above it is not considered that the proposal represents an unacceptable form development having proper regard for the mixed architectural character of the wider locality.

Residential Amenity

- 6.7 The application site is flanked on the north east boundary by a newly constructed two-storey row of terrace properties. Whilst it is acknowledged that the proposed development will inevitably alter their setting and outlook, having consideration for the pattern of development in the wider locality, the single storey development is not considered to result in an unacceptable level of overlooking or overbearing impact. The orientation of the building, with all its windows facing south west ensures that the building itself will receive minimum overlooking from neighbouring properties.
- 6.8 The north east the rear of the application site abuts the rear gardens of the newly constructed terrace at number 11 Kyrle Street. However there is an existing 2.2m concrete wall which is to be maintained and a 1.8m close board fence which is to be retained. Given the modest height of the proposed development and the existing boundary treatments, there will be no material impact on the levels of residential amenity presently enjoyed by the neighbouring properties.
- 6.9 To ensure the continued satisfactory relationship between the proposed dwelling and its neighbours it is considered expedient to recommend a condition removing permitted development rights.
- 6.10 Overall the proposed development is not considered to give rise to such a degree of harm to the residential amenity of the wider locality, as to give rise to sustainable grounds for refusal in this instance. However in order to protect the amenity of the area during the construction phase, standard conditions are recommended to control the hours of operation during the demolition and construction phases

Planning Obligation

- 6.11 The proposed development falls within the terms of the adopted Planning Obligations SPD and as such is liable for a range of Section 106 contributions. However, in accordance with

Further information on the subject of this report is available from Ms R Jenman on 01432 261961

the decision of the Cabinet Member for Environment and Strategic Housing to relax the requirement for residential schemes for five dwellings or less which came into effect on 1 April 2009, the proposed development is exempt subject to the planning permission being limited to 12 months.

Conclusion

6.12 Overall the proposal complies with the Development Plan, and as such, approval is recommended.

RECOMMENDATION

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**

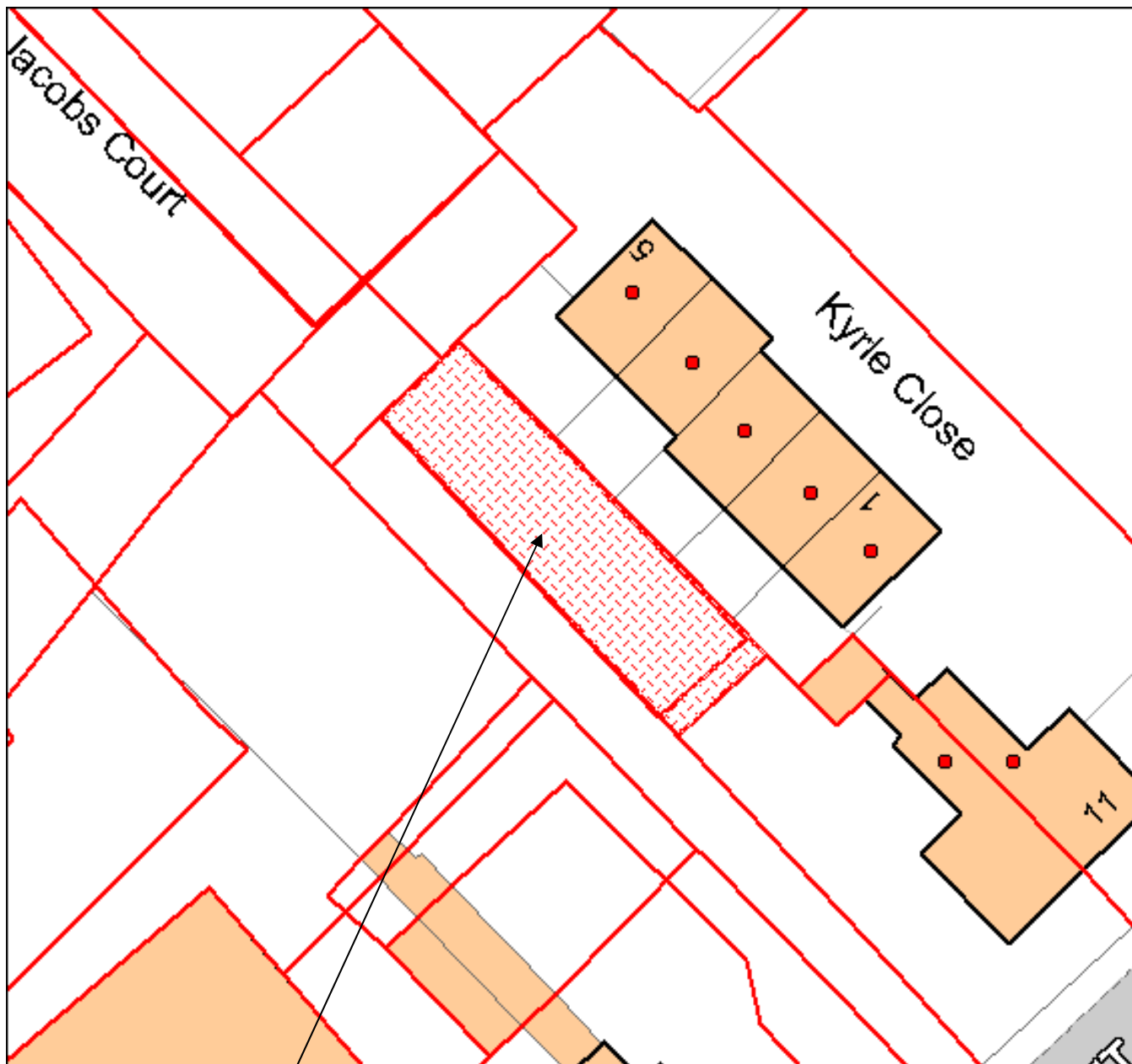
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DMCE/092625/F

SITE ADDRESS : LAND TO THE REAR, 9 KYRLE STREET, HEREFORD, HEREFORDSHIRE, HR1 2ET

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13A DMCE/091754/F - ERECTION OF FREE STANDING TIMBER DECK TO FRONT OF PUBLIC HOUSE, DECK TO INCLUDE AMBULANT STEPPED ACCESS. PROVISION OF SATELLITE DISH TO BUILDING FRONTAGE AT NEW INN, BARTESTREE, HEREFORD, HR1 4BX

13B DMCE/091755/L - ERECTION OF FREE STANDING TIMBER DECK TO FRONT OF PUBLIC HOUSE, DECK TO INCLUDE AMBULANT STEPPED ACCESS. PROVISION OF SATELLITE DISH TO BUILDING FRONTAGE AT NEW INN, BARTESTREE, HEREFORD, HR1 4BX

For: Ms P Bird per Derek Whittaker Architect, 1 Farjeon Close, Ledbury, Herefordshire, HR8 2FU

Date Received: 26 October 2009 Ward: Hagley Grid Ref: 356039.0,241208.0

Expiry Date: 21 December 2009

Local Member: Councillor DW Greenow

1. Site Description and Proposal

- 1.1 The New Inn is located in the heart of the village of Bartestree to the north of the A438 which runs through the village. The building is set back from the highway and is a large detached red brick building. It represents a particularly fine neo-gothic villa, and has been used as a public house since the 1950's. The building is grade II listed and has arched heads to all the windows and bands of decorative tiling. To the front and west of the building are grassed areas used in the summer as a beer garden, with car parking to the east. The site has two separate accesses from the A438.
- 1.2 This application is retrospective for the decking which has been constructed to the front of the building, which links the building to the grassed beer garden. The decking was constructed in May 2009 and since then there has been an on-site meeting between Officers and the applicant. The application also seeks retrospective permission for a satellite dish which has been placed in the middle of the front of the building.
- 1.3 The decking is raised to the porch landing level and is accessed either side by steps. The decking has been constructed with a ramp, however the proposals are to replace the ramp with steps, according to the design and access statement this is to minimize the visual impact of a 'lengthy ramp in relation to the listed building'. The deck frame is currently stained blue, however the application proposes to re-stain the structure to an oak which represents a more subdued and sympathetic colour. The decking projects 7.6m out from the front elevation of the building and extends 8.2m across. It stands 0.7m high from the ground, with the softwood handrails having a maximum height of 3m from the ground.

2. Policies

- 2.1 Herefordshire Unitary Development Plan:

Further information on the subject of this report is available from Ms R Jenman on 01432 261961

- S1 - Sustainable Development
- S2 - Development Requirements
- DR1 - Design
- DR3 - Movement
- H16 - Car Parking
- HBA1 - Alterations and Extensions to Listed Buildings
- HBA4 - Setting of Listed Buildings

2.2 Planning Policy Guidance 15: Planning and the Historic Environment

3. Planning History

3.1 DCCE2007/0086/F – Change of use of land within curtilage of public house to site 4 no. temporary touring caravans for occasional occupation. Refused 7 March 2007.

4. Consultation Summary

Statutory Consultations

4.1 English Heritage have made the following comments:

1. The satellite dish should not be on a visible part of the building.
2. If the decking is to be retained, conditions should be imposed requiring your council’s prior approval to finishes and of planting to reduce its visual impact.

Internal Council Advice

4.2 Traffic Manager: No comments received at the time of writing the report.

4.3 Conservation Officer: Objects to the proposal and recommends refusal. The timber decking has a major detrimental impact on the main façade of this important listed building as it is completely alien, very visually intrusive and damaging to the character of the building. Its domestic, suburban appearance disrupts the entrance and is completely at odds with the high quality materials, detailing and finishing found on the rest of the façade. The proposal is therefore considered contrary to the Herefordshire UDP Policy HBA4. It should be noted that we suggested an alternative location for the decking to the west of its current location.

5. Representations

5.1 Lugwardine Parish Council: ‘The structure as it is does not blend in with its surroundings, partly because of the colour. In addition it hardly enhances the appearance of the New Inn. On a positive note wheelchair access has now been provided, although we do not know to what extent it will be used. The committee was divided on the application. It is recognised that there is a need to support diversification and a need for change in the licensing trade, given the current climate.

With regards to the application to a site a satellite dish on the front of the building we do not support this aspect. However should it be sited say on the side of the building in a discrete location, we would support that, but we would expect the site to be chosen with care.

5.2 One letter of support has been received from G. Brunt, 26 Frome Court, Bartestree and a petition in support of the development has been submitted by the applicant and contains 182 signatures. The comments are summarised as follows:

- The location of the decking gives the building more presence and permits people to see the detail of the stone work features.
- The decking does not affect any neighbouring properties.
- It allows for good observation of the children's play area.
- It is easily services for food and drink, all being at the same level.
- The deck improves access for all into the pub.
- The decking has been a great success to the business serving both new and old customers to the building.

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

6. Officer's Appraisal

6.1 The New Inn is a designated grade II listed building and the Herefordshire Unitary Development Plan 2007 and Planning Policy Guidance 15 recognises that there is scope for alterations and extension to listed buildings providing the components which make up the special interest of the building, its features and setting are all preserved. Therefore the main consideration in the determination of this application is whether the proposal would have an adverse impact upon the listed building or the surroundings.

6.2 Following its construction in May 2009, enforcement action was commenced and there followed a site meeting with the agent and Officers. At this meeting advice was given that in its existing location the decking and the satellite dish were considered detrimental to the character and appearance of the building and its setting and alternative locations were discussed. This advice appears to have been ignored, and this application proposes to keep both in their existing locations, however the design of the decking is altered slightly with the disabled ramp being removed and replaced with steps.

6.3 The application site is in a prominent position in the heart of the village of Bartestree, with the building clearly visible from the adjoining A 438 highway. Policy HBA4 of the Herefordshire Unitary Development Plan states that 'development proposals which would affect the setting of a listed building will not be permitted'. The impact of such proposals should be judged in terms of scale, massing, location, detailed design and the effects of its uses and operations.

6.4 The siting of both the decking and the satellite dish are in the most prominent locations being on the front elevation. Whilst an attempt has been made to reduce the visual impact of the decking by changing the blue colour to an oak stain, its location and that of the satellite dish is the cause for concern. Both are considered to have a detrimental impact on the main façade of the building and are visually damaging to the character of the building.

6.5 Whilst all comments relating to the positive impacts the decking has had on the business have been considered, its location and that of the satellite dish is considered to have such a major detrimental impact on the important building, as to warrant a refusal, especially as there is considered to be alternative locations within the site where both could be located to minimise the impact on the building and its setting. The application is therefore recommended for refusal for the reason given below.

RECOMMENDATION

In respect of DMCE/091754/F that planning permission be refused for the following reason:

- 1 The design, massing, scale and the siting of the development, is considered to represent a visually intrusive form of development, which is detrimental to the overall character and appearance of the Grade II Listed Building and its setting, and is therefore contrary to Policies DR1, HBA1 and HBA4 of the Herefordshire Unitary Development Plan 2007 and Planning Policy Guidance 15.

In respect of DMCE/091755/L that Listed Building Consent be refused for the following reason:

- 1 The design, massing, scale and the siting of the development, is considered to represent a visually intrusive form of development, which is detrimental to the overall character and appearance of the Grade II Listed Building and its setting, and is therefore contrary to Policies DR1, HBA1 and HBA4 of the Herefordshire Unitary Development Plan 2007 and Planning Policy Guidance 15.

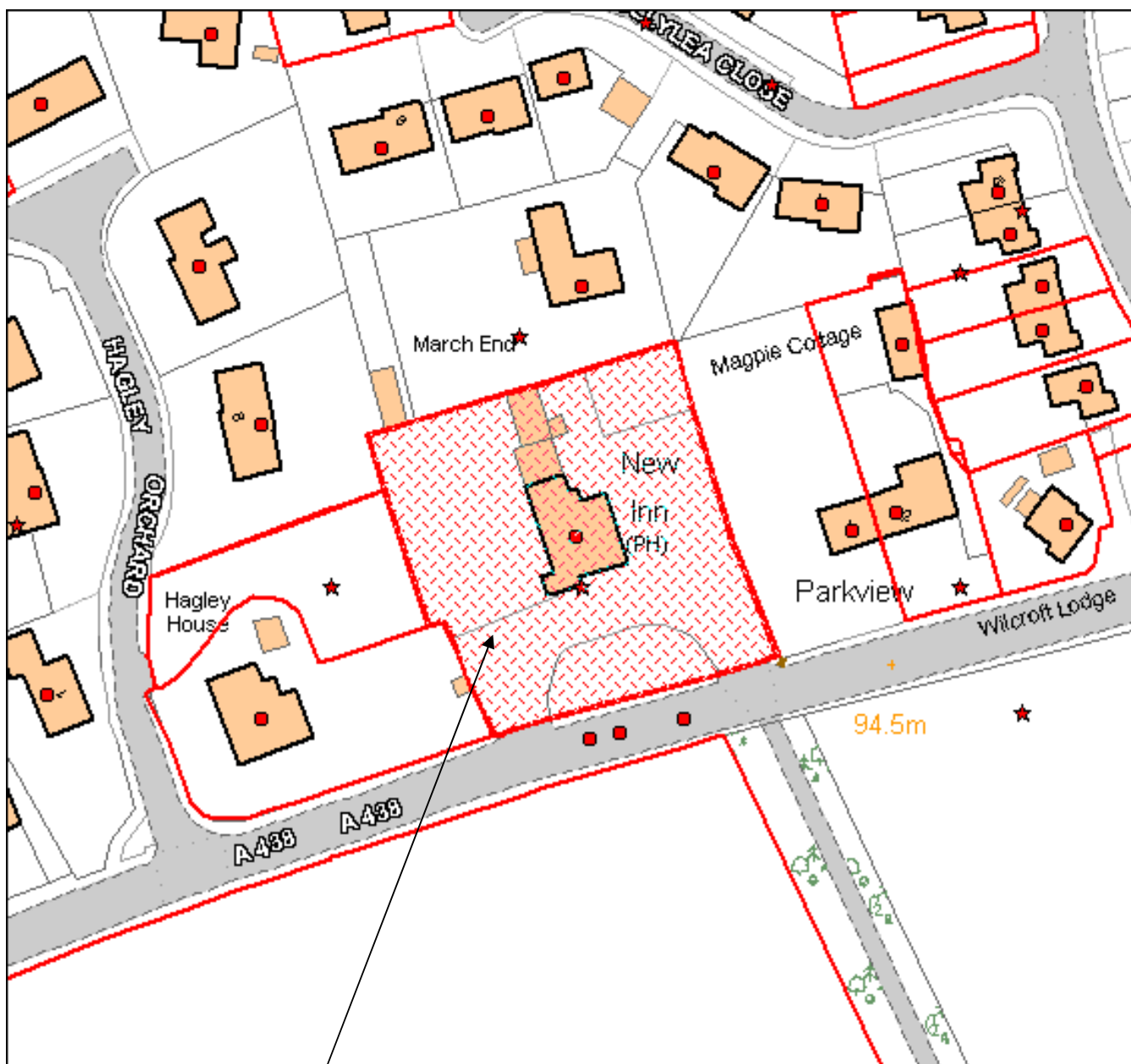
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NOS: DMCE/091754/F & DMCE/091765/L

SITE ADDRESS : NEW INN, BARTESTREE, HEREFORD, HR1 4BX

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14 DMNW/092501/F - CHANGE OF USE TO ALLOW FOR THE ERECTION OF A MARQUEE UP TO 12 TIMES A YEAR FOR FUNCTIONS PRIMARILY FOR WEDDING RECEPTIONS AT LEMORE MANOR, EARDISLEY, HEREFORDSHIRE, HR3 6LR

For: Mr & Mrs B Owen Per James Spreckley, Brinsop House, Brinsop, Herefordshire, HR4 7AS

Date Received: 2 October 2009 Ward: Castle Grid Ref: 31068.4,251591.8

Expiry Date: 27 November 2009

Local Member: Councillor JW Hope MBE

1. Site Description and Proposal

- 1.1 Lemore Manor lies in open countryside, approximately 2 miles north of Eardisley, on the east side of the A4111. It is a large detached property which was formerly a nursing home but has recently acquired planning permission as a residential property, (inclusive of the converted coach house). The application site also includes two fields to the south and east of the manor.
- 1.2 Immediately to the west of the coach house is a dwelling, Kimberley, outside of the control of the applicant. Furthermore there is another property, Lemore Bungalow approximately 70m back along the drive. Woodhouse Farm (holiday lets) lie to the south east approximately 150m from Lemore Manor. New House and New House Farm lies approximately 540m north of Lemore Manor. Holywell Cottage lies approx. 400m to the south. Properties at Questmore Cottage/Farm lies approx 560m to the north. After this the next nearest properties lie in excess of 600m away.
- 1.3 The proposal is for the land adjacent to Lemore Manor (the parcel of land immediately to the South/South East of the property) for the siting/erection of a marquee up to 12 times in any calendar year for functions (these being primarily weddings). The application also states the applicants are willing to accept a condition limiting the playing of amplified music inside the marquee from 10am to 12 midnight, and a further condition requiring that any marquee may only be erected no more than two days before and removed no more than 2 days after the date of the function.
- 1.4 Public footpath EE13 passes along the access drive from the junction onto the A4111, and has been advertised accordingly.
- 1.5 Within 190m to the south of the house lies a special wildlife site, Holywell Dingle.

2. Policies

2.1 Unitary Development Plan Policies

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

Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

2.2 Government Policy

- PPS4 - Planning for Sustainable Economic Growth
 - PPS7 - Sustainable Development in Rural Areas
 - PPS9 - Biodiversity and Geological Conservation
- Good Practice guide on Planning for Tourism

3. Planning History

- 3.1 DCNW2009/0293/F - Proposed Change of use from Nursing Home to residential dwelling - Approved 8 April 2009.
- 3.2 DCNW2008/2075/F - Change of Use from Nursing home to multi-use venue, occasional erection of up to 10 Marquees and variation of previous condition to allow occupation of the Coach House - Withdrawn 19 January 2009 (referred to committee on the 14 January 2009).
- 3.3 NW03/1344/F - Conversion of stable building to management accommodation, (subject to occupancy condition required to be varied) - Approved 18 June 2003.
- 3.4 NW03/1334/F - Removal of condition 2 attached to P.P 93-524A - Approved 17 June 2003. Kimberley, Eardisley.
- 3.5 98/0033/N - Removal of condition 2 of permission 93/524. (New dwelling & Lomore Manor not to be sold separately) - Refused 10 March 1998.
- 3.6 93/524 - Barn conversion to dwelling - Approved 23 November 1993. (This dwelling now known as Kimberley).
- 3.7 89/628 - Change of use to nursing home, Lomore Manor - Approved 27 November 1989.

4. Consultation Summary

4.1 Ramblers Association

This development doesn't appear to have any impact upon the adjacent Public Right of Way, Eardisley EE13, which follows the driveway from the A4111 and past Lomore Manor. One point I would like to make is with regard to vehicular movement along the driveway and would request that appropriate notices warning of pedestrians in the vicinity are erected at suitable points.

I ask you to ensure that the developer is aware that there is a legal requirement to maintain and keep clear a Public Right of Way at all times.

Internal Council Consultees

4.2 Transportation Manager

Visibility at road is below current standards but as the site has operated with more intensive use than proposed for some time without accidents it would be unreasonable to recommend refusal.

4.3 Public Rights of Way Manager – It does not affect the PROW.

4.4 Environmental Health Manager

I have concerns regarding this application due to the potential for noise nuisance from events at the site. The Environmental Health Department has received complaints regarding noise from this location since the site has been used for functions etc. No information has been provided in the application regarding the potential for noise nuisance and how this is to be managed on the site, other than an offer to restrict amplified music inside the marquee to between 10am to 12 midnight.

It is not clear from the application what the maximum duration of an event will be and the use for 12 events per year, even if an event was restricted to 1 day, could cause disturbance to neighbours for most of the summer weekends.

The use of temporary structures like marquees to house live and recorded music is more likely to give rise to noise complaints than the use of permanent buildings due to the reduction in noise attenuation that these structures provide. The rural nature of this site would indicate that the background noise levels in this area would be quite low and I have concerns that a noise disturbance would be likely if music was played from a marquee on site. I believe that noise would be particularly problematic during the evening and night when background levels are at their lowest. Numerous complaints were received from nearby residents following an event held on the site on Saturday 19 July 2008 which featured a marquee and music and for subsequent events. I therefore believe conditions should be attached to the permission to protect the noise environment of the area.

I would recommend that a scheme of noise control measures be submitted to the planning authority before live or recorded music is played public address systems are used at the application site. As part of these measures a noise limiter might be fitted at the venue, which would monitor the noise levels and cut the power to the music system when the preset decibel level is breached. (The level would need to be agreed with the Planning and Environmental Health Department prior to use.) This type of system should hopefully eliminate complaints if the level is set correctly and the limiter properly set up, however the applicant would need to investigate if this type of system is workable at this site and for marquees. Other noise attenuating measures may be suitable then/ or in addition to the limiter or other physical measures including management techniques. The applicant should identify what measures are most suitable at this site and submit an appropriate scheme.

Should Members be minded to approve this application, I would recommend the following conditions:

F02 – Scheme of measures for controlling noise

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 order to protect the amenity of nearby properties.

F14 – Time restriction on music

No live, amplified or other music shall be played outside after 23:00 or before 10:00 on Sundays to Thursdays or Bank and Public holidays and 00:00 and 10:00 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 order to protect the amenity of occupiers of nearby properties.

An event is defined as use in any one calendar day.

Reason : To protect the amenity of the occupiers of nearby properties.

An event shall be separated by any previous or subsequent event by at least 14 days.

Reason : To protect the amenity of the occupiers of nearby properties

5. Representations

5.1 Eardisley Parish Council

No response received

5.2 Letters of objection have been received from the following:

Ms CA Sayce, Kimberley.

R Woodbridge & R Peace, Holywell Cottage.

Mrs and Mrs G McQuiston, Cokesyeld Farm, Almeley, Hereford.

Mrs G Bedford (JS & GS Bedford), 4 Newhouse Farm, Almeley, Hereford.

Mr Laurence Dray, Station Farm, Almeley, Hereford.

Mr & Mrs Glyn-Jones (September Organics Farming), Newhouse Farm, Almeley, Hereford.

5.3 The objections are summarised below:

1. Noise Pollution

- Music is extremely loud and intrusive on a regular basis, almost fortnightly during the summer when nearby residents doors and windows may be open.
- This noise affects neighbours, livestock, pets and wildlife in particular because background noise levels in the area are low because of the rural location. It is peaceful and tranquil.
- Previous experiences have been that music has continued until 2.30am rather than the 12am limit suggested in the application.
- Music can be heard above the sound of neighbours' televisions, and speeches can also be heard.
- Impact upon adjacent businesses which rely upon the peaceful and tranquil surrounding environment (both farming and tourism based).

2. Location

- The siting of the marquee would be in an area less than 50 metres from Kimberley. Is it not possible to site this further from the neighbour's house?

3. Access and Parking

- The access drive is shared by two other properties.
- Not enough parking provided. Drive has been used in the past. Provision should be made on site.

4. Ecology

Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

- Reference is made to the previous objection by Herefordshire Nature Trust to the proposal and the impact upon wildlife, especially nocturnal animals.

5. Other issues

- The use of Chinese lanterns is a danger to livestock in adjacent/nearby fields and has caused nuisance.

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

6. **Officer's Appraisal**

- 6.1 Lemore Manor, and its associated coach house has planning permission as a residential property. It is rented out as a 'whole' for short term holiday lets rather than being lived in as a family home. This in itself does not require the benefit of planning permission. The proposal is to use the land adjacent to the property for the erection of a marquee on no more than 12 occasions in any calendar year for the purposes of functions such as weddings. This proposal also requests consent to erect a marquee in the suggested positions within the grounds of the property. This use has already been ongoing for approximately two years.
- 6.2 The majority of the concerns relate to the impact upon local residents, livestock, animals and wildlife from the noise and disturbance of these 'functions'. There have been ongoing complaints about the use but it is acknowledged that the use of music does now seem to cease at midnight.
- 6.3 The Environmental Health Manager's comments are noted and his suggested conditions are recommended. However, it is the officer's opinion that this matter may not be completely resolved to the satisfaction of the neighbours without further investigation and evidence. As such, and with the support of the applicant, it is suggested that a one year temporary consent is granted. This would allow the monitoring of activities within the marquee and their impact upon the surrounding area. The use would need to operate within the remit of the above mentioned conditions. It is suggested that the criteria for how and when the testing takes place is agreed with the Local Planning Authority prior to it being undertaken to ensure that the data that is needed can be captured.
- 6.4 Should the applicant then wish to continue with this use a new application will need to be submitted, along with the requisite reports (and their subsequent suggestions), and this will then be subject to a further consultation with local residents. A decision can then be considered for its further continuation. It is hoped that this will provide a sensible approach to meeting the needs of a local business whilst addressing the concerns addressed by local residents outlined above.
- 6.5 In addition to this a condition requiring details of parking (within the site) is also recommended to ensure that adequate parking is provided within the site for guests. This will address concerns and ensure compliance with policy DR3 of the Herefordshire Unitary Development Plan.
- 6.6 In relation to ecology and the impact upon livestock and local animals, the majority of these concerns relate to noise which should, it is hoped, be mitigated against by the proposed conditions. It is not considered that a reason for refusal could be substantiated on these grounds and that the proposal complies with policy NC4 of the Herefordshire Unitary Development Plan and guidance contained within Planning Policy Statement 9 – Biodiversity and Geological Conservation.

- 6.7 I note the local concerns about the Chinese lanterns. This is not a matter that can be controlled with planning legislation but it is hoped that in the interests of neighbourliness, and in having regards to the rural surrounds, the applicants would seek to restrict this activity in the future.
- 6.8 To conclude, the Environmental Health Manager has not raised an objection and is of the opinion that the use can operate, within the remit of the recommended conditions. It is the officers' opinion that in order to address the local concerns this additional time period would be of benefit to ensure that the proposal can comply satisfactorily with the requirements of policies of the Herefordshire Unitary Development Plan listed above and operate without detriment to the occupants of nearby properties and to highway safety.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

1 F18 Temporary permission (1 year)

Reason: To enable the monitoring of activities within the marquee and their impact upon the surrounding area and neighbours having regard to policies DR2 and DR13 of the 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 with policy DR2 of the Herefordshire Unitary Development Plan.

3 A marquee shall be erected for no more than 12 functions (a function being defined as one calendar day) until the expiry of this consent. The marquee shall not be erected more than 2 days prior to the day the function is due to take place and shall be removed within 2 days following the date of the function.

Reason: In order to define the terms of this permission and in order to protect the amenity of nearby residents in accordance into policy DR2 of the Herefordshire Unitary Development Plan.

4 F02 Restriction on hours of delivery

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 10:00 on Sundays to Thursdays or Bank and Public holidays and 00:00 and 10:00 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

Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

locality and to comply with policies DR1 and DR2 of the 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.

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.

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 N15 Reason(s) for the Grant of Planning Permission
- 3 N19 Avoidance of doubt - Approved Plans

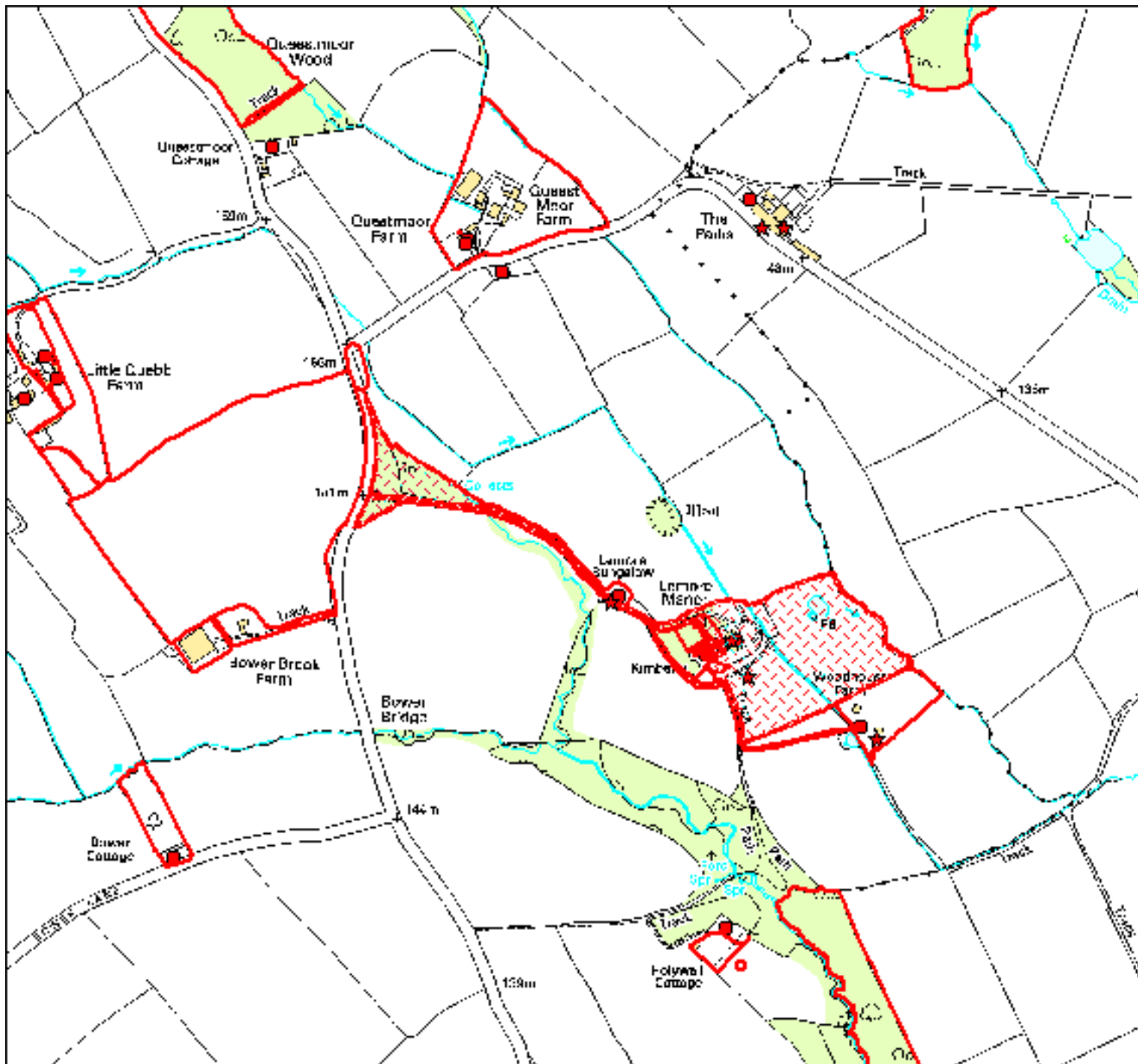
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DMNW/092501/F

SITE ADDRESS : LEMORE MANOR, EARDISLEY, HEREFORDSHIRE, HR3 6LR

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15 DCNW0009/1693/F - 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) AT CHAPEL STILE COTTAGE, WOONTON, HEREFORD, HEREFORDSHIRE, HR3 6QN

For: Mr M Hayes, 5 Mountain View, Almeley, Herefordshire, HR3 6NG

Date Received: 27 July 2009

Ward: Castle

Grid Ref: 335403,251952

Expiry Date: 21 September 2009

Local Member: Councillor JW Hope MBE

1. Site Description and Proposal

- 1.1 The application site lies in an area of open countryside to the west of the A4111 adjacent to the hamlet of Woonton. The site comprises an area of agricultural land, linear in form, with an associated modern open fronted agricultural building to the North. The site has at certain times of the year a strip mowed into the grass which is used as a runway for light aircraft. There is a pole with a 'wind sock' erected to the south end of the field that accommodates the grass strip runway. A Public Right of Way crosses the site to the South.
- 1.2 The proposal is retrospective for the change of use of the land from agricultural to a mixed use, allowing for agricultural use and as a landing field for light aircraft and for the use of the agricultural barn as an equipment store, including the storage of a vintage light aircraft.
- 1.3 At the request of the officer, some more detailed information was received confirming details of how the site is used. These matters were the subject of further re-consultation.
- 1.4 The airstrip is a mown area 20m wide by 400m in length. The length is normally 250m but the additional length is required for safety reasons. Planes take off and land from the South and are generally between midday and 20.30 hours. Occasionally flights take place outside of these hours but never before 9am or after sunset. Figures on the number of flights which suggests that these enormously depending upon family, work, weather, field conditions and aircraft serviceability. Data has been taken from figures from the last 12 years but daily usage in the last three years varies from nothing to three flights in one day. Weekly usage in the last three years varies from nothing to five flights in one week. Monthly usage in the last three years varies from nothing to twelve flights in one month, with an overall average of four, leading to the annual total of around 50 flights.
- 1.5 The type of aircraft operated from the site is a 1944 former British Army Air Corps "Auster" which was designed to be operated unobtrusively and safely from unprepared fields. This is referred to by the UK Civil Aviation Authority (CAA) as a fixed wing landplane, commonly known as a light aircraft, and any visitors will be using similar aircraft. There are no microlights operated from the site but there have been up to two visits per year recently from people flying microlight aircraft. The maximum take off weight (MTOW) is listed by the CAA as 995 kg.

Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

Anything much heavier than this would not be able to use the site because it is too small. The aircraft uses unleaded petrol and no aviation fuel is used.

- 1.6 The site is mainly for the applicant’s own private use but historically there have been around 5 flights per annum by visitors to the area. Any visitors have to obtain prior permission to land at the site, and this would not be given without a comprehensive operational and safety briefing, with regard to local conditions. There are no parachuting, aerobatics or pilot training taking place at the site.

2. Policies

2.1 Unitary Development Plan Policies

- S1 - Sustainable Development
- S8 - Recreation, Sport & Tourism
- DR2 - Land Use & Activity
- DR3 - Movement
- DR13 - Noise

2.2 Government Policy

- PPS4 - Planning for Sustainable Economic Growth
- PPS7 - Sustainable Development in Rural Areas

3. Planning History

- 3.1 NW99/2793/F – Removal of existing barn and erection of a new barn for occasional stock shelter and storage of equipment / machinery – Approved 18 November 1999.
- 3.2 NW01/3129/F – Retention of agricultural shed – Approved 11 January 2001

4. Consultation Summary

Statutory Consultations

4.1 Ramblers Association

This development doesn’t appear to have any impact upon the adjacent Public Rights of Way, Almeley AM20 and AM21. Our records from the surveying of all county footpaths show that the runway did at one point cross footpath AM21 although it now appears to be clear of the footpath according to the Block Plan and should remain so. It would be prudent to erect warning signs of possible light aircraft activities at strategic points at affected footpath area. The developer should be made aware of the legal requirement to keep the path open at all times.

Internal Council Consultees

4.2 Transportation Manager -

Has no objection subject to this being for occasional use only.

4.3 Public Rights of Way Manager -

The retrospective application for change of use to include a landing field for a light aircraft will have an effect on footpath AM21 which crosses the flightpath used for take off and landing. Because of the close proximity of this public footpath we are concerned for the safety of persons using it, particularly in the case of a possible overshoot on take off or landing. We have to object to this application on the grounds of public safety, and would suggest the applicant consults the Civil Aviation Authority on this matter for appropriate advice. If the Authority can give indication that there will be no significant risk to members of the public using the footpath at times of take off and landing or maybe suggest a means of adequate warning at these times which we think suitable, then we will reconsider our objections.

4.4 Environmental Health Manager -

This is a retrospective application and has been in use for a number of years. Noise from aircraft is specifically excluded from the powers made available to the local authority to deal with noise nuisance and as such any complaints would have been directed to the Civil Aviation Agency, having said that I am not aware of any ongoing problems.

The number of flights appear to be very limited and as such are unlikely to cause appreciable detriment to the amenity of neighbours however this would change if the use intensified. I have no objection to this proposal but would recommend that conditions to restrict its use are imposed e.g.

1. the permission is made personal to the applicant
2. flights are restricted between 9 a.m. and sunset eg lighting up time
3. aircraft size is restricted to a MAXIMUM TAKE OFF WEIGHT (MTOW) of 995kg
4. that except in emergencies there shall be no more than 1 take off and landing per day

5. Representations

5.1 Almeley Parish Council;

No objections were raised, subject to the land field being restricted to light aircraft and activity is not excessive.

5.2 The Civil Aviation Authority;

The CAA is no longer a statutory consultee for planning applications and therefore my first comment is that you will need to discharge any safeguarding obligations which may exist under the arrangements described in ODPM Circular 1/2003. In practical terms this means checking any safeguarding maps which may have been issued to you for that purpose.

5.3 Letters of objection / concern have been received from the following:

- Juliet Hibbert, Hall Mote, Woonton
- A J Beasley, 5 Baker Lea, Monkland
- J F Hibbert, 5 Eastfield, Eardisley
- Mr and Mrs Stinton, The Point, Woonton
- Iain Murdoch, Hall Mote, Woonton
- Ian Wadham, Wennetune House, Woonton
- Jeremy Plummer, Rose Cottage, Woonton

These letters raise the following issues:

- A Public Right of Way crosses the site / airstrip.
- There is no need for this landing strip when Shobdon is 15 minutes away.

Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

- The site already causes noise and disturbance to local residents and livestock.
- There are noise pollution and safety concerns due to flying at low levels of neighbouring properties.
- The type of plane should be limited. Other types of planes, including microlights are used at the site.
- Concern that this could become a business.
- Concerns that 'events' could be held with 'stunts'.
- Any planning permission granted should restrict the use to personal / occasional use.
- Any planning permission granted should restrict storage of fuel.
- Concern about what this could become?

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

6. Officer's Appraisal

6.1 The proposed use has been operating from the site for approximately 12 years from the grass landing strip albeit the use appears to have intensified marginally over the years, and could be considered lawful. The main concern arising from this use is the impact upon the amenities currently enjoyed by local residents. This application offers the opportunity to ensure that the use does not intensify further and puts in place restrictions that will help to prevent disturbance to neighbouring properties.

6.2 At the officer's request the applicant has supplied some quite detailed information in relation to how the landing strip operates. It would appear that this is primarily for the flying of a light aircraft (995kg) for personal use with the occasional 'visitor' using the strip. A condition reflecting this is suggested as are conditions relating to the hours of operation, frequency of flights and restriction of uses such as parachuting, aerobatics or pilot training.

6.3 A condition restricting the storage of planes and equipment to that of the applicants own is also recommended to prevent the building becoming a storage facility.

6.4 The landing strip also crosses a Public Right of Way. Given the length of time that this site has been operating and given that you can clearly see the Public Right of Way crossing the site (or persons on it) it is considered appropriate to suggest that a scheme of signage is erected, warning users of the landing strip. The details of this can be agreed within 2 months of the date of permission being granted and should be maintained and retained in perpetuity. This should address concerns and comply with the requirements of policies S1 and DR3 of the Herefordshire Unitary Development Plan.

6.5 With regards to the CAA advice above. I am able to confirm that this site does not fall within any of the 'safeguarding maps' and as such the local planning authority has fulfilled its obligation. The Defence Estates have also been consulted but have not responded on this application.

6.6 Subject to the imposition of the recommended conditions, the continued use of the building and landing strip for the purposes discussed above would be acceptable having regard to policies DR1, DR2 and DR13 of the Unitary Development Plan.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

1 F26 Personal condition

Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

- 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**

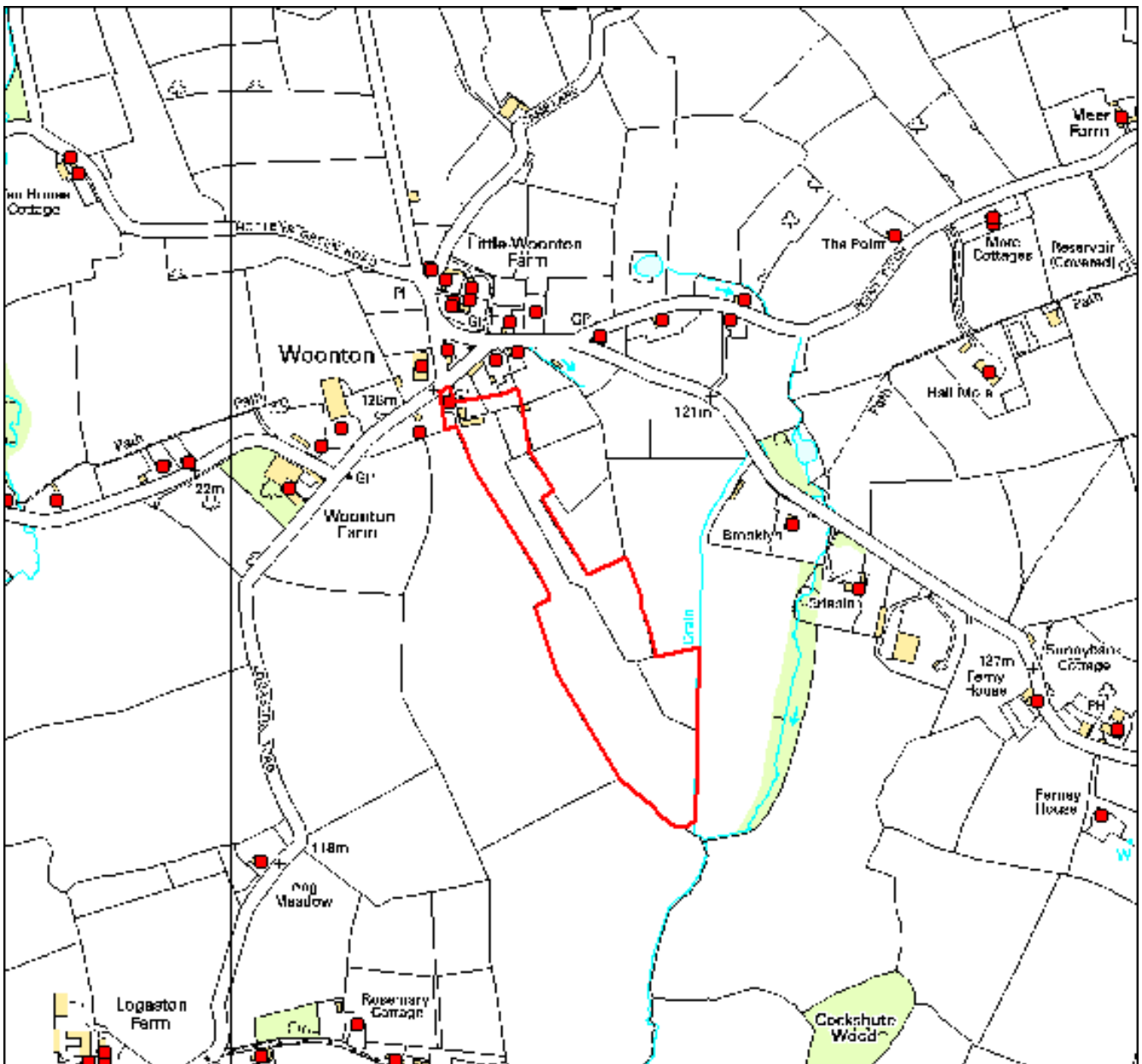
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCNW0009/1693/F

SITE ADDRESS : CHAPEL STILE COTTAGE, WOONTON, HEREFORD, HEREFORDSHIRE, HR3 6QN

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16 DMSE/092530/F - REMOVAL OF 3 LARGE SHEDS AND THEIR REPLACEMENT WITH A SINGLE GROUP HOLIDAY LET AT WOODHOUSE FARM, UPTON BISHOP, ROSS-ON-WYE, HEREFORDSHIRE, HR9 7UW

For: Mr & Mrs B & P Skerrett per Batterham Matthews Design, 1 Tollbridge Studios, Tollbridge Road, Bath, Somerset, BA1 7DE

Date Received: 2 November 2009

Ward: Old Gore

Grid Ref: 365473,229091

Expiry Date: 28 December 2009

Local Member: Councillor BA Durkin

1. Site Description and Proposal

- 1.1 Woodhouse Farm sits in a valley bottom amongst undulating, attractive countryside close to the Gloucestershire border. The landscape is described as estate farmlands in the Landscape Character Assessment. The farmhouse is Grade II listed, as is the larger converted barn to the south. The site is accessible via two tracks, one of which is signposted opposite the entrance to Upton Court. The other and superior track, via which most traffic would arrive on site, is taken from the unclassified road to the east.
- 1.2 Planning permission is sought for the erection of a large unit of holiday let accommodation to complement the existing barns, which have been converted into holiday let accommodation and form a courtyard with the farmhouse. A further barn, which stands alone from the courtyard, has been converted into a swimming pool for guest use. To the southwest of the courtyard are 3 further barns. Barn 1 is a timber clad open fronted barn used for functions and parking/storage. Barn 2 is a redundant concrete framed agricultural barn and Barn 3 is a large disused poultry shed.
- 1.3 It is proposed to demolish barns 1 and 2 and remove half of the poultry shed, with the remaining half to be used as guest parking. Upon the vacated land it is proposed to erect a large holiday let unit for occupation by large groups. As part of the Design and Access Statement photographs have been submitted to illustrate the extent of agricultural buildings present prior to the conversion of the barn complex to holiday lets. These included 3 large poultry units to the immediate southeast of the barn complex and a further barn located between what is now the swimming pool and the courtyard. All have been removed and the land restored, incorporating a new pond and native grasses.
- 1.4 The proposed unit would extend to 469m² and cater for a maximum of 14 people. The scale of the buildings to be demolished is as follows:

Barn 1	-	Timber clad concrete framed garaging	324m ²
Barn 2	-	Tin clad concrete framed redundant building	504m ²
Barn 3	-	Disused poultry shed (half to be retained)	630m ²
		Total reduction	989m ²

- 1.5 The documentation submitted with the application describes how the holiday let business has been in operation since 2007, the management of which is the full-time occupation of the applicants. The Business Case describes how the occupation rates have risen from 2007 (52%)

Further information on the subject of this report is available from Mr E Thomas on 01432 260479

to 78% in 2008 and 84% in 2009 (January to September). Pre-bookings mean that the business is 48% pre-booked for 2010 (as at 10.12.09). The Business Case explains that only 6% of self catered accommodation in Hereford achieves the 5 star 'Visit Britain' rating, which compares poorly to the average across England. In addition, it is apparently clear from bookings taken that there is an unmet demand for larger, group bookings, with only 7 businesses in the County having the ability to cope with groups in excess of 12 people.

- 1.6 The building itself is designed to replace the existing sheds with a highly sustainable contemporary building, assimilating with the landscape through the use of 3 curved sedum roofs over the 3 main internal spaces. The building has a low profile and is 3.1m lower than the present sheds. The main section of the plan contains the entertaining function room on the south, a large dining facility in the centre and bedroom accommodation in the third element. The design ethos incorporates the use of rainwater harvesting, with the internal re-use of grey water. A ground source heat pump is intended for central heating with solar panels for hot water. Materials arising from the demolition will be re-used for hardcore.

2. Policies

2.1 National Guidance

- PPS1 - Delivering Sustainable Development
- PPS4 - Planning for Sustainable Economic Growth
- PPS7 - Sustainable Development in Rural Areas
- PPS9 - Biodiversity and Geological Conservation
- Good Practice Guide on Planning for Tourism : DCLG 2006

2.2 Herefordshire Unitary Development Plan

- S1 - Sustainable Development
- S2 - Development Requirements
- S3 - Housing
- S8 - Recreation, Sport and Tourism
- DR1 - Design
- DR2 - Land Use and Activity
- DR3 - Movement
- DR4 - Environment
- H7 - Housing in the Countryside outside Settlements
- H13 - Sustainable Residential Design
- H14 - Re-using Previously Developed Land and Buildings
- E6 - Expansion of Existing Businesses
- E11 - Employment in the Smaller Settlements and Open Countryside
- LA2 - Landscape Character and Areas Least Resilient to Change
- NC1 - Biodiversity and Development
- NC5 - European and Nationally Protected Species
- NC7 - Compensation for Loss of Biodiversity
- NC8 - Habitat Creation, Restoration and Enhancement
- RST1 - Criteria for Recreation, Restoration and Enhancement
- RST12 - Visitor Accommodation
- RST13 - Rural and Farm Tourism Development

3. Planning History

- | | | | | |
|-----|-----------------|--|---|----------------------|
| 3.1 | DCSE2003/2231/F | Demolition of storage shed and poultry units. Restoration and conversion of redundant listed farm buildings to form 5 holiday cottages and indoor swimming pool. | - | Approved
14.10.03 |
| | DCSE2003/2233/L | Demolition of storage shed and poultry units. Restoration and conversion of redundant listed farm buildings to form 5 holiday cottages and indoor swimming pool. | - | Approved
14.10.03 |

4. Consultation Summary

- 4.1 None required.

Internal Council Advice

- 4.2 Traffic Manager: The access from the east is better than the original access which is still signposted 'Woodhouse Farm'. This sign should be removed as it encourages people to use the poorer of the two accesses to the site and a travel plan should be sought to ensure that visitors are made aware of the preferred route. Passing places are required along the eastern route and the first five metres of access from the 70004 should be bound to prevent loose gravel spreading on the adopted highway.
- 4.3 Conservation Manager (Building Conservation): No objection: "The proposed scheme is an intelligent, considered response to the demands of creating sustainable residential buildings in rural contexts in the 21st century. Its location re-uses a substantial 'brownfield' site and does not intrude on the setting of the listed farmstead complex, but it is also important that it is separate for operational reasons and to have sufficient architectural presence in its own right."
- 4.4 Conservation Manager (Biodiversity): No objection. As part of the ecosulis Ltd ecological survey, an assessment of the barns was carried out to determine the potential use as bat roosts and the two ponds as habitat that may support Great Crested and other species of newt. The report identifies that the barns to be demolished have negligible suitability to support bat roosts and that the pond immediately adjacent the development site is unlikely to support a newt population, mainly due to the fact that it is stocked with carp. The ecologist is satisfied that the assessments carried out are appropriate subject to the imposition of a condition requiring the implementation of the recommendations set out in the ecological report dated 4 December 2009, which includes the agreement of a full wildlife protection and enhancement scheme prior to the commencement of development.
- 4.5 Conservation Manager (Landscape): It is considered that the proposal would conflict with Policy LA2 in that the pattern of development would not be characteristic of the discrete cluster of dwellings associated with the estate farmlands landscape character. The officer does acknowledge, however, that the removal and replacement of the existing large sheds will enhance the local landscape.
- 4.6 Tourism Manager: No objection: The proposal would help to meet the acknowledged shortfall of 5-star quality graded self catered accommodation in Herefordshire and cater for large groups, which is in accordance with current market trends and demand.

5. Representations

- 5.1 Parish Council: No objection

Further information on the subject of this report is available from Mr E Thomas on 01432 260479

5.2 Two letters of objection have been received from local residents, the content of which is summarised as follows:

- It is queried as to whether the preferred access was originally restricted for solely agricultural use.
- Since opening for holiday use, the site has become quite noisy on occasion until 3am and beyond. Functions are being held and drinking is going on past licensed hours.
- The development would add to the overdevelopment at this rural site and contribute to noise, pollution, traffic and attendant highway maintenance issues.
- The application describes the removal of 3 buildings, but it would appear that 2½ would be a more accurate description.

5.3 The application is accompanied by a Design and Access Statement and supporting business case. The content is summarised as follows:

- The proposed holiday let would complement an established and successful business operating at the top end of the self-catered holiday accommodation market.
- The proposal would secure the long-term future of the business. In particular the building would enable the business to cater for large, single groups. 60% of all bookings are made by groups and the average party size per booking is 12 people.
- The holiday let will occupy an existing brownfield site, replacing a current eyesore with a smaller, well-designed and environmentally friendly unit.
- The proposal would meet an acknowledged shortfall of 5-star self-catered accommodation in Herefordshire.
- The proposal would benefit other local businesses. 900 guests passed through Kempley Barns in the first 9 months of 2009, which has provided an important increase in tourism to Herefordshire and supports a large number of suppliers who are both directly and indirectly utilised by Kempley Barns.

Also enclosed is the Visit Britain quality assessment inspection report (21.5.2009), which confirms the 5-star rating.

5.4 Five letters of support have been received from local businesses who either supply or otherwise benefit from the existing business at Kempley Barns.

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

6. Officer's Appraisal

6.1 The application has been advertised as a departure as at face value it is contrary to Policies RST1 and RST12 (Visitor accommodation) of the Herefordshire Unitary Development Plan 2007. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that "if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise." In assessing a development proposal, therefore, the decision should accord with the development plan unless there are material considerations that justify setting aside a particular policy or policies.

6.2 Policy RST1 states that new buildings for tourism use in the open countryside will only be permitted where there are no suitable existing buildings capable of conversion; they are of a small scale and are ancillary to the primary proposal. In this particular case the building proposed at 469 square metres could not be described as small scale and as it would provide self-catered accommodation it cannot, in the case officer's view, be ancillary to the primary use.

Further information on the subject of this report is available from Mr E Thomas on 01432 260479

Policy RST12 states that outside of identified settlements, the provision of permanent serviced or self-catering accommodation for visitors will only be permitted if it consists of the re-use and adaptation of a rural building. This proposal is predicated upon new build development and is thus contrary to this policy.

- 6.3 As with most proposals, however, there are other Policies beyond those dealing with tourism development that are of relevance to the determination and it is necessary to assess the broad purpose of those relevant policies in making a judgement. Whilst Policy RST12 precludes new build visitor accommodation in the open countryside, Policy E6 (Expansion of existing businesses) supports the expansion of existing businesses providing that the proposal can be satisfactorily accommodated within the existing site and that the proposal is of a scale and character appropriate to the locality. As such, Policy E6 is asking the decision-maker to determine whether a proposal is of a scale and character appropriate to the locality. In addition strategic policy S8 (Recreation, Sport and Tourism) states that the “provision of appropriate new or improved facilities for recreation, sport and tourism will be supported to meet the needs of local communities and visitors and to contribute to local economic development, employment and community regeneration.” Again, however, it is clear that new buildings in the open countryside have to be carefully considered against the objectives of achieving sustainable development, both in terms of the impact upon the character of the countryside and the use of resources.
- 6.4 In this respect the government has recently issued Planning Policy Statement 4: Planning for Sustainable Economic Growth. This document contains specific advice on planning for tourism in rural areas (Policy EC.7). It is a government expectation that local authorities will support sustainable rural tourism and leisure developments that benefit rural businesses, communities and visitors and which utilise and enrich, rather than harm, the character of the countryside.

Significant weight is attached to the need to ensure that proposals relate sensitively to their settings, weighing the need to balance the objectives of enhancing visitors’ enjoyment or improving the financial viability of the facility with the need to protect landscapes and environmentally sensitive sites. Wherever possible the guidance recommends that visitor facilities should be located within existing or *replacement* buildings, as is the case here. Whilst it is stressed that facilities should normally be located within easy reach of settlements, the guidance recognises the instances where more remote locations will be inevitable.

- 6.5 In this particular case, it is the improvements to the local landscape arising from the demolition of the existing redundant buildings and the benefit to the local economy that are the principal material considerations to weigh against the presumption against new permanent tourist accommodation in the open countryside. In mid-distance views from the elevated ground to the east, the buildings to be demolished are clearly visible in the same field of view as the listed buildings. This application proposes the removal of all but half of the one remaining low-profile poultry shed, the roof of which it is intended to clad in order to further soften its appearance. In physical terms the net loss of floor space is 989m². Moreover, the height of the proposed building is 3.1m less than the existing buildings 1 and 2 and the curved sedum roof, which acknowledges the roof as a ‘fifth elevation’, is indicative of the attention to design detail and is acknowledged by the Landscape Officer as enhancing the local landscape. The design also incorporates facets of sustainable construction, utilising concrete arising from demolition for the hardcore requirement and utilising rainwater and grey water harvesting for use internally. A ground source heat pump and solar panels are also proposed. The architect has confirmed that the detailed design will be to Level 4 of the Code for Sustainable Homes and that the applicant will accept a planning condition to this effect. The Conservation Manager (Building Conservation) is supportive of the design approach, and although the Landscape Officer has some concern at the physical separation of the site from the existing courtyard, the improvement to the landscape arising from the removal of the large sheds is acknowledged.

- 6.6 On balance, and bearing in mind the latest published government advice on planning for tourism in rural areas, the case officer considers that the scheme promotes an acceptable form of development. Although beyond easy reach of a settlement, the site is already an established centre for tourism accommodation and of a scale appropriate to the local area. As per government advice the proposal will ensure the future viability of the business, whilst enhancing the appearance of the local landscape and increasing the accessibility to high quality tourist accommodation within a replacement building.
- 6.7 The Traffic Manager has raised no objection subject to the provision of appropriate passing places on the eastern access track and the provision of a Travel Plan to ensure that visitors are directed to the preferred access. These requirements can be dealt with via appropriate conditions.

RECOMMENDATION

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**

Further information on the subject of this report is available from Mr E Thomas on 01432 260479

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**

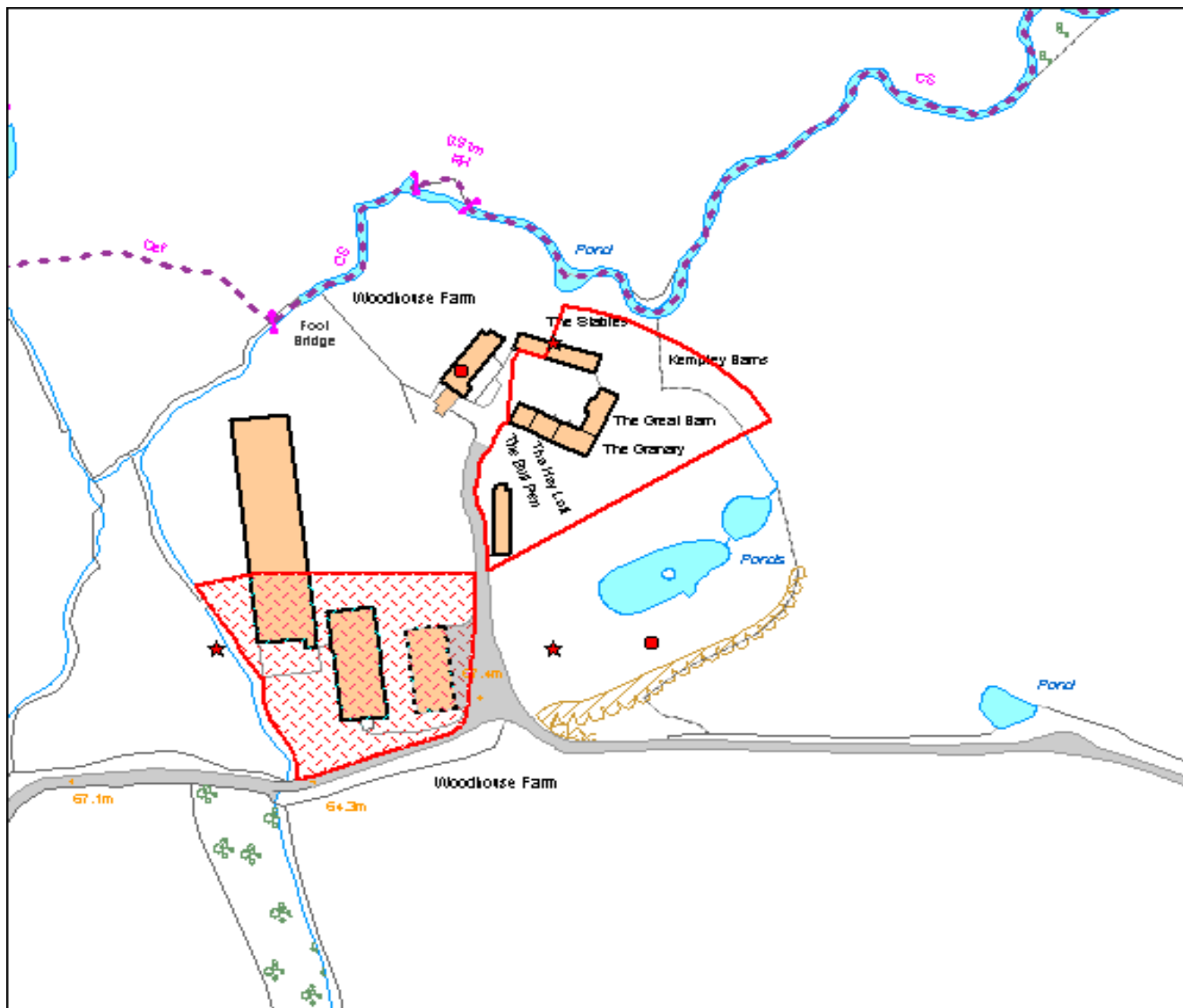
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DMSE/092530/F

SITE ADDRESS : WOODHOUSE FARM, UPTON BISHOP, ROSS-ON-WYE, HEREFORDSHIRE, HR9 7UW

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17 DMNC/092391/O - PROPOSED TWO DWELLINGS AT LAND AT WOODHOUSE LANE, BODENHAM, HEREFORDSHIRE, HR1 3LB

For: Mr Hunt per Lett & Sweetland Architects, 58 London Road, Worcester, WR5 2DS

Date Received: 23 September 2009 **Ward: Hampton Court** **Grid Ref: 354302,251395**

Expiry Date: 28 December 2009

Local Member: Councillor KG Grumbley

1. Site Description and Proposal

- 1.1 The application site is located immediately adjacent to Woodhouse Lane, Bodenham and is a small part of a much larger agricultural field. It is a flat, rectangular piece of land amounting to 0.13 hectares set behind a mature roadside hedge. A group of 15 dwellings lies to the south west of the application site, the closest being a terrace of inter-war properties fronting onto Woodhouse Lane known as Caldervale.
- 1.2 Woodhouse Lane is separated from the main settlement of Bodenham Moor, lying on the northern side of the A417, with the village being on its southern side. It is here that the majority of its services are located, with the exception of the village hall which is to the north and accessed directly from the A417. The main part of the settlement boundary for the village is drawn around the main concentration of development to the south of the A417, but a second boundary is drawn around the cluster of dwellings on Woodhouse Lane. However, the application site falls just beyond this boundary.
- 1.3 The application is made in outline with all matters reserved for future consideration and is for the erection of two dwellings. Its basis is that the accommodation is required to provide independent living accommodation for the applicant's disabled son through the provision of a two bed bungalow. Within this provision will be made for a carer to reside permanently on site. The second property would be 3 bed dwelling and provide accommodation for the family. The design and access statement accompanying the application advises that this could either be one or two storey.
- 1.4 The design and access statement also advises that, due to his disability, the applicant will have access to a mortgage via the Support For Mortgage Interest (SMI) Scheme, and means that he will have shared ownership of the property with a housing association. A caveat of the scheme is that the accommodation should only be for the applicant and his personal assistants.

2. Policies

2.1 Herefordshire Unitary Development Plan

S1	-	Sustainable development
DR3	-	Movement
H7	-	Housing in the countryside outside settlements
H10	-	Rural exception housing
T8	-	Road hierarchy

3. Planning History

Further information on the subject of this report is available from Mr A Banks on 01432 383085

3.1 None identified -

4. Consultation Summary

4.1 Transportation Manager – Acknowledges that visibility is poor at the junction of Woodhouse Lane and the A417. He also advises that there are no records of any accidents at the junction over the past five years. Given that the proposal represents a limited intensification of use over and above the dwellings currently using the junction, he is of the opinion that it would be unreasonable to recommend refusal on highway safety grounds.

4.2 Head of Adult Social Care – Supports the application

4.3 Housing Needs and Development Manager – It has not been demonstrated that the applicant has a local housing need or is registered with Home Point. They were not identified in the last Housing Needs survey for Bodenham which was completed in 2009 as they are not currently resident in the parish. A needs survey has not been completed for Pencombe where the applicant is currently resident and he has not contacted the department. Therefore we are not aware of the need for accommodation or the type of tenure of housing that is proposed. The information provided in the design and access statement in this respect is considered to be insufficient.

5. Representations

5.1 Bodenham Parish Council – Raise no objection to the proposal subject to the removal of permitted development rights and the completion of a Section 106 Agreement to ensure that the dwellings remain affordable in perpetuity.

5.2 Three letters of objection have been received from the following:

- RJ Symonds & B Kempson, 7 Caldervale, Woodhouse Lane, Bodenham
- Mrs U Heap, Coverdale, Woodhouse Lane, Bodenham
- Mr D Parry, Keithlee, Caldervale, Bodenham. This letter is also accompanied by a petition containing 23 signatures from local residents.

The points raised are as follows:

- Visibility at the junction of Woodhouse Lane and the A417 is severely restricted.
- The 40 mph speed limit along the A417 is not adhered to.
- The scheme will introduce additional traffic movements and this will further compromise highway safety.
- The site is outside the village settlement boundary and therefore contrary to the Council's policies.

5.3 The design and access statement gives details of the applicant's disability. He is confined to a wheelchair as a result of a brain abnormality and has never had independent mobility or the power of speech, and is dependent upon personal assistants to provide daily care.

The family presently reside at Sidnalls Farm, Pencombe, where both parents are employed by Lower Hope Farms, in a three bedroomed house and adjacent one bed flat that have been made available by his employer. The parents are coming up to retirement age and the statement advises that there is a need to resolve the applicant's long-term care provision, and the intention is to allow independent living with support.

Lower Hope Farms have offered to provide some land free of charge and various sites within the Lower Hope estate have been assessed for their suitability for development for two dwellings. The application site is considered to be most appropriate.

The applicant's parents are considered to be an integral part of his care team and need to be close to ensure the continuation of an appropriate level of care. Living nearby will enable them to continue this with a future gradual phased withdrawal of their input.

The statement concludes that the granting of approval for two dwellings is fundamental to the long term solution of care provision for the applicant. It acknowledges that the scheme does not comply with the Council's planning policies, but considers that it does accord with the spirit of national and local policies in terms of their desire to ensure social inclusion and equality, and it is for this reason that it considers that the application should be dealt with as an exception.

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

6. Officer's Appraisal

6.1 The potential for success of this application is weighted very heavily on the applicant's personal circumstances. The commentary in the design and access statement acknowledges that the proposal does not accord with policies contained within the Unitary Development Plan, but this must be the starting point for the consideration of the application.

6.2 In this case the key policy is H10 which sets out the criteria for "rural exception housing" outside the Market Towns and other identified settlements. Policy H10 advises that affordable housing may be permitted on land, within or adjoining main villages or smaller settlements, which would not normally be released for development. It sets out a number of criteria against which applications are to be assessed. The following points are those which are considered to be most relevant to this application:

1. the scheme contributes to meeting a proven genuine and quantifiable local need for affordable housing, ascertained from an up to date needs survey;
2. the scheme reflects the scale and character of the settlement concerned;
3. arrangements are made to ensure that the benefits of affordable housing will be enjoyed in perpetuity;
4. the site's location affords reasonable access to facilities and public transport;

It is appropriate to consider each of these criteria in turn.

Need

6.3 An affordable housing need will be taken to exist when an individual is unable to compete on the open housing market and can fulfil one or more of the following aspects of need within a parish:

- Existing residents needing separate accommodation in the parish, such as those leaving tied accommodation or newly emergent households.
- People whose work provides important services to the parish and need to live closer to the local community.
- People who are not necessarily resident, but have long-standing links with the local community.

- People with the offer of a job in the locality who cannot take it up due to the lack of affordable housing in the County.

6.4 The advice from the Housing Needs and Development Manager is that neither the applicant or his parents have previously identified themselves as being in housing need. It appears that they are resident and employed in the adjacent parish of Ullingswick and, other than the fact that the site is considered to be the most appropriate of those assessed, have no particular connection with Bodenham. They do not appear to be in any immediate housing need and no information has been given about the unsuitability of their current accommodation. The proposal does not accord with this part of the policy.

Scale and Character

6.5 The site is immediately adjacent to a cluster of dwellings. The addition of a further two would not be inappropriate in terms of both scale or character and the site represents an obvious extension of the built development that currently exists.

Retention of Affordable Housing in Perpetuity

6.6 Whilst the design and access statement does make mention of the fact that the mortgage requirements placed upon the applicant will mean that he will have shared ownership with a housing association, no detail is given as to how the two properties might be managed in the future to provide affordable accommodation within the parish.

6.7 The properties do not seek to provide affordable housing to let through a Registered Social Landlord and could only be considered as discounted open market housing. If this were to be the case then an appropriate mechanism for setting the discounted value of each property, ensuring that it is first made available to a local person in housing need would have to be provided through a Section 106 Agreement. This approach has been taken elsewhere in the County, although the success of these schemes has yet to be fully recognised as none of the properties have been through second or third phases of occupancy.

Sustainability

6.8 All of the services associated with the village, with the exception of the village hall, are located on the opposite side of the A417. From the application site, an individual wishing to access them would have to cross the road to use the footpath opposite to walk into the village.

6.9 In terms of providing accommodation for an individual with specific needs and a high dependency on service provision due to disability, the site is considered to be less than ideal.

Other Issues

6.10 The letters received from local residents focus on the issue of highway safety, and particularly poor visibility at the junction of Woodhouse Lane and the A417.

6.11 Notwithstanding the advice from the Transportation Manager who considers that the intensification in use of the access is negligible and does not warrant refusal, it is considered that the severely sub-standard visibility at the junction in a north-westerly direction is a significant issue. Whilst there can be no control of the frequency of use of existing dwellings, or use by agricultural traffic, the applicant is entirely dependent upon private means of transport and any intensification in use will increase the potential for highway safety to be compromised. The hedgerow and immediately adjacent to the north-west is beyond the control of the applicant and there is no opportunity for visibility to be improved. As such the

proposal is also considered to be contrary to Policy S1 and T8 of the Unitary Development Plan.

Conclusion

6.12 In conclusion the applicant’s personal circumstances are not considered such that the proposal for two dwellings accords with the Council’s adopted policies. It has not been demonstrated that either he or his parents are in housing need or why a location on the periphery of Bodenham is necessary other than the availability of land. Therefore the proposal is contrary to Policies H7 and H10 of the Unitary Development Plan. The visibility at the junction of Woodhouse Lane and the A417 is so severely restricted, and incapable of being improved that a proposal that would result in any intensification of use would compromise the highway safety of road users, contrary to Policies DR3 and T8. The application is therefore recommended for refusal.

RECOMMENDATION

That planning permission be refused for the following reasons:

- 1 The proposal represents development in the open countryside, beyond any recognised settlement boundary. The applicant has failed to demonstrate that there are exceptional circumstances to warrant a departure from the policy considerations and, therefore, the application is contrary to Policy H10 of the Herefordshire Unitary Development Plan.**
- 2 The proposal would result in the intensification in use of the junction of Woodhouse Lane and the A417. Visibility at this junction in a north-westerly direction is significantly less than the requirements made of new development within a 40 mph zone. The land to the north-west is not controlled by the applicant and visibility cannot be improved. Any intensification of use will compromise the safety of highway users, contrary to Policies DR3 and T8 of the Herefordshire Unitary Development Plan.**

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DMNC/092391/O

SITE ADDRESS : LAND AT WOODHOUSE LANE, BODENHAM, HEREFORDSHIRE, HR1 3LB

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18 DMNE/092736/F - PROPOSED CONVERSION OF REDUNDANT MILL TO FORM LIVE/WORK UNIT AT HAZLE MILL, HAZLE FARM, DYMOCK ROAD, LEDBURY, HEREFORD, HR8 2HT

For: Mr Lewis per Nigel Teale, Bramble Farm, Naunton, Nr. Upton-Upon-Severn, Worcestershire, WR8 0PZ

Date Received: 23 October 2009 Ward: Ledbury Grid Ref: 370362,235959

Expiry Date: 12 January 2010

Local Members: Councillors ME Cooper, JK Swinburne and PJ Watts

1. Site Description and Proposal

- 1.1 The application site lies outside of the defined built up confines of Ledbury, west of the Ledbury to Dymock Road (i.e. the classified B4216). This hedge lined road does not have a footway hereabouts. Immediately to the west of the application site is the River Leadon. Clearly there was a time that a Mill stood upon the site and that building would have been of both architectural and historic interest. However, the building upon the site which may have remnants of the original building primarily dates from the mid to late twentieth century. The existing building is a single storey building composed of brickwork and stonework walls with an asymmetrical corrugated asbestos cement sheeted roof. In the 1970's the site was used as a scrap yard.
- 1.2 The proposal is to convert the existing building into a "live/work" unit. The residential element would comprise a one-bedroomed unit of 58 square metres, whilst the workshop element would have an area of some 50 square metres. There would also be a timber store. It is intended that the son of the applicant would live in the unit and start a business selling products manufactured from timber sourced locally, such as barbeque charcoal, besom brooms, trellis, hurdles, fence posts, firewood, garden mulch, garden ornaments, yurts, tipis, artisan crayons and mushroom logs. Away from the site he would also be working in woodland management of local woodlands and undertaking hedge laying. No business plan accompanies the planning application. No other persons would be employed. The manufactured products would be sold from the site and on occasions educational workshops would be held.

2. Policies

2.1 Central Government Advice

Planning Policy Statement 1	- Delivering Sustainable Development
Planning Policy Statement 4	- Planning for Sustainable Economic Growth
Planning Policy Statement 7	- Sustainable Development in Rural Areas
Planning Policy Statement 9	- Bio-Diversity and Geological Conservation
Planning Policy Guidance Note 15	- Planning and the Historic Environment
Planning Policy Statement 23	- Planning and Pollution Control
Planning Policy Statement 25	- Development and Flood Risk

2.2 Herefordshire Unitary Development Plan 2007

S1	-	Sustainable Development
S2	-	Development Requirements
S7	-	Natural and Historic Heritage
DR2	-	Land Use and Activity
DR3	-	Movement
DR10	-	Contaminated Land
DR7	-	Flood Risk
LA2	-	Landscape Character and Areas Least Resilient to Change
NC1	-	Biodiversity and Development
NC2	-	Sites of International Importance
NC3	-	Sites of National Importance
NC4	-	Sites of Local Importance
NC5	-	European and Nationally Protected Species
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
NC8	-	Habitat Creation, Restoration and Enhancement
NC9	-	Management of Features of the Landscape Important for Fauna and Flora
HBA12	-	Re-use of Rural Buildings
HBA13	-	Re-use of Rural Buildings for Residential Purposes

3. Planning History

None relevant

4. Consultation Summary

Statutory Consultations

4.1 The Environment Agency do not make formal comment on this scale of application but draw this Authority's attention to the requisite Central Government advice with regard to developments in Flood Zone 2, namely PPS 25.

Internal Council Advice

4.2 Environmental Health and Trading Standards have no objections to the proposal subject to a condition being attached to address the contaminated land issue.

4.3 The Traffic Manager objects to the proposal on the basis of the sub-standard southerly, nearside, visibility splay.

4.4 The Conservation Manager objects to the proposal on the basis that the building is not capable of conversion without substantial rebuilding and the building is not of architectural or historic quality.

5. Representations

5.1 Ledbury Town Council wish to see the application approved.

The full text of this letter can be inspected at Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Committee meeting.

6. Officer's Appraisal

- 6.1 The site lies outside the built-up confines of Ledbury and any of the defined rural settlements. As such it lies within the open countryside in planning policy terms.
- 6.2 This application raises a number of matters of principle.

Flood Risk

- 6.3 Part of the site including part of the building lies within Flood Risk Zone 2. Members will be aware that there are in essence three categories of Flood Risk Zones, Flood Zone 3 where there is a high probability of flooding, Flood Risk Zone 2 where there is a medium risk of flooding and Flood Risk Zone 1 where there is a low probability of flooding.
- 6.4 The Central Government advice contained within Planning Policy Statement 25 (para. 14) states that "a sequential risk-based approach to determining the suitability of land for development in flood risk areas is central to the policy statement and should be applied to all levels of the planning process". Paragraph 17 of Planning Policy Statement 25 makes it clear that the main aim of the Sequential Test is to steer new development to areas at the lowest possibility of flooding (i.e. Zone 1).
- 6.5 Only where there are no reasonably available sites in Flood Zone 1 should one consider locating development in Flood Zone 2. The agent for the applicant has not submitted any such sequential testing evidence and it is considered that there are clearly many redundant agricultural buildings in Flood Zone 1 that could accommodate the proposed use. Presumably the site in question has been chosen as it is owned by the applicant. However, whilst this may be convenient for the applicant, the ownership of the land is not a material planning consideration.
- 6.6 Therefore the proposal is clearly contrary to the Central Government advice contained within Planning Policy Statement 25 and policy DR7 of the Herefordshire Unitary Development Plan 2007.
- 6.7 Notwithstanding this matter even if the sequential testing had been undertaken and it was proven that no sites were available in Flood Risk Zone 1, the submitted flood risk assessment is not considered to be satisfactory. It does not address the following issues:-
- a full topographical/levels survey of the site detailing the known or modelled 1% (1 in 100 chance each year) river flood level, including climate change and the existing floor level of the building. The agent for the applicant does not specify the one in a hundred year plus climate change level above ordnance datum (AOD) level;
 - an assessment of the risks posed to the site including that based on 1% modelled flooding (including climate change), on any documented historic flooding and risks associated with surface water run-off from the site (including climate change);
 - proposed mitigation measures to control these risks for the lifetime of the development, based on a 1% event, including climate change (e.g. setting an appropriate finished floor level), providing flood proofing; providing suitable means of surface water disposal, safe access & egress for occupiers (especially important where vulnerable users or overnight accommodation);
 - Furthermore one should be able to demonstrate that the development has safe pedestrian access above the 1% river flood level plus climate change.

- The agent for the applicant does not specify the existing floor level of the building above ordnance datum (AOD).

Employment Element of Proposal

- 6.8 Clearly both Central Government advice, including the recent Planning Policy Statement 4 – ‘Planning for Sustainable Economic Growth’ and Development Plan policies wish to encourage business development in rural areas. This includes the re-use of rural buildings. However, such developments should not be at any environmental cost. In the case of the re-use of rural buildings the Council has adopted a criteria based policy to assess such proposals in full accordance with Central Government advice (i.e. policy HBA12).
- 6.9 The first criteria of this policy requires the building to be capable of conversion without major or complete reconstruction. In this instance the structure has a series of defects but what is clear is that the entirety of the roof structure would require replacement. Therefore it is considered that the building is not capable of conversion without substantial reconstruction and as such the proposal is contrary to policy HBA12 (1) of the Herefordshire Unitary Development Plan 2007.

Residential Element of Conversion

- 6.10 The Council’s policy in this respect is set out in policy HBA13 of the Herefordshire Unitary Development Plan 2007.
- 6.11 Firstly, no evidence has been submitted to demonstrate that every reasonable attempt has been made to secure a solely employment re-use of the building without introducing a residential element.
- 6.12 Secondly, the original mill was basically lost in the 1950’s. The existing structure is of no architectural or historic merit. Its loss would not be of detriment to the built heritage of the County.
- 6.13 Thirdly, no evidence has been submitted to demonstrate that the applicant’s son is in housing need and importantly no legal mechanism has been submitted that would secure the affordability of any dwelling in the long-term. This would normally be secured by way of legal agreement transferring the ownership of the land to a Registered Social Landlord and controlling the tenure (e.g. shared ownership or social rent) in perpetuity.
- 6.14 Fourthly, whilst the policies would encourage the business element of the proposal in a suitable redundant agricultural building, which this is not; it is not essential to the business that the operator lives on-site. With regard the proposed charcoal burning activity it is normal practice to locate such an activity at the source of the material (i.e. the woodland(s)), not to transport the wood to a location divorced from the woodland. Indeed in the case of the “artisan charcoal” one usually uses small lengths of timber with small diameters. Of course transporting the timber from the woodland rather than the finished product is not logical, as the raw material weighs more. Furthermore it is an unsustainable form of development placing unnecessary vehicle movements on the highway network. Traditionally charcoal burning has been a transient seasonal activity with the worker often camping and moving between and within woodlands. No other part of the proposed business requires the operator to live on-site.
- 6.15 Fifthly, the proposed residential element of the proposal takes up the majority of the floorspace of the building (54%) and cannot be described as subordinate. Additionally, no part of the proposed business, other than the woodland management and hedge laying that would take

place away from the site, appears to be more than a hobby. Certainly no business plan has been submitted to demonstrate the likely financial viability and sustainability of the business.

Highway Safety

- 6.16 The vehicular means of access is onto the classified B4216 that has a 60 mph speed limit. In a 60 mph speed limit one should normally have visibility splays of 2.4 metres x 215 metres. In this case the Traffic Manager believes that average speeds are in the region of 44mph. Therefore they would be willing to relax the normal standard to 2.4 metres x 160 metres. However, in this case the achievable visibility splay in the southerly direction which is the critical nearside carriageway is only in the region of 2.4 metres x 52 metres. This is seriously sub-standard (N.B. less than 25% of the standard) and its increased use would represent a significant danger to highway safety. The splay cannot be improved as the land in question is not within the applicant's control. Furthermore even if the land was within the applicant's control it appears that a significant length of mixed native hedgerow of landscape merit and possibly of ecological value would need to be removed contrary to policies LA5 and NC6 of the Herefordshire Unitary Development Plan 2007.

Ecology

- 6.17 An Ecological Assessment has been submitted with the application. However, the Planning Ecologist has concern as to the adequacy of that assessment in that the bio-diversity potential of the building and the site has not been fully examined.
- 6.18 In summary, not only is the building not considered capable of conversion without requiring substantial reconstruction and it is not worthy of conversion, its location is inappropriate being on land liable to flood and having a sub-standard access. Clearly if the applicant's son wishes to pursue his proposals further it would be more appropriate to find a structurally sound redundant rural building of architectural merit in or adjacent to woodland that he is or is proposing to manage, that is not within a flood plain and has a satisfactory vehicular means of access. In essence it appears that it is only the convenience of ownership that has led to this proposal.

RECOMMENDATION

That planning permission be refused for the following reasons:

- 1. The site lies within Flood Risk Zone 2 (Medium Risk). The application fails to demonstrate that a suitable site could not be found in Flood Risk Zone 1 (Low Risk). As such, the proposal fails to address the sequential test outlined in the Central Government advice contained within Planning Policy Statement 25 entitled 'Development and Flood Risk' which has the objective of steering new development to areas at the lowest possibility of flooding. Notwithstanding this fundamental objection, the submitted Flood Risk Assessment is inadequate in terms of its detail.**
- 2. The building is not capable of conversion without major reconstruction and as such the proposal is contrary to policy HBA12 (1) of the Herefordshire Unitary Development Plan 2007.**
- 3. No evidence has been submitted to demonstrate that every reasonable attempt has been made to secure a solely employment re-use of the building without introducing a residential element. Furthermore the proposal fails to meet any of the four exception criterion set in policy HBA13 of the Herefordshire Unitary Development Plan 2007. As such the proposal represents new unjustified residential development within the open countryside contrary to the Central**

Further information on the subject of this report is available from Mr R Close on 01432 261803

Government advice contained within Planning Policy Statement 7 - 'Sustainable Development in Rural Areas' and policy H7 of the Herefordshire Unitary Development Plan 2007.

- 4. The site is physically remote from the timber source of the proposed business and from retail, leisure and community facilities. In addition, the site is not well served by modes of transport other than the private motor vehicle. As such the occupier(s) of the residential element of the proposed development would be reliant on the private motor vehicle thus creating an unsustainable pattern of development contrary to the Central Government advice contained within Planning Policy Statement 1 entitled 'Delivering Sustainable Development', Planning Policy Statement 3 entitled 'Housing', Planning Policy Statement 7 entitled 'Sustainable Development in Rural Areas', Planning Policy Guidance Note 13 entitled 'Transport' and policies S1, S2, S3, DR2 and DR3 of the Herefordshire Unitary Development Plan 2007.
- 5. The vehicular means of access onto the classified B4216 has a severely sub-standard visibility splay in a southerly direction. The intensified use of such a sub-standard vehicular access would be prejudicial to highway safety and contrary to policy DR3 of the Herefordshire Unitary Development Plan 2007.
- 6. The submitted ecological assessment is considered to be of an inadequate detail and as such is contrary to the Central Government advice contained within paragraph 99 of Circular 06/2005 and Policy NC1 of the Herefordshire Unitary Development Plan 2007.

INFORMATIVE:

- 1 For the avoidance of any doubt the documents to which this decision relates are:-
 - Design & Access Statement prepared by Nigel J. Teale
 - Flood Risk Assessment prepared by Nigel J. Teale
 - Condition Survey prepared by A.J. Richardson & Assoc. received 23rd October 2009;
 - Location Plan (Scale 1:2500) and Block Plan (Scale 1:1,000) – Drawing number 3231s received 23rd October 2009;
 - Proposed floor plans & elevations – Drawing number 3231b (Scale 1:100) received 23rd October 2009;
 - Baseline Protected Species Survey prepared by envirotech received 23rd October 2009; and
 - Existing Floor Plans & Elevations Elevations (Scale 1:100) – Drawing number 32312a received 23rd October 2009.

Decision:

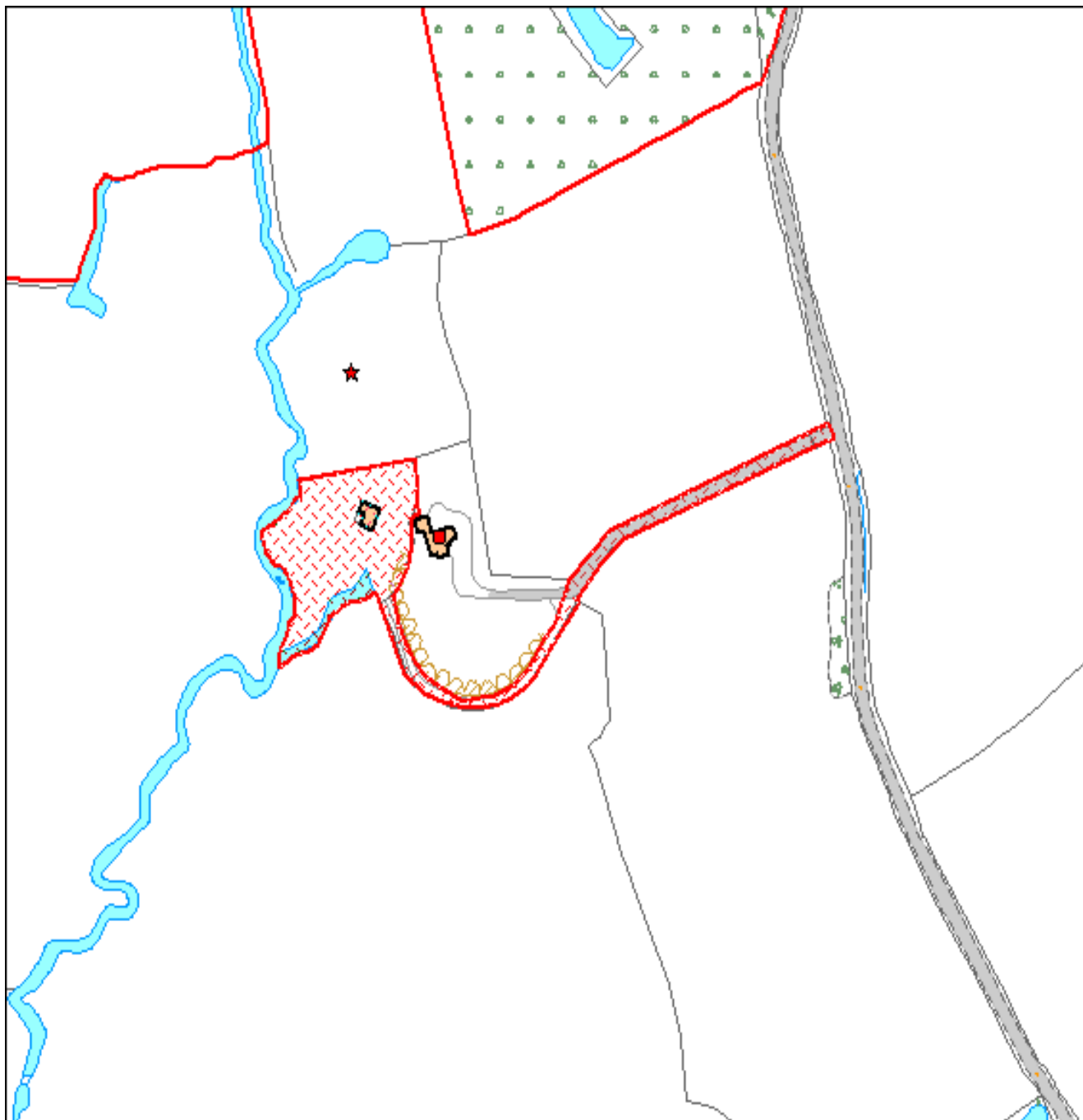
Notes:

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Background Papers

Internal departmental consultation replies.

Further information on the subject of this report is available from Mr R Close on 01432 261803



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APPLICATION NO: DMNE/092736/F

SITE ADDRESS : HAZLE MILL, HAZLE FARM, DYMOCK ROAD, LEDBURY, HEREFORD, HR8 2HT

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