

AGENDA

Planning Committee

Date: **Wednesday 2 February 2011**

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:

Ricky Clarke, Democratic Services Officer

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Agenda for the Meeting of the Planning Committee

Membership

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

GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS

The Council's Members' Code of Conduct requires Councillors to declare against an Agenda item(s) the nature of an interest and whether the interest is personal or prejudicial. Councillors have to decide first whether or not they have a personal interest in the matter under discussion. They will then have to decide whether that personal interest is also prejudicial.

A personal interest is an interest that affects the Councillor more than most other people in the area. People in the area include those who live, work or have property in the area of the Council. Councillors will also have a personal interest if their partner, relative or a close friend, or an organisation that they or the member works for, is affected more than other people in the area. If they do have a personal interest, they must declare it but can stay and take part and vote in the meeting.

Whether an interest is prejudicial is a matter of judgement for each Councillor. What Councillors have to do is ask themselves whether a member of the public – if he or she knew all the facts – would think that the Councillor's interest was so important that their decision would be affected by it. If a Councillor has a prejudicial interest then they must declare what that interest is. A Councillor who has declared a prejudicial interest at a meeting may nevertheless be able to address that meeting, but only in circumstances where an ordinary member of the public would be also allowed to speak. In such circumstances, the Councillor concerned will have the same opportunity to address the meeting and on the same terms. However, a Councillor exercising their ability to speak in these circumstances must leave the meeting immediately after they have spoken.

AGENDA

		Pages
1.	APOLOGIES FOR ABSENCE To receive apologies for absence.	
2.	NAMED SUBSTITUTES (IF ANY) To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.	
3.	DECLARATIONS OF INTEREST To receive any declarations of interest by Members in respect of items on the Agenda.	
4.	MINUTES To approve and sign the Minutes of the meeting held on 12 January 2011.	1 - 24
5.	CHAIRMAN'S ANNOUNCEMENTS To receive any announcements from the Chairman.	
6.	APPEALS To be noted.	25 - 30
7.	DMCW/092858/F - SAINSBURYS, BARTON YARD, HEREFORD, HR4 0AG Erection of store extensions (Class A1) to front of store, elevation changes, alterations to car park layout including new deck, new landscaping, associated plant and works and variation of condition 7 of CW1999/3251/F to allow not more than 30% of the total sales floor space for the sales of comparison goods.	31 - 60
8.	DMS/102805/F - 44 TOWER ROAD, HEREFORD, HR4 0LF Proposed demolition of existing dwelling and erection of 5 two bedroom apartments and provision of public turning area.	61 - 70
9.	DMS/102337/O - LAND OFF WITHIES ROAD, WITHINGTON, HEREFORDSHIRE, HR1 3PX Site for proposed residential development.	71 - 76
10.	DMS/103179/F - CARADOC COURT, SELLACK, ROSS-ON-WYE, HEREFORDSHIRE, HR9 6LS Variation of Condition 2 approved planning permission DMSE09/3151/F for amendments to house elevations.	77 - 80
11.	DMN/102226/F - GREAT PENLAN, BRILLEY, HEREFORDSHIRE, HR3 6JW Proposed dwelling for farm worker.	81 - 86
12.	DATE OF NEXT MEETING Date of next site inspection - Tuesday 22 February 2011 Date of next meeting - Wednesday 23 February 2011	

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- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
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HEREFORDSHIRE COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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HEREFORDSHIRE COUNCIL

MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 12 January 2011 at 10.00 am

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

Councillors: ACR Chappell, PGH Cutter, SPA Daniels, H Davies, DW Greenow, KS Guthrie, JW Hope MBE, RC Hunt, PJ McCaull, JE Pemberton, DC Taylor, WJ Walling, PJ Watts and JD Woodward

In attendance: Councillors AJM Blackshaw, PD Price and SJ Robertson

90. APOLOGIES FOR ABSENCE

Apologies were received from Councillors GFM Dawe, G Lucas, RI Matthews and AP Taylor.

91. NAMED SUBSTITUTES (IF ANY)

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillor SPA Daniels attended the meeting as a substitute member for Councillor AP Taylor and Councillor PJ McCaull attended the meeting as a substitute member for Councillor RI Matthews.

92. DECLARATIONS OF INTEREST

11. DMSE/100298/O - Land opposite Cattle Market, Netherton Road, Ross On Wye, Herefordshire, HR9 7QQ.
Councillor PGH Cutter, Personal, Sits on the AONB Board.

93. MINUTES

RESOLVED: That the Minutes of the meeting held on 15 December 2010 be approved as a correct record and signed by the Chairman.

94. CHAIRMAN'S ANNOUNCEMENTS

The Chairman introduced the Officers who were present at the meeting.

95. ENFORCEMENT REPORT

The Committee noted the report.

96. DMN/102045/F - LAND AT OAKCHURCH FARM, CHURCH ROAD, STAUNTON ON WYE, HEREFORDSHIRE, HR4 7NE

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided; the schedule of committee updates is appended to these minutes.

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

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

- The updates sheet contained details of a letter from a local resident thanking the applicant for the way he had worked with local residents in respect of the application.
- The application should be supported.

Members noted that agriculture had changed and that Polytunnels were now an essential part of agricultural working. They felt that it was their duty to support local industry and were of the opinion that the benefit to the local economy outweighed the environmental impact.

In response to a question, the Principal Planning Officer advised that there would be a buffer zone alongside the access road to Field Cottage.

Councillor JW Hope was given the opportunity to close the debate but chose to make no additional statement.

RESOLVED

- 1. The Head of Legal and Democratic Services be authorised to complete the planning obligation under Section 106 of the Town and Country Planning Act 1990 in accordance with the Heads of Terms (attached as annex).**
- 2. Upon completion of the above-mentioned planning obligation Officers named in the Scheme of Delegation be authorised to issue planning permission subject to the following conditions:-**

- 1. The scheme for the provision and implementation of a surface water regulation system as described in the Flood Risk Assessment (Envireau Water 8/08/10) must be submitted to and approved in writing by the Local Planning Authority within three months of the date of this decision notice. Such a scheme shall be implemented to the reasonable satisfaction of the Local Planning Authority prior to the construction of any impermeable surfaces draining to the system.**

Reason: To prevent the increase in flooding caused by additional surface water run-off from the polytunnel development and to comply with Policy DR7 of the Herefordshire Unitary Development Plan.

- 2. The recommendations set out in the ecologist's reports dated June 2009 and June 2010 will be followed, unless otherwise agreed in writing by the Local Planning Authority with an agreed timetable within 3 months of the date of this decision notice, and the works shall be implemented as approved. A habitat protection, enhancement and management scheme based upon the recommendations in the above reports shall be submitted to the Local Planning Authority within three months of the date of this decision notice. This shall be implemented as approved with the agreed timetable thereafter. The results of monitoring surveys will be submitted to the Local Planning Authority by 31st December in any year that they are undertaken. A qualified and experienced Clerk of Works will be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation and enhancement work.**

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, Policies NC1, NC6, NC7, NC8 and NC9 of the Herefordshire Unitary Development Plan and Planning Policy Statement 9: Biodiversity and Geological Conservation.

- 3. Prior to the 1st February in each calendar year following the date of this permission, a plan to a metric scale of at least 1:7,500 shall be submitted to the Local Planning Authority indicating the hectares (maximum) of land to be covered with polytunnels and these polytunnels will be distributed in fields throughout the application site, in accordance with the field plans on the indicative plans reference (TBC) submitted in support of the application.**

Reason: In order to ensure that the Local Planning Authority can monitor the visual impact of the development hereby approved and to comply with Policy DR2 of the Herefordshire Unitary Development Plan.

- 4. No polytunnel or associated development will be situated within 30 metres of the boundary of any residential curtilage of any dwelling house that is located outside the contours of the application site. This land shall not be used in connection to fruit production on site, such as for storage, servicing or for staff congregating area.**

Reason: To safeguard the amenities of the occupiers of dwelling houses within the immediate vicinity and to comply with Policy DR2 of the Herefordshire Development Plan.

- 5. No polytunnel will exceed 3.9 metres in height above existing ground level.**

Reason: To control the visual impact of the development in consideration of the surrounding landscape and to comply with Policy LA2 of the Herefordshire Unitary Development Plan.

- 6. In the event of any polytunnel hereby permitted becoming redundant for the growing of soft fruit upon the application site, the polytunnel which includes the supporting structure shall be removed off site within a period of 6 months of it being last used for soft fruit production.**

Reason: To ensure that any structure that becomes redundant for fruit production does not remain on site and to comply with Policy LA2 of the Herefordshire Unitary Development Plan.

- 7. None of the polytunnels hereby permitted shall be covered with polythene from 15th November until 31st December in any calendar year or for the whole of the months of January and February in any calendar year.**

Reason: To ensure that the visual impact of the development hereby permitted is limited to the growing season and to comply with Policy LA2 of the Herefordshire Unitary Development Plan.

- 8. No more than 17 hectares of the application site shall be covered with polytunnels (including the metal structure) at any one time.**

Reason: To ensure that the cumulative visual impact of the development within the surrounding landscape is satisfactorily controlled and to comply with Policy DR2 of the Herefordshire Unitary Development Plan.

- 9. None of the polytunnels hereby permitted or the field they are located within shall be lit with artificial lighting unless agreed in writing with the Local Planning Authority.**

Reason: In the interests of the visual amenity and to comply with Policies DR2 and DR4 of the Herefordshire Unitary Development Plan.

- 10. A detailed landscaping scheme to include specification, method, density and location of all proposed planting will be submitted to the Local Planning Authority within three months of the date of this decision notice. The plan will clearly identify the location of existing hedgerows and ancient/veteran trees to be permanently retained. The heights at which boundary hedges will be maintained will be identified. A timetable for all landscape work will also be provided.**

Reason: In order to maintain the visual amenities of the area and to conform to Policy LA6 of the Herefordshire Unitary Development Plan.

- 11. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved in writing by the Local Planning Authority, within 3 months of the date of this planning approval. The landscape management plan shall be carried out in accordance with the agreed timetable.**

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

- 12. Within 3 months of the date of this decision notice detail and a timetable for works to be completed on site will be submitted and approved in writing by the Local Planning Authority in consideration of the public highway vehicular access from the A438 to the property known as Field Cottage in respect of visibility splays which shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 215 metres in each direction along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.**

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

- 13. Any new access gates in relationship to works as indicated in condition number 12 above shall be set back 20 metres from the adjoining carriageway edge and shall be made to open inwards only.**

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

- 14. A corridor of at least 5 metres wide will be maintained for public footpaths running through the site. (From side to side with footpath in the middle).**

Reason: To ensure that public footpaths remain free of debris and obstruction at all times and to comply with Policy T6 of the Herefordshire Unitary Development Plan.

- 15. No polytunnels will be erected on land within 100 metres of the scheduled ancient monument number SAM28877 (Staunton-on-Wye Moated site).**

Reason: In the interests of the historic setting of the scheduled ancient monument and to comply with Policy ARCH3 of the Herefordshire Unitary Development Plan.

INFORMATIVES:

- 1. N15 - Reason(s) for the Grant of Planning Permission**
- 2. N19 – Avoidance of doubt – Approved Plans**
- 3. I 30 - N11A Wildlife and Countryside Act 1981 (as amended) - Bird**
- 4. The application site may includes a number of areas of 'unknown filled ground' which can be associated with potentially contaminative material and as such it is possible that unforeseen contamination may be present on the site. Consideration should be given to the possibility of encountering contamination on the site as a result of its former uses and specialist advice be sought should any be encountered during the development.**

97. DMN/102046/F - LAND AT UPPER NORTON & HINTON FARMS, NORTON CANON, HEREFORDSHIRE, HR4 7LN

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided; the schedule of committee updates is appended to these minutes.

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

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor JW Hope, the local ward member, advised the Committee that he supported the application and drew their attention to the comments he made on the previous agenda item.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor AJM Blackshaw, the neighbouring ward member, agreed with the comments from the local ward member and supported the application.

In response to a question, the Principal Planning Officer advised that the Environment Agency and the Council's Ecologist had both been consulted with and that they were both satisfied with the drainage appraisal. In response to a further question he added that there was a condition attached to the recommendation to protect the public footpath on the site.

Councillor JW Hope was given the opportunity to close the debate but chose to make no additional statement.

RESOLVED

1. The Head of Legal and Democratic Services be authorised to complete the planning obligation under Section 106 of the Town and Country Planning Act 1990 in accordance with the Heads of Terms (attached as annex).
2. Upon completion of the above-mentioned planning obligation Officers named in the Scheme of Delegation be authorised to issue planning permission subject to the following conditions:-

1. The scheme for the provision and implementation of a surface water regulation system as described in the Flood Risk Assessment (Envireau Water 8/08/10) must be submitted to and approved in writing by the Local Planning Authority within three months of the date of this decision notice. Such a scheme shall be implemented to the reasonable satisfaction of the Local Planning Authority prior to the construction of any impermeable surfaces draining to the system.

Reason: To prevent the increase in flooding caused by additional surface water run-off from the polytunnel development and to comply with Policy DR7 of the Herefordshire Unitary Development Plan.

2. The recommendations set out in the ecologist's reports dated June 2009 and June 2010 will be followed, unless otherwise agreed in writing by the Local Planning Authority with an agreed timetable within three months of the date of this decision notice and the works shall be implemented as approved. A habitat protection, enhancement and management scheme based upon the recommendations in the above reports shall be submitted to the Local Planning Authority within three months of the date of this decision notice. This shall be implemented as approved with the agreed timetable thereafter. The results of monitoring surveys will be submitted to the Local Planning Authority by 31st December in any year that they are undertaken. A qualified and experienced Clerk of Works will be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation and enhancement work.

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, Policies NC1, NC6, NC7, NC8 and NC9 of the Herefordshire Unitary Development Plan and Planning Policy Statement 9: Biodiversity and Geological Conservation.

3. Prior to the 1st February in each calendar year following the date of this permission, a plan to a metric scale of at least 1:7,500 shall be submitted to the Local Planning Authority indicating the hectares (maximum) of land to be covered with polytunnels and these polytunnels will be distributed in field groups throughout the application site, and will not exceed two separate adjoining fields in number in accordance with the field plans on the indicative plans reference (TBC) submitted in support of the application.

Reason: In order to ensure that the Local Planning Authority can monitor the visual impact of the development hereby approved and to comply with Policy DR2 of the Herefordshire Unitary Development Plan.

4. No polytunnel or associated development will be situated within 30 metres of the boundary of any residential curtilage of any dwelling house that is located outside the contours of the application site. This land shall not be

used in connection to fruit production on site, such as for storage, servicing or for staff congregating area.

Reason: To safeguard the amenities of the occupiers of dwelling houses within the immediate vicinity and to comply with Policy DR2 of the Herefordshire Development Plan.

5. No polytunnel will exceed 3.9 metres in height above existing ground level.

Reason: To control the visual impact of the development in consideration of the surrounding landscape and to comply with Policy LA2 of the Herefordshire Unitary Development Plan.

6. In the event of any polytunnel hereby permitted becoming redundant for the growing of soft fruit upon the application site, the polytunnel which includes the supporting structure shall be removed off site within a period of 6 months of it last being used for soft fruit production.

Reason: To ensure that any structure that becomes redundant for fruit production does not remain on site and to comply with Policy LA2 of the Herefordshire Unitary Development Plan.

7. None of the polytunnels hereby permitted shall be covered with polythene from 15th November until 31st December in any calendar year or for the whole of the months of January and February in any calendar year.

Reason: To ensure that the visual impact of the development hereby permitted is limited to the growing season and to comply with Policy LA2 of the Herefordshire Unitary Development Plan.

8. No more than 40 hectares of the application site shall be covered with polytunnels (including the metal structure) at any one time.

Reason: To ensure that the cumulative visual impact of the development within the surrounding landscape is satisfactorily controlled and to comply with Policy DR2 of the Herefordshire Unitary Development Plan.

9. None of the polytunnels hereby permitted or the field they are located within shall be lit with artificial lighting unless agreed in writing with the Local Planning Authority.

Reason: In the interests of the visual amenity and to comply with Policies DR2 and DR4 of the Herefordshire Unitary Development Plan.

10. A detailed landscaping scheme to include specification, method, density and location of all proposed planting will be submitted to the Local Planning Authority within three months of the date of this decision notice. The plan will clearly identify the location of existing hedgerows and ancient/veteran trees to be permanently retained. The heights at which boundary hedges will be maintained will be identified. A timetable for all landscape work will also be provided.

Reason: In order to maintain the visual amenities of the area and to conform to Policy LA6 of the Herefordshire Unitary Development Plan.

11. **A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved in writing by the Local Planning Authority within three months of the date of this decision notice. The landscape management plan shall be carried out in accordance with the agreed timetable.**

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

12. **A corridor of at least 5 metres wide will be maintained for all public footpaths running through the site. (From side to side, with footpath in the middle).**

Reason: To ensure that public footpaths remain free of debris and obstruction at all times and to comply with Policy T6 of the Herefordshire Unitary Development Plan.

INFORMATIVES:

1. **N15 - Reason(s) for the Grant of Planning Permission**
2. **N19 – Avoidance of doubt – Approved Plans**
3. **I 30 - N11A Wildlife and Countryside Act 1981 (as amended) - Birds**

98. DMN/102047/F - LAND AT BISHOPSTONE FORMING, PART OF BISHOPS COURT, BISHOPSTONE BRIDGE SOLLARS, HEREFORDSHIRE, HR4 7JQ

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided; the schedule of committee updates is appended to these minutes.

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

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

- The report was detailed and balanced.
- Polytunnels were essential on the site and would provide an economic benefit.
- The proposed buffer zones would address some of the concerns from the local residents.
- Concerns had been raised in respect of crop spraying and other issues which could be addressed informally by the applicant now that he was aware of them.

In response to a question regarding the concerns raised by the Parish Council in respect of the road, the Principal Planning Officer confirmed that the transportation officer had not objected to the application. The Development Manager added that the road in question was a council maintained road and that the proposed application should not result in the road network being overloaded.

The Committee felt that it was essential that lines of communication were set up between the applicant and the neighbouring residents. Members noted the success of

the liaison group which had been implemented at S&A Davies' site at Brierley and felt that a similar scheme should be introduced for the proposed application.

The Principal Planning Officer advised Members that the issue of contaminated land had been addressed with the Council's Environmental Health team and that an appropriate informative note in the recommendation addressed this issue.

Members went on to discuss the possibility of a working hours condition. It was noted that agricultural work cycles were determined by the weather, and that agricultural workers needed to work when weather was fine even if it was early in the morning. It was therefore deemed that a working hours restriction would not be viable. The Development Manager advised the Committee that the proposed buffer zone should address the concerns of neighbours more effectively than a working hours restriction.

Councillor AJM Blackshaw was given the opportunity to close the debate but chose to make no additional statement.

RECOMMENDATION

- 1. The Head of Legal and Democratic Services be authorised to complete the planning obligation under Section 106 of the Town and Country Planning Act 1990 in accordance with the Heads of Terms (attached as annex).**
- 2. Upon completion of the above-mentioned planning obligation Officers named in the Scheme of Delegation be authorised to issue planning permission subject to the following conditions:-**
 - 1. The scheme for the provision and implementation of a surface water regulation system as described in the Flood Risk Assessment (Envireau Water 8/08/10) must be submitted to and approved in writing by the Local Planning Authority within three months of the date of this decision notice. Such a scheme shall be implemented to the reasonable satisfaction of the Local Planning Authority prior to the construction of any impermeable surfaces draining to the system.**

Reason: To prevent the increase in flooding caused by additional surface water run-off from the polytunnel development and to comply with Policy DR7 of the Herefordshire Unitary Development Plan.

- 2. The recommendations set out in the ecologist's reports dated June 2009 and June 2010 will be followed, unless otherwise agreed in writing by the Local Planning Authority with an agreed timetable within 3 months of the date of this decision notice and the works shall be implemented as approved. A habitat protection, enhancement and management scheme based upon the recommendations in the above reports shall be submitted to the Local Planning Authority within three months of the date of this decision notice. This shall be implemented as approved with the agreed timetable thereafter. The results of monitoring surveys will be submitted to the Local Planning Authority by 31st December in any year that they are undertaken. A qualified and experienced Clerk of Works will be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation and enhancement work.**

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, Policies NC1, NC6, NC7, NC8 and

NC9 of the Herefordshire Unitary Development Plan and Planning Policy Statement 9: Biodiversity and Geological Conservation.

3. Prior to the 1st February in each calendar year following the date of this permission, a plan to a metric scale of at least 1:7,500 shall be submitted to the Local Planning Authority indicating the hectares (maximum) of land to be covered with polytunnels and these polytunnels will be distributed in field groups throughout the application site, and will not exceed two separate adjoining fields in number in accordance with the field plans on the indicative plans reference (TBC) submitted in support of the application.

Reason: In order to ensure that the Local Planning Authority can monitor the visual impact of the development hereby approved and to comply with Policy DR2 of the Herefordshire Unitary Development Plan.

4. No polytunnel or associated development will be situated within 30 metres of the boundary of any residential curtilage of any dwelling house that is located outside the contours of the application site. This land shall not be used in connection to fruit production on site, such as for storage, servicing or for staff congregating area.

Reason: To safeguard the amenities of the occupiers of dwelling houses within the immediate vicinity and to comply with Policy DR2 of the Herefordshire Development Plan.

5. No polytunnel will exceed 3.9 metres in height above existing ground level.

Reason: To control the visual impact of the development in consideration of the surrounding landscape and to comply with Policy LA2 of the Herefordshire Unitary Development Plan.

6. In the event of any polytunnel hereby permitted becoming redundant for the growing of soft fruit upon the application site, the polytunnel which includes the supporting structure shall be removed off site within a period of 6 months of it being last used for soft fruit production.

Reason: To ensure that any structure that becomes redundant for fruit production does not remain on site and to comply with Policy LA2 of the Herefordshire Unitary Development Plan.

7. None of the polytunnels hereby permitted shall be covered with polythene from 15th November until 31st December in any calendar year or for the whole of the months of January and February in any calendar year.

Reason: To ensure that the visual impact of the development hereby permitted is limited to the growing season and to comply with Policy LA2 of the Herefordshire Unitary Development Plan.

8. No more than 25 hectares of the application site shall be covered with polytunnels (including the metal structure) at any one time.

Reason: To ensure that the cumulative visual impact of the development within the surrounding landscape is satisfactorily controlled and to comply with Policy DR2 of the Herefordshire Unitary Development Plan.

9. **None of the polytunnels hereby permitted or the field they are located within shall be lit with artificial lighting unless agreed in writing with the Local Planning Authority.**

Reason: In the interests of the visual amenity and to comply with Policies DR2 and DR4 of the Herefordshire Unitary Development Plan.

10. **A detailed landscaping scheme to include specification, method, density and location of all proposed planting will be submitted to the Local Planning Authority within three months of the date of this decision notice. The plan will clearly identify the location of existing hedgerows and ancient/veteran trees to be permanently retained. The heights at which boundary hedges will be maintained will be identified. A timetable for all landscape work will also be provided.**

Reason: In order to maintain the visual amenities of the area and to conform to Policy LA6 of the Herefordshire Unitary Development Plan.

11. **A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved in writing by the Local planning Authority, within three months of the date of this planning approval. The landscape management plan shall be carried out as approved.**

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

- 12 **The applicant be required to set up a liaison group for local residents in order to address any areas of concern.**

INFORMATIVES:

1. **N15 - Reason(s) for the Grant of Planning Permission**
2. **N19 – Avoidance of doubt – Approved Plans**
3. **I 30 - N11A Wildlife and Countryside Act 1981 (as amended) – Birds**
4. **The application site may include a number of areas of 'unknown filled ground' which can be associated with potentially contaminative material and as such it is possible that unforeseen contamination may be present on the site. Consideration should be given to the possibility of encountering contamination on the site as a result of its former uses and specialist advice be sought should any be encountered during the development.**

99. DMN/102048/F - LAND AT BROBURY FARM, BROBURY-WITH-MONNINGTON, HEREFORDSHIRE

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided; the schedule of committee updates is appended to these minutes.

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

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor JW Hope, the local ward member, advised the Committee that he supported the application and drew their attention to the comments he made on the other applications submitted by the applicant.

Members made a further reference to the liaison group which had been implemented at S&A Davies' site at Brierley and felt that a similar scheme should be introduced for the proposed application.

Councillor JW Hope was given the opportunity to close the debate but chose to make no additional statement.

RECOMMENDATION

1. **The Head of Legal and Democratic Services be authorised to complete the planning obligation under Section 106 of the Town and Country Planning Act 1990 in accordance with the Heads of Terms (attached as annex).**

2. **Upon completion of the above-mentioned planning obligation Officers named in the Scheme of Delegation be authorised to issue planning permission subject to the following conditions:-**

1. **The scheme for the provision and implementation of a surface water regulation system as described in the Flood Risk Assessment (Envireau Water 8/08/10) must be submitted to and approved in writing by the Local Planning Authority within three months of the date of this decision notice. Such a scheme shall be implemented to the reasonable satisfaction of the Local Planning Authority prior to the construction of any impermeable surfaces draining to the system.**

Reason: To prevent the increase in flooding caused by additional surface water run-off from the polytunnel development and to comply with Policy DR7 of the Herefordshire Unitary Development Plan.

2. **The recommendations set out in the ecologist's reports dated June 2009 and June 2010 will be followed, unless otherwise agreed in writing by the Local Planning Authority with an agreed timetable within three months of the date of this decision notice and the works shall be implemented as approved. A habitat protection, enhancement and management scheme based upon the recommendations in the above reports shall be submitted to the Local Planning Authority within three months of the date of this decision notice. This shall be implemented as approved with the agreed timetable thereafter. The results of monitoring surveys will be submitted to the Local Planning Authority by 31st December in any year that they are undertaken. A qualified and experienced Clerk of Works will be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation and enhancement work.**

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, Policies NC1, NC6, NC7, NC8 and NC9 of the Herefordshire Unitary Development Plan and Planning Policy Statement 9: Biodiversity and Geological Conservation.

3. **Prior to the 1st February in each calendar year following the date of this permission, a plan to a metric scale of at least 1:7,500 shall be submitted to the Local Planning Authority indicating the hectares (maximum) of land to**

be covered with polytunnels and these polytunnels will be distributed in field groups throughout the application site, and will not exceed two separate adjoining fields in number in accordance with the field plans on the indicative plans reference (TBC) submitted in support of the application.

Reason: In order to ensure that the Local Planning Authority can monitor the visual impact of the development hereby approved and to comply with Policy DR2 of the Herefordshire Unitary Development Plan.

4. No polytunnel or associated development will be situated within 30 metres of the boundary of any residential curtilage of any dwelling house that is located outside the contours of the application site. This land shall not be used in connection to fruit production on site, such as for storage, servicing or for staff congregating area.

Reason: To safeguard the amenities of the occupiers of dwelling houses within the immediate vicinity and to comply with Policy DR2 of the Herefordshire Development Plan.

5. No polytunnel will exceed 3.9 metres in height above existing ground level.

Reason: To control the visual impact of the development in consideration of the surrounding landscape and to comply with Policy LA2 of the Herefordshire Unitary Development Plan.

6. In the event of any polytunnel hereby permitted becoming redundant for the growing of soft fruit upon the application site, the polytunnel which includes the supporting structure shall be removed off site within a period of 6 months of it last being used for soft fruit production.

Reason: To ensure that any structure that becomes redundant for fruit production does not remain on site and to comply with Policy LA2 of the Herefordshire Unitary Development Plan.

7. None of the polytunnels hereby permitted shall be covered with polythene from 15th November until 31st December in any calendar year or for the whole of the months of January and February in any calendar year.

Reason: To ensure that the visual impact of the development hereby permitted is limited to the growing season and to comply with Policy LA2 of the Herefordshire Unitary Development Plan.

8. No more than 16 hectares of the application site shall be covered with polytunnels (including the metal structure) at any one time.

Reason: To ensure that the cumulative visual impact of the development within the surrounding landscape is satisfactorily controlled and to comply with Policy DR2 of the Herefordshire Unitary Development Plan.

9. None of the polytunnels hereby permitted or the field they are located within shall be lit with artificial lighting unless agreed in writing with the Local Planning Authority.

Reason: In the interests of the visual amenity and to comply with Policies DR2 and DR4 of the Herefordshire Unitary Development Plan.

10. A detailed landscaping scheme to include specification, method, density and location of all proposed planting will be submitted to the Local Planning Authority within three months of the date of this decision notice. The plan will clearly identify the location of existing hedgerows and ancient/veteran trees to be permanently retained. The heights at which boundary hedges will be maintained will be identified. A timetable for all landscape work will also be provided.

Reason: In order to maintain the visual amenities of the area and to conform to Policy LA6 of the Herefordshire Unitary Development Plan.

11. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved in writing by the Local Planning Authority within three months of the date of this decision notice. The landscape management plan shall be carried out in accordance with the agreed timetable.

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

12. The applicant be required to set up a liaison group for local residents in order to address any areas of concern.

INFORMATIVES:

1. N15 - Reason(s) for the Grant of Planning Permission
2. N19 – Avoidance of doubt – Approved Plans
3. I 30 - N11A Wildlife and Countryside Act 1981 (as amended) - Birds

100. DMSE/100298/O - LAND OPPOSITE CATTLE MARKET, NETHERTON ROAD, ROSS ON WYE, HEREFORDSHIRE, HR9 7QQ

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided; the schedule of committee updates is appended to these minutes.

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

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor PGH Cutter, one of the local ward members, commented on a number of issues, including:

- The primary concerns related to ecology on the site. However the recent survey had found no ecological issues.
- The area was an industrial estate and was therefore an appropriate area for industrial development.
- It was important to promote businesses in Herefordshire's market towns.
- The issue of the land being 'built up' could be addressed by appropriate conditions.

In response to a question, the Senior Planning Officer confirmed that the application was for outline approval only but that the indicative plans did indicate that there would be an access at the back of the units.

Members noted that the site was in a poor condition due to the lack of any general upkeep and the ongoing fly-tipping problem in the area. They felt that the development would improve the site dramatically and also felt that the proposed buffer zone would improve the ecology of the site by encouraging wildlife.

The Development Manager advised Members that the proposal was not acceptable for the site. He added that the site was within an AONB, and that any approval would have an adverse impact on the landscape and ecology of the area. In response to a further point he stated that although the ecology report hadn't identified any rare species, the brook still needed to be preserved as wildlife could migrate to the site in the future. He noted that the brook was only 5 metres away from the proposed industrial units.

Some Members voiced their concerns in respect of ecology and landscaping on the site as well as concerns regarding the proposed level of infill required for the site due to its topography. They also noted that the application was contrary to a number of planning policies as set out in the Officer's recommendation.

The Locum Lawyer and the Development Manager had a brief discussion in respect of section 4.8.10.2 of the Council's Constitution regarding the Further Information Report process. The Development Manager and the Locum lawyer, representing the Monitoring Officer, both felt that a Further Information Report would not be required and therefore the Committee could proceed to the vote.

Councillor Cutter was given the opportunity to close the debate in accordance with the Council's Constitution. He reiterated his opening remarks and commented on a number of additional issues, including:

- Model Farm was intended for technological enterprises in a live/work environment however there had been little progress with the site in the previous 4 years.
- Alton Road was filling up and also had planning permission for a residential care home which would take additional space.
- More employment opportunities were needed in the south of the County.
- The application should be supported.

RESOLVED

That the application be approved subject to appropriate conditions to be determined by Officers in consultation with the Chairman and Local Ward Members.

101. DMS/102193/F - LAND OPPOSITE THE BELL INN, TILLINGTON, HEREFORDSHIRE, HR4 8LH

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided; the schedule of committee updates is appended to these minutes.

In accordance with the criteria for public speaking Mrs Reynolds, representing Burghill Parish Council, and Mrs Roberts, a local resident, both spoke in objection to the application, and Mr Ball, the applicant's agent, spoke in support.

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

- There were a number of local concerns regarding the highways and road safety.

- 55 metres of hedgerow would have to be removed to allow for a suitable access.
- The translocation of hedgerow was not always successful.
- There was no footpath so people would have to walk along a busy road. There had been a number of accidents on the road including an incident where 2 horses were killed in a collision with a motor vehicle.
- The site was in a dominant position and would therefore change the character of the area.
- There would be no new employment opportunities as all of the staff would be moved from the current operation.
- The site was not suitable for any further expansion.
- The applicant's son was a local resident who lived within the parish, he wished his support for the application to be noted.
- In 1999 an access onto the road was refused due to Highways concerns.
- Concerns had been raised due to the volume of water to be extracted from the site.

In response to a number of questions, the Principal Planning Officer confirmed that there was a maximum capacity for 20 cubic metres of water to be extracted from the site although this would not all be used. She also confirmed that the application proposed the removal of 55 metres of hedgerow although some of this would be translocated. Finally she added that her discussions with the Highways team had not identified any recorded accidents on the highway.

Members discussed the application and felt that the siteline and visibility would be greatly improved if the application was approved. They felt that a number of the objections regarding screening, and the site in general could be addressed through appropriate conditions. On balance they felt that the Committee should be seen to be supporting rural enterprises and felt that the application should be approved.

Members made particular reference to the issue of screening and felt that it would be appropriate to ensure that mature trees were used to protect the neighbouring residents. In response the Principal Planning Officer advised that Members could condition a landscape management plan which could address the height and species of any proposed screening

Members also noted that the access would be improved for the neighbouring resident as a result of the improvements to the site. Members noted that the access to the site was onto the C1099 which ran from Tillington to Credenhill. Members noted that the Planning Committee could not condition any speed restrictions on the road but requested that the Highways investigate the viability of a speed restriction.

In response to a question raised by Members, the Principal Planning Officer confirmed that the recommendation contained a condition to address the issue of surface water drainage on the site. She also advised that the application was for one polytunnel and that any additional polytunnels would require planning consent.

It was noted that the packing shed on the site was quite a large building and that although the applicant had removed one of the polytunnels, the remaining one had been increased in size. The importance of Parish Plans in the planning process was also raised with one member feeling that more weight should be given to them.

In response to a question, the Locum Lawyer confirmed that condition 18 was solely a restriction on working hours for the construction of the site and not for its operation.

Councillor Robertson was given the opportunity to close the debate in accordance with the Council's Constitution. She reiterated her opening remarks and commented on a number of additional issues, including:

- The application was contrary to Planning Policies DR2, DR3, DR4, DR6, E11, E13, LA2 and LA5 and it should therefore be refused.
- The road did not fit the criteria for having a speed restriction.
- If Members were minded to approve the application could the local member be consulted regarding landscaping and materials.

RESOLVED

That planning permission be granted subject to the following conditions:

1. **A01 Time limit for commencement (full permission).**
2. **G10 Landscaping scheme.**
3. **G11 Landscaping scheme - implementation.**
4. **H03 Visibility splays.**
5. **H06 Vehicular access construction.**
6. **H09 Driveway gradient.**
7. **H13 Access, turning area and parking.**
8. **C01 Samples of external materials.**
9. **F01 Restriction on hours of working.**
10. **Restriction on hours of delivery.**
11. **The use / buildings hereby permitted shall not be open to customers at any time.**

Reason: In the interests of highway safety and the amenities of the locality having regard to policies DR2 and DR3 of the Herefordshire Unitary Development Plan.

12. **F06 Restriction on use.**
13. **I32 Details of floodlighting / external lighting.**
14. **K4 Nature Conservation - Implementation.**
15. **K5 Habitat Enhancement Scheme.**
16. **H27 - Parking for site operatives.**
17. **G01 - Earthworks (including ponds, access and surrounding areas).**
18. **I16 - Restriction of hours during construction.**
19. **I18 - Scheme of foul drainage disposal.**
20. **Prior to the commencement of works a full working method statement for the translocation and subsequent monitoring (including timetable of works) of the hedgerow identified on the approved plans shall be submitted to and**

approved in writing by the local planning authority. Works shall be carried out in accordance with the approved details.

Reason: In the interests of landscape impact and to ensure that the nature conservation interest of the site is protected having regard to policies LA2, LA5, LA6, NC1 of the Herefordshire Unitary Development Plan.

Informative:

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

102. DMS/101907/O - LAND ADJACENT TO HOLLY BUSH, CRAFTY WEBB, BREDWARDINE, HEREFORDSHIRE, HR3 6BZ

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided; the schedule of committee updates is appended to these minutes.

In accordance with the criteria for public speaking Mr Allcock, representing Mr and Mrs Meek, spoke in objection to the application and Mr Minton, the applicant, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor PD Price, the local ward members, commented on a number of issues, including:

- The previous application was withdrawn and not refused as stated at 3.1 of the report.
- The applicant's son suffered from Prada Willi syndrome resulting in learning difficulties and an eating disorder.
- The applicant's son required almost constant supervision and there were 3 generations of the applicant's family in Bredwardine who were willing to assist.
- The local community and parish council were both in support of the application.
- Due to the nature of the eating disorder, the applicant's son needed to be away from services such as shops and supermarkets.
- Policy DR2 was not appropriate for a single dwelling.
- The building of one dwelling would not significantly impact on policy H2.
- Bredwardine had no settlement boundary so the proposed dwelling could not be referred to as 'outside of the settlement boundary' therefore policy H7 should not be considered.
- The application was actually in accordance with Policy H10 as there was clear evidence of a long term local need.
- The dwelling could be made affordable in perpetuity subject to a suitable condition.
- Although the site was currently green field it was previously a residential dwelling with the final remains cleared from the site in 1958.

Members discussed the report and noted the sensitive issues regarding the application. They felt that in their opinion there was a long term local need for the dwelling and that therefore it was not contrary to Policy H10 of the Council's Unitary Development Plan. It was also noted that there had previously been a residential dwelling on the site, albeit some years ago.

Members also discussed the issue of affordable housing and they were clear in their minds that any dwelling on the site should remain affordable in perpetuity. The Development Control Manager advised that this could be achieved through a Section

106 agreement between the applicant and Herefordshire Council. He added that the Section 106 agreement could also cover the issue of a trust fund which had been raised by the applicant.

The Development Manager voiced his concerns in respect of the application and felt that it was contrary to planning policy. He advised Members that there was a need to protect the countryside; that the site was not an appropriate site for a new dwelling and that it was contrary to planning policy. He added that policy H10 addressed sites which were within or adjoining the settlement boundary and that in his opinion the proposed site did not fulfil this criteria. The Locum Lawyer concurred with the Development Manager in respect of the application being contrary to policy H10.

Concerns were raised in respect of the access to the site, Members felt that emergency vehicles would have difficulty in accessing the site due to the steep incline. They did however not see this factor as a significant reason for refusing the application as the settlement of Bredwardine as a whole had access problems due to its location and topography. It was noted that the remote location of the site would be beneficial to the applicant's son's health and wellbeing.

The Locum Lawyer and the Development Manager had a brief discussion in respect of section 4.8.10.2 of the Council's Constitution regarding the Further Information Report process. The Development Manager and the Locum lawyer, representing the Monitoring Officer, both felt that a Further Information Report would not be required and therefore the Committee could proceed to the vote.

Councillor Price was given the opportunity to close the debate in accordance with the Council's Constitution. He reiterated his opening remarks.

RESOLVED

- 2. The Head of Legal and Democratic Services be authorised to complete the planning obligation under Section 106 of the Town and Country Planning Act 1990 in accordance with the Heads of Terms (attached as annex).**
- 2. Upon completion of the above-mentioned planning obligation Officers named in the Scheme of Delegation be authorised to issue planning permission subject to appropriate conditions to be agreed in consultation with the Chairman and Local Ward Member conditions:-**

103. DATE OF NEXT MEETING

Members noted the date of the next meeting.

APPENDIX 1 - SCHEDULE OF COMMITTEE UPDATES

The meeting ended at 1.35 pm

CHAIRMAN

PLANNING COMMITTEE

Date: 12 January 2011

Schedule of Committee Updates/Additional Representations

Note: The following schedule represents a summary of the additional representations received following the publication of the agenda and received up to midday on the day before the Committee meeting where they raise new and relevant material planning considerations.

DMN/102045/F - Continue to erect, take down and re erect polytunnels rotated around fields as required (Retrospective) at Land at Oakchurch Farm, Church Road, Staunton On Wye, Herefordshire, HR4 7NE

FOR: Mr Price per Mr Antony Aspbury, Unit 20 Park Lane Business Centre, Park Lane, Basford, Nottingham, NG6 0DW

ADDITIONAL REPRESENTATIONS

A request has been received from Mr. Lanigan, Field Cottage, Staunton on Wye, to express his thanks for the way in which Officers and in particular the applicant, during the application processing period, have engaged in consultations with members of the public in respect of polytunnel development within Staunton and the surrounding area.

OFFICER COMMENTS

It is recommended that an additional condition is attached in order to clarify a time period for clearing existing raspberries off site in accordance with the amended plans submitted by the applicants for a buffer zone in front of Field Cottage.

CHANGE TO RECOMMENDATION

Add Condition

Within 1 month of the date of this approval notice, a timetable will be submitted to and approved in writing by the Local Planning Authority of a schedule of works for removal of the existing raspberry crop on the site of the proposed buffer zone in front of the property known as Field Cottage, and the land re-instatement, as indicated on amended plan ref. number Fig DLA 1290/04 – Rev b. These works will be carried out in full within 4 months of the date of this decision notice.

Reason: In consideration of the amenity and visual impact of the surrounding area and to comply with Polices DR2 and LA2 of the Herefordshire Unitary Development.

DMN/102047/F - Continue to erect, take down and re erect polytunnels rotated around fields as required (retrospective) at Land at Bishopstone forming, part of Bishops Court, Bishopstone/Bridge Sollars, Herefordshire, HR4 7JQ

FOR: Mr Price per Mr Antony Aspbury, Unit 20 Park Lane Business Centre, Park Lane, Basford, Nottingham, NG6 0DW

ADDITIONAL REPRESENTATIONS

A further letter of objection has been received via email from Dr. Jill Donnelly, a local resident in Bishopstone. Concerns are raised about the close proximity of polytunnels to Dr. Donnelly's dwelling, (field reference number 'E' on the southern tip of the application site). She states that polytunnels situated 30 metres in distance from her dwelling are too close and that they would spoil her views.

OFFICER COMMENTS

As a result of further negotiation, the applicant has offered a buffer zone alongside the north eastern side of Field number 'E' adjacent to the hamlet known as Bishopstone.

It is recommended that an additional condition is attached to any approval notice issued to ensure that the proposed buffer zone is installed in the event of polytunnel development on this field.

CHANGE TO RECOMMENDATION

Add Condition

No polytunnels or associated development will be situated within the north eastern triangular section of the most southerly situated field in accordance with drawing number Fig DLA 1292/04 – Rev a, for a distance of at least 100 metres alongside the buffer zone's easterly boundary with the property known as 'Daren View'.

Reason: In consideration of the amenity of surrounding dwellings and to comply with Policy DR2 of the Herefordshire Unitary Development Plan.

DMSE/100298/O - Light industrial units B1 use at Land opposite Cattle Market, Netherton Road, Ross On Wye, Herefordshire, HR9 7QQ

FOR: Mr Barnett per Mr M F Freeman, Ruardean Works Varnister Road, Near Drybrook, Gloucester, GL17 9BH

ADDITIONAL REPRESENTATIONS

The applicants have raised concern with the committee report and have provided the following comments which, they consider will assist Members.

Paragraph 6.5 states that “While, a 7m buffer zone is proposed” This is misleading because it fails to mention the fact that there is also a 'Landscape zone' running alongside the 7m buffer zone. This is very important to get across to the members because it provides as previously mentioned above a significant planning gain in that there is an element of landscaping re-introduced which will screen the development and support wildlife and ecology. For clarity the buffer zone is an area which will not be built upon or disturbed by the works. Members need to be aware that the landscape zone is significant in size being up to 13m in width in some areas.

Paragraph 6.6 states that the application “will preclude reinstating the area of trees that were originally on the site”. Whilst this may be true it is misleading in our opinion because it does not mention the fact that the scheme includes replanting of a landscaped area which will create a buffer zone. This is a fundamental planning gain of the application because if the application is not approved then the area will remain cleared and no landscaping will be re-introduced. The application also provides an opportunity for the council to secure this landscaping by condition or TPO to ensure that this remains in the future.

Paragraph 6.8 states that “In relation to functional issues, the proposed infilling raises practical concerns about the future stability of a high steep bank close to a watercourse, particularly before it is vegetated and about the difficulties of maintaining planting on a steep sided bank.” We have submitted evidence from our structural engineers that it is feasible to construct this embankment and any concern from planting this area has been confirmed by our landscape architect who has confirmed that this area can be planted. If anyone is worried about material falling into the buffer zone then as part of the detailed application to follow we can allow for a temporary concrete wall to be installed which can then be craned out of position on the completion of the development. This would satisfactorily deal with the concern raised in this point.

Paragraph 6.9 states “retaining this piece of land and allowing it to naturally regenerate would have a positive outcome – maintaining the spatial character, increasing the amount of screening and providing wildlife habitat” The applicant has purchased the land as a potential development site and will not allow the site to regenerate. They will continue to keep the site cleared of any landscaping until they secure consent for the development. At no stage has it been indicated by the applicant that this is an option for the site and it is misleading to inform the members that this what will happen if the scheme is refused.

Paragraph 6.9 it states “The embankment would require a retaining wall to be constructed along the length of the raised ground” This is not correct and a retaining wall is not required which has been illustrated in the sections that have been submitted to you. The section submitted by Simpson Associates (Engineers) does not specify that a retaining wall is required to support the development?

Paragraph 6.10 states “The section drawing that was submitted with the application does not include a scale so it is not possible to assess whether the proposals are feasible. This is a valid concern but we have submitted sections which are to scale to demonstrate that the development does fit within the site area. It is again misleading to leave this statement in without a conclusion. As you are aware this is only an outline application but we are happy to provide whatever information necessary to demonstrate to you and your ecologist that this works. We feel that we have provided you with sufficient information to deal with this point positively but if you do require further information then you just need to let us know.

NO CHANGE TO RECOMMENDATION

DMS/102193/F- Forming of new access and site road. Construction of new packing shed. Erection of 1 no. polytunnels. Placing of 4 no. mobile storage units on site at Land opposite the Bell Inn, Tillington, Herefordshire, HR4 8LH

FOR: Wetland Plants per Mr Richard Ball, Ilex, Ashfield Crescent, Ross On Wye, Herefordshire, HR9 5PH

OFFICER COMMENTS

Following the discussion at the previous committee the applicant has amended the plans to omit one of the two polytunnels from the proposed scheme (description amended as above). This single polytunnel would measure 9m by 26m with a maximum height of 3.5m. The polytunnel will be cut into the ground and be sited adjacent to the hedge to the east of the site, furthest from the highway.

The amended plan also details the hedge planting along the boundary with the neighbouring property. The conditions previously recommended would still be appropriate.

NO CHANGE TO RECOMMENDATION

DMS/101907/O - Site for erection of affordable home at Land adjacent to Holly Bush, Crafty Webb, Bredwardine, Herefordshire, HR3 6BZ

FOR: Mr Minton, Dolvach Farm, Bredwardine Hill, Bredwardine, Herefordshire, HR3 6BZ

ADDITIONAL REPRESENTATIONS

A further letter has been received from a property (Oak Cottage) that adjoins the application site. Mr and Mrs Howe are unable to attend. They reiterate their concerns and state that the site is outside the settlement boundary of Bredwardine. It has been refused twice before and hopefully will again. It is Kilvert country and as such precedents must not be allowed.

NO CHANGE TO RECOMMENDATION

MEETING:	PLANNING COMMITTEE
DATE:	2 FEBRUARY 2011
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. DMN /102084/F

- The appeal was received on 15 December 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 Stinton
- The site is located at The Beech, Haynall Lane, Little Hereford, Herefordshire, SY8 4BG
- Use of land and associated works for the holding of 14 markets/calendar year for agricultural related sales of agricultural machinery, livestock and seasonal sales of holly and mistletoe.
- The appeal is to be heard by Written Representations

Case Officer: Mr M Tansley 01432 261815

Application No. DMS /102384/A

- The appeal was received on 20 December 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 Yeomans
- The site is located at The Travel Centre, Old School Lane, Hereford, Herefordshire, HR1 1EX
- The development proposed is Erection of 2 double sided banners on 8m high flag poles
- The appeal is to be heard by Written Representations

Case Officer: Mrs C L Atkins 01432 260536

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

Application No. DMSW /092489/O

- The appeal was received on 21 December 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 Manning
- The site is located at Land at Clay Pitts, Pontrilas, Hereford, HR2 0BW
- The development proposed is Outline planning for one agricultural workers dwelling.
- The appeal is to be heard by Written Representations

Case Officer: Mr A Prior 01432 2641932

Application No. EN2010/001262/22

- The appeal was received on 23 December 2010
- The appeal is made under Section 174 of the Town and Country Planning Act 1990 against the service of an Enforcement Notice
- The appeal is brought by Mr John Stinton
- The site is located at The Beech, Haynall Lane, Little Hereford, Herefordshire, SY8 4BG
- The breach of planning control alleged in this notice is Without planning permission, material change of use of the land and an agricultural building upon it from use for agriculture to a mixed use for agriculture and for the undertaking of sales utilising a hard standing area within the said land
- The requirements of the notice are: Permanently cease using any part of the land and building for sales in contravention of relevant permitted development rights
- The appeal is to be heard by Written Representations

Case Officer: Mark Tansley 01432 261815

Application No. DMNE /100959/L

- The appeal was received on 23 December 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 & Mrs Clayburn
- The site is located at Perrycroft Lodge, Jubilee Drive, Upper Colwall, Herefordshire, WR13 6D
- Internal alterations to create utility room & wet room, fitting new
- external door, construction of single storey garden room with glazed link to the house.
- The appeal is to be heard by Written Representations

Case Officer: Mr Roland Close 01432 261803

APPEALS DETERMINED

Application No. DCCE0009/1444/F

- The appeal was received on 25 March 2010
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mrs Oseman
- The site is located at Land Off Canal Road, Hereford, Herefordshire, HR1 2EA
- The application was refused on 29 September 2009
- The development proposed was Erection of 17 flats with associated landscaping and parking.
- The main issues are 1) the compatibility of the proposed residential development with strategic proposals for this area of Hereford, having regard to the adopted development plan. 2) the lack of affordable housing as part of the proposals having regard to the adopted development plan. 3) is the effect on flooding

Decision: The application was refused under delegated powers on 2 September 2009 and the appeal was dismissed on 16 December 2010.

Application No DCNE0009/1124/F

- The appeal was received on 26 April 2010
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr Mark Stockley
- The site is located at The Lake House, Underdown, Gloucester Road, Ledbury, Here, HR8 2JE
- The application dated 19 March 2009 was refused on 25 September 2009
- The development proposed was Change of use of existing annex to single dwelling with external alterations and new septic tank
- The main issue is the proposal on the pattern and distribution of housing in the countryside

Decision: The planning application was refused under delegated powers on 25 September 2009 and the appeal was dismissed on 24 December 2010.

Case Officer: Mr C Brace 01432 261795

Application No. DMN/100813/O

- The appeal was received on 14 September 2010
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr David Field
- The site is located at Land off, Queens Court, Ledbury, Herefordshire, HR8 2AL
- The application dated 25 March 2010 was refused on 4 August 2010
- The development proposed was Erection of one pair of semi detached 2 bedroomed houses.
- The main issues are: the effects of the proposed development on the character and appearance of the area and in view of the 'car free' nature of the scheme, whether there would be parking or servicing difficulties arising which could affect highway safety.

Decision: The application was refused under delegated powers on 4 August 2010 and the appeal was dismissed on 21 December 2010.

Case Officer: Mr R Close 01432 261803

Application No. DMNE/092242/A

- The appeal was received on 12 March 2010
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Primesight Ltd
- The site is located at Newtown Cross Garage, Lower Eggleton, Ledbury, Herefordshire, HR8 2TZ
- The application dated 18 September 2009 was refused on 30 December 2009
- The development proposed was Erection of one internally illuminated free standing double sided
- The main issues are the effect of the proposed display safety in particular whether the proposed display would be harmful to the visibility of drivers leaving Green Garth, an adjacent dwelling and the effect on amenity

Decision: The application was refused under delegated powers on 30 December 2009 and the appeal was dismissed on 23 December 2010.

Case Officer: Mr R Close 01432 261803

Application No. DMS/101286/FH

- The appeal was received on 10 November 2010
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr Michael Lincez
- The site is located at Cider Barn, Step House Farm, Pencraig, Ross on Wye, Hfds, HR9 6HR
- The application dated 21 May 2010 was refused on 3 September 2010
- The development proposed was Replacement of existing covered yard with extension comprising new kitchen and sun room
- The main issue is the proposal on the character and appearance of the existing building and surroundings

Decision: The application was refused under delegated powers on 3 September 2010 and the appeal was dismissed on 29 December 2010.

Case Officer: Mr A Prior 01432 261932

Application No. DMSE/101260/F

- The appeal was received on 21 September 2010
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr D Williams
- The site is located at Long Ridge, Linton, Ross On Wye, Herefordshire, HR9 7RS
- The application dated 22 May 2010 was refused on 13 August 2010
- The development proposed was Proposed extension to holiday accommodation.
- The main issues are the effect on the character and appearance of the appeal building and the locality, and the effect of the appeal scheme on sustainability in the context of policies at local and national level which seek to restrict new housing in the open countryside.

Decision: The planning application was refused under delegated powers on 13 August 2010 and the appeal was allowed on 30 December 2010.

Case Officer: Mr D Thomas 01432 261974

Application No. DMSE/101193/F

- The appeal was received on 29 September 2010
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Miss J Johnson
- The site is located at Horn Hill Cottage, Drybrook, Herefordshire, GL17 9BN
- The application dated 18 May 2010 was refused on 9 August 2010
- The development proposed was Proposed siting of static caravan for use as holiday let.
- The main issues are the effect of the proposal on the character and appearance of the countryside, and whether the site is a sustainable location for development of this kind.

Decision: The application was refused under delegated powers on 9 August 2010 and the appeal was Dismissed on 5 January 2011.

Case Officer: Mr D Thomas 01432 261974

Application No. DMNE/091944/L

- The appeal was received on 3 August 2010
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr & Mrs Craig & Sara Gardener
- The site is located at Jacobs Cottage, Halmonds, Frome, Bishops Frome, Worcester, Herefordshi
- The application dated 21 September 2009 was refused on 25 January 2010
- Demolition of existing single and two storey extensions, construction
- of new extension and complete refurbishment of original timber framed building. (grade II listed)

Decision: The appeal was withdrawn on 5 January 2011.

Case Officer: Mr C Brace 01432 261795

Application No. DMNE/091943/FH

- The appeal was received on 3 August 2010
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr & Mrs Craig & Sara Gardener
- The site is located at Jacobs Cottage, Halmonds, Frome, Bishops Frome, Worcester, Herefordshi
- The application dated 21 September 2009 was refused on 25 January 2010
- Demolition of existing single and two storey extensions, construction
- of new extension. Complete refurbishment of original timber framed building (grade 11 listed).

Decision: The appeal was withdrawn on 5 January 2011.

Case Officer: Mr C Brace 01432 261795

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



MEETING:	PLANNING COMMITTEE
DATE:	2 FEBRUARY 2011
TITLE OF REPORT:	<p>DMCW/092858/F - ERECTION OF STORE EXTENSIONS (CLASS A1) TO FRONT OF STORE, ELEVATION CHANGES, ALTERATIONS TO CAR PARK LAYOUT INCLUDING NEW DECK, NEW LANDSCAPING, ASSOCIATED PLANT AND WORKS AND VARIATION OF CONDITION 7 OF CW1999/3251/F TO ALLOW NOT MORE THAN 30% OF THE TOTAL SALES FLOOR SPACE FOR THE SALES OF COMPARISON GOODS AT SAINSBURYS, BARTON YARD, HEREFORD, HR4 0AG.</p> <p>For: Sainsburys Supermarkets Ltd per Turley Associates, 9 Colmore Row, Birmingham, B3 2BJ.</p>

Date Received: 9 November 2009

Ward: St Nicholas

Grid Ref: 350400,239954

Expiry Date: 2 March 2010

Local Members: Councillors JJD Lavender and JD Woodward

Site Description and Proposal

- 1.1 The application site is located to the west of the City Centre, accessed off the A438, via Grimmer Road. The site comprises an existing retail store of 7,817 sq m (net sales area of 4,476 sq m). The store has customer parking to the front and side providing 337 standard spaces, 23 disabled spaces, 16 parent and child spaces. Staff parking (26 spaces) is located to the rear.
- 1.2 The store is located to the south of the site with its service area to the rear (south east) along with staff parking areas. The associated petrol filling station is sited off Station Road. The store is approached off Grimmer Road, which also provides access to the Travel Lodge, Cider Museum and recently built Pomona Court.
- 1.3 A segregated cycle path / pedestrian route (Great Western Way) bisects the site and crosses the car park.
- 1.4 The application seeks permission for the following:
 1. Extension to the front of the store, to provide additional sales, lobby and customer toilets. This also involves the re-modelling of the entrance, including the removal of the existing glazed canopies.

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

This involves extending the store forward (North elevation) slightly, removing the existing arched canopy and remodelling the front elevation with the use of light grey cladding panels, brickwork to match existing, glazing to ground floor with high level glazing to serve the mezzanine level at first floor. The entrance will be moved to a more central position in the elevation. A canopy will project across much of the front of the store and walkway to the stairs and lifts to the adjoining car park deck.

2. Erection of a first floor mezzanine to provide for a relocated café and improved colleague facilities.

The first floor mezzanine would be accessed via a stair / lift just inside the new entrance to the store. The first floor mezzanine will provide a restaurant and kitchen (13m by 27m) with adjoining toilet facilities and colleague facilities (34.5m by 13m).

3. Changes to the internal store layout to relocate restaurant, facilitate a better store layout and achieve a more efficient warehouse with a dedicated online goods facility.

Internally the existing back of house line will be brought forward allowing more space for the warehouse and online goods facility. Existing colleague facilities will be relocated to the mezzanine level.

The breakdown of comparative floor space is as follows:

	Gross External Floor space (sq m)	New Sales Area (sq m)	Store Car Parking (exc 26 staff spaces)
Existing	7,817	4,476	376
Proposed	9,754	5,359	421
Change (+/-)	+1,937	+883	+45

4. Alterations to the car park and internal road layout and cycleway to make a safer crossing point.
5. Alterations to the sites landscaping.
6. Relocated recycling facilities.
7. Three replacement ATM's. Sited in the north elevation adjacent to the relocated store entrance.
8. New Cycle parking facilities (14 spaces plus 4 motorcycle spaces)
9. New Sprinkler Tank sited to the south of the service yard.
10. New Decked Car Park positioned above the existing car parking area to the west of the store with linked area to store at first floor.

The car park deck would be accessed from the existing roundabout (removing the existing recycling facilities). The car park deck would provide first floor level parking over the existing car park to the west of the store (South of Pomona Court).

The deck would be a maximum 4.4m in height (including railing) with the adjacent store being 7.4m in height. (Measured from the existing level of the car park which will remain as existing). The structure will be open fronted to all elevations with supporting dark grey pillars. The deck and enclosure would be a steel frame structure clad in light grey panels

to match the store. The scheme includes a comprehensive planting scheme around the decked area (retaining, replanting and new planting as per detailed landscaping plan).

The car park deck would accommodate 113 spaces at first floor and 125 spaces at ground floor.

The proposed car park would have 421 car parking spaces, 28 of which would be disabled spaces with 18 parent and child and 375 standard bays. In addition to this there are 26 spaces are allocated for colleagues at the rear of the store. This is an increase of 45 spaces as compared to the existing provision of 376 spaces.

11. Alterations to the highway include:

- Incorporation of controlled pedestrian phases across Whitecross road and Grimmer Road arms of the junction.
- Remarking the advanced cycle stop lines to provide feeder lanes;
- Revised line marking at mini-roundabout toe provide tow full width queuing lanes
- Introduction of left-turn filter signal from Grimmer Road at times where there is no pedestrian demand to the exit arm of Whitecross Road.

1.5 The application also includes the variation of Condition 7 of CW1999/3251/F that reads as follows:

The sale of non-food or non-convenience goods shall not take place from more than 20% of the net sales area of the extended supermarket hereby permitted.

Reason: In order to define the terms under which this permission is granted and having regard to the policies of Hereford Local Plan to protect the vitality and viability of the city centre.

1.6 The proposal is to allow for the proportion of comparison goods to be increased from 20% to 30%. The breakdown of this is as follows:

Types of Goods	Percentage	Net Sales	Increase
Comparison	30%	1,607 sq m	+ 712 sq m
Convenience	70%	3,752 sq m	+ 171 sq m
Total	100%	5,359 sq m	+ 883 sq m

Internally the store would be reorganised to accommodate the increase in floor area primarily through the relocation of the restaurant and other facilities that are currently located at the front of the store and the extension that will increase the floor area to the front of the store.

2. Policies

2.1 Government Advice:

- PPS1 - Delivering Sustainable Development
- PPS4 - Planning for Sustainable Economic Growth
Practice Guidance on need, impact and sequential approach
- PPS5 - Planning for the Historic Environment
- PPS9 - Nature Conservation
- PPG13 - Transport
- PPS25 - Development and Flood Risk

2.2 West Midlands RSS:

- UR1 - Implementing Urban Renaissance

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

- UR1D - Retail Floor space
- UR3 - Enhancing the Role of City, Town and District Centres
- RR1 - Rural Renaissance
- PA11 - The Network of Town and City Centres
- PA13 - Out-of-Centre Retail Development
- QE3 - Creating a High Quality Built Environment for All
- QE5 - Protection and Enhancement of the Historic Environment
- T1 - Developing Accessibility and Mobility Within the Region to Support the Spatial Strategy
- T2 - Reducing the Need to Travel
- T3 - Walking and Cycling
- T7 - Car Parking Standards and Management

2.3 Herefordshire Unitary Development Plan 2007:

- S1 - Sustainable Development
- S2 - Development Requirements
- S5 - Town Centres and Retail
- DR1 - Design
- DR2 - Land Use and Activity
- DR3 - Movement
- DR10 - Contaminated Land
- DR13 - Noise
- DR14 - Lighting
- HBA6 - New Development Within Conservation Areas
- LA6 - Landscaping Schemes
- TCR1 - Central Shopping and Commercial Areas
- TCR2 - Vitality and Viability
- TCR9 - Large Scale Retail and Leisure Development Outside Central Shopping and Commercial Areas
- TCR20 - Eign Gate Regeneration Area
- TCR23 - Civic Quarter
- T6 - Walking
- T7 - Cycling
- T11 - Parking Provision

3. Planning History

3.1	HC28249PO	Erection of a retail store and unit shop with new access road, car parking facilities etc.	Approved with conditions	10/07/1986
3.2	HC870036PM	Retail store & unit shop & access road & improvements to Whitecross Road & car park for BR staff club & cycle path.	Approved with conditions	16/04/19987
3.3	HC880219PM	Approval of reserved matters referred to in conditions 2(v) & 2(viii) of Outline Consent no. H/OA/282249/W.	Approved with conditions	27/07/1088
3.4	HC930142PF	Petrol filling station, including ancillary roadworks and alterations to existing car park.	Approved with conditions	27/01/1994

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

3.5	HC960157PF	Variation of condition no. 13 of planning permission ref. HC930496PF/W to allow the petrol filling station to open until 21.30 on Friday.	Approved with conditions	27/06/1996
3.6	CW1999/3251/F	Extension and alterations to existing Class A1 retail store, including demolition of existing Council Depot and change of use to Class A1 retail. Alterations of access and car parking arrangements and amendment to existing cycle path.	Approved with conditions	19/10/2001
3.7	CW2001/0667/F	Extension of petrol filling station kiosk and canopy, reconfiguration of canopy fascia, 2 no. additional pumps and revised access.	Approved with Conditions	26/03/2002
3.8	CW2001/2244/F	To vary condition 13 of application HC/930496/PF/W allowing PFS to be open between the hours of 0700 to 2200, Monday through to Saturday.	Approved with conditions	19/10/2001
3.9	CW2002/0454/F	Erection of 4 no. covered trolley bays.	Approved with conditions	04/04/2002
3.10	CW2002/0523/F	Relocation of main entrance and feature canopy and alterations to brick detailing on west elevation.	Approved with conditions	23/04/2002
3.11	CW2002/3048/F	Variation of condition 6 of planning permission ref: CW1999/3251/F to vary the opening hours of the store during the Christmas/New Year period.	Approved with conditions	04/12/2002
3.12	CW2002/3049/F	Variation of condition 1 of permission ref: CW2001/2244/F to vary the opening hours of petrol filling station during the Christmas/New Year period.	Approved with conditions	04/12/2002
3.13	CW2002/3472/F	Variation on Condition 6 of permission Ref: CW1999/3251/F to alter store opening hours to 0700 - 2200 (Monday to Saturday).	Approved with Conditions	19/02/2003

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

- | | | | | |
|------|-----------------|---|--------------------------|------------|
| 3.14 | DCCW2003/3562/F | Variation of Condition 1 of Planning Permission CW2001/2244/F to allow increased opening hours of petrol station over Christmas period . | Approved with Conditions | 20/01/2004 |
| 3.15 | DCCW2003/3563/F | Variation of Condition 6 of Planning Permission CW1999/3251/F to allow increased opening hours of Sainsbury's store over Christmas period | Approved with Conditions | 20/01/2004 |

4. Consultation Summary

4.1 Highways Agency makes the following comments:

The applicant has addressed all the issues previously raised (in detailed report) and offers no objection.

Internal consultees

4.2 Traffic Manager has no objection subject to conditions, including the Section 106 as previously agreed.

Conditions would be required to control the hours of work on the A438 and for the submission of a programme of works for the prior approval prior to commencement. Also conditions relating to obtaining and agreeing full details of the control of parking (e.g. time contained parking) and how this would be managed should be submitted and agreed prior to commencement of development. It would also be beneficial to ensure retention of records relating to the use and control of non-customer and excessive time use of the car park.

A condition / informative relating to the orders for the diversion of the Great Western Way, and for details to be submitted of the programme and temporary proposals to enable its continuous use during the works.

A condition relating to the travel plan implementation would be needed.

4.3 Environmental Health Manager makes the following comments:

Lighting Scheme – I have no objection to this proposal. Should nuisance be caused powers are available to the local authority as provided by the Environmental Protection Act 1990 to require that nuisance is abated.

Noise Survey – I have had reviewed the Environmental Noise Survey and based on the monitoring results provided would concur with the conclusions reached, in any case any noise due to the proposal should be minimal. I therefore do not wish to make any objection to the proposal on grounds of unacceptable noise.

Contaminated Land – I refer to the above application and the Phase 1 Desk Study dated October 2009 and I would make the following comments:

1. The Desk Study has not reviewed previous investigation work undertaken on the site. A number of contaminated land reports were submitted in relation to an extension of the

Sainsbury's store in 2002 (planning permission CW1999/3251/F). These reports detailed investigation and remediation work of the former depot/railway site in the area of the proposed car park and around the area of the previous extension. This information would be valuable to feed into the desk study, conceptual model and risk assessment and assist in drawing up investigation proposals, should they be required. However it should be noted that the previous contamination assessment was undertaken using the now withdrawn ICRL guidance values and Dutch guideline values for contamination assessment which are now not acceptable. Therefore the data should be reviewed under the current UK approach for contaminated land assessment.

2. The desk study currently proposes that site investigation works should be undertaken, however no details of the proposed works have been incorporated within the desk study.

I would therefore recommend that a contaminated land condition to require the revision of the desk study and suitable further assessment if necessary would be appropriate.

- 4.4 Public Rights of Way Manager confirms that the proposal will not affect the Public Right of Way.

- 4.5 Conservation Manager makes the following comments:

The topography of the site means that it has minimal impact on the conservation areas. The additional car park deck will, with the benefit of the proposed landscaping scheme, have no impact on the character or appearance of the conservation area as it will not be visible either from within it or approaching it. The reduction in height of the entrance canopy will remove only the visually intrusive element. The balance of brickwork, glazing and cladding will minimise the bulk of the main elevation. It is therefore concluded that there is no objection to the proposal.

- 4.6 Policy Planning Manager comments are summarised as follows:

With PPS4 emerging at the end of December 2009, the UDP policy of requiring a needs test has been superseded, there is now no requirement for the needs test. The location of the store and the effect it could have upon the delivery of the UDP allocation of the Livestock Market (Eign Gate Regeneration area) is an issue for consideration.

5. Representations

- 5.1 Hereford City Council has no objection to the extension of the store. However, the City Council does object to the removal of the condition to allow more than 30% of the floor space for comparison goods. The City Council would also like to maximise the number of trees with the landscaping plan.

- 5.2 Objections have been received from:

- E R Falshaw, 11 Pomona Court.
- Martin Gilleland, 35 Muir Close, Hereford.

- 5.3 The objections can be summarised as follows:

- Noise impact.
- Visual Impact.
- Query necessity to build car park – the car park is rarely at capacity.
- Identification of hazards and conflicts with cycle users.

5.4 A letter of objection has also been received from Savills on behalf of Stanhope Plc in respect of the new retail quarter at the existing livestock market. This letter raises the following issues:

- We write in order to express our objection to the application and its potential impact on the town centre as well as existing commitments such as the retail quarter.
- Concern that the Drivers Jonas Deloitte update of the retail study will identify a reduction in the overall need for retail floorspace and in those circumstances the grant of planning permission for an extension to Sainsburys may impact the available capacity for development of other existing commitments, specifically the retail quarter.
- We are concerned that the approach for this application for more floorspace and an increased proportion of comparison floorspace may have a negative impact on the town centre and could also set a precedent for proposals for other out of town sites, particularly food store operators in a similar position.

Following a re-consultation on the agents updated report, Savills made further representation that can be summarised as follows:

- Concern that there is no capacity for the convenience element of the development and therefore impact on the town centre can be expected. As a consequence, the proposal could also jeopardize the delivery of part of the Livestock Market proposal as there would not be sufficient floorspace capacity available for a quality store as proposed within the scheme post 2026. This compromises the policy commitments within the existing Herefordshire Unitary Development Plan and the emerging policy in the Local Development Framework.
- The level of overtrading at this store does not appear to be excessive with store conditions not being excessively busy or uncomfortable. The new Waitrose store (current proposal) on the cattle market site is likely to relieve any overtrading. No real need for the enhancement of the store has been demonstrated.
- There is a sequentially preferable site which is suitable, viable and available for the development of a foodstore as well as additional retail floorspace within the Eign Gate allocation. This site is within the city centre and allocated for retail development and is therefore not only sequentially preferable but constitutes planned investment in the city centre that the Sainsbury's proposal may adversely effect if allowed.
- We consider that not all the options within the city have been assessed.
- In relation to the 'impact tests' we believe that the applicants have not adequately addressed the impact criteria.
- In relation to Policy EC16; we consider that Waitrose have already scaled back their proposals for Eign Gate Site in response to existing competition within the catchment area and this additional element of floorspace proposed for Sainsbury's store could further scale back the size of the proposed food street at the Eign Gate site. There is a real concern regarding the impact of the proposal upon the planned investment in the city centre.
- Increase in floorspace could increase overall turnover and the impact of the extension is consequently underestimated.
- In the absence of any safe and convenient pedestrian access to the city centre from the store within a reasonable distance (i.e. 300m, as advised in PPS4) it cannot be considered an edge of town locations.

- Concern about linked trips and information provided, especially as there is a two hour limit on parking at present. The assumption that 10% of the car park users carry out linked trips to the city centre is likely to be significantly overstated.

5.5 The Ramblers Association observe that the site plan details that the cycle and pedestrian routes will have a slight kink and raise no objection to this.

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 key issues for consideration are:

- The principle of the development and policy background.
 - Store Location
 - Sequential Approach
 - Impact Assessment
 - Linked trips
- The design, appearance and impact of the proposed store extension
- The design, appearance and impact of the car parking deck
- The impact of the proposed development on the conservation area
- Impact on highway safety / highway intensification and parking
- Landscaping

The principle of development and policy background

6.2 The Council has engaged retail consultants Drivers Jonas Deloitte (herein referred to as DJD) to provide advice on the proposal having regard to policy background and in particular the applicant's Retail Planning Statement and their updated Retail Planning Statement following the publication of PPS4 – Planning for Sustainable Economic Growth (published after the submission of this application). This advice has been appended in full to this report.

6.3 PPS4 is of key importance. It identifies the retail policy issues that must be addressed by the applicant, as well as the considerations to which the Council must have regard and the weight that is to be attached to these considerations. The appended letter sets out the relevant policies in detail.

Store Location

6.4 Key to the assessment of this application is the issue of whether the site is considered to be an out-of-centre or edge of-centre location. On reassessment of the proposal having regard to PPS4, the applicant maintains that this store is an edge-of-centre location, with this view based on the stores' linkages with the town centre and observed customer behaviour. The applicant suggests that the route is pedestrian-friendly with a continual flow of shoppers being observed between the store and city centre, notes that there are a number of retailers located on Eign Street which ensures that this is a natural route for shoppers to take between the store and city centre, and notes that whilst it is likely that edge of centre sites would be located within 300m of the primary shopping area, where the distance exceeds this then local circumstance should be taken into account.

6.5 Paragraphs 1, 2 and 3 of the appended DJD letter outline the policy in this respect and concludes that the site should be considered as out-of-centre having regard to its position, location and relationship with the city centre.

- 6.6 The city centre is approximately 580m from the store. The central shopping and commercial area shopping (as defined in the Herefordshire Unitary Development Plan) finishes at the end of Eign Gate (the Trekitt shop). The route from the city to the store is firstly through the underpass and then runs, along Eign Road, which has a number of small retail units (including a tattoo parlour, opticians and small food store). This retail frontage does not benefit from any specific policy designation. The route is heavily used by pedestrians, many of whom also make use of the public right of way that runs through Sainsbury's and provides access to properties south of the river as well as the Whitecross and Broomy Hill residential areas of the city. The route is also a main route for vehicles into the city centre from the west.
- 6.7 Whilst the route is busy it is neither a pleasant nor attractive route. In addition the route itself is not an incentive for shoppers to make the walk from or into the City Centre unless Sainsbury's is en route to one of the adjacent residential areas. The local circumstances have been considered and your officers conclude that having regard to the advice in PPS4 the store should be considered as out-of-centre for the purpose of determining this application.

The Sequential Approach

- 6.8 In sequential terms priority should be given to sites within the city centre in the first instance and where it can be demonstrated that where there are no such sites then edge-of-centre locations should be given preference. This policy approach seeks to protect and enhance the vitality and viability of Hereford City Centre in accordance with the requirements of policies S5, TCR1 and TCR9 of the Herefordshire Unitary Development Plan and in accordance with the national guidance contained within PPS4.
- 6.9 The applicant's agent has sought to demonstrate that many of the retail units within and on the edge of the city centre are either not available, viable or suitable for the purposes proposed in the application and your officers are satisfied that this is the case in general.
- 6.10 The main concern and area of dispute on these matters is in respect of the Eign Gate Regeneration Area. This area is defined in the Herefordshire Unitary Development Plan and includes land and buildings to the south of Eign Gate (inclusive of West Street and Berrington Street) and land to the south of Eign Gate (inclusive of Bewell Street, and west of Widemarsh Street) The land also includes the Livestock Market site. DJD confirm in paragraph 48 that this area is considered sequentially preferable alternative for the type of retailing under consideration as part of the application proposal.
- 6.11 Savills, on behalf of Stanhope PLC have also commented that the Eign Gate Regeneration Area is a sequentially preferable site that is within the city centre and allocated for retail use and which has as part of the redevelopment a proposal for a foodstore. They confirm that this is therefore a preferable site that is suitable, viable and available for the development of a foodstore as well as additional comparison retail floorspace.
- 6.12 The applicant's agent has taken the view that neither DJD nor the local authority has provided evidence of the availability, suitability or viability site or that the Sainsbury's proposals for a 1,937 sq metres (gross) store extension would be achieve a comprehensive scheme for the Livestock Market as required by policy TCR20.
- 6.13 In terms of additional floor space your Officer's conclude that it is clear that the Eign Gate Regeneration Area could accommodate this demand. The developer of the site has been selected and the application for its redevelopment is currently being considered (Application DMS/103136/F). That application includes provision for a foodstore (minimum gross floorspace of 2000sq m and maximum 2320sq m) along with proposals for comparison trading (minimum gross floorspace 16,000sq m and maximum 23,250sq m) in a two storey development. Your officers are not satisfied that it has been demonstrated that that the

additional comparison and convenience shopping proposed in this application could not be accommodated within the Eign Gate regeneration site, of which the Livestock Market is part.

- 6.14 The Sainsbury's business model and requirements would not promote or wish to disaggregate its floorspace across the city and there is no wish to move its entire store to the Livestock Market site. It is accepted that the area allocated for foodstore on the regeneration site is far smaller than the site Sainsbury's currently occupies. On this basis it is accepted that the complete store relocation is not a realistic option.
- 6.15 The applicant's agent argues that it is also not a realistic exercise for Sainsburys to disaggregate its floorspace. Members will see from the DJD letter attached (paragraphs 49 – 51) that this argument is widely accepted. However, it is necessary for the applicant to demonstrate why a smaller store or stores could not meet a similar need. In this case the applicant's agent argues that the proposed extension is a direct response to existing overtrading at the store. The proposals would allow an improved store layout and product ranges that would improve quality and choice and to enhance the offer to meet customer expectations.
- 6.16 Paragraphs 52 – 55 of the DJD letter discusses this issue. The agent states that the store is currently trading at 14.7% above company average levels (based on a national average). This average takes into account a wide range of sales figures between stores reflecting their location, size store layout etc. The fact that this store performs above national average in its trading figures does not demonstrate a level of over trading such would justify the further expansion store in this out-of-centre location.
- 6.17 Qualitative tests of overtrading include whether the store is excessively busy or uncomfortable for shoppers and include matters such as inadequate shelf space to stock goods, narrow aisles, queuing at tills etc. These are matters that are difficult to resolve without increasing the store floorspace.
- 6.18 Sainsbury's entered into a period of consultation with users of the store both in store and online. The comments submitted offer both support and objection to the proposals. These comments raise only a handful of objections relating to concerns such as lack of choice (specialist lines) and wider aisles. The comments express a wish that more tills are open to reduce queuing. As part of the Council's consultation process on this application no letters were received raising any of these issues
- 6.19 On the basis of the above your officers are not satisfied by the argument that the store overtrades and that in direct response to this the store requires the extension and alterations proposed. The applicants have not therefore provided the required justification as to why the additional convenience and comparison floorspace must be provided in this location.
- 6.20 On this basis the requirements of the sequential approach are not satisfied and the proposal fails to comply with the requirements of policy TCR9 of the Herefordshire Unitary Development Plan and requirements of PPS4 (as fully detailed in DJD letter attached).

Impact Assessment

- 6.21 Policies EC14 and EC16 of PPS4 refer explicitly to the requirement for the submission of an assessment of the impact of any proposed retail development (para 18 of attached DJD letter).
- 6.22 The DJD letter attached gives an overview of the requirements of the impact tests and the health of Hereford City in paragraphs 56 – 74 and summarises the impact on both convenience and comparison retailing in the city. It concludes that due to current market conditions it is inherently more difficult to deliver both forms of retailing and these are more vulnerable to any impacts that may arise, including those from competitive developments.

- 6.23 On the basis of the information provided (and taken from the DJD PPS4 Assessment) it is concluded that assuming that the planned, committed developments are undertaken (such as the redevelopment of the Livestock Market) there is no surplus capacity for the convenience element of the proposal. Whilst this may only result in an increase of 171sqm (net) the principle remains. There are sequentially better sites that are suitable, viable and available to provide for the capacity that currently exists. Should this application be approved, it may jeopardise the delivery of the Livestock Market proposal as there would not be sufficient floorspace capacity available for a quality store as proposed within the scheme until post 2026. As such the proposal to extend Sainsbury's would compromise the Council's policy commitments having specific regard to Policy TCR20 of the Herefordshire Unitary Development Plan.
- 6.24 It is also suggested that the relatively small or perceived overtrading at the existing Sainsbury's store would be alleviated through the proposed food store on the Cattle Market site.
- 6.25 There is, theoretically, capacity for enough additional comparison floorspace for both the planned development within the Eign Gate regeneration proposals and this proposed extension. However, as members will see from paragraphs 65 to 68 of the attached letter, consideration must also be given to the difficult current trading conditions. As such your officers have concerns about the further strengthening of retail outlets in 'out-of-centre' locations. The approval of this application, would therefore represent a risk to the continued health and vitality of the city centre.
- 6.26 The applicant's agent have commented on this matter and have concluded that the annual convenience and comparison goods turnover figures associated with the proposed development is £1.71m and £5,77m respectively. These turnovers represent 0.97% and 1.63% of the city centre convenience and comparison goods turnover. They conclude that even if the totality of this turnover uplift were to be diverted from the city centre (an unrealistic scenario that they would not consider to reflect existing shopping patterns or the nature of the development), then the retail impacts that would arise would be negligible, with actual levels of retail impact that reflect genuine shopping patterns being imperceptible. They conclude that these would not lead to such an adverse impact that would be sufficient to undermine the vitality and viability of the city centre.
- 6.27 The modest proportion of additional turnover in comparison to the city centre as a whole and therefore the impact on the vitality and viability makes this balanced judgment. However it is not considered that sufficient justification in relation to the need for the extension has been advanced to override the broad principle of the Council's retail strategy, and which is to accommodate new retail development within the existing City Centre.

Linked Trips

- 6.28 The applicant's agent has also suggested that this store currently generates a number of linked trips, with shoppers using the car park and also making visits to the town centre. The application includes a submission of survey data regarding the length of time that vehicles remain in the car park. This concludes that 13% of vehicles (over 400 vehicles per day) stay for in excess of one hour and approximately 10% of shoppers are likely to have undertaken a linked trip with the city centre during this time. It states that this is reinforced by observed pedestrian patterns, with shoppers witnessed walking between the site and City Centre.
- 6.29 It is not uncommon for shopping trips to take in excess of one hour, especially where the shopping trip may also make use of the restaurant, and view clothing lines or comparison goods that are available in this store. Members may be aware that there is a two hour parking restriction at the store. This would restrict trips of longer than this period. Your officers

consider that there is insufficient evidence to support the suggestion that linked trips would occur to such a frequency that would benefit city centre trade. It is concluded that the incidence of linked trips bringing trade to the City Centre would be more than offset by the trade impact of the proposals.

- 6.30 Policy EC10.2 of PPS4 (para 13 of DJD letter attached) requires the consideration of a number of criteria. Part (a) requires that the Local Planning Authority be satisfied that the proposal has been planned over a lifetime of the development to limit carbon dioxide emissions, and minimise vulnerability and provide resilience to climate change. The applicants agents have addressed this and your officers are satisfied that this meets with this requirements.
- 6.31 Parts (b) and (c) of this policy will be considered later in this report. Part (d) requires an assessment of the impact upon economic and physical regeneration in the area, including impact upon deprived area and social inclusion. Part (e) requires consideration of the impact upon local employment. The agents consider that the proposals would achieve regenerative benefits through the creation of new jobs, in a range of skills, with opportunities for training and career development. The agent also suggests that the proposed development would offer improvement of economic conditions in local deprived areas which are easily accessible from the store.
- 6.32 However Members should note that this statement is not quantified and does not provide details of the level of the additional jobs or employment opportunities. On the basis of the information provided your officers are not satisfied that the impact of new employment opportunities would be so great that this would outweigh the wider harm that would result.

Planning Policy Conclusions

- 6.33 The thrust of policies S5 and TCR9 of the Herefordshire Unitary Development Plan and the guidance and policies contained in PPS4, when applied locally, relate to the protection and enhancement of the vitality and viability of Hereford City centre. The two key tests that the application proposal is required to satisfy relate to the sequential approach (Policy EC15 of PPS4) and impact (Policy EC16 of PPS4).
- 6.34 These issues have been explored in detail in the DJD letter attached and have clearly been explored in the report above. It has been concluded that the requirements of the sequential approach have not been satisfied as required by policy EC15 of PPS4.
- 6.35 In addition the impact of the proposed development has been considered having regard to policy EC16 of PPS4 and it is concluded that the further significant expansion of an out of centre shopping facility in Hereford would risk a significant impact on the City Centre and potentially threaten the planned investment proposed at the Livestock Market.

The design, appearance and impact of the proposed store extension

- 6.36 The site is located adjacent to the City Centre Conservation Area. Policy HBA6 states that 'development must preserve and enhance the character and vitality of the area, and the type and scale of the proposal must complement those which presently exist'. The policy also states that 'where the setting of views into and out of the conservation area are important to the character and appearance of the area they should be safeguarded'.
- 6.37 The store is sited amongst a variety of buildings that are mainly modern in design, along with the associated car park and mature landscaping on site. The proposed extension and alterations to the store itself are in keeping with the character of the area and with the existing building and will not be obtrusive or detrimental to the area. The Conservation Officer notes that the reduction in height of the entrance canopy would remove the only visually intrusive

element. It is considered that the balance of brickwork, glazing and cladding will minimise the bulk of the main elevation. On this basis the design is considered acceptable in accordance with policy DR1 and would preserve or enhance the adjoining Conservation Area in accordance with Policy HBA6 and the requirements of PPS15.

- 6.38 Policy EC10.2 (c) requires Local Planning Authorities to consider whether the proposal secures high quality and inclusive design which takes the opportunities available for improving the character and quality of an area and way it functions. Taking account of the comments above, and the potential improvements that this extension would offer, it is considered that the proposed development would comply with this requirement. In addition to this the proposed store extension would not adversely impact on the amenities of any nearby residential properties and as such is acceptable having regard to policy DR1 of the Herefordshire Unitary Development Plan.

The design, appearance and impact of the proposed car parking deck

- 6.39 The proposed car park deck (sited to the west of the store), benefits from the fact that the surrounding land is significantly higher. The deck would be complemented with new and enhanced landscaping on the site. The scale of the deck, in relation to its surrounds and the size of the store and car park is not considered excessive. As such the proposed design and appearance of the car park deck is considered acceptable in accordance with policy DR1 of the Herefordshire Unitary Development Plan.
- 6.40 Concerns have been raised in relation to the potential impact of the proposed decked area, and more specifically its use on the occupants of the nearby residential properties. Concern that it would also attract antisocial behaviour whilst being on the well used public right of way through the site has also been raised. The Environmental Protection Manager raises no objection to the proposal in relation to potential noise from use of the deck or to the proposed lighting plan.
- 6.41 On the basis of the above, your officers are satisfied that the proposed car park deck would not have such a detrimental impact on the amenities of neighbouring residents as to warrant a reason for refusal. Appropriate conditions could be imposed to ensure that amenity is not affected, particularly outside of normal opening hours. On this basis the proposal is considered to comply with policies DR2, DR13 and DR14 of the Herefordshire Unitary Development Plan.
- 6.42 The landscaping detail is also important to the inclusive design of the store extension and car park deck. This was submitted in detail with the application and subsequently amended to reflect the highway changes was subject to pre-application discussion and is considered acceptable in accordance with policy LA6 of the Herefordshire Unitary Development Plan.
- 6.43 Concerns have also been raised regarding the recycling centre in relation to noise and disturbance. These concerns focus on the hours that this is used and its maintenance. It is proposed to move this recycling centre away from Pomona Court in order to facilitate the access to the decked area and into the main car park.

Impact on highway safety / highway intensification and parking provision

- 6.44 Policy EC10.2 of PPS4 requires that the impact of the proposal be considered having regard to the accessibility of a proposal by a choice or means of transport including walking, cycling, public transport and the car, the effect on local traffic levels and congestion (especially to the trunk road network) and after public transport and traffic management measures have been secured. This mirrors the thrust of the Herefordshire Unitary Development Plan policies S6 and DR3.

- 6.45 Parking congestion and highway safety featured heavily in the comments raised by store users in their comment cards. There were also concerns raised initially by the Highways Agency and Transportation Manger. Following the submission of a revised Transport Assessment and negotiation of a Section 106 contribution of £50,000 towards specific localised projects to these objections were subsequently removed subject to the appropriate conditions being imposed.
- 6.46 The site does have good links to bus and pedestrian and cycle routes and as such meets with the principles of sustainability as required by both PPS4 and Herefordshire Unitary Development Plan policies.
- 6.47 The parking provision, which involves the changes to the car park layout and new car park deck, and detail is also considered to be acceptable in accordance with policies T11 and the guidance contained within the Highways Design Guide.
- 6.48 A public right of way also crosses the site and no objection is raised to the proposals that would slightly revise its route.

Conclusions

- 7.1 The application raises a complex set of issues, based around the component parts of the application. These issues have been set out in para. 6.2 of the report.
- 7.2 The key issue is that of the impact of the proposal on the vitality and viability of the Hereford City Centre. The maintenance of the role of town and city centres is key to national planning policy (PPS4) and local planning policy (UDP). The matter is complicated as PPS4 has been updated during the processing of the application itself. Members are advised to give very significant weight to PPS4 as it is both national planning policy, and as it post-dates UDP policies.
- 7.3 Members will note that your Officers and the Council's own retail consultant conclude that the site is in an out-of-centre location (6.5 and 6.6 of this report).
- 7.4 In relation to the sequential approach issue the applicant's agent points to the availability and delivery of the applicant's proposal. The applicant's agent also suggests that there is no evidence that the proposed retail development on the regeneration site will take place. Clearly events have moved on since the submission of this application. In particular an application was submitted on the regeneration site on 3 December 2010. At this stage it is reasonable for the Committee to conclude that the phased regeneration proposal has a very strong probability of implementation. It is being sponsored by a major national developer and retailer and other commercial interest is high.
- 7.5 Members will come to their own conclusions on the amount of trade diversion (see para. 6.26) calculated if the proposal were to proceed. Within this judgement Members will recognise that this proposal represents the latest in a series of modifications to the store over several years, all of which will have had an ongoing and cumulate impact.
- 7.6 The other featured matters (design of store, design of parking deck, access and car parking and impact on the Conservation Area) are considered to be satisfactory by your Officers.
- 7.7 The applicants have presented a substantial case that would allow further changes to the composition of the store and its retail offer in the City. In itself it would represent welcome investment in Hereford. However the application is considered both by your Officers and the Council's consultants to fail the keys tests in PPS4 in relation to the location of the store itself in relation to the City Centre and the sequential test. On the latter point it is now clear that the

Cattle Market Scheme is well advanced. An application has been submitted and strong investor and retail demand exists for that site.

- 7.8 This Committee has an important role in both implementing and safeguarding strategic policies and proposals in the UDP. There is clear evidence that the current (Sainsbury's) application has the potential (if approved) to undermine investor and developer confidence in the development of the City's key strategic regeneration site. In particular the Sainsbury site is an out-of-centre site in PPS4 terms, and the connection between it and the City Centre is both lengthy, difficult to walk and environmentally unattractive.
- 7.9 In addition and more generally the granting of planning permission to the Sainsbury's proposals would undermine and conflict with the Council's long-standing policy approach that seeks to maintain and enhance the City Centre. This has been most obviously demonstrated in the approach taken on Holmer Road and supported by the Planning Inspectorate.
- 7.10 On the basis of the findings of this report and all the available evidence the application is recommended for refusal.

RECOMMENDATION

That planning permission be refused for the following reasons:

- 1. **The proposal fails to demonstrate that this out of centre site is sequentially preferable to potentially available sites located within or on the edge of the existing Hereford City Centre. Consequently the development is contrary to Policies TCR9 and TCR20 of Herefordshire Unitary Development Plan and Policies EC15 and EC17 of Planning Policy Statement 4.**
- 2. **The proposal fails to demonstrate that the increase in size of the store would not adversely impact on the vitality and viability of Hereford City Centre. Furthermore the proposals contained in the application would undermine the potential to deliver the Eign Gate Regeneration Area. Consequently the development is contrary to Policies TCR1, TCR2 and TCR20 of Herefordshire Unitary Development Plan and Policy EC16 of Planning Policy Statement 4.**

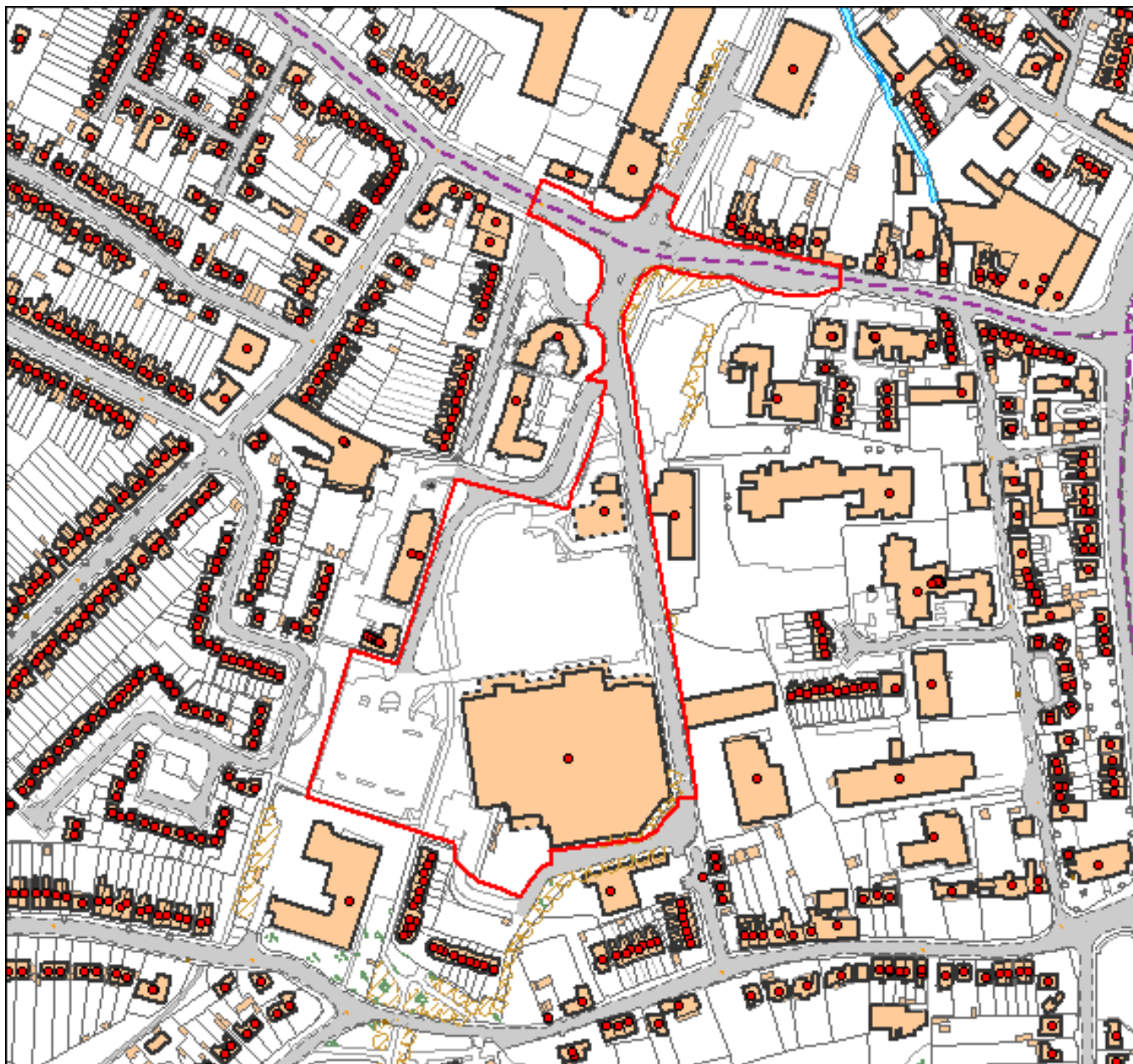
Decision:

Notes:

.....

Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DMCW/092858/F

SITE ADDRESS : SAINSBURYS, BARTON YARD, HEREFORD, HR4 0AG

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

Miss Kelly Gibbons
Principal Planning Officer
Herefordshire Council
Planning Services
PO Box 230
Hereford
HR1 2ZB

9 December 2010
Our Ref: JW/C0160380
Client Ref:

Dear Kelly

Sainsbury's Hereford Proposed Store Extension (Application 092858/F)

I am responding to your e-mail of 18 November seeking our views on the above planning application. As you are aware we provided an initial response in our letter of 13 September. This letter provides our more detailed response, with reference to the subsequent letter that you have received from Turley Associates of 16 November, as well as the Turley 'Planning Retail and Statement' (PRS) dated November 2009. Our comments follow the structure of the Turley PRS 2009.

Application Site and Surroundings

Store Location

1. In our opinion the logical route for shoppers using the store and visiting the City Centre is via Eign Street and the underpass to Eign Gate. In their letter of 13 September, Turley estimates the walking distance from the store via this route to the edge of the Primary Shopping Area as being 530 metres.
2. Annex B of PPS4 defines edge-of-centre as:

"For retail purposes, a location that is well connected to and within easy walking distance (i.e. up to 300 metres) of the primary shopping area.

In determining whether a site falls within the definition of edge-of-centre, account should be taken of local circumstances. For example, local topography will affect pedestrians' perceptions of easy walking distance from the centre. Other considerations include barriers, such as crossing major roads and car parks, the attractiveness and perceived safety of the route and the strength of attraction and size of the town centre. A site will not be well connected to a centre where it is physically separated from it by a barrier such as a major road, railway line or river and there is no existing or proposed pedestrian route which provides safe and convenient access to the centre."

- Clearly the walking distance is well in excess of that recommended by PPS4 to qualify as 'edge-of-centre'. Furthermore, having walked the route recently, I found that many of the ground floor uses on Eign Street were low value / fringe commercial business of limited interest to shoppers; heavy traffic was intrusive; and the underpass was tortuous and unattractive. In our opinion the Sainsbury store is clearly an 'out-of-centre' location.

Planning History

- We note that planning permission for an extension to the store was granted in 2001, Condition 8 of which restricted comparison goods sales to 20% of the sales floorspace of the store.

The Proposed Development

- The application proposal seeks permission for an extension to the front of the store and erection of a first floor mezzanine to provide a relocated café and staff facilities. The floorspace arising from the proposal is described in paragraph 4.4 of the PRS.

Floorspace	Gross Ext sq m	Net Sales
Existing	7,817	4,476
Proposed	9,754	5,359
Change	1,937	883

- The qualitative improvements that would arise are described in paragraphs 4.7-4.9, which, apart from relocated restaurant, toilet and ATM facilities, include a better offer of convenience and comparison goods.

Sainsbury's Retail Offer

- Section 5 of the PRS describes Sainsbury's retail offer, referring also to their product sourcing strategies, commitment to the environment, and commitment to the local area. In paragraph 5.1 it is stated that:

"The principal purpose of the extension proposal is to improve the range of goods and retail offer for customers and ease congestion within the store."

We have no comments on this Section of the PRS.

Planning Policy Context

- In Section 6 of the PRS, Turley describes the Planning Policy context. Following our letter to you of 13 September, this Section of the PRS has been updated by Turley's letter of 16 November.
- We have no comment on Turley's references in the PRS to guidance from PPS1, PPG13, PPG15, and PPG25. However, because of its particular relevance to the retail policy and impact matters that we address, we refer in some detail to the guidance in PPS4.

PPS4 – Planning for Sustainable Economic Growth

10. PPS4 was published on 29 December 2009 replacing earlier PPGs and PPSs (including PPS6), which were cancelled on the same date. For the purposes of interpreting the guidance in PPS4, it is important to note that the application proposal is for a main town centre use that is not in an existing centre and are not in accordance with an up-to-date development plan.

Government Objectives

11. Paragraph 9 states that “The Government’s overarching objective is sustainable economic growth.” Paragraph 10 goes on to identify the Government’s objectives to help achieve sustainable economic growth. These include:
- delivering more sustainable patterns of development, and reducing the need to travel, especially by car and respond to climate change;
 - Promoting the vitality and viability of town and other centres as important places for communities. To do this, the Government wants:
 - *“new economic growth and development of main town centre uses to be focused in existing centres, with the aim offering a wide range of services to communities in an attractive and safe environment and remedying deficiencies in provision in areas with poor access to facilities*
 - *competition between retailers and enhanced consumer choice through the provision of innovative and efficient shopping, leisure, tourism and local services in town centres, which allow genuine choice to meet the needs of the entire community (particularly socially excluded groups)*
 - *.....”*

Development Management Policies

12. This section of PPS4 contains the guidance of most relevance to consideration of planning applications.

13. Policy EC10 relates to all planning applications for economic development stating:

“EC10.1 Local planning authorities should adopt a positive and constructive approach towards planning applications for economic development. Planning applications that secure sustainable economic growth should be treated favourably.”

Policy EC10.2 All planning applications for economic development should be assessed against the following impact considerations:

- (a) *whether the proposal has been planned over the lifetime of the development to limit carbon dioxide emissions, and minimise vulnerability and provide resilience to, climate change*
 - (b) *the accessibility of the proposal by a choice of means of transport including walking, cycling, public transport and the car, the effect on local traffic levels and congestion (especially to the trunk road network) after public transport and traffic management measures have been secured*
 - (c) *whether the proposal secures a high quality and inclusive design which takes the opportunities available for improving the character and quality of the area and the way it functions*
 - (d) *the impact on economic and physical regeneration in the area including the impact on deprived areas and social inclusion objectives*
 - (e) *the impact on local employment*
14. Turley addresses the Policy EC10.2 criteria on pages 6 and 7 of their letter of 16 November. We do not comment on Turley’s findings in respect of these requirements as they are outside our remit. We presume that they are matters to which you will have regard.

15. Policies EC14, EC15, EC16, and EC17 are of more direct relevance to the retail policy aspects of the application proposal.
16. Policy EC14 describes the supporting evidence that is required for planning applications for main town centre uses. The requirements include:

EC14.3 - A sequential assessment (under EC15) is required for planning applications for main town centres uses that are not in an existing centre and are not in accordance with an up to date development plan.

EC14.5 - In advance of development plans being revised to reflect this PPS, an assessment of impacts in policy EC16.1 is necessary for planning applications for retail and leisure developments below 2,500 square metres gross floorspace, which are not in an existing centre and not in accordance with an up to date development plan.

EC14.7 - Assessments of impacts should focus in particular on the first 5 years after the implementation of a proposal and the level of detail and type of evidence and analysis required in impact assessments should be proportionate to the scale and nature of the proposal and its likely impact. Any assumptions should be transparent and clearly justified, realistic and internally consistent.

17. Policy EC15 describes the sequential assessment requirements for planning applications for main town centre uses that are not in a centre and not in accordance with an up-to-date development plan.

“EC15.1 In considering sequential assessments required under policy EC14.3, local planning authorities should:

- (a) ensure that sites are assessed for their availability, suitability and viability.*
- (b) ensure that all in-centre options have been thoroughly assessed before less central sites are considered*
- (c) ensure that where it has been demonstrated that there are no town centre sites to accommodate a proposed development, preference is given to edge of centre locations which are well connected to the centre by means of easy pedestrian access*
- (d) ensure that in considering sites in or on the edge of existing centres, developers and operators have demonstrated flexibility in terms of:*
 - i. scale: reducing the floorspace of their development;*
 - ii. format: more innovative site layouts and store configurations such as multi-storey developments with smaller footprints;*
 - iii. car parking provision; reduced or reconfigured car parking areas; and*
 - iv. the scope for disaggregating specific parts of a retail or leisure development, including those which are part of a group of retail or leisure units, onto separate, sequentially preferable, sites. However, local planning authorities should not seek arbitrary sub-division of proposals*

EC15.2 In considering whether flexibility has been demonstrated under policy EC15.1.d above, local planning authorities should take into account any genuine difficulties which the applicant can demonstrate are likely to occur in operating the proposed business model from a sequentially preferable site, for example where a retailer would be limited to selling a significantly reduced range of products. However, evidence which claims that the class of goods proposed to be sold cannot be sold from the town centre should not be accepted.”

An assessment of alternative ‘sequential approach’ sites is provided in Appendix 3 of the PRS. Supplementary information is provided in Turley’s letter of 16 November.

18. Policy EC16 describes the impact assessment requirements for planning applications that are not in a centre and not in accordance with an up-to-date development plan.

“EC16.1 Planning applications for main town centres uses that are not in a centre (unless EC16.1.e applies) and not in accordance with an up to date development plan should be assessed against the following impacts on centres:

- (e) *impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal*
- (f) *the impact of the proposal on town centre vitality and viability, including local consumer choice and the range and quality of the comparison and convenience retail offer*
- (g) *the impact of the proposal on allocated sites outside town centres being developed in accordance with the development plan*
- (h) *in the context of a retail or leisure proposal, the impact of the proposal on in-centre trade/turnover and on trade in the wider area, taking account of current and future consumer expenditure capacity in the catchment area up to five years from the time the application is made, and, where applicable, on the rural economy*
- (i) *if located in or on the edge of a town centre, whether the proposal is of an appropriate scale (in terms of gross floorspace) in relation to the size of the centre and its role in the hierarchy of centres*
- (j) *any locally important impacts on centres under policy EC3.1.e.”*

Turley addresses impact in Section 7 of the PRS. Supplementary information is provided in their letter of 16 November.

19. Policy EC17 indicates how planning authorities should respond to planning applications not in a centre and not in accordance with an up to date development plan. Such applications should be refused if:
- (k) *the applicant has not demonstrated compliance with the requirements of the sequential approach (policy EC15); or*
 - (l) *there is clear evidence that the proposal is likely to lead to significant adverse impacts in terms of any one of impacts set out in policies EC10.2 and 16.1 (the impact assessment), taking account of the likely cumulative effect of recent permissions, developments under construction and completed developments*
20. Policy EC17.2 goes on to say:
- Where no significant adverse impacts have been identified under policies EC10.2 and 16.1, planning applications should be determined by taking account of:*
- (m) *the positive and negative impacts of the proposal in terms of policies EC10.2 and 16.1 and any other material considerations; and*
 - (n) *the likely cumulative effect of recent permissions, developments under construction and completed developments*
21. Policy EC17.3 indicates that judgements about the extent and significance of any impacts should be informed by the development plan (where this is up to date), as well as information sources such as town centre or retail strategies and health assessments.

PPS4 Practice Guidance Note

22. PPS4 is accompanied by a document ‘Planning for Town Centres - Practice guidance on need impact and the sequential approach’, published on the same date 29 December 2009. This identifies more specific technical requirements when undertaking impact and sequential approach assessments, and is referred to by Turley in their assessments. We also refer to it in our comments on their assessments.

West Midlands RSS

23. In common with other RSS's the West Midlands RSS was revoked by the letter from the Secretary of State of 6 July 2010. The legality of the Secretary of State's letter has subsequently been rejected and there is therefore currently an uncertain position.
24. Our understanding is that the Council support the RSS growth strategy for Herefordshire. It appears therefore that removal of the RSS spatial strategy is unlikely to change the position materially in the County.

Herefordshire UDP 2007

25. The Herefordshire Unitary Development Plan (UDP) was adopted in March 2007.
26. Within the County retail hierarchy Hereford is defined as a Sub-regional shopping centre.
27. **Policy S5** describes the strategic objectives for town centres and shopping within the County. It says:
“Town centres and retail

The range of shopping, employment, entertainment, social and other community services that are available in existing centres should continue to be available to all in locations accessible by a choice of means of transport. This will be achieved by:
- (ii) protecting and enhancing the vitality and viability of Hereford City Centre, market town centres and local, neighbourhood and village centres throughout the County, with particular reference to maintaining the County’s retail hierarchy and the role of Hereford City Centre as a sub-regional shopping centre;*
 - (iii) supporting continued investment in existing centres, maintaining an attractive environment, and encouraging high quality design and mixed uses including housing, particularly above shops;*
 - (iv) locating key town centre uses that generate and attract many trips, including retail, entertainment and leisure, commercial and public offices, in or adjacent to existing centres where there is convenient access by a choice of means of transport; and*
 - (v) in edge of centre or out of centre locations, applying first a test of need and then, if need can be demonstrated, a sequential approach to retail and other proposals that generate and attract many trips. The likely impact of proposals on the Plan’s strategy and on the vitality and viability of existing centres will also be considered, as will the accessibility of the site by a choice of means of transport, the likely effect of development on overall travel patterns and car use and the scope to encourage investment to regenerate deprived areas.”*
28. **Policy TCR1** describes the policy for Central Shopping and Commercial Areas (CSCAs):
“The central shopping and commercial areas of Hereford and the market towns will be retained and protected as the prime focus for retail, leisure and commercial activity in order to ensure the continued vitality and viability of these city and town centres.”
29. **Policy TCR2** describes the means by which the vitality and viability of Hereford City Centre and the market towns will be maintained and enhanced. The first stated consideration is:
- (vi) directing proposals for new shopping and commercial uses to the central shopping and commercial areas;*
30. **Policy TCR9** is particularly relevant to the application proposal as it describes tests that must be satisfied prior to any planning permission being granted for large scale retail and leisure development outside the central shopping and commercial areas of Hereford (and the market towns). It requires that:
- (vii) “it can be demonstrated that there is a need for the development in the location proposed, with a retail need for both comparison and convenience goods shown if both are proposed within the same development;*
 - (viii) it can be demonstrated that a sequential approach has been taken to site selection, and that land and buildings in each of the following categories have been thoroughly assessed in turn and found to be not available before considering less central locations:*
 - within central shopping and commercial areas*
 - edge-of-centre locations*
 - out-of-centre locations which are well served by public transport;*
 - (ix) the proposal is compatible with and does not undermine the Plan’s central shopping and commercial area strategy or the overall Plan strategy;*

- (x) *the proposal will not seriously harm the vitality and viability of existing central shopping and commercial areas, either by itself or in conjunction with other recent and proposed retail development;*
- (xi) *the site is easily and safely accessible to customers and staff by a choice of modes of transport and will not lead to an increase in the use of the private car; and*
- (xii) *the proposal is not sited within open countryside or on land allocated or safeguarded for another use.”*

Herefordshire LDF

31. The Herefordshire LDF is currently in preparation. A Preferred Option Paper for Hereford was published for consultation in September 2010. In so far as new retail development is concerned the emphasis on steering new large scale retail development to the CSCA is likely to remain, as is the Council's commitment to major new retail development in the Livestock Market area.

Driver Jonas Deloitte PPS4 Assessments

32. Drivers Jonas Deloitte (DJD) has undertaken assessment of the potential for new retail development and other town centre uses within Hereford City and the market towns, as part of the evidence base for the LDF. The most recent updates were provided to the Council in September and November 2010. We draw on material from these studies in our comments on the Turley assessments.

Edgar Street Grid and Livestock Market Redevelopment Proposals

Edgar Street Grid

33. A key feature of the adopted UDP aimed at meeting the identified shopping requirements in Hereford City is regeneration of the area known as the Edgar Street Grid. The Grid comprises 43 hectares of land bounded by Edgar Street to the west, Newmarket Street and Blueschool Street to the south, Commercial Road to the east and the railway line to the north.
34. **Policies TCR20 and TCR25** of the UDP make provision for the city's future retail needs within the Eign Street Regeneration Area and Holmer Road respectively. The former is part of the Edgar Street Area and is identified as the key location for new retail development, the purpose of which is support and promote the sub-regional role and function of the City Centre.
35. **Policy TCR20** says:

“Eign Gate regeneration area

Land within the Eign Gate regeneration area provides a major opportunity for development to support the vitality and viability of the city centre. The area is identified as the preferred location for Class A1 retail development and associated car parking provision as set out below. Development in this area must:

- *improve and extend the retail offer of Hereford City Centre, contribute to the vitality and viability of the centre and secure environmental improvements;*
- *provide a comprehensive scheme based on Class A1 retail uses for the Livestock Market, treating the site as a whole;*
- *provide for city centre comparison shopping uses within the Bewell Street area should the opportunity for change arise;*
- *provide for city centre comparison shopping within the Berrington Street area, as well as residential, leisure and commercial uses which add to the diversity of uses on offer in the city centre;*
- *ensure that safe, effective and attractive pedestrian and cycle links both within and outside the area are provided or enhanced to High Town, the River Wye to the south and other elements of the Edgar Street Grid;*

- contribute to the achievement of the Plan's town centre and retail strategy;
- respect residential amenity and the historic fabric of the area, including listed buildings, archaeology and the historic street pattern;
- provide a high standard of design merited on this important central location; and
- contribute financially to the planning obligations identified ensuring the overall aims of the Edgar Street Grid proposals are met".

The Livestock Market

36. The Livestock Market Area is part of the Eign Gate regeneration area. It is located within the Hereford City CSCA, as defined in the UDP. It is therefore a first priority location for new retail development in the context of both PPS4 guidance and the policies of the UDP (Policy TCR1). The UDP provides for relocation of the Livestock Market (Policy TCR19) and comprehensive of the Livestock Market area for redevelopment for retail uses (Policy TCR20).
37. The Edgar Street Grid redevelopment was being led by ESG Herefordshire Ltd, which was a joint venture development company established by Herefordshire Council and Advantage West Midlands to lead the transformation of the Grid Area. In July 2010 ESG Herefordshire Ltd was absorbed into a new body – Herefordshire Futures.
38. Stanhope was selected as the developer of the site of some 5 hectares in February 2008. Planning permission was granted for the new livestock market on an alternative site in November 2009. The ESG Company and Stanhope have made significant changes to the original masterplan including a reduction in the scale of the proposal and enhanced connectivity with the existing retail area in High Town and Widemarsh Street. We understand that the revised scheme will be some 23,000 sq m gross and is proposed to include a small concept department store, a medium sized food store and a multi-screen cinema, as well as 15 or so shops and some restaurant units. We have been informed that a planning application will be submitted by the end of 2010.

Retail Assessment

39. The first part of Turley's retail assessment within Section 7 of the PRS deals with 'Retail Need', based on the requirements of the former PPS6 and Policy TCR9 of the UDP. The requirement to demonstrate 'need' has been removed by PPS4. This takes precedence over the 'need' requirement specified in Policy TCR9.
40. Being not in a centre and not in accordance with an up-to-date development plan, the two key tests that the application proposal is required to satisfy are the sequential approach (Policy EC15) and impact (Policy EC16).

Sequential Approach

41. Turley's sequential assessment of alternative sites is set out in Appendix 3 of the PRS. This has been supplemented by further material in their letter of 16 November. They confirm that the tests of availability, suitability and viability, which formed the basis of their assessment, remain in PPS4.

Approach

42. Turley refers to guidance in the PPS4 Practice Guidance Note, which provides assistance on the approach to be adopted in applying sequential approach requirements. We recognise the difficulties, particularly with store extensions, and therefore, for your assistance, we quote in full the relevant passage from the Practice Guidance Note (paragraphs 6.32-6.34), from which Turley has quoted a part.

"In the case of large foodstores, the trend towards selling a wide range of goods, including comprehensive ranges of fashion/clothing and homeware products creates particular issues. Again, such proposals will need to demonstrate flexibility in terms of the scale and format of development proposed; car parking provision and the scope for disaggregation. This will need to be set in the context of other national planning policy objectives for town centres, including the requirement to provide consumer choice and promote competitive town centre environments."

The decision by an individual retailer to promote a business model which cannot be accommodated in an existing centre will not justify discounting more central sites where they are available, suitable and viable. In every case it will be necessary to strike an appropriate balance between the requirements of the commercial sector and the requirements of national policy based upon local circumstances. While there is no policy requirement to demonstrate need, an operator claiming that it is unable to be flexible about its chosen 'business model' would be expected to demonstrate why a smaller store or stores could not meet a similar need.

There will be some situations, for example in historic centres, where it is difficult to accommodate large developments due to the limited availability of sites, conservation and heritage issues and/or traffic and parking constraints. However, as the Grand Arcade in Cambridge demonstrates, even in highly constrained historic centres it may be possible to accommodate modern retail and other town centre uses in well integrated sensitively designed schemes."

Site Assessments

43. Although we have a considerable knowledge of Hereford City Centre, we do not have a detailed knowledge of the some of the sites assessed by Turley, particularly in respect of availability issues, which are not identifiable on the ground. Some of our comments are of a general nature only therefore.
44. We accept that a number of premises identified would not be suitable and / or available. This includes Site 1 Woolworth; Sites 3, 4, and 5 in the Maylord Shopping Centre, and Site 49-50 Commercial Street.
45. In respect of Site 2 Chadds and Site 6 Bliss, we are unclear as to the floorspace that might be suitable / available for retailing. In our letter of we referred to having seen in September an agent's board on the Chadds premises offering a sales area of 20,000 sq ft. Turley says that there are now three units ranging from 730-7,950 sq m, but that this would be insufficient to meet Sainsbury's floorspace requirements. In respect of Site 6 Bliss, we are unclear as to whether the 334 sq m quoted is the maximum amount of retail area that could be created within the premises.
46. We are not aware of the programme / availability timescale for regeneration of Site 9 Commercial Road.
47. In respect of the Eign Gate Regeneration Area, Turley says (page 6 of their letter of 16 November):
"Although the site's development envisages the inclusion of food retail, I note that the site includes an existing Tesco foodstore. The quantum of floorspace likely to be required to deliver a viable food retail unit within the Eign Gate area is likely to be significantly greater than that proposed through this application. It is therefore evident that this application does not represent a sequentially preferable alternative."
48. We have referred above to the Policy TCR20, which identifies the Eign Gate regeneration area as the preferred location for Class A1 retail development and associated car parking provision within the Hereford CSCA. In addition to its allocation in the UDP, the area is being actively promoted by the Council and its associated development vehicle for major retail development. Contrary to Turley's views, we believe the Livestock Market within the Eign Gate regeneration area is a sequentially preferable alternative for the type of retailing under consideration as part of the application proposal.

Disaggregation

49. Turley say on page 3 of their letter of 16 November that:
"In this case, the proposed extension is a direct response to existing overtrading at the store. The purpose of the development is to improve quality and choice within the store and to enhance the offer to meet customer expectations. The objectives of the application proposal would not be met if the floorspace was disaggregated elsewhere."
50. Because the application proposal seeks to make improvements to an existing facility, consideration of whether the proposals could be achieved at some other location risks is an unreal exercise in terms of what the applicant himself would be prepared / able to contemplate.
51. Turley draws attention to the findings of a Sainsbury appeal decision in Chesterfield APP/A1015/A/10/2120496 August 2010, which addresses these issues (paragraphs 38-42).

“For the reasons I have already discussed, although there are doubtless commercial objectives behind the proposal, the development is clearly based on issues to do with quality and choice. The proposal would address the problems of the existing store and this would not be achieved by disaggregating the comparison floorspace elsewhere.

Although there might theoretically be sequentially preferable sites capable of accommodating some or all of the proposed additional floorspace, in circumstances where there is a real need for the enhancement of an existing store, it would be unreasonable and pointless to insist that the proposed provision should be disaggregated. The Council agreed at the Inquiry that, if the existing Sainsbury’s store is in need of improvement, it would be wrong in principle to require any further space to be disaggregated.

Were the proposed floorspace to be disaggregated and located elsewhere, the existing superstore, with a number of manifest deficiencies, would remain. This would not benefit the shopping provision in the area. What would theoretically be provided would be a non-food store on another site. However Sainsbury’s do not operate non-food only stores, so there would be little chance in reality of the development going ahead. For the above reasons, I consider that disaggregating the proposed comparison floorspace to another site would amount to an arbitrary sub division of the development. It would not accord with the policy related to the sequential approach.

Locating the entire (extended) store on another site

I will now turn to the possibility that the entire extended store could be located elsewhere on a sequentially preferable site. Before looking at the alternative sites I note that, were this to happen, the existing superstore with its inbuilt qualitative deficiencies would remain, and I fail to see how this would assist the quality of shopping provision in the area.”

Overtrading of the existing store

52. Turley’s findings on overtrading of the existing store are based principally on comparison of the Sainsbury company average sales density with the calculated sales density of the application store based on the Drivers Jonas household interview findings. Comparison of these figures indicates that the convenience goods sales density of the application store is some 12.5% above company average.
53. In our letter of 13 September we stated that it would be helpful in addition if there were reference to any qualitative indicators of overtrading – store congestion, queuing at tills, etc. The reason for this request was that with a modern well laid-out superstore with large areas of adjacent surface level car parking we are not satisfied that a sales density performance 12.5% above company average necessarily provides evidence of overtrading. There must be a wide range of sales performance figures between Sainsbury stores reflecting their location, size store layout, etc. Some will perform above average and some below.
54. Overtrading justifying an increase in floorspace should be related to some form of operational difficulty or shopper discomfort. Examples could be inadequate shelf space to stock goods, narrow aisles, queuing at tills, etc, which were difficult to resolve without increasing the store floorspace. Turley refers to these qualitative indicators on page 12 of their letter of 16 November.
55. On the occasions that I have visited the store, I have not seen evidence of overcrowding within the store or car park. However, I have not had the opportunity of visiting the store at peak times such as a Friday evening or Saturday. It would be helpful if officers with their local knowledge could consider whether they have seen evidence of overcrowding, as we are not satisfied that the matters raised by Turley on page 12 of their letter of 16 November clearly demonstrate overtrading justifying the provision of new floorspace in an ‘out-of-centre’ location.

Impact Assessment

56. Turley addresses the impact of the application proposal in the context of the considerations set out in PPS4 Policy EC16 on page 8 of their letter of 16 November. Before commenting on Turley’s impact

findings, we first identify the additional floorspace and turnover that would be created by the application proposal. We then consider the current role and performance of Hereford City Centre, which is the principal centre that would experience impact from the application proposal.

Application Proposal Floorspace and Turnover Increase

57. The application proposal entails an increase of convenience goods sales floorspace of 171 sq m and of comparison goods sales floorspace of 712 sq m. This would give rise to a convenience goods sales area of 3,752 sq m and comparison goods sales area of 1,607 sq m.
58. Based on a trading density of £11,400 per sq m, the additional convenience goods floorspace would give rise to an additional convenience goods turnover of £1.95m. The additional comparison goods turnover is estimated by Turley as £5.67m (PRS paragraph 7.37).

Hereford City Centre Health Check

59. Turley's undertook a health check analysis in November 2009, which is included as Appendix 4 of the PRS. We are generally supportive of Turley's findings. Their conclusions (paragraphs 2.45-2.50) are consistent with the findings in the DJD Health Checks Paper 2 September 2010 (paragraph 4.77-4.79). Turley notes:
 - Hereford City Centre is a healthy and attractive centre, which plays an important role in the region;
 - Several of the City's larger units are currently vacant, although in many cases this is caused by national rather than local circumstances;
 - The closure of Chadds and other high profile vacancies will have had some effect on the attractiveness of Hereford and its ability to compete with nearby centres;
 - Although the City Centre is still considered to be a healthy and attractive centre and to provide a good mix of multiple retailers and independent stores, this provision has suffered since 2007.

Impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal

60. Turley identifies the Eign Gate regeneration area as the only relevant committed / planned investment in the City Centre. They say on page 10 of the letter of 16 November, that they "*consider that this level of investment (a foodstore extension of 1,937 sq m gross) will have no significant adverse impact on the Eign Gate regeneration proposals, which are wholly different in scale and nature*".
61. We have a different view. First, as noted above, a medium sized foodstore (plus unit shops and small department store) form an important part of the proposals for the Livestock Market. We do not consider these proposals are wholly different in scale and nature than the Sainsbury store subject of the application proposal. Second, although Hereford City centre is a healthy and attractive centre, the economic downturn since 2007 and the loss of Chadds has made the centre vulnerable. Third, many shopping development schemes throughout the country have been abandoned or put on hold because of the market downturn. Fortunately it appears that the Livestock Market proposals in Hereford are still being pursued. It must, however, be assumed that the current difficult market conditions have lessened the viability of a scheme on the Livestock Market site, which in turn justifies greater protection by the Planning Authority of it as a town centre investment.
62. In summary, in our opinion, in the current market conditions new development is inherently more difficult to deliver and more vulnerable to any impacts that may arise, including those from competitive developments.

Impact of the proposal on town centre vitality and viability, including local consumer choice and the range and quality of the comparison and convenience retail offer

The impact of the proposal on in-centre trade/turnover and on trade in the wider area, taking account of current and future consumer expenditure capacity in the catchment area up to five years from the time the application is made

Convenience Trading

63. In so far as convenience goods trading is concerned the DJD PPS4 Studies found (Paper 4 paragraph 3.37) that "*in overall terms the relatively limited quantitative need for new convenience floorspace by*

2016 will be absorbed by commitments and the assumed implementation of the Edgar Street Grid proposals.”

64. We accept that the principal impact of the convenience goods element of the application proposal would fall on the existing large foodstore in the City - Asda, Morrison's, and Tesco (outside and within the City Centre). However, notwithstanding limited expenditure capacity, there is no question of the loss of any of these facilities. We have referred above to the possible deterrent effect on investment in new convenience floorspace in the Livestock Market scheme.

Comparison Trading

65. Because of the range of comparison goods that are likely to be sold from the expanded store, the comparison goods impact would be much more widely dispersed over a range of City Centre shops.
66. In respect of comparison goods trading the DJD PPS4 Studies found a theoretical expenditure surplus that was more than sufficient to support commitments and the Edgar Street proposals. In purely quantitative terms therefore, there should be sufficient comparison goods expenditure capacity to support the application proposal additional comparison goods turnover of £5.67m. However, the change in the performance of the City Centre since 2007 illustrates clearly that long term economic forecasts are theoretical, and are not able to take into account economic cycles and their affect on the commercial market and retail investment.
67. The recession has created difficult trading conditions for retailers, the outcome of which has in some cases been closures and additional vacancies in the City Centre. This is happening in the short term, irrespective of any theoretical comparison goods expenditure surplus.
68. In summary therefore, with although the application proposal would involve a relatively modest uplift in convenience and comparison goods turnover relative to the turnover of the City Centre, the currently difficult trading conditions have to be acknowledged. We have some concerns about further strengthening of retail outlets in 'out-of-centre' locations, when the City Centre is in particular need of protection.

Linked Trips

69. Turley has supplied estimates of linked trips from the Sainsbury store to the City Centre. They assume that 2/3 of the occupants of vehicles in the store car park with a parking duration of 1-5 hours (85% of vehicles) are also visiting the City Centre. It is open to question what proportion of these (10% of visitors) are visiting the City Centre for shopping purposes. Having walked Eign Street and the underpass on a number of occasions, I have seen limited evidence of City Centre shoppers using the Sainsbury car park.
70. In any event we are of the opinion that the incidence of linked trips bringing trade to the City Centre would be more than offset by the trade impact of the proposals.

Impact of the proposal on allocated sites outside town centres being developed in accordance with the development plan

71. We are not aware that this is an issue in this case.
- If located in or on the edge of a town centre, whether the proposal is of an appropriate scale (in terms of gross floorspace) in relation to the size of the centre and its role in the hierarchy of centres
72. We raise no issues in relation to scale.
- Any locally important impacts on centres under policy EC3.1.e
73. We are not aware of any additional local impacts that need to be addressed.

UDP Plan Strategy

74. Policy S5 of the UDP refers to impact on the Plan Strategy. The UDP strategy is clearly to steer new retail development to Hereford City Centre as the primary retail centre. The application proposal is not consistent with this strategic objective.

Conclusions

75. The application proposal is for an extension of the Sainsbury store at Barton Yard (some 1,937 sq m gross) additional retail floorspace to be devoted to both convenience and comparison goods sales in an out-of centre location, where such proposals are permitted only in exceptional circumstances.
76. The two key tests that the application proposal is required to satisfy are the sequential approach (Policy EC15) and impact (Policy EC16).

Sequential Approach

77. In respect of the sequential approach, we believe that the scale and type of trading proposed could be accommodated on the Livestock Market site within the UDP defined CSCA.
78. We accept that, because the applicant is seeking to improve an existing facility, consideration of whether the proposals could be achieved at some other location is an unreal exercise in terms of what the applicant himself would be prepared / able to contemplate. Turley states that *"the proposed extension is a direct response to existing overtrading at the store."*
79. We accept that the store is trading some 12.5% above company average in terms of sales density. However, we are not currently convinced that this provides clear evidence of overtrading of in terms of any operational difficulties or shopper discomforts - inadequate shelf space to stock goods, narrow aisles, queuing at tills, etc.
80. We are of the opinion that the requirements of the sequential approach are not satisfied.

Impact

81. The turnover of the application proposal, some £7.6m in total is modest as compared with the turnover of the City Centre, some £340m (comparison goods only).
82. However although Hereford City centre is a healthy and attractive centre, the economic downturn since 2007 has made the centre vulnerable.
83. In the context of current difficult market conditions and the vulnerability of the City Centre, we have some concerns about a further significant expansion of an 'out-of-centre' shopping facility in Hereford, when the Council is seeking to facilitate major new shopping development of a similar nature in the City Centre.
84. In short we are concerned that at the present time the application proposal risks a significant adverse impact on the City Centre.

Determination of the Application

85. We have referred above to PPS4 Policy EC17 which states that planning applications not in a centre and not in accordance with an up to date development plan should be refused if the requirements of the sequential approach are not satisfied; or if there is clear evidence that the proposal is likely to lead to significant adverse impacts in terms of any one of impacts set out in policies EC10.2 and 16.1.
86. On the other hand, if the Council is of the opinion that there are no significant adverse impacts under policies EC10.2 and 16.1, planning applications should be determined by taking account of "the positive and negative impacts of the proposal in terms of policies EC10.2 and 16.1 and any other material considerations.
87. EC17.3 indicates that judgements about the extent and significance of any impacts should be informed by the development plan, as well as information sources such as town centre or retail strategies and health assessments. Additional guidance on this judgement is found in paragraph 7.3 of the PPS4 Practice Guidance document, which says:

"It will be for the decision maker to determine what constitutes an 'acceptable', 'adverse' or 'significant adverse' impact, based upon the circumstances of each case, having regard to national and local policy objectives."

Please contact me if you have any queries. I shall be happy for you to copy this letter direct to the applicant's agents if you wish to do this.

Yours sincerely

James Williams
for Deloitte LLP (trading as Drivers Jonas Deloitte)



MEETING:	PLANNING COMMITTEE
DATE:	2 FEBRUARY 2011
TITLE OF REPORT:	<p>DMS/102805/F - PROPOSED DEMOLITION OF EXISTING DWELLING AND ERECTION OF 5 TWO BEDROOM APARTMENTS AND PROVISION OF PUBLIC TURNING AREA AT 44 TOWER ROAD, HEREFORD, HR4 0LF.</p> <p>For: Mr Shaw per Mr John Phipps, Bank Lodge, Coldwells Road, Holmer, Herefordshire, HR1 1LH.</p>

Date Received: 29 October 2010 Ward: St Nicholas Grid Ref: 349772,239673

Expiry Date: 30 December 2010

Local Members: Councillors JJD Lavender and JD Woodward

1. Site Description and Proposal

- 1.1 The application site is 0.0927 hectares in size and comprises an existing four bedroom bungalow standing within its own substantial curtilage. The site is at the western end of Tower Road which is a no through road that does not benefit from a turning head. It lies within the established residential area of Broomy Hill. The bungalow is set back 18.8m from the edge of the footway and the area in front of the bungalow is laid to garden with off road car parking for up to 8 vehicles (including garage space).
- 1.2 The application site is bounded to the north and east by existing residential dwellings, a large area of public open space lies to the west and the public highway forms the southern boundary. The surrounding area is characterised by large detached and semi-detached period properties some benefitting from off street parking but many relying upon on-street parking.
- 1.3 The application seeks planning permission to demolish the bungalow and erect a development comprising five two bedroom flats, access, parking, landscaping (hard and soft), bin and cycle storage.
- 1.4 The form of this comprises a block at the front of the site with a footprint of 10.6m by 8.3m. This is set back 3m from the footway in line with the adjacent properties. This three storey block would consist of two gables fronting the highway with feature bay windows to ground and first floors. The eaves height of the building that fronts the highway would be 6.3m, with a ridge height of 9m. This is comparable to the height of the neighbouring property that has an eaves height of 6.2m and ridge height of 8.7m. This element contains three units of accommodation.

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

- 1.5 The remaining two flats are accommodated in a two storey rear projection that is set to the west side of the site and gives the development an L-shaped footprint. This would project rearward 13.7m and have a width of 6.3m. The rear elevation (north) would also include feature bay windows. Access to the properties is via a feature lobby and a doorway placed centrally in the east elevation. The height of this section is lower than the front block with an eaves height of 5m and ridge height of 8.1m. All first floor windows in the east elevation which faces 40 Tower Road are detailed as being obscure glazed.
- 1.6 Access is proposed to the east of the site between the proposed development and 40 Tower Road. The access is recessed by 4.5m with a width of 4m and this has specifically been designed to allow for vehicles using Tower Road to turn. This turning head would be adopted by the Council under a Deed of Dedication.
- 1.7 The grouped car parking space would provide for 10 parking spaces. 7 would be hardsurfaced and 3 spaces reinforced grass parking. Cycle and bin stores are located to the north east of the site in a small area of land that is at the rear of the garden to No. 40.
- 1.8 The application would require the removal of some existing trees hedgerows and landscaping. It also includes additional planting and erection of boundary fences. The existing boundary wall to the west would be retained.
- 1.9 The application is accompanied by an Ecological Survey (undertaken Dec '10 – Jan '11), surface water drainage details, daylight analysis and confirmation that the applicants would be agreeable to commencement within 12 months of the date of permission.

2. Policies

2.1 Government Guidance:

Planning Policy Statement 1	-	Delivering Sustainable Development
Planning Policy Statement 3	-	Housing
Planning Policy Statement 9	-	Biodiversity and Geological Conservation
Planning Policy Guidance 13 (2010 revision)	-	Transport

2.2 Herefordshire Unitary Development Plan 2007:

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
H1	-	Hereford and the Market Towns: Settlement Boundaries and Established Residential Areas
H13	-	Sustainable Residential Design
H15	-	Density
LA6	-	Landscaping Schemes
NC1	-	Biodiversity and Development
NC8	-	Habitat Creation, Restoration and Enhancement
T11	-	Parking Provision
CF1	-	Utility Services and Infrastructure
CF2	-	Foul Drainage

3. Planning History

- 3.1 DCCW2004/3497/F Construction of dormer windows, single storey extension and a basement. Approved December 2004.
- 3.2 DCCW2006/3245/F Construction of a workshop/store including a basement. Withdrawn November 2006.
- 3.3 DMS100947/F Erection of 8 flats. Refused 21 July 2010 for the following reason:

“The local planning authority consider, having regard to Policies DR1, H13(1) and H14(2) of Herefordshire Unitary Development Plan 2007, that the proposal is unacceptable in that it would constitute an over intensive form of development which does not respect, is out of character with and consequently would be detrimental to the established residential character of the locality.”

4. Consultation Summary

Statutory Consultations

- 4.1 Welsh Water: No objection subject to the use of standard conditions.

Internal Council Advice

- 4.2 Traffic Manager: No objection subject to the use of standard conditions.
- 4.3 Public Rights of Way Manager: No objection.
- 4.4 Conservation Manager (Ecology): Makes the following comments:

I visited the site today and have received the ecological report by Wildways dated 2 January 2011. I note that although the property is on the edge of the city and adjacent to suitable bat foraging habitat, no evidence of bats was found in the roof space of the bungalow. There are very few cracks and crevices where bats could access the property for roosting and I am therefore satisfied with the assessment of the site by the ecological consultant.

5. Representations

- 5.1 Hereford City Council: No objection.
- 5.2 Broomy Hill Residents Association comments that the amended application does not alleviate the fears expressed previously and continue to raise concerns relating to density of the development and that this would therefore have an unacceptable impact in terms of highway congestion and parking provision, exacerbating the existing situation.
- 5.3 24 letters of objection and a petition signed by sixty four local residents have been received.

Their comments are summarised as follows:

- Overdevelopment of the site.
- Proposal not in keeping with the area.
- The building is too high and too large.

- The area is characterised by family dwellings and is not suitable for high density development.
- Utilities will not cope with the increased demand leading to the potential for increase in flooding (high water table in area).
- Potential overlooking and loss of privacy.
- Loss of light / overbearing on impact on the amenities of residents of Number 40. Garden would then face a car park.
- Property values will be affected.
- Overlooking onto or across the public park is unacceptable.
- This development has potential for more parking problems and traffic movements than that of the previous application for 8 x 1 bed flats.
- Development only served by minimal parking arrangements, this may lead to more vehicles seeking on street parking.
- Concerns about increase in traffic movements at the already dangerous junction of Tower Road, Barton Road / Westfaling Street and Breinton Road.
- Many existing properties don't have off-street parking, resulting in congestion and problems for those accessing their driveways / parking areas.
- Cars already parked on both sides of the road and there is no turning space.
- Pedestrians, particularly children, elderly or wheelchair users may be at risk from any further development in this area.
- Problems with parking already means restricted access for emergency and service vehicles.
- The whole area suffers from a lack of capacity in terms of parking provision.
- Much prefer pair semi-detached dwellings.
- Raise issues relating to roosting bats in the area and clarification that this building is not the roost.

5.4 One letter of support has been received from Capt MJ Rees, 49 Moor Park Road, Hereford who makes the following comments:

- Walks into Hereford via Tower Road most days and would dispute the portrayed scenes of traffic chaos at all times of day and night.
- The development is well thought out providing better parking and turning area, better gardens, better storage facilities, pleasant outlook across the park and wheelchair access at ground floor. It is sited in such a way as to maximize the distance from the adjoining property and provides a public turning area.
- Ideal location to live; excellent amenity levels, low maintenance and five minute walk from city centre.

- Would complement the architecture, size and scale of the other properties in Tower Road. Landscape and separation would mitigate impact on neighbour.

5.5 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 Having regard to the relevant policies, the primary issues in determining this application are considered to be:

- The Principle of Development
- Design and Layout
- Residential Amenity
- Water and Sewerage
- Access and Highways Issues
- Ecology
- Planning Obligations

The Principle of Development

6.2 The application lies within the designated settlement boundary for the City of Hereford within which the Herefordshire Unitary Development Plan 2007 through Policy H1; amongst others, allows for the provision of appropriate forms of new residential development.

6.3 Therefore, the proposed redevelopment of the existing bungalow to provide new residential development is acceptable in principle. The acceptability of the proposals must then be considered having regard to the other relevant policies of the Unitary Development Plan.

Design and Layout

6.4 The pattern of residential development along Tower Road is generally characterised by large semi-detached and detached dwellings; reflecting a range of styles from 19th Century through to late 20th Century. These are arranged in a linear formation fronting onto the adjoining highway with large private gardens lying to the rear. Architecturally the existing bungalow is at odds with this general character.

6.5 Following the refusal of the previous application the scale, design and layout of the proposal has been substantially altered and been reduced from 8 x 1no bedroom units to 5 x 2no bedroom units. The bulk and impact of the building has been reduced by utilizing the L-shaped form, reducing its width where it fronts the highway and making it more comparable in size and scale with the semi-detached dwellings adjacent. The replication of the building line also helps to reaffirm this typical characteristic of the area. The design of the building has been simplified yet retains the traditional features such as bay windows, brick detailing and porches that add interest to the development.

Residential Amenity

6.6 Objections have been raised by immediate neighbours in respect of the loss of privacy, the overbearing impact, and loss of amenity due to proximity of the car park vehicular and pedestrian movements around the site.

6.7 With regard to the impact on the neighbouring dwellings, in particular 40 Tower Road which has a living room window in its side elevation. This window is set back approximately 4m from the boundary and the new development would be 9.2m at its closest falling back to 15.4m at

the rear. The applicant has provided (at the Council's request) a daylight analysis that shows the 45 degree line from the neighbours side window. This demonstrates that the proposal would not affect daylight to the dwelling. The building would, undeniably affect the outlook from this window but would not represent a form of development that affected the amenities of this property so significantly in terms of overbearing that this would warrant a reason for refusal. Indeed this was not a specific reason for refusing the previous scheme which had a greater impact upon the neighbouring property.

- 6.8 The proposal has been designed to take into account overlooking and all first floor windows in the east elevation have been detailed to be obscure glazed. These windows would serve hallways, bathrooms or secondary windows. To ensure that a satisfactory relationship continues to exist between the proposed development and its neighbour, a condition is recommended to maintain the windows fixed shut and obscured glazed in perpetuity. The obscure glazing of ground floor windows, except for bathrooms, would seem unreasonable and unnecessary as boundary treatments by way of a 1.8m fence would provide sufficient privacy not only from windows but from those using the gardens or driveway.
- 6.9 The occupiers of dwellings to the rear of the site at 69 and 71 Breinton Road have also raised concerns relating to overlooking and loss of privacy. The distance from the rear window to the boundary is 18m with the distance to the rear of the properties being in excess of 50m. The rear boundary of the site benefits from an existing mature hedge that will be retained. The extent of separation is such that there would be no material loss of privacy arising from the proposal.
- 6.10 Having regard to the above, the proposal will not result in an unacceptable impact in terms of either overlooking or overbearance and as such the proposal complies with the requirements of policies DR1 and H13 of the Unitary Development Plan.

Access and Highways Issues

- 6.11 The application site has an existing vehicular access and this revised application retains the access in this position but its design has been modified to allow for a wider access point that would allow for its use as a turning point for vehicles at the end of the road. On consultation with the Council's Adoption Manager it has been agreed that this 'turning head' would be adopted by Herefordshire Council. Although this was not previously a reason for refusal its inclusion has been encouraged to address some of the local concerns relating to the difficulty that vehicles have when turning at the end of this no through road. It is therefore considered to be a significant benefit to highway users. The use of dropped kerbs will clearly distinguish this from the pavement in the interests of users of the footway.
- 6.12 The Traffic Manager has no objection to the access and parking arrangements which comply with the appropriate standards. A condition is recommended to ensure that these are provided prior to the occupation of the proposed development.
- 6.13 It is noted that one of the main concerns locally is the perceived unacceptable increase in traffic generation along the road and the potential for problems relating to parking congestion, highway safety, safety for pedestrians and other footway users. The road does have a significant amount of on street parking serving those dwellings that do not benefit from off road parking. The problems are at their greatest during the evenings and weekends.
- 6.14 However the application provides for 10 off road car parking spaces to serve the 5 no. two bedroom dwellings. This is considered to be the maximum provision when having regard to the Highways Design Guide for New Development. This provision should be more than sufficient to provide for this level of accommodation and should add to the pre-existing parking problems on the highway. It is also noted that the previous scheme was not refused on highway safety or parking grounds.

Water and Sewerage

- 6.15 Whilst the concerns raised about the perceived lack of capacity in the sewerage system are noted, Welsh Water have raised no objection to the proposed development, subject to the imposition of standard drainage conditions.
- 6.16 In the absence of any objection from Welsh Water, it is not considered that the concerns raised in the letters of representation can be substantiated as ground for refusal.
- 6.17 Local residents have also raised concern about surface water drainage and potential problems due to a pre-existing problem of flooding to cellars that may be due to a high water table. In response to this the applicant has provided confirmation that the surface water drainage would be dealt with by channeling into soakaways at the rear of the property (with attenuation crates as required). Notwithstanding this a condition is suggested requiring details, including surface run-off rates to be agreed with the local planning authority prior to the commencement of development. Subject to the agreement of details the proposal is considered to be acceptable having regards to the requirements of Policies DR4 and H13 of the Unitary Development Plan.

Ecology

- 6.18 Locally residents have raised concern regarding the possibility that the existing dwelling is being used as a bat roost. The applicants have submitted a survey undertaken and the Council's Ecologist has confirmed they have no objection to the proposed demolition of the dwelling. There is, in any case, other legislation that would protect such species.

Planning Obligation

- 6.19 The applicant has agreed to that works would commence with 12 months. This reflects the decision of the Council on 4 March 2009 to suspend (effective from 1 April 2009) the requirements of the 'Planning Obligations' Supplementary Planning Document (February 2008) in relation to residential developments of five dwellings or less, and consequently no contribution is required.

Conclusion

- 6.20 Overall the proposal complies with the development plan and as such approval is recommended.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans**
- 3. C01 Samples of external materials**
- 4. F17 Obscure glazing to windows**
- 5. G09 Details of Boundary treatments**
- 6. G10 Landscaping scheme**
- 7. G11 Landscaping scheme - implementation**
- 8. H11 Parking - estate development (more than one house)**

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

9. **H05 Access gates**
10. **L01 Foul/surface water drainage**
11. **L02 No surface water to connect to public system**
12. **Development shall not begin until a 'Construction Method Statement' has been submitted to and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:**
 - i. **The hours when building operations will occur. (Note: In any event the local planning authority will now allow any process to be carried out and/or machinery to be operated beyond the following times: Monday-Friday 7.00 am-6.00 pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays).**
 - ii. **The hours between which deliveries can be received taking into account and therefore avoiding times of peak congestion on the local highway network.**
 - iii. **The parking of vehicles of site operatives and visitors.**
 - iv. **The loading and unloading of plant and materials.**
 - v. **Storage of plant and materials used in constructing the development.**
 - vi. **The erection and maintenance of site security hoardings, where appropriate.**

Reason: To protect the amenity of local residents and in the interests of highway safety. To comply with Policies DR3 and DR4 of Herefordshire Unitary Development Plan.

13. **H06 Vehicular access construction**
14. **H13 Access, turning area and parking**
15. **H09 Driveway gradient**
16. **I55 Site Waste Management**
17. **Prior to the commencement of development, a details of the construction of the turning head and timetable for the dedication of the land to Herefordshire Council shall be submitted to and approved in writing by the Local Planning Authority. Works shall be carried out in accordance with the approved details.**

Reason: To ensure a satisfactory form of development having regard to highway safety and policy DR3 of the Unitary Development Plan.

Informatives:

1. **N01 Access for all**
2. **N02 Section 106 Obligation**
3. **N14 Party Wall Act 1996**
4. **N15 Reason(s) for the Grant of PP/LBC/CAC**

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

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DMS/102805/F

SITE ADDRESS : 44 TOWER ROAD, HEREFORD, HEREFORDSHIRE, HR4 0LF

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



MEETING:	PLANNING COMMITTEE
DATE:	2 FEBRUARY 2011
TITLE OF REPORT:	<p>DMS/102337/O - SITE FOR PROPOSED RESIDENTIAL DEVELOPMENT AT LAND OFF WITHIES ROAD, WITHINGTON, HEREFORDSHIRE, HR1 3PX.</p> <p>For: Withington Parish Council, per Mr Geoff Studerus, Ecknell Cottage, Westhide, Herefordshire, HR1 3RQ.</p>

Date Received: 10 September 2010 Ward: Hagley

Grid Ref: 356054,242969

Expiry Date: 29 November 2010

Local Member: Councillor DW Greenow

1. Site Description and Proposal

- 1.1 Outline planning permission (with all matters reserved) is sought for the erection of two open market dwellings on land on the north side and adjacent to Withies Road, Withington. The site forms part of a larger parcel of land comprising public open space currently being laid out as a football pitch and adventure playground. The applicant considers the dwellings to represent 'enabling development' in that finance from their sale would be used to complete the public open space with the addition of an all weather pitch and changing facilities.
- 1.2 The southern and eastern site boundaries are enclosed by a mature hedgerow beyond which lie detached dwellings. The land to the north east is occupied by the village hall and associated car park. A temporary access has been formed to allow access for contractor's vehicles to undertake the groundwork necessary for the formation of the football pitch and adventure playground and it is from this that vehicular access to the dwellings would be provided, the route also enabling an agricultural access through to the fields to the north.
- 1.3 The application is the third such application on site. At the time the application was made, a previously secured £40,000 'playbuilder' grant had been withdrawn. Subsequently 93% of this funding (i.e. £37,200) has been reinstated. Two earlier applications for residential development on this land were refused on the basis that the site is outside the defined settlement for Withington, with none of the relevant exceptions that might allow for the grant of planning permission being met.
- 1.4 The applicants are willing to enter into a Section 106 Agreement in line with currently adopted policy, but request that the level of contributions be the subject of further negotiation in order that the basic premise of the proposal (i.e. to finance the delivery of the public open space) is not undermined.

2. Policies

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

2.1 National Planning Policy:

PPS7 - Sustainable Development in Rural Areas

2.2 Herefordshire Unitary Development Plan 2007:

S1 - Sustainable Development
S2 - Development Requirements
S3 - Housing
S7 - Natural and Historic Heritage
DR1 - Design
DR2 - Land Use and Activity
DR3 - Movement
DR5 - Planning Obligations
H7 - Housing in the Countryside Outside Settlements
H10 - Rural Exception Housing
H13 - Sustainable Residential Design
H15 - Density
RST5 - New Open Space in/adjacent to Settlements

2.3 Supplementary Planning Document – Planning Obligations

3. Planning History

- 3.1 DCCE2005/2539/F - Change of use from agricultural land to public open space. Approved 8 December 2008.
- 3.2 DCCE2008/2542/O - Proposed residential development. Refused 8 December 2008.
- 3.3 DCCE2008/3069/O - Proposed residential development. Refused 4 February 2009. The reason for refusal was as follows:

“The proposed development would result in new residential development outside of a defined settlement and notwithstanding the information provided to support the application, none of the exceptions controlling new housing in the countryside identified in the Herefordshire Unitary Development Plan have been satisfied. As such the development is contrary to Policies H7, DR1 and H13 of the Herefordshire Unitary Development Plan.”

4. Consultation Summary

Statutory Consultations

- 4.1 Dwr Cymru Welsh Water: No objection subject to conditions controlling foul and surface water drainage.

Internal Council Advice

- 4.2 Traffic Manager: Recommends a standard condition requiring the submission of details relating to the consolidation, surfacing and drainage of the access and respective parking and turning areas.
- 4.3 Forward Planning Manager: Objection. The proposal is contrary to Unitary Development Plan policy and whilst the Local Development Framework is likely to recognise Withington as a village for potential growth, it has yet to reach the point where it is a material consideration.

- 4.4 Strategic Housing Manager: Objection. The site is adjacent to the settlement boundary where Policy H10 states that affordable housing may be permitted on land which would not normally be released. The proposal is for open market housing without discount and cannot, therefore, be supported.
- 4.5 Parks Development Manager: In principle we support the provision of enhanced sport and recreation facilities in Withington. However, the ring-fenced 'playbuilder' funding has recently been reinstated with the effect that it should now be possible to construct the play facilities without additional monies. Whilst it is understood that the Parish Council has further objectives (e.g. a full-size football pitch and all-weather surface), we are not currently convinced that every attempt has been made to access alternative funding streams and are not persuaded that the release of an area of POS (purchased largely through Section 106 monies) for residential development, albeit aimed at securing additional funding, is necessary in this instance. I am also concerned that if the land is not retained for recreational purposes the original developers providing Section 106 funding could require the return of a proportion of their monies.

Alternative funding sources would be the Football Foundation, when the village has a team or can show need of a pitch and changing facilities, and Reaching Communities which can provide up to £50,000, as they would meet Outcomes 3 – Improved Rural and Urban Environment and Outcome 4 – Healthier and more Active People and Communities.

5. Representations

- 5.1 Withington Parish Council: The application is made by the Parish Council, which fully supports the application.
- 5.2 Seven letters of objection have been received from local residents. The content is summarised as follows:
- The proposal is a knee-jerk reaction to the loss of the 'playbuilder' scheme funding and alternative sources of funding should be explored;
 - Two previous applications have been refused and it would appear that nothing other than the number of dwellings proposed has changed;
 - The land is outside the village settlement and development would result in the loss of the last rural piece of land to the north of Withies Road;
 - An overall majority of respondents to the place shaping questionnaire objected to further housing within the parish. The parish sponsored application is inconsistent with these findings;
 - The land was purchased using Section 106 monies as public open space and not as an opportunity to erect dwellings with the potential for more;
 - The development would set a precedent for future proposals should the parish run short of funds in the future.
- 5.3 The application is supported by a covering letter and later submission from the Parish Council, which explain the rationale for the proposal in the context that although supporting one of the largest parish populations, there was until recently no provision of public open space to satisfy the recreational needs of all residents, but in particular children.

Through the Unitary Development Plan process the field adjoining the village hall was allocated as new open space, protected by Policy RST5. Consultation events confirmed the demand for areas for active play, space for informal sport, access to footpaths and open space and a facility for organised football and tennis. The submission also explains that at the time of the application the 'Playbuilder' grant of £40,000 had been frozen with it being "most unlikely to be reinstated". The Parish Council therefore feels it necessary to obtain further funding through limited residential development of part of the allocated public open space.

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

Although the Parish Council understands the proposal is contrary to the policies of the Unitary Development Plan, the following points are made:

- It is likely that Withington will be recognised as a tier-two local centre in the Local Development Framework. The proposal meets all the criteria of draft policy RA.3 (other settlements outside of the RSCs and Hubs);
- The land is adjacent the settlement boundary and surrounded by allocated public open space. Residential development would relate well to the village;
- The application has widespread community support;
- At no cost to the tax payer the application provides a mechanism through which withdrawn funding can be replaced;
- Concerns that the proposal will set a precedent are unfounded. The adjoining land is protected as public open space;
- The proposed development is preferable to the alternative of building houses adjoining the village hall, which would obscure it from view and prejudice the use of the hall;
- The Parish Council has looked at alternative funding schemes;
- The Parish Council has waited too long for these facilities and the current proposal is considered the best means through which the play equipment and longer term ambitions can be delivered.

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

6. Officer's Appraisal

6.1 The application proposes the erection of two detached dwellings on land allocated as public open space to the north of Withies Road, Withington.

6.2 As identified in the Herefordshire Unitary Development Plan, the site lies adjoining but outside the defined settlement boundary for Withington. As such the site lies within the open countryside. Policy H7 sets the criteria where new housing may be permitted in the open countryside so far as the interpretation of planning policy is concerned. However, none of the criteria are satisfied and the proposal is thus contrary to policy H7. Moreover the site also lies upon land designated within the Unitary Development Plan as public open space. Policy RST5 requires that any development that were to prevent or prejudice the future use of land allocated as public open space for recreational amenity or open space purposes should be refused. At face value, therefore, the development is also contrary to Policy RST5 as it would result in the loss of allocated public open space.

6.3 The application is submitted by the Parish Council on the premise that funds released through the sale of the two dwellings will be held over by the Parish Council to complete the proposed play and sporting facilities on the remainder of the allocated site. However, whilst some initial costs were provided with the historic applications there is no detailed breakdown of the costs involved in completing the proposed phases of the work and thus no empirical evidence to identify the magnitude of the funding shortfall. Moreover, the draft Heads of Terms does not explain the mechanism by which the funds released from the sale will be held and used solely for the development of the public open space. In any event, £37,200 of the 'Playbuilder' funding has recently been reinstated provided that it can be spent by June 2011, which should be possible given the groundworks that have already been undertaken. The reinstatement of the 'Playbuilder' grant is material to the consideration of this application. The applicant's supporting statement references the withdrawal of this funding historically and the reinstatement would appear to go some way to bridging the funding gap. In the absence of a fully-costed scheme officers cannot be sure of the size of any continued funding shortfall and no determination has been made in relation to the provision of features within the adopted Public Open Space.

- 6.4 Consultation responses also suggest that other potential funding streams have not been identified or examined to the fullest extent, whereas other grants will only be applicable where a business case can be made. Moreover, the Unitary Development Plan is the Development Plan for the purposes of making decisions on planning applications and reference to emerging Local Development Framework policy is at present premature.
- 6.5 Officers also consider that other viable, policy compliant alternative exist.
- It is anticipated that the Local Development Framework will recognise Withington as a potential for future, limited growth. A review of the settlement boundaries in the LDF is likely in the second half of 2011 as is a fundamental change to planning law via the Localism Bill. Given the reinstatement of the Playbuilder funding it may be advisable to defer an application for residential development on this land until the implications of the above are fully understood;
 - An affordable housing scheme would be capable of complying with Policies H7 and H10. No appraisal has been submitted to demonstrate that affordable housing would not return a profit;
 - Although discounted by the applicant, officers are not persuaded that development of housing around the village hall is not an acceptable alternative. The land is within the settlement boundary and the highway infrastructure is already largely in place. Development costs could be expected to be lower and profit margins higher. The land is also unconstrained by the RST5 allocation.
- 6.6 Given the context provided by the two previous refusals it is my view that there have been no material changes to either planning policy or other material considerations that would warrant anything other than a recommendation for refusal. This is reinforced by the recent reinstatement of £37,200 of 'Playbuilder' funding, a development that the Parish Council has not acknowledged in its submissions.
- 6.7 Whilst it is recognised that the development would be served by an appropriate access and would have little impact upon existing, neighbouring properties, currently adopted planning policy does not offer any mechanism through which the proposal can be supported. Furthermore, officers do not consider that the proposal is the only practical option to achieve the objectives. The proposal is considered contrary to Policies H7, DR1 and H13 of the Unitary Development Plan and is recommended for refusal accordingly.

RECOMMENDATION

That planning permission be refused for the following reasons:

1. **The proposed development would result in new residential development outside the defined settlement boundary for Withington. Notwithstanding the information submitted in support of the application, none of the exceptions controlling new housing in the open countryside identified in the Herefordshire Unitary Development Plan 2007 are satisfied. As such the development is contrary to Policies H7, H10, DR1 and H13 of the Herefordshire Unitary Development Plan 2007.**

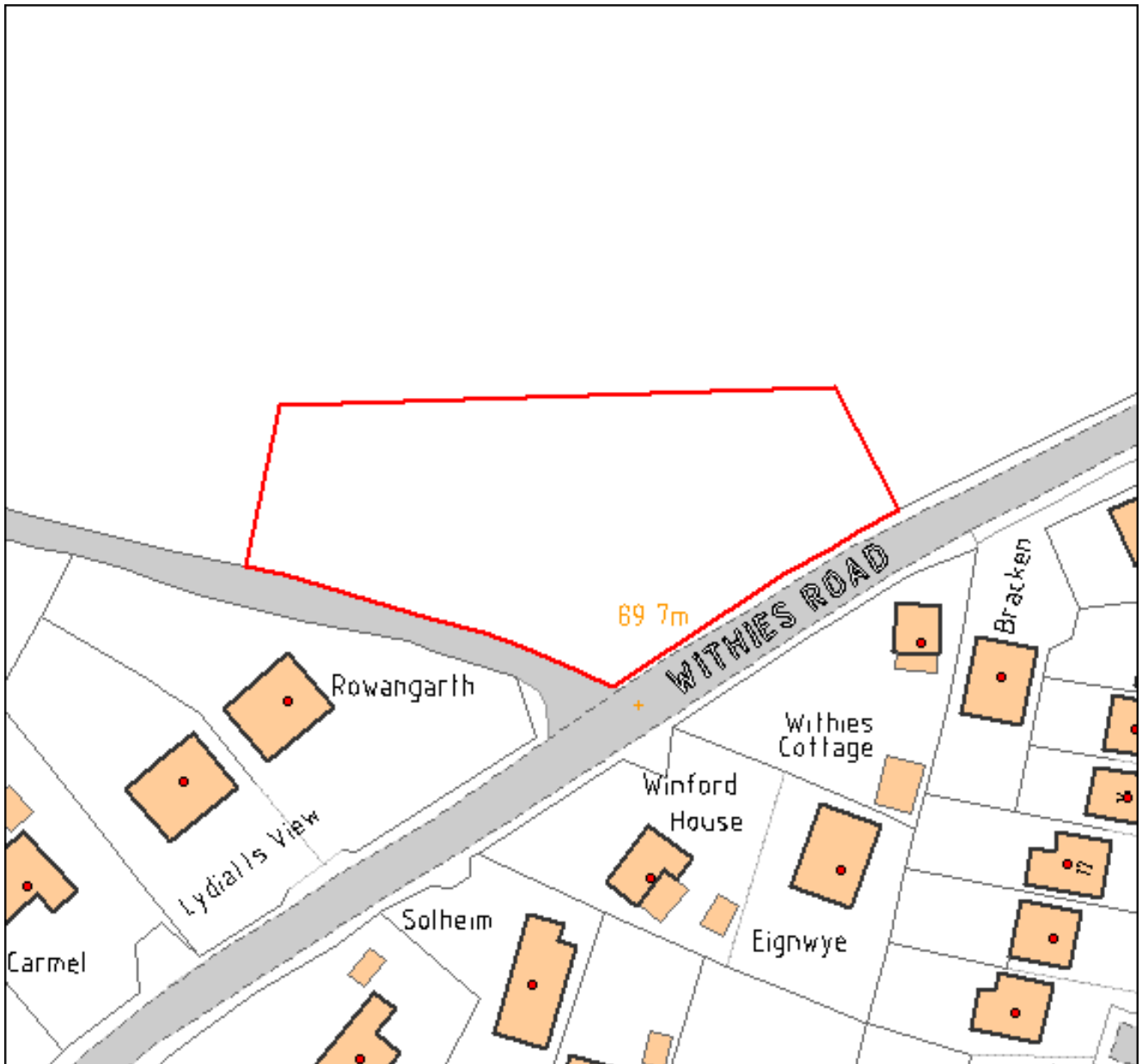
Decision:

Notes:

Background Papers

Internal departmental consultation replies.

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



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APPLICATION NO: DMS/102337/O

SITE ADDRESS : LAND OFF WITHIES ROAD, WITHINGTON, HEREFORDSHIRE, HR1 3PX

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MEETING:	PLANNING COMMITTEE
DATE:	2 FEBRUARY 2011
TITLE OF REPORT:	<p>DMS/103179/F - VARIATION OF CONDITION 2 APPROVED PLANNING PERMISSION DMSE09/3151/F FOR AMENDMENTS TO HOUSE ELEVATIONS AT CARADOC COURT, SELLACK, ROSS-ON-WYE, HEREFORDSHIRE, HR9 6LS.</p> <p>For: Mr Bramer per Mr T Egan, Ruardean Works Varnister Road, Gloucestershire, GL17 9BH.</p>

Date Received: 3 December 2010 **Ward: Llangarron** **Grid Ref: 355976,227272**
Expiry Date: 28 January 2011
Local Members: Councillor JA Hyde

1. Site Description and Proposal

- 1.1 The application seeks to vary Condition 2 of planning permission S/093151/F to enable a change in the design and appearance of the external elevations of the dwellings approved at Caradoc Court. The approved development comprises the erection of six detached dwellings and the construction of a new access point and driveway on land approximately 400 metres north east of The Court on land at the top of a steep, north-facing wooded slope, rising up from the River Wye. The application site falls within the Wye Valley Area of Outstanding Natural Beauty and within the unregistered historic parkland associated with Caradoc Court.
- 1.2 Development has commenced upon the site and the dwellings are currently under construction. The application seeks permission to amend the external appearance of the dwellings, but not the scale, layout or form. The principal changes are as follows:
- The use of stone window sills (not previously detailed on the approved drawings), which will allow for a deep reveal to the windows;
 - The definition of the materials to be used to the gables of the dormer windows;
 - Amendments to the design of some windows and substitution of segmental brick arches with a bell house render detail;
 - The use of render to the chimneys instead of stone;
 - The introduction of boarding to the garden rooms to obscure the well created by the dormer windows;
 - The introduction of a brick plinth.

2. Policies

- 2.1 Planning Policy Statements:

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

- PPS1 - Delivering Sustainable Development
- PPS5 - Planning for the Historic Development
- PPS7 - Sustainable Development in Rural Areas

Other guidance: Enabling Development and the Conservation of Historic Places (English Heritage 2008)

2.2 Herefordshire Unitary Development Plan 2007:

- S1 - Sustainable Development
- S2 - Development Requirements
- DR1 - Design
- H7 - Housing in the Countryside Outside Settlements
- H13 - Sustainable Residential Design
- LA1 - Areas of Outstanding Natural Beauty
- LA2 - Landscaped Character and Areas Least Resilient to Change
- LA4 - Protection of Historic Parks and Gardens

3. Planning History (Selected)

- 3.1 SH940997PF - Rebuild fire damaged house to original state as single residence with outbuildings and six houses on adjoining land at Caradoc Court, Sellack. Approved 24 February 1995.
- 3.2 DCSE206/1684/V - Certificate of Lawfulness for six new houses (approved planning permission SH940997PF), Caradoc Court, Sellack. Approved 6 December 2006.
- 3.3 DMSE/093151/F - Erection of six detached houses (amendments to SH940997PF). Approved 14 April 2010.

4. Consultation Summary

Statutory Consultations

- 4.1 None required.

Internal Council Advice

- 4.2 Public Rights of Way Manager:: No objection.
- 4.3 Traffic Manager: No objection.

5. Representations

- 5.1 Sellack Parish Council: Comments awaited.
- 5.2 At the time of writing one letter of objection had been received. The letter laments the original decision to approve the enabling development and objects to any amendments whatsoever to the approved development.
- 5.3 The full text of these letters can be inspected at Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Committee meeting.

6. Officer's Appraisal

- 6.1 The application seeks to vary Condition 2 of planning permission S/093151/F. Condition 2 required that development should be carried out strictly in accordance with the approved plans. Varying this condition is one of the mechanisms by which approval can be secured for subsequent changes to the external appearance of the dwellings.
- 6.2 The principle of erecting six dwellings at the location was first established in 1995 as part of the scheme to restore Caradoc Court, which is now complete. Work has now commenced and the current application is concerned with comparatively minor alterations to the external appearance of each of the six dwellings as outlined above in 1.2. In some instances the proposals merely add detail to the originally approved elevations.
- 6.3 It is my view that the proposed changes combine to improve the overall appearance of the buildings. The bell house render and stone sill detailing are more reminiscent of local vernacular architecture and the overall result is more coherent. The changes to the fenestration detailing to the rear of the units results in a significant improvement to the appearance of these elevations.
- 6.4 It has always been acknowledged that this is a difficult site upon which to design an 'appropriate' development. However, in the context of what has been approved, the changes now sought will improve the overall appearance of the development and have no wider implications for the protected landscape in which they sit. The application is recommended for approval accordingly.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1. B04 Amendment to existing permission**
- 2. B01 Development in accordance with the approved plans**

INFORMATIVES:

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

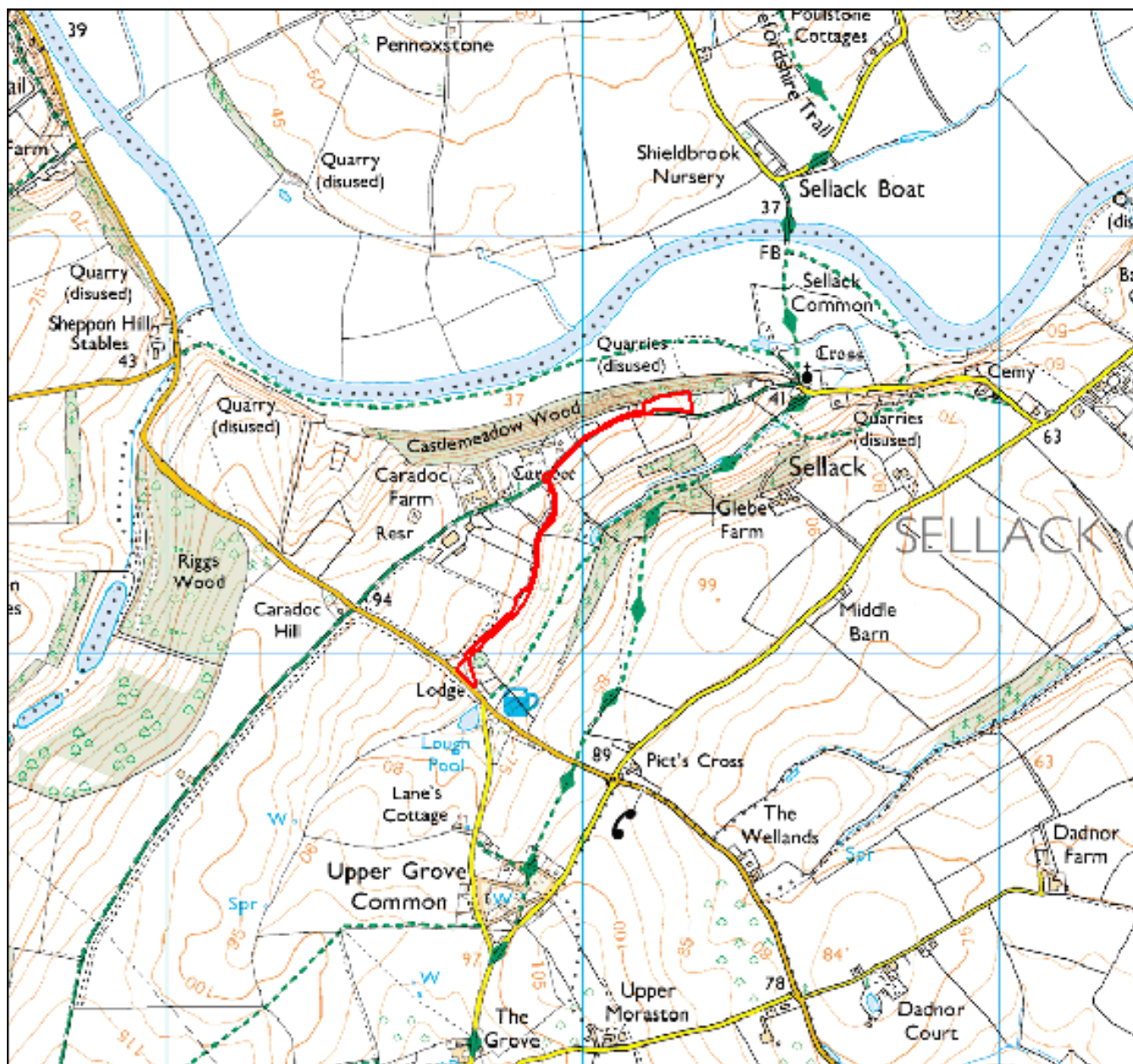
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DMS/103179/F

SITE ADDRESS : CARADOC COURT, SELLACK, ROSS-ON-WYE, HEREFORDSHIRE, HR9 6LS

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



MEETING:	PLANNING COMMITTEE
DATE:	2 FEBRUARY 2011
TITLE OF REPORT:	<p>DMN/102226/F - PROPOSED DWELLING FOR FARM WORKER AT GREAT PENLAN, BRILLEY, HEREFORDSHIRE, HR3 6JW.</p> <p>For: Mr & Mrs James per Mr Ian Howie, Ryefield, Wormbridge, Herefordshire, HR2 9DB.</p>

Date Received: 31 August 2010

Ward: Castle

Grid Ref: 327299,252003

Expiry Date: 26 October 2010

Local Members: Councillor JW Hope

1. Site Description and Proposal

- 1.1 Great Penlan is a long established farm holding in an isolated rural location. It is in an undulating landscape characterised by relatively small field parcels that are defined by mature hedgerows and trees. The area is sparsely populated, the closest properties lying approximately 350 metres and 500 metres to the south west.
- 1.2 The holding presently comprises a dwelling, two traditional stone built farm buildings, one of which is listed, and two larger steel framed buildings, all of which are actively used in connection with the agricultural business. The farm is accessed via a private drive and in turn onto an unclassified road, and lies approximately 4.5 miles to the south west of Kington.
- 1.3 This is a full application for the erection of a second agricultural workers dwelling. It includes detailed elevations of the proposed dwelling, these having been amended since they were originally received to produce a design more reflective of the rural nature of the area, as has the design and access statement. A detailed appraisal to demonstrate the financial and functional need for an additional dwelling is also included as part of the application. The applicant has also provided audited accounts of the business. The applicant's agent has also submitted a written response to comments received from the County Land Agent. This includes an assessment of accommodation currently available in the local area. It concludes that, due in part to the fact that the area is sparsely populated, there is no accommodation currently available. Five letters in support of the proposal from a combination of local residents and businesses are also submitted as part of the application.
- 1.4 The site lies approximately 50 metres to the south west of the farm buildings on a parcel of land adjacent to the farm access and unclassified road. It is bounded to the east and south by a combination of mature trees and hedgerows. A gap exists at the south eastern corner of the plot and the plans show vehicular access to be gained at this point.
- 1.5 The amended plans show a T shaped dwelling faced in a mix of stone and render with a clay tiled roof. The dwelling has a total floor area of 133 square metres and a ridge height of 6.8 metres and provides three bed accommodation.

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

- 1.6 The appraisal is based on a 250 acre farm holding which, in 2000 achieved organic status and became a registered producer of organic vegetables, cattle and sheep. The financial information submitted shows that the difference between income derived from livestock and vegetable crops has become less over the last three years. The following figures are a summary of those provided and show these changes and the final net profit of the enterprise for each year: The publication of these figures has been agreed with the applicant and their agent.

	2007	2008	2009
Cattle	7,053	12,250	23,097
Sheep	18,976	19,227	20,631
Wool	291	58	254
Sub-Total	26,320	31,535	43,892
Vegetable crops sub-total	88,307	55,887	58,038
Net Profit	70,170	22,267	23,684

- 1.7 In terms of standard man days associated with livestock and vegetable crops, the appraisal states the following:

Total SMDs – Livestock	294
Total SMDs – Vegetable crops	211
Total SMDs – Other	97
Sub- total SMDs	602
+ 20% maintenance/management	120
Total SMDs	723

- 1.8 The appraisal concludes that the business is financially viable and, based on the premise that a single labour unit amounts to 275 SMDs, the enterprise has a labour requirement for 2.63 persons.

2. Policies

Herefordshire Unitary Development Plan

- 2.1 S1 - Sustainable development
 DR1 - Design
 DR5 - Planning obligations
 H7 - Housing in the countryside outside settlements
 H8 - Agricultural and forestry dwellings and dwellings associated with rural businesses
 LA2 - Landscape character and areas least resilient to change
 HBA4 - Setting of listed buildings

National Guidance

- 2.2 PPS7 – Sustainable Development in Rural Areas

3. Planning History

3.1 There is no planning history.

4. Consultation Summary

Statutory Consultations

4.1 None required

Internal Council Consultations

4.2 Transportation Manager – No objection

4.3 Conservation Manager – The setting of the listed outbuilding will not be affected by this proposal.

4.4 Head of Environmental Health & Trading Standards – No objection

4.5 County Land Agent – Considers that the enterprise is labour intensive and that labour needs to be quickly available for calving and lambing, as well as overall stock management. This part of the enterprise is more labour intensive than other livestock enterprises due to its organic status. Produce is delivered by the applicant from 0500 hrs onwards and the growing and harvesting season (April to October) is also labour intensive. He concludes that the business requires tight control of stock, produce and labour and that the provision of accommodation for a second agricultural worker would be beneficial. He also notes that the economic downturn appears to have impacted on the profitability of the business over the last two years. He suggests that the ability of the business to absorb the cost of two agricultural salaries, currently £14,630.40, and the annual repayments on borrowing to build a new dwelling, is marginal. However, if an average is taken of the three years 2007-09 then sufficient profit is made to sustain these costs.

5. Representations

5.1 Huntingdon Parish Council – Have no objection to the proposal and support the recommendations and conclusions of the agricultural appraisal.

5.2 The Council has not received any responses from the public in response to statutory consultation procedures.

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

6. Officer's Appraisal

6.1 The key consideration to be made in determining this application is whether there is a need for a second agricultural workers dwelling based on the financial and functional viability tests as referred to by PPS7 and Policy H8.

6.2 The holding is currently served by a dwelling that is positioned immediately adjacent to its farm buildings and is occupied by the applicant and his family. It is from here that the change from what might be considered as 'typical' farming practice to that of organic status has been undertaken since 1998.

6.3 The enterprise appears to be based on a sound financial footing and the audited accounts confirm that it has been profitable for the past three years, well in excess of the average salary

of an agricultural worker. There is some doubt as to whether it has cleared a sufficient profit over the past two years to provide minimum salaries for two workers and cover the costs of the construction of a new dwelling, but an average figure over the last three years shows that sufficient profit has been made. The downturn can be attributed to the current economic situation and it is reasonable to assume that the business would return to greater profitability once the economy picks up. It is therefore concluded that the financial viability test is met.

- 6.4 It is also evident that the enterprise is labour intensive and this is confirmed by the comments of the Council's County Land Agent. However, the fact that it is labour intensive is not in itself justification for a second dwelling and what is less clear is the actual **functional need** for a second worker to be permanently resident on site. The appraisal shows that the livestock element of the business is growing in terms of the financial contribution it makes to the business as a whole and that it accounts for 294 standard man days per annum, just in excess of the 275 days expected of a single worker. The figures are further broken down to show that 93 days are spent with a beef suckler herd of 30 cows which calve between March and July. Animals are sold as finished cattle or as stores between 18-30 months old. The remaining 201 days are attributed to a 300 strong flock of breeding ewes.
- 6.5 The functional need in connection with livestock seems to be largely attributed to a requirement to be on site during the lambing and calving seasons. The appraisal suggests that the need for additional accommodation relates in part to the farm's relatively isolated location and the need to comply with Animal Welfare Codes of Good Practice and guidelines set out in Defra's Animal Health and Welfare Strategy.
- 6.6 It has been well documented with regard to lambing that temporary on-site accommodation needs can be met through the provision of caravans. The keeping of sheep is not considered to justify the provision of permanent residential dwellings and this application is no different in this respect.
- 6.7 In isolation, the keeping of a beef suckler herd of 30 cows is not especially labour intensive, and this is reflected in the standard man days attributed to the keeping of them. It is accepted that the calving season is longer than that of the lambing season but this is a small herd that is expected to give birth to 28 calves over a five month period. This need is considered to be more than adequately met by the existing dwelling.
- 6.8 The growing of organic vegetables is shown by the appraisal to be quite labour intensive, accounting for a total of 211 SMDs. The farm concentrates primarily on root vegetables with 22 acres given over to a combination of potatoes, carrots, beetroot and swedes. A further 8 acres is used to grow brassicas. None of these are crops that are sensitive to weather variations and there is nothing in the appraisal to suggest that there is a need for a second person to be on site to attend to any sort of emergency in connection with this aspect of the enterprise. It is acknowledged that the approach roads to the farm are narrow and single track, but this is no different to large parts of the county. It is approximately 4.5 miles from Kington where appropriate housing is more likely to be available. This is considered to be sufficiently close for a second agricultural worker.
- 6.9 In conclusion, the functional requirement for a second dwelling seems more to be based on the fact that the enterprise is labour intensive, rather than there being an overriding need for more than one person to be on site to respond to emergency situations and to ensure appropriate levels of animal welfare. The requirements of the holding are considered to be adequately met by the existing dwelling and therefore the application fails the functional test. For this reason the application is considered to be contrary to Policy H8 and Annex A of PPS7.
- 6.10 The initial concerns regarding the design of the dwelling raised by the case officer have been addressed through the submission of amended plans. The design and scale of the building is more reflective of the rural character of the area and the use of stone as a facing material on

large parts references the farm's traditional buildings. The site is sufficiently distant from the Grade II listed building not to have any demonstrable detrimental impact upon its setting. The site is discreetly sited behind existing vegetation that will act as a screen at close proximity. From middle and longer distances it will be seen in the context of the existing farm buildings and therefore will not be demonstrably visually prominent in its own right. In terms of siting, design and appearance the proposal is considered to comply with policies DR1, HBA4 and LA2 of the Unitary Development Plan.

- 6.11 At 133 square metres the dwelling is considered to be commensurate with the size of the holding. At approximately 50 metres away, it is close enough to be within sight and sound of the farm in order to respond to emergencies as suggested by PPS7 and Policy H8 of the Unitary Development Plan.
- 6.12 The Design & Access Statement accompanying the application states that all of the existing buildings on the site are in operational use, and this was evident from the case officer's site visit. Consequently there are no opportunities to make use of existing buildings in preference of new development as Policy H8 suggests.
- 6.13 However, due to the lack of a functional need for a second worker to be permanently resident on site, the proposal is contrary to Policy H8 and effectively constitutes a dwelling in the open countryside without any justification, contrary to Policy H7. The application is therefore recommended for refusal.

RECOMMENDATION

That planning permission be refused for the following reason:

- 1. **The applicant has failed to demonstrate that there is an overriding functional need for a second dwelling to serve the farm holding. The proposal is therefore considered to represent a new dwelling in the open countryside and without sufficient justification is contrary to Policies H7 and H8 of the Herefordshire Unitary Development Plan.**

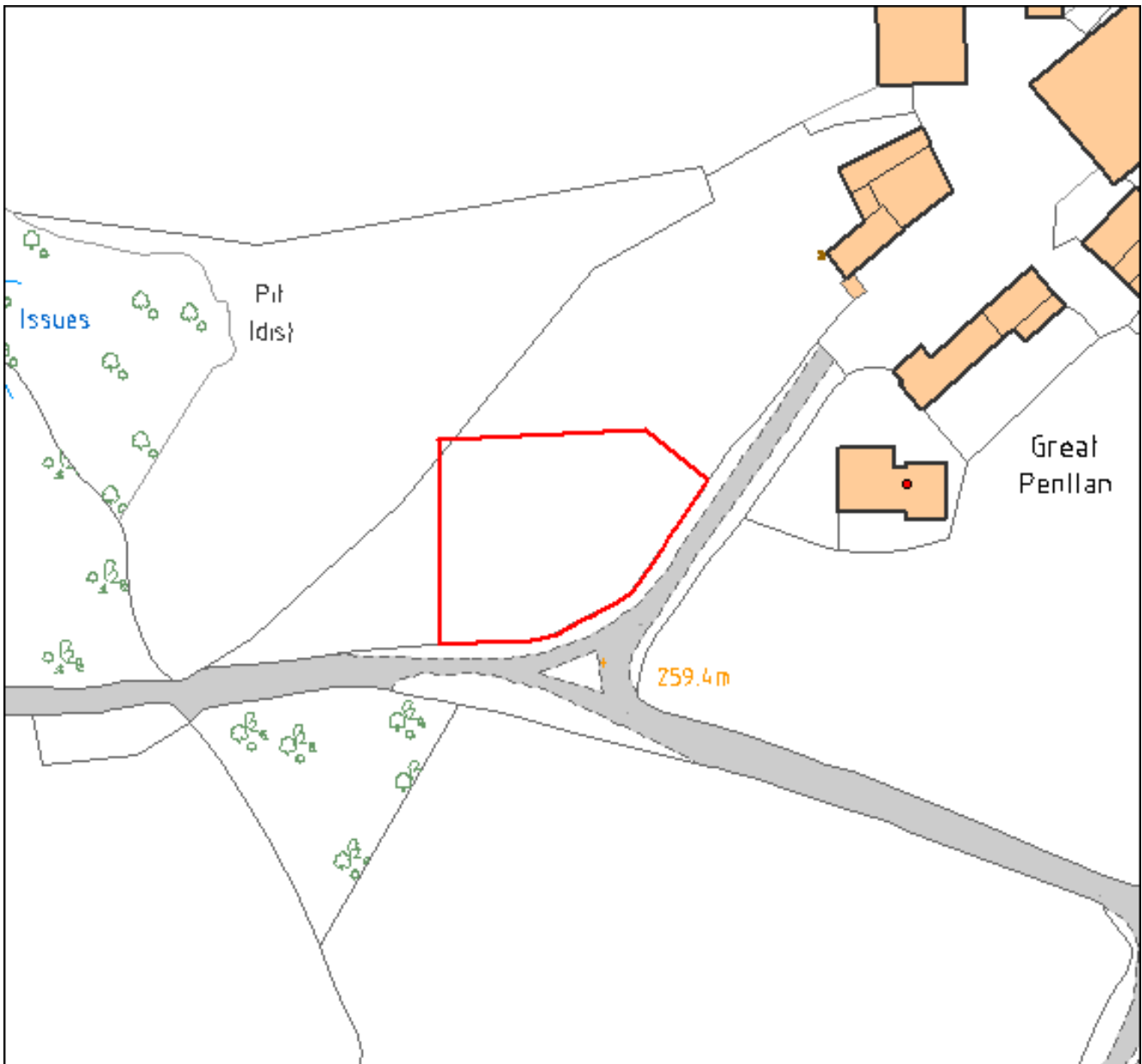
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DMN/102226/F

SITE ADDRESS : GREAT PENLLAN, BRILLEY, HEREFORDSHIRE, HR3 6JW

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