

AGENDA

Planning Committee

Date: **Wednesday 17 March 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

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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.

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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 meetings held on 10 and 24 February, 2010.	1 - 30
5.	CHAIRMAN'S ANNOUNCEMENTS To receive any announcements from the Chairman.	
6.	APPEALS To note the attached report.	31 - 32
7.	DMSW/092133/O - LAND ADJACENT TO SUN COTTAGE, GARWAY HILL, HEREFORDSHIRE, HR2 8EZ. Outline planning application for construction of a three bedroom dwelling. This application was first considered at the meeting held on 10 February 2010. Ward - Pontrilas	33 - 46
8.	DMCW/092985/F - LAND AT BROOK FARM, MARDEN, HEREFORD, HR1 3ET. Retrospective change of use of land from agriculture to provide accommodation and related facilities for seasonal agricultural workers. Ward – Sutton Walls	47 - 58
9.	DATE OF NEXT MEETING Additional Meeting - Tuesday 30 March Provisional site inspection - 13 April Next scheduled meeting - 14 April	

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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.
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HEREFORDSHIRE COUNCIL

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HEREFORDSHIRE COUNCIL

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

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

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

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

66. APOLOGIES FOR ABSENCE

Apologies for absence had been received from Councillor RI Matthews.

67. NAMED SUBSTITUTES

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

68. DECLARATIONS OF INTEREST

None.

69. MINUTES

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

70. CHAIRMAN'S ANNOUNCEMENTS

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

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

71. ITEM FOR INFORMATION - APPEALS

The Committee received an information report.

RESOLVED: That the report be noted.

72. AREA PLANNING SUB-COMMITTEES

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

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

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

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

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

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

Officer comments were also provided as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

RESOLVED:

That planning permission be refused for the following reason:

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

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

Outline planning application for construction of a three bedroom dwelling.

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

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

Officer comments were also provided as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

RESOLVED

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

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

On farm anaerobic digester to generate renewable energy.

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

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

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

An officer comment was provided as follows:

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

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

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

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

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

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

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

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

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

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

RESOLVED:

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

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

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

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

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

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

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

- 11 **I33 External lighting**
- 12 **I09 Sound insulation of plant and machinery**
- 13 **I16 Restriction of hours during construction**
- 14 **No materials shall be imported to the site from outside the landholding to be used as feedstock in the development hereby permitted, unless full details of source/s, type/s and quantities have been submitted to in advance and approved in writing by the local planning authority.**

Reason: Because further consideration by the local planning authority would be necessary, to protect local amenity and ensure a satisfactory form of development in accordance with Policies S1, S2, DR2, DR4 and DR9 of the Herefordshire Unitary Development Plan.

- 15 **No vehicles, which are in the control of the applicant and used in connection with the development hereby permitted, shall be fitted with reversing alarms unless those alarms are of a 'white noise' type.**

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

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

INFORMATIVES:

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

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

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

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

The Planning Officer gave a presentation on the application.

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

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

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

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

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

RESOLVED

That planning permission be granted subject to the following conditions:

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

Informatives:

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

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

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

Proposed single storey two bed dwelling.

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

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

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

RESOLVED:

That planning permission be granted subject to the following conditions:

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

INFORMATIVES:

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

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

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

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

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

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

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

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

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

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

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

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

RESOLVED

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

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

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

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

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

Officer comments were also provided as follows:

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

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

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

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

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

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

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

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

RESOLVED:

That planning permission be granted subject to the following conditions:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

INFORMATIVES:

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

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

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

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

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

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

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

The Principal Planning Officer gave a presentation on the application.

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

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

RESOLVED

That planning permission be granted subject to the following conditions:

- 1 F26 Personal condition**
- 2 A detailed log of all take-off and landings at the application site shall be kept and made available for inspection on reasonable request from the Local Planning Authority.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

INFORMATIVES:

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

2 N19 Avoidance of doubt - Approved Plans

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

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

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

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

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

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

RESOLVED:

That planning permission be granted subject to the following conditions:

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

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

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

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

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

INFORMATIVES:

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

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

Proposed two dwellings.

The Principal Planning Officer gave a presentation on the application.

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

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

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

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

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

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

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

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

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

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

RESOLVED

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

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

Proposed conversion of redundant mill to form livework unit.

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

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

Officer comments were also provided as follows:

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

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

The following changes to the recommendation were indicated:

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

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

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

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

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

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

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

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

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

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

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

RESOLVED:

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

84. DATE OF NEXT MEETINGS

24 February 2010 and 17 March 2010.

The meeting ended at 4.30 pm

CHAIRMAN

MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 24 February 2010 at 10.00 am

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

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

In attendance: Councillors PM Morgan and RJ Phillips

85. APOLOGIES FOR ABSENCE

Apologies for absence had been received from Councillor RC Hunt.

86. NAMED SUBSTITUTES

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillor PJ McCaull was a substitute member for Councillor RC Hunt.

87. DECLARATIONS OF INTEREST

Agenda item 6, Minute 90, DCNE00091639F - TACK FARM EQUESTRIAN CENTRE, ULLINGSWICK, HEREFORD, HR1 3JQ

Councillor JE Pemberton, Personal.
Councillor PM Morgan, Personal.

88. CHAIRMAN'S ANNOUNCEMENTS

The Chairman outlined the arrangements for the meeting, including the purpose of positioning the relevant local ward member(s) on a separate table to address the Committee. It was reported that, due to timescale constraints for agenda preparation, the minutes of the last meeting would be included in the agenda for the 17 March 2010 meeting. It was also reported that the items deferred at the last meeting would feature in forthcoming agenda.

89. ITEM FOR INFORMATION - APPEALS

The Committee received an information report.

RESOLVED: That the report be noted.

90. DCNE0009/1639/F - TACK FARM EQUESTRIAN CENTRE, ULLINGSWICK, HEREFORD, HR1 3JQ

Proposed warm up ménage, extend existing ménage and new site office / public address system.

The Northern Team Leader gave a presentation on the application.

In accordance with the criteria for public speaking, Mr. Hoskins spoke on behalf of Much Cowarne Group Parish Council and Mr. Telford spoke in objection to the application.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor PM Morgan, the local ward member, commented on a number of issues, including:

- The points raised by the speakers had outlined the principal issues of concern.
- The Northern Area Planning Sub-Committee had deferred the application in November 2009 to provide the opportunity for the applicant to address the concerns raised at the meeting. Although correspondence had been received from the applicant's agent, there had been no material change to the proposal and a number of issues raised by Members remained unresolved.
- A public meeting about the proposal had been well attended and letters received from local residents demonstrated the levels of concern in the community.
- Much Cowarne Group Parish Council and Ocle Pychard Parish Council had both raised a number of important considerations. Councillor Morgan concurred with the parish councils that rural businesses should be supported but the residential amenity of surrounding properties also had to be taken into consideration.
- It was considered that the proposal in its current form was contrary to Unitary Development Plan policies S1 (Sustainable Development) and RST1 (Criteria for recreation, sport and tourism). In particular, attention was drawn to criteria 2 of policy RST1: 'Proposals for the development of new recreation, sport and tourist facilities including change of use or improvement or extension to existing facilities will be permitted where the proposal: ... 2. *would not harm the amenity of nearby residents...*'
- Although the applicant's agent had indicated that '...there is no intention to increase the number of events', the current frequency of events was uncontrolled and, even if the applicants did not wish to increase the number of events, any future owner could change their mind on this issue.
- It was questioned whether compliance with the standards of the British Horse Society and British Show Jumping Association could result in the upgrading and scale of events. The numbers of events held in recent months were outlined.
- Councillor Morgan did not consider the comments of Environmental Health and Trading Standards to be helpful. She said that the frequency of events and the fact that they generally occurred on weekends caused significant disturbance to local residents. She added that any new developments in urban areas would be subject to conditions controlling hours of operation and noise and felt that it was reasonable for residents in Ullingswick to expect similar safeguards.
- It was noted that the Transportation Manager had commented 'No objection, but would have concerns about any intensification which could increase the volume of traffic and/or the frequency of events at this location'. Councillor Morgan said that, without a limit on the nature or frequency of events, any such intensification could not be controlled. She also said that access to the site was via minor roads and, given limited passing places, commented on traffic problems associated with events.
- Councillor Morgan considered that more work was required to make the proposal acceptable. It was suggested that the application could be deferred to ensure that effective controls were put in place to protect residents or, if this could not be secured through the current application, refused as being contrary to adopted policies and due to the impact upon the local highway network.

The Northern Team Leader advised that information had been requested from the applicant's agent following deferral by the Northern Area Planning Sub-Committee. It was noted that the information provided did not appear to address Members' concerns and he questioned the expediency of deferring the application again.

A Member endorsed the views of the local ward member and made the following points:

- ◆ Local residents valued peace and tranquillity and the events at the site had caused significant disturbance over a number of years.
- ◆ The dish like topography of the site meant that noise was uplifted and amplified; thereby exacerbating problems with the public address system for surrounding properties. It was noted that background noise levels were generally very low.
- ◆ The comments of Environmental Health and Trading Standards were considered insubstantial, particularly given the strong concerns identified by the parish councils and local residents. It was felt that a proper acoustic assessment of the noise associated with events was required.
- ◆ The comments of the local ward member regarding traffic matters were supported and it was felt that a full transport assessment was needed, to include measures to mitigate the impact of the development.
- ◆ It was proposed that consideration of the application be deferred to provide another opportunity for the applicant to address the issues raised.

Councillor Morgan was given the opportunity to close the debate in accordance with the Council's Constitution; she acknowledged the comments of the Northern Team Leader and noted that refusal of this particular application might be a better means to secure the necessary improvements to the proposal.

A motion to defer the application was withdrawn and a motion to refuse the application was then proposed.

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

RESOLVED:

That planning permission is refused for the following reason:

1. **Notwithstanding the assurances of the applicant, it is considered that the proposal is likely to lead to an increase in the number of visitors to the site and extended use of the facility. It is therefore considered that the proposal would be detrimental to the amenity of local residents, through additional traffic movements on generally narrow roads, and the noise associated with the running of events, contrary to policies RST1 and DR3 of the Herefordshire Unitary Development Plan.**

91. DMNE/092960/FH & DMNE/092961/L - HOMESTEAD, PUTLEY GREEN, PUTLEY, LEDBURY, HR8 2QN

Single storey extension to existing dwelling (following demolition of existing outbuilding) together with internal alterations.

The Senior Planning Officer gave a presentation on the application.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor PM Morgan, the local ward member, commented on the application as follows:

- Councillor Morgan was happy to support the application given the considerations outlined in the presentation and in the report.
- It was noted that the comments of Putley Parish Council had been addressed through the recommended conditions.
- It was also noted that the Traffic Manager and the Conservation Manager had no objections subject to conditions.

A number of Members supported the officer's report and the comments of the local ward member.

A Member suggested that, given an issue elsewhere in the County with a listed building being painted an unsuitable colour, there was a need to ensure that the extension was painted an appropriate colour to blend in with the rest of the building.

RESOLVED:

In respect of DMNE/092960/FH:

That planning permission be granted subject to the following conditions:

- 1 A01 Time limit for commencement (full permission)**
- 2 B02 Development in accordance with approved plans and materials**
- 3 Prior to the commencement of the hereby permitted development, the following details and samples where appropriate, shall be submitted to the Local Planning Authority for written approval:**
 - (a) Tiles**
 - (b) Bricks**
 - (c) Bonding pattern**
 - (d) Mortar mix**
 - (e) Joinery details**
 - (f) Rainwater goods**
 - (g) Glazing details**

The development shall be carried out in strict accordance with the approved details and thereafter be maintained as such.

Reason: To safeguard the character and appearance of the Grade II listed building in accordance with Herefordshire Unitary Development Plan Policies DR1 and HBA1.

- 4 H05 Access gates**
- 5 H13 Access, turning area and parking**

INFORMATIVES:

- 1 HN01 Mud on highway**
- 2 HN05 Works within the highway**

- 3 **HN10 No drainage to discharge to highway**
- 4 **HN22 Works adjoining highway**
- 5 **N15 Reason(s) for the Grant of Planning Permission**

In respect of DMNE/092961/L:

That listed building consent be granted subject to the following conditions:

- 1 **D01 Time limit for commencement (Listed Building Consent)**
- 2 **C07 Development in accordance with approved plans and materials**
- 3 **Prior to the commencement of the hereby permitted development, the following details and samples where appropriate, shall be submitted to the Local Planning Authority for written approval:**
 - (a) **Tiles**
 - (b) **Bricks**
 - (c) **Bonding pattern**
 - (d) **Mortar mix**
 - (e) **Joinery details**
 - (f) **Rainwater goods**
 - (g) **Glazing details**

The development shall be carried out in strict accordance with the approved details and thereafter be maintained as such.

Reason: To safeguard the character and appearance of the Grade II listed building in accordance with Herefordshire Unitary Development Plan Policies DR1 and HBA1.

INFORMATIVES:

- 1 **N15 Reason(s) for the Grant of Listed Building Consent**

92. DATE OF NEXT MEETING

The Chairman, referring to a situation that had arisen at the last meeting, clarified the arrangements for public speaking where more than one objector wished to address the committee. It was reported that potential speakers were advised, before and at the meeting, about the need to share the allotted time.

The Chairman advised that the next meeting of the committee would be held on Wednesday 17 March 2010 at 10.00am, with a site inspection held the day before at 9.30am.

The Chairman also advised that arrangements were being made for an additional meeting on Tuesday 30 March 2009 at 10.00am.

The meeting ended at 10.40 am

CHAIRMAN

MEETING:	PLANNING COMMITTEE
DATE:	17 MARCH 2010
TITLE OF REPORT:	APPEALS

CLASSIFICATION: Open

Wards Affected

Countywide

Purpose

To note the progress in respect of the following appeals.

Key Decision

This is not a key decision

Recommendation

That the report be noted

Appeals Received

Application No. DMNC /092239/F

- The appeal was received on 19 February 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 Juro Antiques
- The site is located at MoorCourt, Bromyard Road, Whitbourne, Worcestershire, WR6 5SF
- The development proposed is Change of use from light industrial (B1) unit to live/work units
- The appeal is to be heard by Written Representations

Case Officer: Mr N Banning 01432 383093

Application No. DMNE/091171/F DCNE0009/1078/F

- The appeal was received on 22 February 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 David Gray
- The site is located at Coachmans Cottage, Jubilee Drive, Upper Colwall, Malvern, Hereford, WR13 6DW

Further information on the subject of this report is available from the relevant case officer

- The development proposed is Extension to provide kitchen on ground floor. Bedroom on first floor. Removal of existing conditions.
- The appeal is to be heard by Written Representations

Case Officer: Mr R Close 01432 261803

Application No. DMNE /091329/L DCNE0009/1079/L

- The appeal was received on 22 February 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 David Gray
- The site is located at Coachmans Cottage, Jubilee Drive, Upper Colwall, Malvern, Hereford, WR13 6DW
- The development proposed is Extension to provide ground floor kitchen and first floor bedroom and removal of existing conditions.
- The appeal is to be heard by Written Representations

Case Officer: Mr R Close 01432 261803

Appeals Determined

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. Reinstate the original roof, with matching materials, to it's original height and remove all resulting waste materials from the land.*
- The main issues are the effect of the development on the character and appearance of the original building and the surrounding area; and the living conditions of the occupiers of the adjacent property by reason of overlooking.

Decision: The appeal was Split Decision on 11 February 2010
 Planning Permission is granted for the increase in roof height but the creation of the dormer windows is refused and the enforcement notice is upheld

Case Officer: Rebecca Jenman 01432 261961

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



MEETING:	PLANNING COMMITTEE
DATE:	17 MARCH 2010
TITLE OF REPORT:	<p>FURTHER INFORMATION REPORT</p> <p>DMSW/092133/O - OUTLINE PLANNING APPLICATION FOR CONSTRUCTION OF A THREE BEDROOM DWELLING AT LAND ADJACENT TO SUN COTTAGE, GARWAY HILL, HEREFORDSHIRE, HR2 8EZ</p> <p>For: MR A HEATH, TURPINS, ST WEONARDS, HEREFORDSHIRE, HR2 8QG</p>

Date Received: 29 September 2009 **Ward: Pontrilas** **Grid Ref: 344740,224877**
Expiry Date: 24 November 2009

Local Member: Councillor RH Smith

1. Background

- 1.1 This application was reported to the meeting on 20 January 2010 where in accordance with Section 4.8.10 of Part 4 – Section 8 – The Planning Rules, of the Constitution, consideration was deferred. The reason for this as agreed by the Head of Planning and Transportation and the Monitoring Officer was that an approval of the application raised fundamental planning policy issues.
- 1.2 The report to the 20 January 2010 meeting as updated by the Update Sheet on that date is attached as an Appendix.
- 1.3 The full Minute is available in Section 4 of this Agenda. In summary the Committee concluded that there was a justification for a house in this location based on the requirements of the applicant's business and his local need.

2. Further Information

- 2.1 The Planning Rules set out, in Section 4.8.10.2 of the Constitution, the requirements for the content of this report, as follows:
- 2.2 Updating Members on any additional information received

Since the 20 January 2010 the following has been received:

- a) A letter from the applicant advising as follows:

"I refer to our recent telephone conversation and, as requested, write to formally confirm that I am not the owner of the land on which my new workshop and car parking area will be constructed.

Further information on the subject of this report is available from Mr M Willmont on 01432 261782

This land at Oldfield Farm, Garway Hill, is owned solely by my grandfather, Mr John Heath. He has advised that he is quite prepared to give any reasonable legal/written undertaking protecting my entitlement to use the workshop for so long as I wish and I believe that he is intending to give you a statement to that effect.

I can confirm that the only property that I own is the small piece of land adjacent to Sun Cottage, Garway Hill.”

- b) A letter from J Heath, Castle View, Garway who advises that he is the owner of the land at Oldfield Farm and that he is prepared to provide “any reasonable legal/written undertaking in order to formally protect (A Heath’s) entitlement to use the workshop- for so long as he may wish to do so.”
- c) A copy of a letter from Mrs S West, 15 Green Meadows, Hom Green, HR9 7RE, addressed to the Chief Executive. In summary this points out that the recommendation was for refusal, they previously owned the land and were advised that permission would not be granted, suggests that the applicant’s business is not proven in the long term, why if needed the residence would not be at Oldfield Farm, there is no verification of the business plan, the justification needs to be severely tested to ensure it is not speculative and a precedent would be set. It requests (the Chief Executive) investigates the matter.

2.3 Reporting on any discussions that have taken place with the applicant/objectors since the initial meeting

The discussions with the applicant have been to establish the question of ownership of the land at Oldfield Farm. This is reported above in Section 2.2.

2.4 Setting out the legal procedure and likely financial implications of proceeding with the initial resolution

2.4.1 The case revolves around the applicant’s business and whether there is a requirement in terms of its proper operation for a dwelling. In association with this is the desire of the applicant to continue to live in Garway.

2.4.2 It has long been enshrined in national planning policy that for its own sake the countryside should be protected from development. Indeed PPS7 (Paragraph 10) states that isolated new houses will require special justification and it gives more specific advice when the request for a house relates to the essential need in connection with a business. (Annex A).

2.4.3 The Unitary Development Plan develops national policy to suit local circumstances however the policy principle remains that the countryside should be protected from unnecessary development. Policy H8 sets out the criteria against which applications for dwellings associated with rural businesses will be considered. The primary test is whether it is essential for a worker to be available for the proper functioning of the business at most times.

2.4.4 The applicant currently operates his business from a farm building at Oldfield Farm, but this does not have the benefit of planning permission. On 23 December 2009 the applicant was granted planning permission for a workshop at Oldfield Farm, but to date this has not been implemented. The case for the dwelling is based on the applicant’s intention to develop the business so it is advised that until there is a lawful business in operation it would be premature to grant permission for the dwelling. However and importantly the policy basis for such dwellings is that there is an essential requirement to live at or near the business. In this case the business is as a blacksmith and it is doubted whether such an activity requires a worker to live in close proximity. There is no doubt that such a business is valuable to the local

community but it is not directly linked as such to Garway and the requirement for a worker to be readily available is considered to be slim.

2.4.5 Unitary Development Policy H10 deals with rural exception housing which includes on an exception basis local housing need. Individual dwellings can be permitted but they should be in locations with a recognisable settlement form with some provision of local community facilities. It is not the intention of the policy to permit isolated new housing in the countryside. In this case there are just three dwellings in the vicinity of the site with the nearest recognisable settlement being Garway Common some 1.5 miles to the south. This is not a location that would meet the context of Policy H10.

2.4.6 In the taking of the decisions the Council is required to determine applications in accordance with the Development Plan, unless material considerations indicate otherwise. It is not considered that the case advanced is so exceptional that it meets the policy tests set out in Policies H7, H8 and H10. Whilst it is possible to approve departures to policy care should be taken in terms of how the decision will be viewed particularly in the context of similar proposals in the past or future. It is important that the integrity of the Unitary Development Plan Policies are upheld.

2.4.7 A decision to approve this proposal would have the following potential implications:

- *Reputation*

The Council has a duty to determine application in accordance with the Development Plan. A decision to approve the application may impact on the Council's reputation with the Local Government Ombudsman and others who would reasonably expect the Council to uphold its own policies/and as based on regional and national policies.

- *Financial*

An objector (Paragraph 2.2(c) mentions the possibility of seeking compensation, as she sold the land on the basis of lack of development potential.

- *Monitoring/Compliance*

In the event that Committee is minded to restate its desire to grant planning permission for the proposal the remainder of the report sets out the basis on which it might be achieved and to reflect the Committee debate on 10 February. This course of action would generate restrictions on the permission that would be at the margins of what is acceptable in terms of guidance in Circular 5/05. It attempts to relate the application site to another site over which the applicant has no control, it introduces unusual occupancy conditions, and would involve complicated arrangements if the building had to be disposed.

2.4.8 The following section considers the detailed implications of proceeding to grant planning permission.

2.4.9 The application is an outline with all matters reserved for subsequent approval. There is an indicative block plan showing the position of the dwelling and the vehicular access. The application proposes a three-bedroom dwelling.

The case for the dwelling is primarily based around the needs of a business at Oldfield Farm. It currently operates from a farm building but does not have the benefit of planning permission. On 23 December 2009 planning permission was granted for the erection of a workshop, display shop and office for blacksmithing business (Application DMSW/091993/F). The planning permission is personal to Mr A Heath and is limited to a blacksmith workshop. The development has not commenced.

The applicant does not own the land at Oldfield Farm but from the details given above in Section 2.2 he will be able to use it for so long as he wishes.

Having regard to the views of the Committee it would seem appropriate to ensure that the occupation of the dwelling is linked to the business and/or in the circumstances when such a requirement no longer arises that it is available to meet a local housing need.

The current business operation is unauthorised. This was not pursued by officers as it was clear that the applicant wished to develop and expand the business which necessitated a new building. It would appear therefore that as the dwelling is required to manage an expanded business then the implementation of any permission for a dwelling should be dependant upon the new workshop being available for use. It would be inappropriate to tie the dwelling to a business which does not have planning permission.

In order to ensure that the dwelling will be of a size commensurate with the applicant's requirements and for it to be potentially available to meet other local housing needs a limit on its size would be appropriate. Unitary Development Plan Policy H10 requires the size of three bedroom houses to be limited to a habitable living space of 90 sq.m (c.r. to Policy H6).

Having regard to the above prior to the grant of planning permission there would be a necessity for a Section 106 Agreement. The requirements of this and appropriate planning conditions could be as follows:

Section 106 Agreement – Heads of Terms

- The dwelling not to be constructed until the development approved under Application DMSW/091993/F is constructed and available for use.
- The dwelling is limited to a habitable floor area of no greater than 90 sq.m.
- The occupation of the dwelling is limited to person(s) employed, last employed, or dependants, in Oldfield Forge, Oldfield Farm, Garway HR2 8HA
- 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.
- Any disposal of the dwelling shall not exceed 50% of the open market value.

Outline Planning Permission – Conditions:

- 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.

6 F14 Removal of permitted development rights

INFORMATIVES:

1 N02 Section 106 Obligation

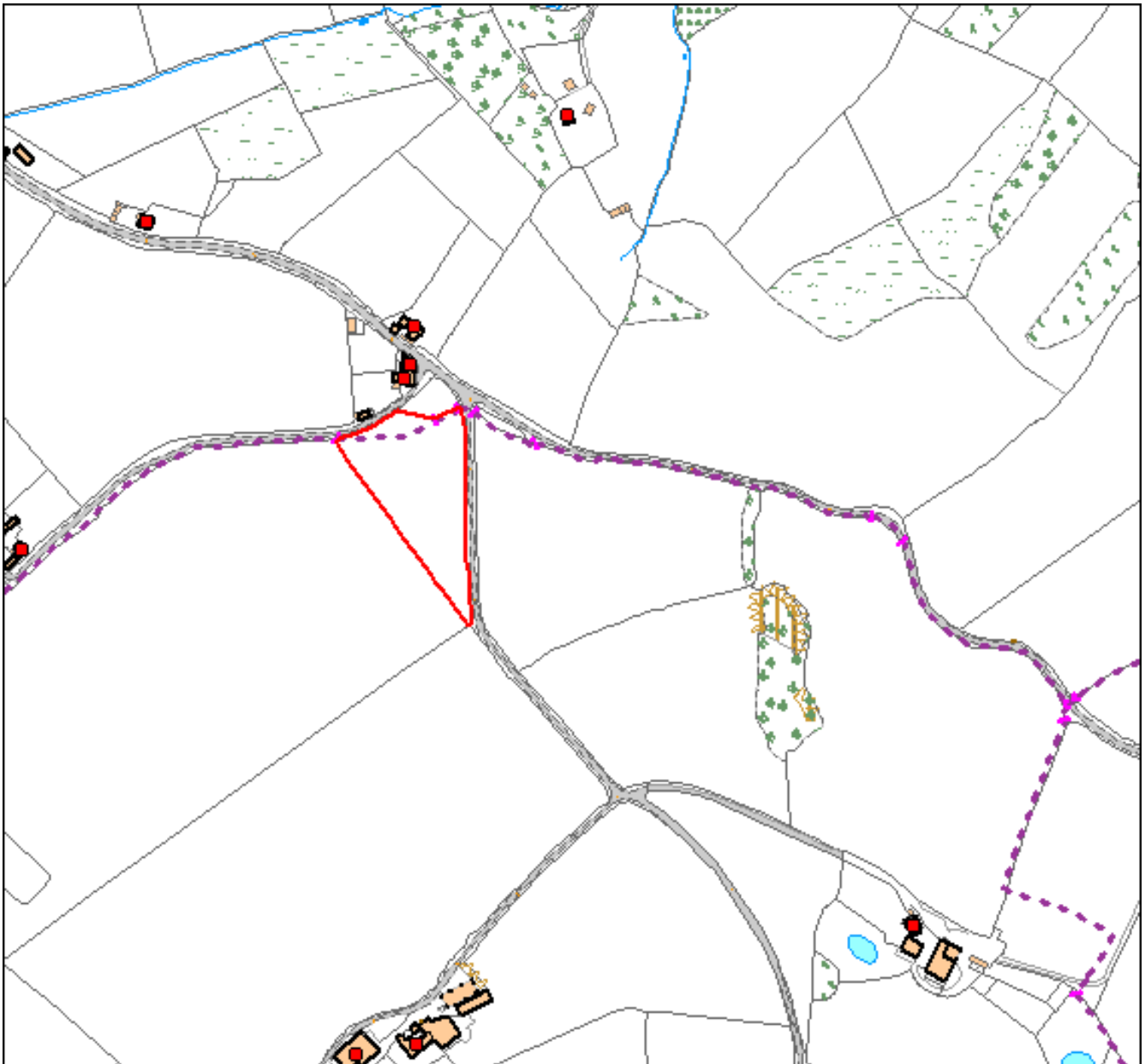
2 N15 Reason(s) for the Grant of Planning Permission

2.4.10 It will be appreciated that elements of the Section 106 and Conditions are on the margins of acceptability having regard to Government advice (Circulars 11/95 : Use of Conditions in Planning Permissions and 05/2005 Planning Obligations). Certainly any monitoring in respect of the ongoing occupation of the house would be problematic.

2.5 Any Monitoring Officer Advice

The relevant parts of the Development Plan have been referred to elsewhere in this report. In addition PPS3 is clear that any development in the countryside away from established settlements should be strictly controlled. Moreover, PPS7 states clearly that a primary Government objective for rural areas is to promote sustainable development focusing most development in, or next to existing towns and villages and discourage development of "green field" land. The Government's aim is to protect the countryside for its intrinsic character and beauty so it may be enjoyed by all. As stated elsewhere in this report there are exceptions to prohibition on development in the open countryside. These relate to dwellings essential for agricultural, forestry workers. In coming to a conclusion in this respect, annex A of PPS7 provides a "functional" test where it is necessary to establish whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times.

In the light of the foregoing approval of the application would be a departure from the Development Plan and Government guidance.



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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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Further information on the subject of this report is available from Mr M Willmont on 01432 261782

APPENDIX 1

PLANNING COMMITTEE

20 JANUARY 2010

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.

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

APPENDIX 1

PLANNING COMMITTEE

20 JANUARY 2010

1. Site Description and Proposal

- 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.

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

APPENDIX 1

PLANNING COMMITTEE

20 JANUARY 2010

Internal Council Advice

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

APPENDIX 1

PLANNING COMMITTEE

20 JANUARY 2010

further to the south along the C1234 road. A full profit and loss account was not provided but 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 applicants 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

5.8 A letter of objection has been received from Mrs West, Hom Green Ross-on-Wye. The following objections are made

- application site was in my father's ownership, it was then passed to my sister and I
- it was made clear by Planning Department that residential development would not be supported
- sold site as a grazing paddock to applicant. The sale reflected existing use
- applicant is seeking to tie site to workshop one kilometre to south. This business has yet to prove itself
- catchment area for business sparsely populated
- why is dwelling not sited close to workshop at Oldfield farm? Farm is in ownership of applicant's family
- if approved site would attract premium future sale price given views and location
- should application be approved in complete contravention of the Unitary Development Plan and given previous refusals in area. We would pass this matter onto the Local Government Ombudsman

5.9 A letter of support has been received from Mr R Whistance, Little Garway Farm, Garway Hill. The following main points are raised :

- difficult to find affordable housing
- applicant needs to live in local vicinity for the sake of his livelihood

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

APPENDIX 1

PLANNING COMMITTEE

20 JANUARY 2010

- a service is provided to the community, helping repair farm equipment, making utensils for households and builders
- Herefordshire people employed
- Applicant has worked hard over a number of years .With a place of his own he would have the best chance to run a stable business

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

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APPENDIX 1

PLANNING COMMITTEE

20 JANUARY 2010

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 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.

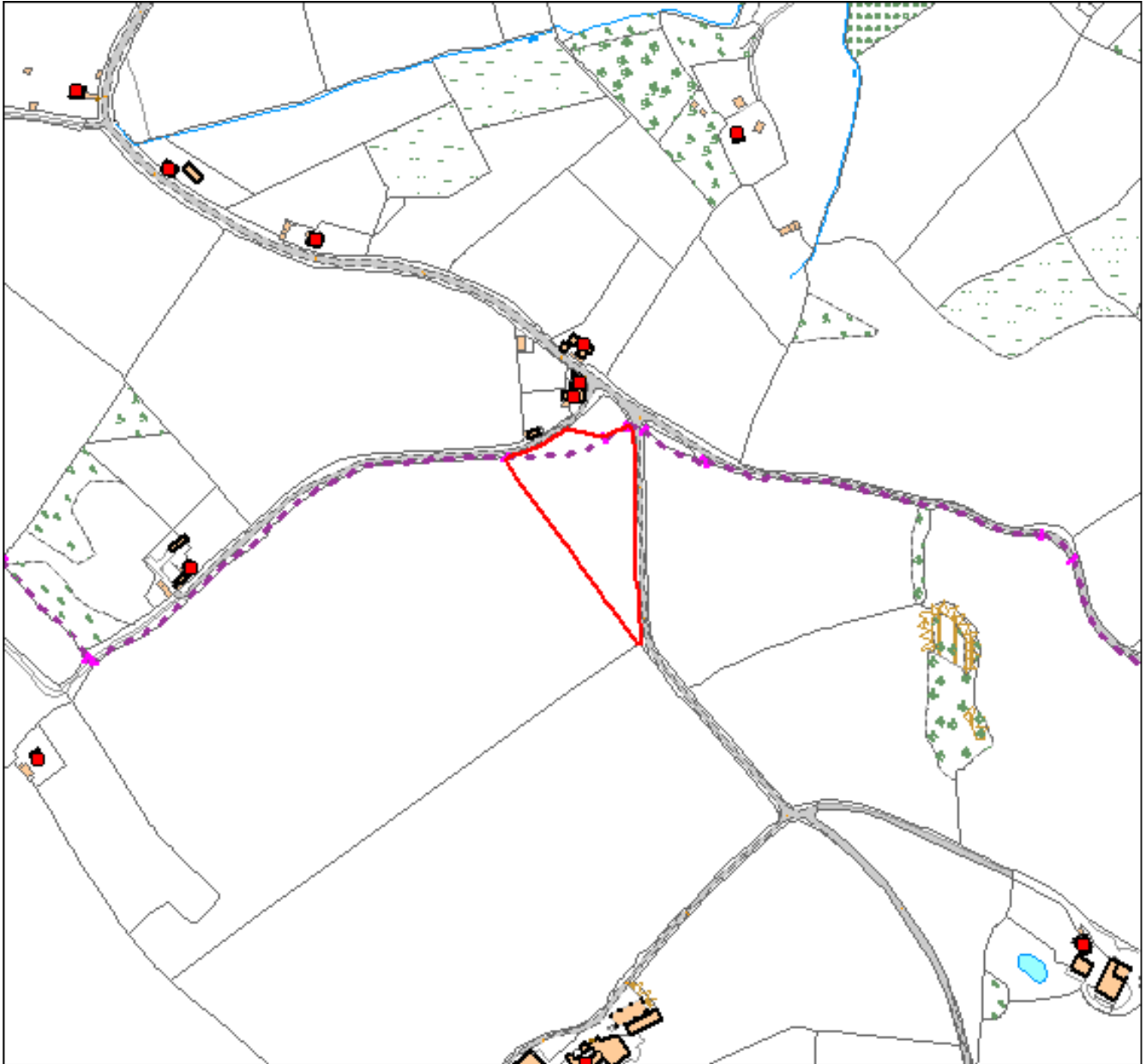
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APPENDIX 1

PLANNING COMMITTEE

20 JANUARY 2010



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



MEETING:	PLANNING COMMITTEE
DATE:	17 MARCH 2010
TITLE OF REPORT:	<p>DMCW/092985/F - 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 RECREATIONAL CENTRE, STAFF SHOP, KITCHEN UNITS, SOCIAL UNITS (SERVICES) SHOWER AND TOILET UNITS (RETROSPECTIVE) AT BROOK FARM, MARDEN, HEREFORD, HR1 3ET</p> <p>For: S & A PRODUCE LIMITED per MR ANTONY ASPBURY, UNIT 20, PARK LANE BUSINESS CENTRE, BASFORD, NOTTINGHAM, NG6 0DW</p>

Date Received: 20 November 2009 **Ward: Sutton Walls** **Grid Ref: 352164,247999**

Expiry Date: 18 March 2010

Local Member: Councillor KS Guthrie

1. Site Description and Proposal

- 1.1 The application site is comprised of approximately 3 hectares of land, which forms part of a large agricultural complex known as Brook Farm, located on the northern periphery of the settlement of Marden.
- 1.2 The applicant runs a significant agricultural business from Brook Farm focused predominantly around soft fruit production. In order to achieve the required quality standards the crop needs to be harvested at the optimum time followed by prompt processing, which requires large number of workers readily available, often at short notice.
- 1.3 The crop is grown in Spanish polytunnels which were granted planning permission (DCCW2009/0161/F) in May 2009. The polytunnels cover some 36 hectares of land that abuts the application site to the north and east. Once ready, the crop is harvested and taken into the packhouse where it is made ready for distribution to customers.
- 1.4 The company have not been able to recruit sufficient staff from within the settled labour market to meet its operational needs, and therefore in common with other labour intensive agricultural

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

operations has relied on seasonal migrant workers, which gives rise to the need to provide on-site accommodation.

- 1.5 The General Permitted Development Order defines as 'permitted development' the use of land as a caravan site, in certain circumstances (as listed in the Caravan Sites and Control of Development Act 1960). One of these circumstances is:- "use as a caravan site of agricultural land for the accommodation during a particular season of a person or persons employed in farming operations on land in the same occupation."
- 1.6 The General Permitted Development Order does however require that to constitute permitted development the use be discontinued and the caravans be removed as soon as reasonably practicable when the circumstances cease to exist (i.e. when the particular season is over).
- 1.7 The background to this application is based on the provisions of the General Permitted Development Order, but proposes a permanent siting of the caravans, with not all being occupied during a particular season, but with all occupied at some time. To retain the site as a permanent facility means that the provisions of the General Permitted Development Order do not apply and planning permission is required.
- 1.8 Essentially therefore the applicant's case is that the caravans are required to meet the accommodation demands for seasonal workers throughout the year, and whilst at times, primarily during the winter period, the majority of them would not be occupied it would be preferable if they were retained on site rather than removed.
- 1.9 The applicant's production season is March through to November and it is during this period when the accommodation would be at its highest level of occupancy. During the period from December to March there remains a requirement for a small work force, which is engaged in the preparation and maintenance duties ahead of the forthcoming growing season.
- 1.10 Following on from the previous refusal and helped by the economic certainty brought about by the approval for the Spanish polytunnels, the applicant has managed to reduce the number of seasonal works to 850 at peak times, this represents a reduction of 250 from the previously refused application.
- 1.11 In response to that reduced labour force, the current application seeks permission for the permanent siting of 185 static caravans which will accommodate 740 workers, and a dormitory complex which will house the remaining 110 workers. To provide for the needs of the people living on site, the application also proposes the provision of ancillary accommodation comprising recreation, catering and sanitation facilities, more specifically it seeks to retain two permanent buildings which have been erected for those purposes.
- 1.12 To facilitate the reorganised layout of accommodation site, the application seeks to relocate an existing staff car-park, rationalise the operational parking area, and relocate bunded fuel tanks from adjoining the accommodation site to within the operation areas.

2. Policies

2.1 National Planning Guidance:

PPG11	-	Regional Planning
PPS1	-	Delivering Sustainable Development
PPS4	-	Planning for Sustainable Economic Growth
PPS7	-	Sustainable Development in Rural Areas
PPS9	-	Biodiversity and Geological Conservation
PPG13	-	Transport
PPS25	-	Development and Flood Risk

2.2 Region Regional Guidance:

Rural Spatial Strategy (RSS)

PA14 - Economic Development and Rural Economy

PA15 - Agricultural and Farm Diversification

2.3 Herefordshire Unitary Development Plan 2007:

- S1 - Sustainable Development
- S2 - Development Requirements
- DR2 - Land Use and Activity
- DR3 - Movement
- DR7 - Flood Risk
- DR13 - Noise
- H7 - Housing in the Countryside Outside Settlements
- H8 - Agriculture and Forestry Dwellings and Dwellings Associated with Rural Businesses
- H11 - Residential Caravans
- E10 - Employment Proposals Within or Adjacent to Main Villages
- E13 - Agricultural and Forestry Development
- HBA4 - Setting of Listed Buildings
- LA3 - Setting of Settlements
- CF2 - Foul Drainage

3. Planning History

- 3.1 SH87/0589PF Erection of an agricultural storage building. Approved 06/07/87.
- 3.2 SH89/1354/PF Erection of an agricultural storage building. Approved 31/08/89.
- 3.3 SH91/1156/PF Permanent farm office accommodation. Approved 25/09/91.
- 3.4 SH92/0621/PF Erection of an extension to existing potato store. Approved 09/07/92.
- 3.5 SH94/0684/PF Erection of extension to general purpose potato storage and grading buildings. Refused 18/01/95.
- 3.6 SH94/0736/PF Dismantling of general purpose agricultural building and conversion of remainder into farm office. Construction of weighbridge. Refused 18/01/95.
- 3.7 SH95/0404/PF Change of use from agricultural to new potato grading and packing station with associated storage and services. Refused 26/07/95.
- 3.8 EN950014ZZ Unauthorised change of use from agricultural to potato storage, processing and distribution plant. Enforcement Notice served 12/06/96 - Enforcement appeal allowed 26 July 1997, at which time the Planning Inspector held that the change of use did not constitute a breach of planning control as the use had been in operation for a period exceeding 10 years prior to the Enforcement Notice being issued, and was therefore immune from enforcement action.

- 3.9 SH97/1145/PF Covered rear yard and dispatch area, demolition of existing buildings and erect new farm office and associated utilities. Approved 03/12/97.
- 3.10 CW1999/2613/F Use of land for the siting of caravans. Refused 21/06/00.
- 3.11 CW1999/3332/O Site for the erection of a controlled environmental store. Approved 19/09/00.
- 3.12 CW2000/2826/F Use of land for the siting of caravans. Approved 17/10/02.
- 3.13 CW2003/0130/F Extension to caravan site. Approved 16/04/03.
- 3.14 CW2003/0290/F Accommodation block. Approved 16/04/03.
- 3.15 DCCW2003/3749/F Permanent toilet facilities to replace existing portacabins. Approved 30/04/04.
- 3.16 DCCW2007/2806/F Continued use of land as a caravan site and retention of accommodation block for seasonal agricultural workers. Refused 21/11/07. Appeal withdrawn.
- 3.17 DCCW2009/0160/F Continued use of land as a caravan site and retention of accommodation block for seasonal agricultural workers. Refused 27/05/09.
- 3.18 DCCW2009/0161/F Application (part retrospective) to erect fixed (non rotating) Spanish polytunnels over arable (soft fruit) crops grown on table tops. Approved 27/05/09.

4. Consultation Summary

- 4.1 Dwr Cymru Welsh Water: Raise no objection subject to conditions to ensure separate discharge of surface water and foul water in a regulated manner.
- 4.2 Environment Agency: No objection, but suggest consultation with the Council's Land Drainage Engineer.
- 4.3 Natural England: No objection, subject to the development complying with the Flood Risk Assessment dated October 2009 which was prepared by JDIH Envireau.
- 4.4 River Lugg Internal Drainage Board: No objection subject to the development complying with the Flood Risk Assessment dated October 2009 which was prepared by JDIH Envireau.

Internal Council Advice

- 4.5 Traffic Manager - No objection, but comments that the potential to provide a pedestrian route into the village would be desirable, and suggests that the recycling facilities be redesigned to allow more manoeuvring room for vehicles.
- 4.6 Environmental Health & Trading Standards Manager - No objection, I am not aware of any ongoing problems as regards to noise, light or other nuisance from this development. Should complaints arise in the future as regards statutory nuisance, The Environmental Protection Act 1990 provides the Council with adequate powers to satisfactorily address any problems.
- 4.7 Public Rights of Way Manager – No objection.

- 4.8 Land Drainage Engineer - The run-off needs to be harnessed and controlled within the site prior to discharge into the watercourses. The capacity of the receiving watercourses needs to be assessed, and maintenance issues identified accordingly.

5. Representations

- 5.1 The application is accompanied by a range of supporting documents and these are listed as follows:

- Landscape and Visual Appraisal
- Ecological Impact Assessment
- Outline Landscape and Ecological Management Plan
- Flood Risk Assessment

- 5.2 In addition to the above documents a covering letter setting out the appellant's case was submitted by their agent, Antony Aspbury Associates, which is summarised as; *The application is for the retention of seasonal agricultural workers accommodation at Marden, and constitutes a change of use. Most of the units of accommodation comprise caravan/mobile homes and demountable buildings which are capable of being moved, and the local planning authority are invited to determine the application on that basis. This is however a hybrid application as it also seeks the retention of two permanent buildings (fitness room and recreation centre) which exist solely to serve the site. Three previous planning applications are pertinent to the present application, CW2003/2826/F granted permission for the stationing of caravans and accommodation blocks, this expired in October 2007. In November 2007 the local planning authority refused planning permission for their continued retention under application CW2007/2806/F. And most recently application CW09/0160/F was refused in May 2009. These refusals were based upon a perception by the Committee that the scale of the development was excessive, which coupled with an unsatisfactory form and character, resulted in a detrimental impact on the surrounds and Marden in particular. Following those refusals, and in light of the extant planning permission to 'permanently erect polytunnels at Brook Farm, the applicant has undertaken a comprehensive review of its requirements for seasonal agricultural workers. The outcome of which has been a reduction from 1000 works as previously sought by CW2007/2806/F, to 850. This reduction has been made possible by the stability and certainty generated by the planning permission for the polytunnels, and also the applicants commitment to the use of 'table-top' growing, which combined with better management produces better year-on-year returns. The size of the labour force required is calculated on 16 workers per hectare (600), with the remaining 250 being variously employed in the packhouse or secondary crop production such as asparagus. Of that 250, some staff will be employed to service the accommodation site (warden/ security, catering staff etc). To offer a more attractive environment for the workers, accommodation levels are based on 4 people per caravan, with the remaining accommodation being provided in purpose built accommodation blocks. Having consideration for the disruption, risk of damage during movement, and limited time span between growing seasons, the applicant requests that the local planning authority considers allowing a period of two years from the grant of planning permission, within which to achieve the transfer from the current mix of caravans, temporary buildings and 'pods' to the arrangement shown on the submitted plans. Overall, we commend this carefully reformulated and well founded application.*

- 5.3 Marden Parish Council - Support the application, subject to no more than 850 people being accommodated on the site, a Site management Plan being agreed, the revised layout being achieved by 31 March 2011, any permission being limited to a period of 5 years, visual impact being mitigated by suitable landscaping. To assist in integrating the development into the wider community, the Parish Council would also like to see a contribution being made towards the cost of providing a Parish Officer being secured through a Sec106 agreement.

- 5.4 CPRE - Objection, this is intensive residential development which is in terms of location is contrary to the UDP, the impact of which adversely impacts on the settlement of Marden. The

accommodation is sub-standard. The business generates heavy and frequent traffic movements. Should permission be granted it should be controlled by condition, strictly supervised and limited to not more than 5 years.

5.5 18 letters of objection have been received, which are summarised as follows:-

- Marden is a small village, and it does not have the infrastructure for another 850 people, which almost doubles the total population for some 8 months a year.
- This is in effect the same as the other applications which were refused, and it should be refused again.
- The application is for a permanent accommodation, workers are employed year round, they are not 'seasonal' .
- How will the number of people living on the site be regulated.
- How can we be sure the people will only work on Brook Farm. How do we know that the people living on site will not be hired out to other agricultural businesses by Gangmasters.
- They laid off workers last season so why do they need so much accommodation.
- The workers in the packhouse are not employed in agriculture, particularly as food is imported; including from abroad, to be processed there throughout the year.
- The application fails to demonstrate the need to provide accommodation, particular as the area covered by polytunnels is being reduced.
- The proposed accommodation is substandard
- The site should not be allowed to have its own shop.
- There are better sites for S&A produce Ltd to operate from.
- The packhouse should be moved away from Marden
- Too much traffic is generated by S&A Produce, the local roads can't cope.
- The use of the sports pitch/swimming pool will disturb neighbours.
- S&A Produce Ltd are not concerned about the impact of their business on the residents of Marden.
- S&A Produce Ltd have not complied with conditions on previous permissions, how do we know they will this time.
- The caravan site is intrusive visually within the landscape.
- If permission is granted it should only be on a temporary basis.
- Noise from the site should be controlled, to prevent any nuisance to neighbours.
- The local community should have a voice in the Site Management Plan.

5.6 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 has been used to provide seasonal workers accommodation in one form or another for a significant number of years, however the last planning permission expired in 2007, since which time two further planning applications have been made resulting in either withdrawal or refusal. Therefore this application is retrospective in so far as it seeks to regularise the continued use, albeit in a reduced and reordered form.

6.2 The seasonal workers are an integral part of the agricultural enterprise and the need for the accommodation has been demonstrated in respect of the temporary permissions previously granted, as well as through the on-going developments including the recent approval for Spanish polytunnels in May 2009.

6.3 The accommodation of the seasonal workers on the site means that they are readily available and also it reduces the potential traffic flows to and from the site. It also seems that the workforce available through the local job market is not sufficient to meet the needs of the business.

- 6.4 Whilst the workers in the packhouse are not strictly involved in direct agricultural employment, they are nonetheless an indivisible part of the overall processing and despatch of the agriculture crop which is grown at Brook Farm.
- 6.5 Furthermore it is also acknowledged that food products are imported for processing through the packhouse, outside of the growing season, as part of a diversification scheme which ensures that capital equipment is not left idle. However, in terms of total volume of throughput, the imported produce is subordinate to the primary purpose of the packhouse, which is directed towards processing the crops grown on Brook Farm.
- 6.6 Accordingly it is considered that the applicant has presented a practical case to justify the development, therefore the principle question is where the accommodation is best located.
- 6.7 For the purposes of the development plan the site is outside the recognised settlement boundary of Marden, and is therefore in policy terms, located in the open countryside. The development plan seeks to protect the countryside from development, save for exceptions where the proposal would benefit both economic activity and maintain or enhance the environment.
- 6.8 Residential development in the countryside is only permitted in a limited number of exceptional circumstances, one of which being where it is manifestly required for agricultural workers. In terms of economic development, there are policies which seek to promote and encourage the development and expansion of suitable employment generating uses, but these are limited to small scale proposals which are essential for the operation of agriculture in the wider locality.
- 6.9 However there are no policies in the development plan which specifically or directly relate to the provision of accommodation for seasonal agricultural workers.
- 6.10 Therefore a strict interpretation of the relevant planning policies would suggest that planning permission should not be granted. However such a stance would unacceptably fail to recognise that this application reflects the special circumstances that the applicant faces in sourcing and accommodating the number of seasonal workers required to sustain an established and economically productive agricultural business
- 6.11 For clarity, Section 38-(6) of the Town and Country Planning Act 1990 reads as follows:
'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'.
- 6.12 In practical terms the workforce needs to be located close to the area farmed, and furthermore any such location should be within reasonable distance of the infrastructure and facilities offered by a village or town in the interests of achieving sustainability.
- 6.13 In this case the application site lies adjacent to Marden which is identified as a main village, containing a post office, general store and providing access to public transport. Therefore it represents a highly sustainable location having regard to balancing the need for workers to be housed close to their point of employment and the services available within the village.
- 6.14 Whilst it is acknowledged that the potential for Marden's population to be swelled by up to 850 people has given rise to grounds for concern as evidenced by the letters of representation, the level of proposed accommodation is less than previously experienced, and furthermore consideration has to be had for the fall back position offered by permitted development rights to house seasonal workers. Therefore whilst the concerns are noted they are not considered to give rise to defensible grounds for refusal, when proper regard is had for the fall back

position, albeit that it would require removal of the units of accommodation when they were not occupied.

- 6.15 To alleviate the burden on the facilities existing within the village, the applicants have provided recreation and leisure opportunities within the site. A number of the letters of representation refer to the potential for noise and disturbance arising from the general occupation of the accommodation, and more particularly these leisure and recreational facilities. However, whereas occupants of a dwelling are normally answerable for their behaviour to no one save themselves (within the confines of civil and criminal law) in this case all the occupants of the proposed accommodation are subject to the management and control of their employer. Consequently it is considered that the impact in terms of noise or other disturbance can be appropriately controlled through a 'Site Management Plan' and an appropriate condition is duly recommended to secure the submission of such a plan for approval of the local planning authority.
- 6.16 The 'Site Management Plan' also offers a vehicle through which the transformation of the site from its current layout and mix of accommodation can be considered, which will address the comments from the applicants agent's whereby they seek flexibility in terms of the time required to undertake the necessary works.
- 6.17 Turning to the visual impact, the presence of the extant planning permission to erect Spanish polytunnels over the adjoining land is a material consideration, as they will act to screen against views of the accommodation site, and where visible it will be read within the landscape against the backdrop of those polytunnels, as well as the farm complex to the north and east and the village of Marden to the south.
- 6.18 Therefore it is not considered that based on a consideration of visual impact alone there are sufficient grounds to give rise to a defensible reason for refusal.
- 6.19 However whilst it is not considered that the accommodation site is demonstrably harmful in visual terms, there are nevertheless opportunities for the impact to be minimised as evidenced in the Landscape and Visual Appraisal which supported the application, therefore conditions to secure a landscaping scheme are recommended. As well as dealing with any necessary planting the proposed conditions will also secure details of the hard landscaping and boundary treatments.
- 6.20 The comments from the Environment Agency and the Council's own Land Drainage Engineer are noted and an appropriate condition is recommended to secure details of the attenuation measures, further to the Flood Risk Assessment.
- 6.21 Although the comments of the Traffic Manager are noted in regards to the desirability of securing improved pedestrian links into Marden, having consideration for the rural character of the locality, and the transient nature of the workforce, it is considered that the visual harm caused by the creation of a footpath outweighs any benefits. As to the comment about the recycling area, this can be dealt with under the landscaping condition.

Conclusion

- 6.22 Whilst the development proposed represents significant development in the countryside it reflects the particular circumstances that the applicant faces in sourcing and accommodating the number of seasonal workers required to economically sustain the agricultural enterprise.
- 6.23 The applicants have through both the nature and scale of the agricultural enterprise and the previous planning permissions demonstrated a need for a large temporary workforce. Therefore your officers are satisfied that the need for a development of this scale has been justified, as it is considered unlikely that a workforce of the size required could be recruited

from the settled community, and the impact of accommodating a migrant workforce on the site has less impact than if they were required to be accommodated elsewhere.

- 6.24 However this application is recommended in terms of a temporary permission, to allow for the periodic review of the ongoing needs of the agricultural enterprise.
- 6.25 On balance, and having regard for the economic benefits which arise, the proposal is considered to be acceptable and approval is recommended.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

1 B01 Development in accordance with the approved plans.

2 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.

3 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.

4 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.

5 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.

6 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.

7 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.

8 C96 Landscaping scheme.

9 C97 Landscaping scheme – implementation.

Informatives:

1 N02A Section 106 Obligation.

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

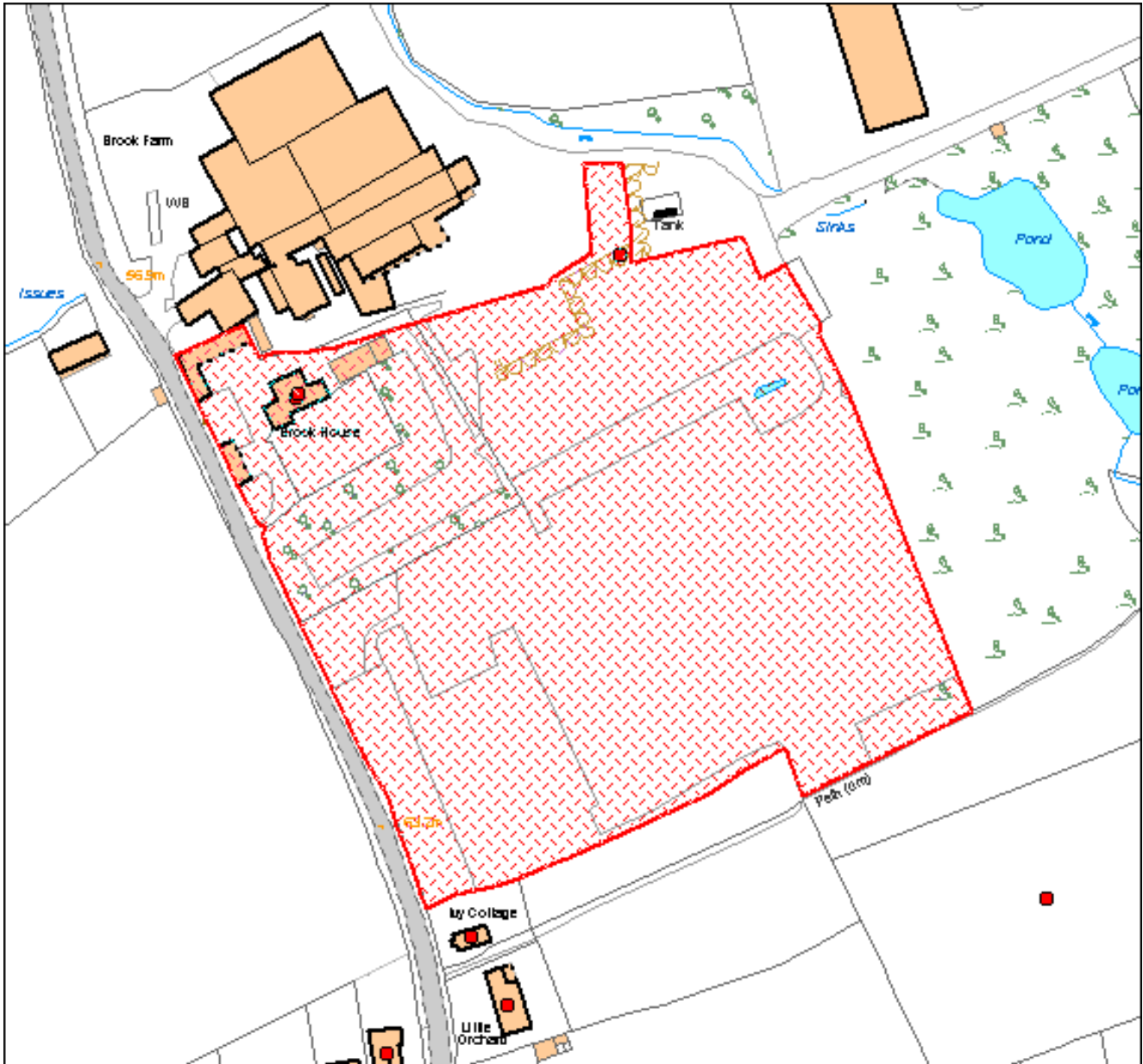
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DMCW/092985/F

SITE ADDRESS : BROOK FARM, MARDEN, HEREFORD, HR1 3ET

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

