

**MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 9 January 2013 at 10.00 am**

**Present:** Councillor PGH Cutter (Chairman)  
Councillor BA Durkin (Vice Chairman)

Councillors: PA Andrews, AN Bridges, PJ Edwards, DW Greenow, KS Guthrie, J Hardwick, JW Hope MBE, MAF Hubbard, RC Hunt, JA Hyde, FM Norman, AJW Powers, R Preece, GR Swinford and PJ Watts

**In attendance:** Councillors AM Atkinson, RB Hamilton and P Sinclair-Knipe

**118. APOLOGIES FOR ABSENCE**

Apologies were received from Councillor Brig. P Jones CBE, JG Lester and RI Matthews.

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

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillors JA Hyde and R Preece attended the meeting as substitute members for Councillors JG Lester and RI Matthews.

**120. DECLARATIONS OF INTEREST**

7. S121357/N - LITTLE PENGETHLEY FARM, PETERSTOW, ROSS-ON-WYE, HR9 6NB.  
Councillor DW Greenow, Non-Pecuniary, The Councillor knows the applicant.

7. S121357/N - LITTLE PENGETHLEY FARM, PETERSTOW, ROSS-ON-WYE, HR9 6NB.  
Councillor J Hardwick, Non-Pecuniary, The Councillor knows the applicant.

10. S122498/F - CHEVENHALL, WALFORD ROAD, ROSS-ON-WYE, HEREFORDSHIRE, HR9 5PQ.

Councillor JA Hyde, Non-Pecuniary, The Councillor lives nearby.

10. S122498/F - CHEVENHALL, WALFORD ROAD, ROSS-ON-WYE, HEREFORDSHIRE, HR9 5PQ.

Councillor PGH Cutter, Disclosable Pecuniary, The Councillor is a trustee of the neighbouring ~~convent~~; [Note: Amended at Planning Committee meeting on 30 January 2013] on the advisory group of the neighbouring St. Joseph's Primary School and a trustee of the Cricket Club of which the applicant is involved.

11. S122724/FH - 9 & 10 BAKERS OAK, ROSS-ON-WYE, HEREFORDSHIRE, HR9 5RP.  
Councillor PGH Cutter, Non-Disclosable Pecuniary, The applicant is the Councillor's son.

**121. MINUTES**

A member of the Committee noted that the paragraph of the constitution referred to in minute number 113 was incorrect. It was noted that this was due to a recent amendment to the constitution. The same member also sought clarification as to whether the Leader of the Council had declared an interest in respect of minute number 113. The Democratic Services Officer confirmed that no declaration of interest had been made.

**RESOLVED: That the Minutes of the meetings held on 7 November 2012 and 19 December 2012 be approved as correct records and signed by the Chairman.**

**122. CHAIRMAN'S ANNOUNCEMENTS**

The Chairman advised the Committee that Duncan Thomas, a Senior Planning Officer within the Planning Department, was due to retire shortly. He added that Mr Thomas had been with Herefordshire County Council since its inception in 1998 and had been employed in local government for a total of 43 years. The Committee wished him a happy retirement and thanked him for the help and advice he had given them over the years.

The Chairman also advised the Committee that an appeal in respect of 127 houses at Porthouse Farm, Bromyard had recently been dismissed.

**123. APPEALS**

The Planning Committee noted the report.

**124. S121357/N - LITTLE PENGETHLEY FARM, PETERSTOW, ROSS-ON-WYE, HR9 6NB**

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet. She drew Members' attention to an error in the update sheet under sub heading 'para 6.15' and advised that the second sentence should refer to accidents up to 2005 and not accidents since 2005.

In accordance with the criteria for public speaking, Mr Lyons, representing a number of the local residents, spoke in objection to the application and Mr Williams, the applicant's agent, spoke in support. Mr Davis, Chairman of Hentland, Ballingham and Bolstone Group Parish Council also addressed the Committee; he raised some concerns in respect of the application but was broadly in support of it.

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

- The local residents had raised a number of concerns in respect of the application, these included:
  - The accuracy of the report had been questioned.
  - The application should be refused in line with the Locality Act as the majority of local residents opposed it.
  - There were concerns over the time taken to bring the application to Committee.
  - Why could the Anaerobic Digester not go on the applicant's other site.
  - Some objectors felt that the applicant had misled the Committee in respect of the plot size.
  - It was also considered that the traffic data provided was inaccurate and misleading.
  - It was also believed that the swale was added to the application at a later date to ensure that the application was initially treated as a smaller site.
  - Concern was raised that although the proposed Anaerobic Digester was just under 500kw it would be increased in the future.

- There was concern that the report had been written in a way to mislead the Committee.
  - The qualifications of some of the professional consultees had also been questioned.
  - Concern had been raised in respect of some of the measurements contained within the report.
  - Some of the local residents felt that the AD plant should not be within 1000 metres of a residential dwelling.
  - The issue of flooding had also been raised by local residents.
  - The vehicular movements contained within the report were disputed.
  - The figures in respect of accidents on the A49 were also disputed.
  - Odour from the AD plant was an issue that had also been raised.
  - Health concerns had been raised with particular reference made to a local resident who suffered with asthma.
  - The lack of a site management plan had also been raised.
  - The Environment Agency had confirmed that even if planning permission was granted a licence may not be granted for the operation.
- Councillor Hamilton then took the opportunity to share his own views with the Committee, he advised that:
    - He had listened to all sides and considered that the application had been brought forward in a genuine way.
    - Local people should not be condemned for taking an interest in local planning issues.
    - The applicant made a significant contribution to the local economy and was a major local employer .
    - There were sound business reasons for the application.
    - The applicant could have done more to discuss matter with the locals and address their concerns.
    - It was in the applicant's interest to ensure the plant ran smoothly.
    - The application needed to be considered on its merits with due consideration given to the concerns raised in respect of health.
    - The key concern related to traffic management.
    - Improvements were needed to the St. Owen's Cross crossroads, these improvements would be sought.
    - Finally the local member advised that he had no objection to the application subject to the concerns being addressed.

Councillor JA Hyde, the other local ward member, added:

- Her main concern was regarding the access to the site from the B4521, however she was satisfied that this had been addressed.
- The applicant had advised that journeys from the site would now be reduced as a result of the proposed application.
- The Council was currently looking into a reduction in the speed limit for St. Owen's Cross.

In response to a question from a Member of the Committee, the Principal Planning Officer confirmed that the Highways Agency had not ruled out accessing the site from the A49 but they had issued a holding direction requesting a re-assessment of the access if it were to be used. The applicant had therefore decided not to proceed with this access.

In response to a further question, the Principal Planning Officer advised that she was not aware of any boreholes within 250 metres of the site. She added that the applicant owned most of the land within this area and he had stated that there were none on his land.

A Member of the Committee opened the debate by speaking in support of the application. He also made reference to the issues raised in respect of possible boreholes in the proximity of the site and advised Member that due to the depth of the hole, some 60 to 70 metres, the water would be drawn from up to three miles away. He noted the concerns raised in respect of accidents at the crossroads but noted that none of the accidents referred to had occurred as a result of farm vehicles, he therefore considered that refusing the application on grounds of highway safety would not be defensible. In summing up he advised the Committee that he had visited an Anaerobic Digester recently which had produced no odour and could not be heard until within 5 metres of the sealed digester unit. Finally he noted the support of the nearby Sellack Parish Council and requested that the application be approved in accordance with the case officer's recommendation.

Members continued to discuss the application. The issue of flooding was raised but it was considered that any flood concerns would be mitigated through the provision of a sustainable urban drainage solution comprising of drainage leading into a swale which would hold the water during heavy periods of rainfall.

The issue of collating data in respect of Anaerobic Digester plants was also raised by a Member of the Committee. It was considered that this may be a beneficial exercise to ensure that there were sufficient plants throughout the county providing adequate cover.

The Committee also raised the possibility of requesting a Section 106 agreement to ensure suitable improvements were made to the nearby crossroads. However the Development Manager (Hereford and Southern Localities) advised that this would not be reasonable as no additional traffic on the crossroads could be attributed to the proposed application. Members were however reassured by the inclusion of a traffic management plan which addressed their concerns.

The Committee continued to debate the application with the majority of Members speaking in support of it. They noted the concerns in respect of health that had been raised by the neighbouring residents however they considered that these concerns had been addressed in the Officer's report and additional update sheet. They discussed Anaerobic Digester plants in general with the majority of the Committee of the opinion that if operated responsibly there would be little impact on the neighbouring residents and that more plants would be installed throughout the County over the coming years.

Councillors Hamilton and Hyde were given the opportunity to close the debate. They reiterated their opening remarks and made additional comments, including:

- The local residents' concerns in respect of traffic were valid.
- The footpath referred to should be diverted.
- There were no valid planning reasons to refuse the application.
- The accidents referred to by the objectors could not be linked to the farm enterprise.

## **RESOLVED**

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. **The external colour and finish of all parts of the development hereby approved shall be permanently maintained in accordance with details which have first been submitted to and approved in writing by the local planning authority.**

**Reason: To protect the visual amenities of the area and to comply with the requirements of policy DR1 of the Herefordshire Unitary Development Plan.**

4. **Within four months of any new hard surface being constructed in connection with the development hereby permitted, the proposed Sustainable Urban Drainage Solution (SUDS) shall be constructed and implemented in accordance with the submitted 'Flood Risk Assessment and Surface Water Drainage Strategy' and the following plans, all received on 13 September 2012:**
  - **GRE0010/PE-RE10/SuDS 01; SuDS Design 21/8/12**
  - **GRE0010/PE-RE10/SuDS 02: SuDS Cross Section 21/8/12**
  - **GRE0010/PE-RE10/SP 03: AD Plan Cross Section 21/8/12****The provision of the proposed retention basin (swale) shall be incorporated into biodiversity enhancement measures as outlined in the scheme required under condition 6 below, with reference to Biodiversity Action Plan priority species and habitats.**

**Reason: To provide satisfactory surface water management and drainage, minimise flood risk, and improve biodiversity in accordance with policies S1, S2, DR1, DR4, NC1, NC6, NC7, NC8 and NC9 of the Herefordshire Unitary Development Plan.**

5. **Before the development hereby permitted begins, a Traffic Management Plan (TMP) shall be submitted to and approved in writing by the local planning authority. The TMP shall include the following in particular:**
  - a. **Management methodology for vehicles and deliveries during construction of the plant, including working hours and routes to be used;**
  - b. **Management methodology for vehicles and movements during operation of the plant, including working hours and routes to be used;**
  - c. **An assessment of the existing access to the B4521 having regard to the anticipated additional use and details of any visibility improvements considered necessary;**
  - d. **Details of the numbers, types, size and weights of all vehicles to be used in connection with the anaerobic digester;**
  - e. **Means of ensuring all delivery drivers accessing the site are fully informed as to road conditions and their responsibilities along the delivery route;**
  - f. **Assurances that the TMP shall remain in use throughout the life of the plant;**
  - g. **Confirmation that no materials shall be brought to and/or treated in the anaerobic digester hereby permitted unless they have been produced within the applicant's landholding.**

**The TMP shall be implemented in accordance with the approved details.**

**Reason: To minimise the impact of vehicles in the interests of highway safety and the potential for traffic intensification in the area, and to conform with the requirements of policy DR3 of the Herefordshire Unitary Development Plan.**

- 6. Before the development hereby permitted begins, a Landscaping and Habitat Enhancement Scheme for the site and access road shall be submitted to and approved in writing by the local planning authority. The Scheme shall include in particular:**

**Soft landscaping:**

- a. A plan to scale 1:500 or 1:1000 showing the layout of proposed tree, hedge and seeding areas;**
- b. A written specification clearly describing the species, sizes, densities and planting numbers and giving details of cultivation and other operations associated with plant establishment;**
- c. Details of specific proposals to provide or enhance wildlife habitats, including an outline of the priority species the scheme is intended to attract, having particular regard for the adopted Biodiversity Action Plan, the improvement of hedgerows and field margins, and enabling wildlife to take advantage of the retention basin (swale) as part of the SUDS provision;**
- d. A management plan to ensure after-care of planting and continuity for habitats, for a specified period of at least five years;**

**Hard landscaping:**

- e. A plan to show the position, design and materials of all site enclosures including bunding, fences etc;**
- f. Details of hard surfacing materials;**

**The scheme shall be implemented as approved and maintained for the agreed period. During this time, any trees or plants which are removed, die, or are seriously retarded shall be replaced during the next planting season with others of similar sizes and species. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the after-care period.**

**Reason: To improve biodiversity and connectivity for wildlife and improve hedgerow, field margin and wetland habitats, in accordance with the requirements of policies S1, S2, S7, DR1, DR4, NC1, NC6, NC7, NC8, NC9 and CF4 of the Herefordshire Unitary Development Plan.**

- 7. E01 Site investigation - archaeology**
- 8. I16 Restriction of hours during construction**
- 9. F02 Restriction on hours of delivery**
- 10. The development hereby permitted shall not be brought into use unless or until the submitted scheme of noise mitigation and control outlined in report reference R11.1203/DRK (Noise Vibration Consultants Ltd, 23 February 2012) has been implemented in full, having particular regard for sections 7 and 8 of that report. The scheme shall continue to be**

implemented for the life of the development, subject to any review or amendments as may be deemed necessary in due course.

**Reason:** In order to protect the amenity of the occupiers of nearby properties and to comply with policies DR13 and CF4 of the Herefordshire Unitary Development Plan.

11. The development hereby permitted shall not be brought into use unless or until a comprehensive Odour and Environmental Management Plan as set out in paragraphs 5.4, 5.4.1 and 5.4.2 of the submitted Supporting Statement (edited 11 October 2012), has been submitted to and approved in writing by the local planning authority. In addition, the Plan shall include the following in particular:

- a) The appointment of a named qualified and responsible person to oversee implementation of the plan;
- b) Operational contingencies for dealing with any abnormal events (e.g. fire, flood, spillage);
- c) Production of a working manual for staff, covering all site operations including feedstock handling, digestate handling, gas management and emergency procedures;
- d) Provision of a site diary to be kept on site in which day-to-day observations and actions are recorded, including any complaints and responses. The diary shall be made available for inspection by the local authority on request at reasonable times.

The scheme shall be implemented as approved, and shall continue to be implemented for the life of the development, subject to any review or amendments as may be deemed necessary in due course.

**Reason:** In order to protect the amenity of the occupiers of nearby properties, to prevent pollution and to comply with policies S2, DR1, DR4, DR9, DR13 and CF4 of the Herefordshire Unitary Development Plan.

12. Within six months of the equipment hereby approved becoming redundant, inoperative or permanently unused, the anaerobic digester and all associated infrastructure shall be removed and re-used, recycled, all materials recovered, or be finally disposed of to an appropriate licensed waste facility, in that order of preference.

**Reason:** To ensure a satisfactory form of development, avoid any eyesore from redundant plant, prevent pollution, and to safeguard the environment when the materials reach the end of their life, in accordance with policies S1, S2, DR1 and CF4 of the Herefordshire Unitary Development Plan.

13. In connection with the development hereby permitted, no poultry litter or manure or waste shall be carried on the public highway unless it is held within a sealed or securely sheeted vehicle.

**Reason:** In the interests of road safety and the amenity of the locality, and to comply with the requirements of policies S2, DR3, DR4, DR9 and T8 of the Herefordshire Unitary Development Plan.

- 14. I27 Interception of surface water run off
- 15. I32 Details of floodlighting/external lighting
- 16. I30 Restriction on storage of organic wastes or silage

## **Reason for Approval**

- 1. The proposal has been considered having particular regard to possible adverse effects from vehicle movements, noise, odour and flood risk, along with potential impacts on landscape, visual amenity and health. The principles relating to renewable energy, sustainability and carbon footprint reduction have been taken into account in light of current national policy. Anaerobic digestion is a sustainable renewable energy option for farm effluent that would otherwise be waste. Furthermore, the final residue is a valuable fertiliser from which proportions of the polluting and odorous elements have been removed by the process. Its use on land is regarded as a benefit. The need for renewable energy carries weight provided other factors can be mitigated; the site and the proposal have been assessed with this in mind. Operation of the plant would be regulated by an Environmental Permit issued by the Environment Agency, rather than through the planning system. In light of the above, the proposal is considered to accord with, or be capable of compliance with, policies S1, S2, S6, S7, S11, DR1, DR2, DR3, DR4, DR9, DR13, DR14, T6, T8, LA2, LA6, NC1, NC6, NC8, NC9, ARCH1, ARCH6 and CF4 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework, with particular (but not exclusive) reference to paragraphs 28, 93, 97 98, 186, 187, 196 and 197. The local planning authority has engaged in pro-active and positive negotiation with the applicant, in identifying matters of concern, obtaining further details and clarification as required, and considering proposals offered to address points raised by respondents. As a result, the local planning authority has been able to grant planning permission for acceptable development subject to conditions, in favour of sustainable development as defined in the National Planning Policy framework.**

## **INFORMATIVES:**

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
- 2. N11A Wildlife and Countryside Act 1981 (as amended) - Birds**
- 3. N11C General**
- 4. HN01 Mud on highway**
- 5. The applicant is advised to contact the case officer when preparing the details required in addressing the above conditions, to enable liaison with and advice from other departments prior to submission.**



The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor P Sinclair-Knipe, the local ward member, commented on a number of issues, including:

- Lower Bullingham Parish Council had raised no objections to the application.
- Dinedor Parish Council had raised a number of concerns but these had now all been addressed.
- The Modern Records Office currently housed 17500 boxes, 10000 volumes and 3000 maps.
- The centre had to move to a new location, alternatively it could move outside of the County.
- The relocation would act as a catalyst for the enterprise zone and demonstrate that the enterprise zone was not just aimed at weekday uses.

The Committee opened the debate by focusing on the sustainable nature of the development. The Committee noted that that the proposed building was built to 'Passivhaus' standards and was an exemplar of energy efficient, sustainable design which would create an excellent environment for users.

Some concern was expressed in respect of the proposed location of the building. A number of Members were of the opinion that it would be better located within the city centre thus making it more accessible to users. Concern was also expressed regarding the Council allowing the records office to relocate to the Rotherwas Enterprise Zone at a time when other businesses within the city had not been permitted to do so.

Councillor Sinclair-Knipe was given the opportunity to close the debate. He reiterated his opening remarks and made additional comments, including:

- The Modern Records Office was for the whole County to use and would be more accessible than its current Harold Street location.

## **RESOLVED**

**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. L01 Foul/surface water drainage**
- 4. L02 No surface water to connect to public system**
- 5. L03 No drainage run-off to public system**
- 6. G11 Landscaping scheme – implementation**
- 7. The recommendations set out in the ecologist's report dated May 2012 should be followed. Prior to commencement of the development, a full working method statement and habitat enhancement scheme should be submitted to and be approved in writing by the local planning authority, and the work shall be implemented as approved.**

**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 and Policies NC1, NC6 and NC7 of the Herefordshire Unitary Development Plan**

- 8. M06 Finished floor levels**
- 9. H13 Access, turning area and parking**
- 10. H21 Wheel washing**
- 11. H27 Parking for site operatives**
- 12. H29 Secure covered cycle parking provision**
- 13. Prior to the first occupation of the development, a Flood Evacuation Management Plan shall be submitted to and approved in writing by the local planning authority. The plan shall include full details of proposed awareness training and procedure for evacuation of persons and property (including vehicles), training of staff; and method and procedures for timed evacuation. It shall also include a commitment to retain and update the plan and include a timescale for revision of the plan.**

**Reason: To minimise danger to people in the flood risk area in accordance with Policy DR7 of the Herefordshire Unitary Development Plan and guidance contained within the PPS 25 Practice Guide.**

#### **Reasons for Approval**

- 1. The application has been considered having regard to Unitary Development Plan policies S1, S2, DR1, DR2, DR3, DR4, DR7, DR10, E1, E5, E8, T6, T7, LA5, LA6, NC1, NC5 and CF5. Guidance laid out in the National Planning Policy Framework 2012 has also been considered, alongside the Rotherwas Futures Drainage and Flood Management Strategy 2009.**

**The local planning authority concludes that the proposed archive store complies with Unitary Development Plan Policies E1 and E5 in that the primary uses within the building fall within classes B1 and B8 of the Use Classes Order 2012 (As amended). Weight has also been apportioned to the need for the facility and the site's suitability when assessed against other potential sites.**

**The building is an exemplar of energy efficient design that has the potential to raise the standard of design locally in accordance with the National Planning Policy Framework's aspirations and Unitary Development Plan policies S1 and DR1. Parking provision and accessibility is in accordance with Policy DR3 and the use would have no impact upon the amenity of neighbouring properties, including the former fireman's quarters to the north-west.**

#### **INFORMATIVES:**

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against adopted planning policy and other material considerations, including representations that have been received. It has subsequently determined to**

**grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**

## **2. N11C General**

### **126. S122644/F - MARSH FARM, UPTON BISHOP, ROSS-ON-WYE, HR9 7UP**

The Senior Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

In accordance with the criteria for public speaking, Ms Inston, the applicant's agent, spoke in support of the application.

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

- The application related solely to the retention of one mobile home on the site, all other matter were now resolved.
- The mobile home had been refused planning permission in 2008.
- Mr Dinsdale did not own the site when the permission had been refused.
- The removal of the mobile home was the final piece of enforcement action required as part of the Planning Inspector's decision.
- The Planning Inspector had recognised the importance of the Orchard in making her decision.
- The retention of the mobile home would have an impact on the orchard and the biodiversity on the site.
- The proposed location of the mobile home was a concern.
- Work had already been commenced on the site.
- The Inspector's decision should be binding on the Council and should be enforced.
- There was no objection to a mobile home on the site as long as it was located outside of the enforcement area.
- The application should be refused and enforcement action should be commenced.

The Committee opened the debate by discussing the enforcement notice in respect of the mobile home on the site. It was noted that the enforcement notice issued in September 2011 was yet to be complied with. Members voiced their concerns that the proposed two year permission could result in further enforcement issue on the site. Therefore it was proposed that the application be refused and the officers ensure that the enforcement notice on the site was complied with.

Members continued to discuss the application and felt that there was no proven functional need for the mobile home on the site. It was further noted that a single mobile home would not provide sufficient housing for all of the workers on the site due to the extensive works required.

The Committee did note that the applicant was not responsible for the unauthorised development on the site, however he was aware of the enforcement issues when he purchased the land.

Members continues to discuss the application and noted that the site visit undertaken the previous day had highlighted that the mobile home could be seen from the public highway as well as from the garden of a neighbouring resident. It was also considered that the proposed site was not appropriate due to the ecological issues previously raised by the local ward member.

Members noted that the Planning Inspector had made a decision in respect of the site and that this decision should be complied with and enforced by the Council.

The Development Manager (Hereford and Southern Localities) advised Members that their decision should not be based on the previous enforcement history of the site. He did however note that the Committee had raised issues relating to the lack of a functional need for the mobile home; the potential impact on the habitat of protected species; and visual impact as the mobile home was visible from the public footpath.

In response to a question regarding the enforcement notice, the Development Manager (Hereford and Southern Localities) advised the Committee that the enforcement notice related to a number of additional caravans, some of which were within the orchard itself. He added that the mobile home being considered today was sited on hardstanding and therefore the Committee were considering a different issue to the one determined by the Inspector. He added that the lack of a functional need together with the associated visual impact would be defensible however refusal on the grounds of the impact upon biodiversity would not.

One Member of the Committee also noted that he considered the application to be contrary to Unitary Development Plan Policy H7 as the development would result in housing within the open countryside.

Councillor Durkin was given the opportunity to close the debate. He reiterated his opening remarks and made additional comments, including:

- The Committee were right not to base their decision on the previous enforcement history of the site.

## **RESOLVED**

**THAT planning permission be refused for the following reasons:**

- 1. There is a lack of a functional need for the mobile home**
- 2. On grounds of visual impact as the mobile home is visible from the public footpath.**

### **127. S122498/F - CHEVENHALL, WALFORD ROAD, ROSS-ON-WYE, HEREFORDSHIRE, HR9 5PQ**

The Vice-Chairman was in the Chair for the following item.

The Senior Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

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

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

- The local ward members had asked for the application to come before the Committee.
- The landscaping condition imposed by the committee previously was not wanted by either party.

The Senior Planning Officer confirmed that the Committee had requested a landscaping condition previously and that this could not be removed unless an appropriate application was received.

Councillor Atkinson was given the opportunity to close the debate but chose to make no further statement.

## **RESOLVED**

**That planning permission be granted subject to the following conditions:**

1. **C01 Time limit for commencement (full permission)(1 year)**
2. **B01 Development in accordance with the approved plans**
3. **Within 3 months of the date of this permission details of the proposed parking for, and the delineation of the boundary treatment of the dwelling hereby permitted and Chevenhall shall be submitted to the local planning authority for approval in writing. The submitted details shall show the consolidation of the parking spaces, drainage and demarcation of the spaces identifying the dwellings to which the parking spaces relate and the parking spaces shall be retained and kept for the parking of vehicles at all times.**

**Reason: To ensure adequate off street parking arrangements remain at all times and that appropriate levels of amenity are provided for both properties so as to comply with policies DR2, DR3, H13 and H16 of the Herefordshire Unitary Development Plan.**

4. **F16 No new windows in specified elevation**
5. **F14 Removal of permitted development rights**

## **Reason for Approval**

1. **In reaching this decision the local planning authority has had particular regard to effect of the proposal upon the residential amenities of the neighbouring property and it was concluded that there would be no adverse impact having particular regard to the character of the area, the limited size of the unit and the presence of screen fencing and planting. Furthermore the independent occupation of the building would have no discernible impact upon the character of the Ross-on-Wye Conservation Area and the Wye Valley Area of Outstanding Natural Beauty and subject to conditional approval would be provided with an acceptable curtilage and off-road parking. The proposal was considered to accord with Policies S2, S7, DR1, DR2, DR3, H13, H16, HBA6 and LA1 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.**

## **INFORMATIVES:**

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**

**128. S122724/FH - 9 & 10 BAKERS OAK, ROSS-ON-WYE, HEREFORDSHIRE, HR9 5RP**

The Vice-Chairman was in the Chair for the following item.

The Senior Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

The Committee noted that the application was only before them as it had been submitted by a close relative of a Councillor.

**RESOLVED**

**That planning permission be granted subject to the following conditions:**

- 1. A01 Time limit for commencement (full permission)**
- 2. B02 Development in accordance with approved plans and materials**
- 3. I16 Restriction of hours during construction**

**Reason for Approval**

- 1. The application represents an extension of acceptable size, scale and form in keeping with and subservient to the original dwellings resulting in no adverse impact upon adjoining residential amenity or the character and appearance of an Area of Outstanding Natural Beauty. Furthermore the proposal is considered to satisfy Herefordshire Unitary Development Plan policies DR1, DR2, H18 and LA1 and the requirements of the National Planning Policy Framework**

**INFORMATIVES:**

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**

**129. N123247/FH - MEADOW END, LITTLE COWARNE, BROMYARD, HR7 4RG**

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

The Committee noted that the application was only before them as it had been submitted by a close relative of an officer of the Council.

## **RESOLVED**

**Subject to no further objections raising additional material planning considerations by the end of the consultation period , the officers named in the scheme of delegation be authorised to approve the application subject to the following conditions and any additional conditions considered necessary by officers:**

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans**
- 3. The length of the single satellite dish hereby permitted shall not exceed 100 centimetres.**

**Reason: To protect the visual amenities of the area, to ensure the development complies with the requirements of Policies DR1 and H18 of the Herefordshire Unitary Development Plan and is in line with guidance provided within the National Planning Policy Framework.**

### **Reason for Approval**

- 1. The application to install a satellite dish on the south elevation of Meadow End is not considered to have an undue detrimental impact upon the character and appearance of the landscape nor is it considered to be of detriment to the amenity or privacy of neighbouring dwellings. As a consequence, the application accords with polices DR1, H13, H18 & LA2 of the Herefordshire Unitary Development Plan and is in line with the guidance provided within the National Planning Policy Framework.**

### **INFORMATIVES:**

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**

## **130. DATE OF NEXT MEETING**

The Planning Committee noted the date of the next meeting.

## **APPENDIX 1 - SCHEDULE OF COMMITTEE UPDATES (Pages 17 - 20)**





# PLANNING COMMITTEE

9 January 2013

## 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.**

**S121357/N - CONSTRUCTION OF A 499KW AGRICULTURAL ANAEROBIC DIGESTION AND ANCILLARY DEVELOPMENT TO PRODUCE RENEWABLE ENERGY FROM ONSITE GENERATED WASTES AND ENERGY CROPS. AT LITTLE PENGETHLEY FARM, PETERSTOW, ROSS-ON-WYE, HR9 6NB**

**For: Mr Green per Mr Robert Edwards, 4205 Park Approach, Thorpe Park, Leeds, LS15 8GB**

### ADDITIONAL REPRESENTATIONS

The Primary Care Trust (PCT) was consulted as to any health risks from the proposal. The PCT in turn referred the case to the Health Protection Agency (HPA) for specialist advice. The HPA is not a consultee on planning proposals, but it is open to the PCT to request assistance and confirmation, as was done in this instance.

In response to further queries being raised by an objector, officers requested the following bodies to reaffirm and clarify their professional views on this matter, with particular reference to a young local resident having severe respiratory health problems:

- Primary Care Trust,
- Health Protection Agency,
- Environment Agency
- Head of Environmental Health and Trading Standards.

Specialist advice has confirmed that there is no risk to 'vulnerable receptors' beyond 250 metres from any source of bio-aerosols. The Environment Agency has confirmed its national 'Position Statement', and has pointed out that this proposal does not in any case fall into a high risk category. The Agency would not normally require any additional work within the 250 metre zone for an AD plant of this type. The vulnerable resident lives 350 metres from the site. None of the professional bodies has voiced any concerns with regard to the proposal.

An emailed letter has been sent on 7 January 2013 to all Members of the Committee by Mr W Lyons on behalf of a number of local residents. The letter is critical of the committee report put before Members, and is appended with a number of specific criticisms relating to certain paragraphs. In particular these relate to traffic, proximity of the site to residential properties, drainage, and the health concerns which have been elaborated upon above.

## OFFICER COMMENTS

For clarification to Members of the Committee, most bio-aerosol research relates to the open-air storage of animal litter and manure, and to composting operations. These have a potential to generate wind-blown bio-aerosols. However, an anaerobic digester is a sealed operation with no emissions. Mixing of feedstock is automatic, undertaken in a closed vessel. Movement of materials within the site is therefore the only possible generator of bio-aerosols. The applicant has confirmed that poultry litter would not be stockpiled on site. Any risk from the proposal is therefore very low even within 250 metres. The 250-metre zone is set by the Environment Agency as the point within which a detailed assessment and mitigation may be required for higher risk proposals, but the Agency has confirmed this does not apply for this type of development or in this case. In any event, the distance is not prohibitive or an exclusion zone.

The health of the young person is clearly of serious concern and has been considered very carefully; officers have spoken at length with scientific staff at the Health Protection Agency on 4 January 2013, giving full details of the proposed development. All appropriate consultations have been made, and no adverse comments have been received. The consultees have been fully informed of the specific relevant circumstances. Officers have no reason to doubt the expressed views of all of these professional bodies, which coincide with national position statements from government agencies.

## OFFICER COMMENTS

The emailed letter reflects the views expressed in the letters of objection received and does not raise any new objections. These views have been considered carefully; the delay in determining this application has partly been due to such careful consideration and the additional information which officers have sought to obtain. The points raised do not affect the recommendation, but the following clarification on certain technical issues is given in order to assist Members:

**Para 1.4:** There is no categorical '1 hectare threshold requiring an EIA'. Judgement as to whether or not EIA is necessary depends upon the likelihood of significant adverse environmental effects. The proposal is included in Schedule 2 of the EIA Regulations 2011 as the site exceeds 0.5 hectare. However this does not mean that EIA is mandatory, and numerous other factors play a part. The Screening Opinion was formulated in accordance with the Regulations. According to the plans submitted, the operational area for the AD plant is just less than 0.5 hectares; the entire site including crop clamp is just less than 1.2 hectares. The references to 'SR2010 No 16 and No 17' relate to Environmental Permit applications, not planning requirements. The distances quoted do not apply in this case.

**Para 6.15:** The Transportation Manager has been asked to clarify the published accident figures for St Owen's Cross. The figures given in the letter, in particular the claim that there have been 10 deaths at the crossroads since 2005 are not borne out. There is no doubt that St Owen's Cross is an accident cluster spot, but the accident figures given for the actual crossroads indicate 4 serious and 3 slight in the last 5 years, with 15 serious and 48 slight since 1979. Most accidents are reported as due to driver error, not giving way, or not looking. Any further clarification received will be reported to Members verbally.

**Para 6.23:** The proposed surface water drainage arrangements entail a single shallow seasonal swale or detention basin, on adjoining land to the east of the proposal site which is owned by the applicant. It would not be a reservoir or permanent waterbody. The stated purpose would be to accommodate calculated run-off from the new hard-standing on the site, and to prevent surface water flooding, including that understood to already occur at properties such as Ashen Coppice to the south-east. These arrangements could not affect any borehole or private water supply. The swale is regarded as beneficial.

**Para 6.28:** Officers offer full respect and concern for anyone's health concerns, and have taken the points raised very seriously, consulting widely and at length on any possible risks. Confirmations of responses, and second opinions, have been obtained from all concerned. It remains a point of fact that the site would be more than 250 metres from the person's home, and no evidence has been found that suggest the presence of this plant could aggravate her condition. This topic is clarified above.

## NO CHANGE TO RECOMMENDATION

**S122820/CD - NEW ARCHIVE AND RECORDS CENTRE FOR HEREFORDSHIRE COUNCIL. INCLUDING REPOSITORIES, CONSERVATION ROOMS, STAFF OFFICES, EDUCATION SPACES, SEARCH ROOM AND EXHIBITION SPACE TO ENABLE MEMBERS OF THE PUBLIC TO VIEW ARTEFACTS. AT LAND AT FIR TREE LANE, ROTHERWAS, HEREFORDSHIRE,**

**For: Mrs Lane per Mr Mark Barry, Upper Twyford, Twyford, Hereford**

#### **ADDITIONAL REPRESENTATIONS**

County Archaeologist - The site was subject to archaeological field evaluation in 2008/09 (Rotherwas Futures) and was found to have been affected by previous demolitions. As a consequence, no deposits of archaeological significance were found to be present.

#### **CHANGE TO RECOMMENDATION**

A condition to deal with any unexpected contamination should be added to the recommendation.

**S122644/F - RETENTION OF EXISTING MOBILE HOME (WITH TEMPORARY USE FOR 2 YEARS) AS ACCOMMODATION ANCILLARY TO OCCUPATION OF DWELLINGS PERMITTED BY APPROVALS DMS/113120/F & DMS/113121/F. AT MARSH FARM, UPTON BISHOP, ROSS-ON-WYE, HR9 7UP**

**For: Mr Dinsdale per The Design Studio, 6 Sansome Walk, Worcester**

#### **ADDITIONAL REPRESENTATIONS**

The applicant has confirmed title of land ownership with Land Registry.

Further representation received from Alan & Sandra Major, The Manor House, Upton Bishop:

We would like to raise our continuing objection to the application for planning on the Marsh Farm site- which we had thought had now been conclusively dealt with at a planning appeal. So we are dismayed that there is further delay of enforcement. We understand from looking at this that the current application is once again within an orchard which is not appropriate for development for reasons which have now been well rehearsed. It has already been through an expensive appeal process and is subject to enforcement which should now be carried out. So far as we are aware, there is no existing accommodation. We don't know who would use the cabin, what for and under what conditions. The applicant lives in a house as we understand it and could be within commuting distance for development purposes. If on-site accommodation is needed the cabin could be moved to a new location outside the enforcement site. This should not be a problem since there is an access track being the main entrance to Marsh Farm. It is hard surfaced and was used to bring all the large log cabins covered by the Enforcement Notice onto the orchard. Location nearer the replacement farmhouse building site would make it part of that development with all the building materials, scaffolding etc. so that the cabin would not have wider visual impact. In the current location it is spoiling a protected orchard and leading to disturbance and possible further damage to protected species. These issues are a more important feature to consider than creation of a new concrete base. The Council has obligations to protect the orchard site from development. There has been a breach of the Enforcement Notice for 6 months now. The application must therefore be refused in the light of this and the planning appeal decision as it flies in the face of that process.

#### **NO CHANGE TO RECOMMENDATION**

