

**MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 17 March 2010 at 10.00 am**

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

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

**In attendance:** Councillors AJM Blackshaw, PD Price and RH Smith

**93. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors ACR Chappell, GFM Dawe and PJ Watts

**94. NAMED SUBSTITUTES (IF ANY)**

Councillor KG Grumbley was appointed named substitute for Councillor PJ Watts.

**95. DECLARATIONS OF INTEREST**

Councillor KS Guthrie declared a personal interest in Agenda item 8 (**DMCW/092985/F - Land at Brook Farm, Marden**)

**96. MINUTES**

**RESOLVED:** That the Minutes of the meeting held on 10th and 24th February, 2010 be approved as a correct record and signed by the Chairman.

**97. CHAIRMAN'S ANNOUNCEMENTS**

The Chairman drew attention to it being St Patrick's Day.

**98. APPEALS**

The Committee noted the report of the Head of Planning and Transportation about the planning appeals which had been received or determined since the last meeting

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

The Development Control Manager advised that at its meeting on 20th January the Committee had decided to grant permission and consequently under the provisions of the Council's Constitution the Head of Planning and Transportation had requested a deferral for

a Further Information Report. The report detailed the required information and set out the suggested Section 106 Agreement and conditions.

The Development Control Manager said that the suggested agreement/conditions included a requirement for the dwelling to be tied to the business and that any future sale would need to be at an affordable level to serve local need. He said that one of the proposed conditions was that the sale price should not exceed 50% of the open market value and he explained the factors that had been taken into consideration in arriving at this percentage. He also submitted the following updates and said that a further letter of objection had been received from a local resident:

### **ADDITIONAL REPRESENTATIONS**

A letter has been received from Herefordshire CPRE. This objects as the development is contrary to planning policy, will be prominent in the landscape and does not meet the criteria for dwellings to serve rural businesses.

### **OFFICER COMMENTS**

There are errors in Paragraph 1.1 of the Report.

The paragraph should be deleted and replaced with the following:-

“This application was reported to the meeting on 10 February 2010 where it was resolved that it be approved subject to appropriate conditions. In accordance with Section 4.8.10 of Part 4 – Section 8 – The Planning Rules of the Constitution, the Head of Planning and Transportation and the Monitoring Officer advised that as they considered that an approval of the application raised fundamental policy issues a further information report was necessary in order to address appropriate conditions.”

In accordance with the provisions for public speaking, Mr McCrae spoke against the application and Mr Heath, the applicant, spoke in favour. Mr Heath asked the Committee to consider waiving the requirement for a future sale to reflect local need because this would adversely affect his ability to secure the necessary funding for his proposals.

Councillor RH Smith the Local Ward Member voiced concerns about the imposition of the restriction for the future disposal of the house and felt that the 50% limit was too restrictive and should be either set aside or set at no less than 75%. The permission was for an agricultural business serving the local community and the applicant should be offered every opportunity to succeed. He was also concerned that he had not been consulted about the proposed heads of terms in the Section 106 agreement and at the lengthy delay in the application being dealt with.

The Development control manager said that the suggested conditions complied with the Council's planning policies for such uses and that a previous application had been withdrawn with the current one submitted in September 2009. It had been delayed because of the Constitutional changes and the cancellation of the January meeting.

Members discussed the proposed conditions and felt on balance that the condition with regard to any future disposal of the dwelling should be removed but that the remaining conditions were acceptable. The Head of Planning and Transportation said that the recommendations reflected Council policies and had been specifically structured for this purpose as well as meeting the particular needs of the applicant

**RESOLVED THAT:**

**(i) Section 106 Agreement – Heads of Terms**

**The following terms be approved**

- 1. The dwelling not to be constructed until the development approved under Application DMSW/091993/F is constructed and available for use.**
- 2. The dwelling is limited to a habitable floor area of no greater than 90 sq.m.**
- 3. The occupation of the dwelling is limited to person(s) employed, last employed, or dependants, in Oldfield Forge, Oldfield Farm, Garway HR2 8HA**
- 4. If the above requirement ceases then any disposal of the dwelling shall be restricted to a person in need of Affordable Housing firstly in Garway Parish and then cascading to Herefordshire.**

**(ii) Outline Planning Permission – Conditions:**

**The following conditions be approved:**

- 1 A01 Time limit for commencement (full permission)**
- 2 A02 Time limit for submission of reserved matters (outline permission)**
- 3 A03 Time limit for commencement (outline permission)**
- 4 A04 Approval of reserved matters**
- 5 The development hereby permitted shall not commence until the development approved under Application Reference DMSW/091993/F has been constructed and is available for use.**

**Reason: In order to ensure that the workshop for which the dwelling is required is available for use having regard to Policies H7 and H8 of the Herefordshire Unitary Development Plan.**

**100. DMCW/092985/F - LAND AT BROOK FARM, MARDEN, HEREFORD, HR1 3ET.**

A report was presented by the Development Control Manager. He said that the former Central Area Planning Sub-Committee had previously granted an application for polytunnels on the farm but refused an application for accommodation for up to 1000 workers. The application was now for provision for up to 850 workers. The officers felt that the application was reasonable given the undertakings by the applicants, the rearranged layout of the site and steps taken to mitigate the impact on the local community including the part-funding of a parish liaison officer to provide a link between the workers and local community. He added that the applicants had requested a ten year permission but he felt that five years was reasonable. He presented the following updates:

## **ADDITIONAL REPRESENTATIONS**

A further letter has been received from the applicant's agent. This welcomes the recommendation but expresses concern that the permission would be limited to five years. It points out that due to the close links to the polytunnel development, for which the permission from 2009 is for ten years, it is logical for any permission for the accommodation for seasonal workers to be for the same duration. It is considered that such a short duration could cause commercial difficulties as changes need to be introduced in the layout and landscaping will hardly be implemented before the permission expires and doubt about the future will impair planning and investment.

## **OFFICER COMMENTS**

Following negotiations between your Officers, the applicant and Marden Parish Council, the applicant has agreed to enter into a planning obligation, which will be provided through a Section 106 agreement, the Heads of Terms of which are set out below.

## **HEADS OF TERMS**

### **Proposed Planning Obligation Agreement Section 106 Town and Country Planning Act 1990**

**Planning Application: DMCW/092985/F**

**Proposal: Change of use of land from agriculture to a site for the accommodation of seasonal agricultural workers in caravans/mobile homes stationed continuously on the site. Retention of demountable portable buildings used in connection with and strictly ancillary accommodation used respectively as a dormitory block, staff operations centre, health and fitness centre, staff shop, kitchen units, social units (services) shower and toilet units (retrospective).**

**Site: Land at Brook Farm, Marden, Herefordshire HR1 3ET**

- i) The applicant covenants with Herefordshire Council to pay annually to Herefordshire Council the sum of £5500 which shall be used as a contribution towards the salary of the 'Parish Officer' who shall be employed by West Mercia Constabulary (or any successor agency), on behalf of Marden Parish Council.
- ii) The sum referred to in paragraph 1 shall be reviewed concurrently with any future application which seeks to vary or amend the planning permission to which this agreement relates.
- iii) The requirement to pay the financial contribution referred to in paragraph 1 will only be payable on the grant of planning permission for the proposal and will end on the sooner of a) the cessation of the post of Parish Officer, b) the cessation of the use of the land for the accommodation of seasonal agricultural workers, including the removal of the caravans and demountable portable buildings from the land and c) the expiry of the planning permission.
- iv) In the event that for whatever reason the post of Parish Officer remains unfilled for a period of more than 2 months, from that time until the commencement of employment of a new Parish Officer, the applicant shall

not be required to pay the financial contribution referred to above and any monies already paid shall be credited towards any future payments.

- v) The first payment of the sum referred to in paragraph 1 of this schedule shall be made within 2 months of the s106 Agreement being entered into, thereafter payments shall be received by the 28<sup>th</sup> February annually, subject to the limitation referred to in paragraph 3
- vi) The applicant covenants with Herefordshire Council to pay a surcharge of 2% of the sum detailed in paragraph 1, as a contribution towards the costs of monitoring and enforcing the Section 106 Agreement. This sum shall be subject to the limitations set out in paragraph 3.
- vii) The applicant shall pay to the Council on or before the completion of the Agreement, an agreed sum as the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the s106 Agreement.
- viii) With regard to the request to lengthen the period of duration of the permission on balance it is considered that due to the ongoing change to the labour requirements at the business that a shorter period (than for the polytunnels) is appropriate and reasonable.

#### **CHANGE TO RECOMMENDATION**

That the following condition be added to secure the planning obligation: -

1. **Within 2 months of the date of this planning permission details of a scheme for the provision of a Parish Officer for Marden, to mitigate the impact of the development shall have been certified as being completed by the local planning authority.  
Reason: In order to mitigate the impact of the development, the Parish Officer being employed to help integrate the seasonal workers and the settled community, in accordance with Policy DR5 of Herefordshire Unitary Development Plan 2007.**

In accordance with the criteria for public speaking Mr Fraser a local resident spoke against the application and Mr Gregory spoke in favour on behalf of the applicants.

Councillor K S Guthrie the Local Ward Member said that she supported the view of Marden Parish Council which was in favour of the application. She felt that the applicants had taken adequate steps to minimise the impact of the business on the local community and welcomed the appointment of a liaison officer. She agreed with the officers that a five year permission was preferable subject to strict enforcement of the conditions, particularly regarding occupancy of the accommodation units. She asked about the future of the farmhouse and location of the generator. She felt that landscaping of the boundaries needed to be effective to screen the site as did the colour of fencing materials. She also said that regard needed to be had to those who had objected to the application and the impact of a large number of seasonal workers who should not be travelling to other sites and should not be permanently located there. The local community needed to be involved in the site management plan and she welcomed the applicant's attendance at parish council meetings.

The Development Control Manager said that the applicant's production season was March through to November when highest number of workers would be on site. A small work force was present from December to March for preparation and maintenance duties

for the following growing season. The generator would remain but consideration needed to be given to its location. The applicants were preparing a scheme to repair the farmhouse and this would be subject to a forthcoming application for listed building consent.

Members asked questions about the application including fencing landscaping, adequate access and safety spacing between units and occupancy. The officers explained how these matters were covered in the conditions or in the site management plan. Although it would be difficult to monitor precisely the number of workers, they were confident that steps were in place to ensure this as far as possible. Councillor RC Hunt felt that the business would have an impact on the local community but that the applicants had demonstrated at there other sites how they were prepared to minimise the impact. Councillor KG Grumbley felt that a ten year permission would be more appropriate to such a business. Councillor RI Matthews noted the improvements made by the Company but objected to the number of temporary units near to the village and impact on tourism. He was of the view that workers should be housed in better accommodation in adjoining towns and provided with transportation to work. Councillor DW Greenow felt that the company had made considerable efforts to meet the requirements since the previous application was refused by the Central Area Planning Sub-Committee. The parish council and local member were now in support and he thanked the officers and applicants for there work in arriving at an acceptable scheme. He felt that liaison proposals with the community were important and that the local member should be involved with the arrangements. He also suggested that the permission should correspond with that previously granted for the polytunnels.

## **RESOLVED THAT**

**planning permission be granted subject to the following conditions and subject to being co-terminous with that previously granted for the polytunnels at Brook Farm and subject to the Planning Obligation Agreement under Section 106 of the Town and Country Planning Act 1990 as set out above:**

- 1 Within 2 months of the date of this planning permission details of a scheme for the provision of a Parish Officer for Marden, to mitigate the impact of the development shall have been certified as being completed by the local planning authority.**

**Reason: In order to mitigate the impact of the development, the Parish Officer being employed to help integrate the seasonal workers and the settled community, in accordance with Policy DR5 of Herefordshire Unitary Development Plan 2007.**

- 2 B01 Development in accordance with the approved plans.**
- 3 F21 Temporary permission (mobile home/caravan) - 5 years.**

**Reason: To enable the local planning authority to retain effective control over the site and to re-assess the need for on-site workers accommodation and to conform with Policy H7 of the Herefordshire Unitary Development Plan.**

- 4 The occupation of the accommodation hereby permitted shall be limited solely to persons employed by S&A Produce Ltd to work on Brook Farm, and shall be limited to providing accommodation for no more than 850 workers at any one time, and subject to a maximum number of 185 static caravans, supported by an accommodation block housing 110 persons being stationed on the land at any one time. For the avoidance of doubt the development hereby permitted**

shall not at any time be occupied as a sole or principal residency by any individual or group of individuals.

**Reason:** Planning permission has only been granted having consideration for the needs of the agricultural enterprise operating at Brook Farm, and to maintain control over the scale of accommodation provided in order to clarify the terms of this planning permission to conform with Policy H7 of the Herefordshire Unitary Development Plan.

- 5** In the event that the polytunnel development previously approved by planning permission (DCCW2009/0161/F) in the opinion of the local planning authority ceases to be functionally used, the use hereby approved shall cease. Subsequent to this and within 12 months of the local planning authority indicating to the applicant that the polytunnels have ceased to be operational all units of accommodation including ancillary buildings or structures on the site shall be removed and the land restored to its former condition.

**Reason:** The local planning authority would not have granted planning permission for this use unless it was required in support of the lawful polytunnel development.

- 6** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any order revoking and re-enacting that order with or without modification, no caravans nor any other form of habitable accommodation shall at any time be placed on the land which is under the control and/or ownership of the applicant as defined by drawing no. 1252/45C.

**Reason:** In order to clarify the terms of this planning permission and to maintain control over the scale of accommodation provided in the interests of visual and residential amenity to conform with the Herefordshire Unitary Development Plan.

- 7** All surface water shall be dealt with in accordance with the Flood Risk Assessment (Ref: P\SAD multi (5540)\Marden Accommod.FRA/FRA v0.3.doc), dated October 2009. Details of the methods to be introduced for attenuation storage shall be submitted to and approved in writing by the local planning authority within three months of the date of this planning permission.

**Reason:** To prevent flood risk and ensure sustainable disposal of surface water run-off and to conform with Policy DR7 of the Herefordshire Unitary Development Plan.

- 8** Within three months of this planning permission a 'Site Management Plan' which clearly sets out the arrangements for the use and occupation of the development hereby approved (to include amongst other issues; an agreed schedule for the transition of the site from its present form to that that approved in terms of the number, type and position of the accommodation units, the maintenance of buildings and common areas, litter collection and disposal, recreation and leisure provision including the control of amplified music, lighting, car parking arrangements) shall be submitted to and approved in writing by the local planning authority. The operation and use of the site shall thereafter be in accordance with the approved management plan.

**Reason:** In the interests of amenity of nearby residents and to ensure compliance with Policy E13 of the Herefordshire Unitary Development Plan.

**9 C96 Landscaping scheme.**

**10 C97 Landscaping scheme – implementation.**

**Informatives:**

**1 N02A Section 106 Obligation.**

**2 N15 Reason(s) for the Grant of PP/LBC/CAC.**

**101. DATE OF NEXT MEETING**

Additional Meeting - **Tuesday 30 March**

Provisional site inspection - **13 April**

Next scheduled meeting - **14 April**

The meeting ended at 12.23 pm

**CHAIRMAN**