

MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 24 April 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, Brig P Jones CBE, FM Norman, AJW Powers, GR Swinford and PJ Watts

In attendance: Councillors H Bramer, RB Hamilton, GJ Powell, PD Price and SJ Robertson

175. APOLOGIES FOR ABSENCE

Apologies were received from Councillors JG Lester and RI Matthews.

176. NAMED SUBSTITUTES (IF ANY)

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

177. DECLARATIONS OF INTEREST

7. S123556/F - LAND ADJACENT TO ROSE COTTAGE, GORSLEY, ROSS-ON-WYE, HEREFORDSHIRE.

Councillor DW Greenow, Non-Pecuniary, The Councillor advised that he was a member of the Gorsley Baptist Church.

8. SE100966/F -PENNOXSTONE COURT FARM, KINGS CAPLE, HEREFORDSHIRE, HR1 4TX.

Councillor BA Durkin, Non-Pecuniary, The Councillor advised that he was a member of the Wye Valley AONB Advisory Committee.

8. SE100966/F -PENNOXSTONE COURT FARM, KINGS CAPLE, HEREFORDSHIRE, HR1 4TX.

Councillor J Hardwick, Non-Pecuniary, The Councillor advised that he was a member of the Wye Valley AONB Advisory Committee.

8. SE100966/F -PENNOXSTONE COURT FARM, KINGS CAPLE, HEREFORDSHIRE, HR1 4TX.

Councillor PGH Cutter, Non-Pecuniary, The Councillor advised that he was Chairman of the Wye Valley AONB Joint Advisory Committee..

178. MINUTES

RESOLVED: That the Minutes of the meeting held on 3 April 2013 be approved as a correct record and signed by the Chairman.

179. CHAIRMAN'S ANNOUNCEMENTS

There were no announcements.

180. APPEALS

The Planning Committee noted the report.

181. S123556/F - LAND ADJACENT TO ROSE COTTAGE, GORSLEY, ROSS-ON-WYE, HEREFORDSHIRE

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, Mrs Clark, representing Linton Parish Council; and Mr Price, a neighbouring resident, spoke in objection to the application.

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

- A technical report regarding the drainage issues at the site had been sent to the Planning Committee Members.
- Members were thanked for attending the site visit.
- There were significant issues regarding highway safety at Ivy House Lane.
- Child safety was an important factor in determining the application.

The Development Manager advised the Committee that an appeal against non-determination had been received on Monday 21 April 2013 and as a result of this the application could not be determined by the Planning Committee. However in order to make an appropriate representation in respect of the appeal it was necessary for the Committee to advise officers as to how they would have determined the application had they been in a position to do so.

The first member of the Committee to speak on the application was of the opinion that it should be refused contrary to the case officer's recommendation. He noted the concerns of the parish council and of the local residents and had concerns regarding child safety due to the busy B road, which connected to a motorway. He also noted the concerns raised in respect of drainage and considered that as a result of these issues the development was not sustainable. He moved that the application be refused in accordance with Unitary Development Plan Policies S1, DR2, DR3 and T8.

The Committee stated that they were not in agreement with this view and a motion to approve the application was moved and seconded. Members noted that the drainage issues had been addressed through appropriate conditions and that the development could not commence until these issues had been fully resolved. Members did have some concern in respect of the vehicular speed in the vicinity of the school and requested that a condition be added to the resolution requiring the speed limit to be reduced to 20mph. Members continued to discuss the application and noted that the development could reduce vehicular movements to the school as residents of the proposed dwellings would be able to walk to the nearby primary school.

It was noted that a site search had been underway since 2007 and that this was the most appropriate site identified in Gorsley. The debate continued with Members supporting the application. It was considered that the application would result in the area being more built up which could also lead to a reduction in vehicle speeds.

During the debate the Parish Council were strongly advised to commence work on a neighbourhood plan,

In response to a number of issues raised by the Committee, the Senior Planning Officer advised that there was no Section 106 agreement contribution for highways although there were highway benefits within the site; that the density of the site was 29 dwellings per hectare; that priority for occupancy would be given to local residents; and that the front of the dwellings did not open onto the B road as there was a hedge and footpath between the dwellings and the road.

In response to a question regarding a condition addressing the speed limit in the area, the Head of Neighbourhood Planning advised that this was outside of the control of the applicant and could not be conditioned by the Committee. He did however state that he would advise the highway authority of the Committee's concerns in respect of this matter.

Councillor H Bramer was given the opportunity to close the debate. He reiterated his opening remarks and requested that the Committee refuse the application.

RESOLVED

THAT had an appeal not been submitted in respect of non-determination the Committee would have been minded to grant planning permission subject to the following conditions:

1. **A01 – Time limit for commencement of development**
2. **B01 – Development in accordance with approved plans**
3. **B07 – No development until the completion, signing and receipt of S106 agreement**
4. **C01 – Sample of external materials**
5. **G02 – Retention of trees and hedgerows**
6. **G09 – Details of boundary treatments**
7. **G10 – Landscaping scheme**
8. **G11 – Landscaping scheme implementation**
9. **G12 – Hedgerow planting**
10. **H03 – Visibility splays**
11. **H04 – Visibility over frontage**
12. **H13 – Access, turning area and parking**
13. **H17 – Junction improvement**
14. **H21 – Wheel washing**
15. **H27 – Parking for site operatives**

16. H29 – Covered and secure cycle parking
17. I16 – Restriction on hours during construction
18. I17 – Scheme of foul water disposal
19. I20 – Scheme of surface water drainage
20. I23 – Improvement of existing sewerage system
21. I42 – Scheme of refuse storage
22. Contamination study and report and mitigation
23. Implementation of Remediation Scheme approved under condition no.23

Reason for Approval

1. The proposal represents a sustainable form of development satisfying a genuine proven affordable housing need within this locality on a suitable and available site which has limited constraints and is within close proximity to local services and facilities. The proposal is of a size, scale, design, layout and density in keeping with its edge of village location and has no detrimental impact on adjoining land uses, the character and appearance of the streetscene or highway safety. Accordingly Herefordshire Unitary Development Plan policies S1, S2, S3, S7, DR1, DR2, DR3, DR4, H4, H7, H9, H10, H13, H15, H16, T6, T8, T11, LA2, LA3, LA5, LA6 and NC1 and the relevant sustainability, housing and design aims and objectives of the National Planning Policy Framework are satisfied

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. HN01 – Mud on Highway
 3. HN04 – Private Apparatus Within Highway
 4. HN05 – Works Within the Highway
 5. HN07 – Section 278 Agreement
 6. HN10 – No Drainage to Discharge to Highway
182. SE100966/F -PENNOXSTONE COURT FARM, KINGS CAPLE, HEREFORDSHIRE, HR1 4TX

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. During the presentation Members were given information

regarding the legal background of the application including details of the judicial review; a description of the colour plan that they had been provided with which had details of the lawful polytunnels; a detailed description of each of the fields including photographs and plans as well as an update in respect of policy issues regarding the application. At the end of his presentation the Principal Planning Officer advised Members that the application would result in a large scale development in the AONB and therefore the application was recommended for refusal.

In accordance with the criteria for public speaking, Mr Beckett, representing Kings Cople Parish Council; and Mr Williams, representing a number of local residents, spoke in objection to the application and Mr Cockburn, the applicant, spoke in support.

The Head of Neighbouring Planning addressed the Committee in reference to the judicial review lodged by a local resident subsequent to the application being granted in May 2011. He advised that the reasons initially given for the judicial review were that the Council had failed to comply with the Environmental Impact Assessment and UDP Policy LA1, that the Council had taken into account irrelevant issues, and that there had been a failure to declare relevant interests. He added that a second judicial review was also lodged in respect of enforcement issues. After the judicial review's had been lodged the Council were criticised in a separate case for not having provided clear reasons for approving an application and at this stage the same reason was sought to be added to the existing judicial review for Pennoxstone Court. The Council took advice which was that there was a strong chance that the court would uphold this reason. Consequently the Council consented to the permission being quashed and this took place on 3 September 2012 with the decision being on the grounds that the Council had failed to supply sufficient reasons for approving the application. In summing up the Head of Neighbourhood Planning advised that Members were not bound by the previous decision, however they needed to be clear in how they reached their decision and to give clear reasons in the event that planning permission was granted.

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 was contentious and required a balanced decision taking into account the needs of the business and the impact on the Lower Wye Valley AONB.
- The application was approved, contrary to recommendation, by one vote at the October 2010 meeting.
- The application had received representations both in support and in objection.
- The impact on the AONB was not acceptable and the application should be refused.
- There had been a number of complaints to the Council's Enforcement Team regarding breaches of planning conditions at the site. These complaints related to the failure to remove the Spanish polytunnel frames from Front Meadow; the failure to comply with conditions regarding screening and gap filling; the delay in setting up, and the subsequent disbanding of, the community liaison group; and polytunnels being erected outside of the approved times.
- Concern was expressed regarding the applicant's proposal to erect the polytunnel frames whilst the existing polytunnels were still in situ.
- The visual impact should not be based on the entire Wye Valley AONB but on the local AONB Landscape Management Zone, LMZ05 Kings Cople Lowlands.
- If the application was scaled up to the United Kingdom, the area covered by polytunnels would equate to an area larger than Greater Manchester.

- The application was contrary to Unitary Development Plan Policy LA1 and the National Planning Policy Framework.
- The Economic Impact Statement did not provide a balanced view.
- The application did not meet the three requirements, namely economic, social and environmental.
- Members had received an email from the applicant making reference to acts of intimidation. Any acts of intimidation could not be condoned, although it should be noted that police action had been commenced regarding harassment and intimidation to a local resident by a partner of Pennoxstone Court.
- The Core Strategy, although not yet adopted, sought to maintain and enhance the County.
- The 2011 Steam report stated that income from tourism was approximately £467,000,000.

Councillor RB Hamilton, the neighbouring ward member, also commented on a number of issues, including:

- The application was contentious and had resulted in a number of objections from residents of the Pontrilas Ward.
- The determination of the application should focus on the main planning policy issues as set out in the officer's report, namely UDP Policy LA1 and paragraphs 115 and 116 of the NPPF regarding the impact of the application on the Wye Valley AONB.
- Out of the 38 AONB's in England and Wales, 2 were located in Herefordshire, with their care entrusted to local authorities, community groups and the individuals who live and work within them.
- AONB's represent 18% of the finest countryside in England and Wales.
- The application fails to meet the requirements as set out in UDP Policy LA1.
- The application could also have an adverse impact on tourism within the area.
- Members witnessed the narrow roads on the site visit, these were not suitable for large HGV's.
- Polytunnels were an important part of modern farming but in this case their impact on the AONB was too significant.

Prior to the debate the Chairman wished it to be put on record that recent comments attributed to him in the Ross Gazette regarding polytunnels and the residents of Kings Cople were not correct.

The Committee opened the debate with a Member voicing his concerns in respect of the application. He gave a background to his close working with growers in formulating a policy for polytunnels when he was previously the Cabinet Member for Environment. He advised the Committee that he had concerns regarding the scale of the proposal and the impact it could have on the AONB; concerns regarding the previous compliance in respect of planning conditions on the site as well as concerns regarding ineffectual planting of screening on the site.

Another Member stated that he was fully in support of the use of polytunnels in modern farming however he had concerns in respect of the intensity of the polytunnels in such a sensitive area in the heart of the Wye Valley Area of Outstanding Natural Beauty. He voiced his concerns regarding the breakdown in communication between the applicant, the local residents and the parish council and advised all parties that means of communication would need to be reinstated for the good of the local community.

Members continued to discuss the application and noted that the lawful polytunnels on the site had become lawful as they had been in situ over a period of time without enforcement action being taken. They thanked the local residents and the parish council for their efforts in respect of the matter and reiterated the need for all parties to work together in the future for the benefit of all involved.

A number of Members stated that they appreciated the need for polytunnels in modern soft fruit farming but that this need had to be weighed up against the visual impact, in this case, in a sensitive location within the Wye Valley AONB they considered that protecting the landscape outweighed the need for the polytunnels.

Members made reference to a similar situation elsewhere in the County and advised that a successful liaison group had been set up there which had eliminated the majority of problems at the site over a period of time. Members considered that all parties involved should note the success of the liaison group and aim to set up a similar group at Pennoxstone Court.

Councillors Durkin and Hamilton were given the opportunity to close the debate. They reiterated their opening remarks and requested that the application be refused.

The Head of Neighbourhood Planning addressed the Committee before the vote and advised that whilst there had been reference made to communication issues and personalities, it was important for Members to focus their attention in making their decision solely upon material planning considerations

RESOLVED

That planning permission be refused for the following reason:

- 1. Having regard to Policies LA1 and LA2 of the Herefordshire Unitary Development Plan 2007, Guideline 2 of the Polyunnel Supplementary Planning Document 2008, and paragraphs 115 and 116 of the NPPF, the proposal is considered unacceptable. The scale of the development is large in relation to the sensitive landscape of the Kings Caple spur and has a negative visual impact from surrounding elevated areas. The dominance of the polytunnel coverage across this spur of land is a significant detraction from the natural beauty of the local landscape as part of the Wye Valley Area of Outstanding Natural Beauty.**

With specific regard to Unitary Development Plan Policy LA1 it is concluded that the development is not small-scale, would adversely affect the intrinsic natural beauty of the landscape, is not necessary to facilitate the economic and social well-being of the designated area and the community and does not enhance the quality of the landscape or biodiversity. It is not demonstrated that the proposal is in the greater national interest than the purpose of the AONB designation and the impact is not capable of adequate mitigation. It is not demonstrated, therefore, that the proposal accords with the stated exceptions to the presumption against large-scale development within the AONB.

The acknowledged contribution of the business to the local economy is not considered to outweigh the identified harm to the Wye Valley Area of Outstanding Natural Beauty.

183. 130534/FH - 45 WALKERS GREEN, MARDEN, HEREFORD, HR1 3DZ

The Chairman advised Members that the order of the agenda would be changed so that application 130534/FH could be determined prior to the meeting being adjourned for lunch.

The Development Manager 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 KS Guthrie, the local ward member, advised Members that she had no concerns regarding the application and requested that it be approved.

In response to a question, the Development Manager advised that a response had been received from Marden Parish Council which was detailed in the update sheet.

Councillor KS Guthrie was given the opportunity to close the debate but chose to make no additional statement.

RESOLVED

That subject to no 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 further conditions considered necessary by officers:

1. **A01 Time limit for commencement (full permission).**
2. **B01 Development in accordance with the approved plans.**
3. **The facing bricks to be used in the construction of the side wall of the extension hereby permitted shall match those used in the existing building.**

Reason: To ensure the external materials harmonise with the existing building so as to ensure that the development complies with the requirements of Policies DR1 and H18 of Herefordshire Unitary Development Plan.

4. **The external cladding material to be used in the construction of the front and rear walls of the extension hereby permitted shall be in accordance with the submitted details. (Ebony Cedral Weatherboard).**

Reason: To ensure the external materials harmonise with the existing building so as to ensure that the development complies with the requirements of Policies DR1 and H18 of Herefordshire Unitary Development Plan.

5. **F15 No windows in side elevation of extension.**

Reason for Approval

1. **It is considered that the proposed extension will appear in keeping with the character and appearance of the existing building and surrounding area in terms of its siting, scale, mass, detailed design and materials. In addition, having regard to the disposition of nearby residential properties, it is considered that the proposal will not unduly impact on the amenities of**

neighbouring residents. In the circumstances the proposal will not conflict with the design requirements of Herefordshire Unitary Development Plan Policies S1, DR1, H16 and H18 together with the sustainability and good design policies and objectives contained in the Introduction and Section 7 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.**
- 2. N03B Adjoining Property Rights.**

ADJOURNMENT

The Chairman advised that the meeting would be adjourned until 1:30 pm.

184. 130461/F - LLANERCH Y COED, DORSTONE, HEREFORD, HR3 6AG

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, Mrs Joseph, representing a number of local residents; and Mrs Compton, Chairman of Clifford Parish Council, spoke in objection to the application and Mrs Smolas, the applicant, spoke in support.

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

- The application had received 112 representations with the majority being in objection to the application.
- The surrounding area was a unique eco-system of agriculture built up over many decades.
- The land was serviced by a small road network which did not have capacity for wedding vehicles as well as the existing farm vehicles.
- The proposition to force people to travel to the site by minibus was not enforceable.
- There were no suitable passing points and vehicles could be required to reverse 100 yards or more.
- Business diversification was vital, but this was in the wrong venue.
- The proposed business had little chance of success with its current business plan.
- The local community had concerns regarding the impact the application would have on the local area.
- There were also concerns regarding the water supply.
- The local residents could hear noise from Hay Festival, although this was accepted as it was for just 10 days and bough approximately £20 million into the local economy.

- There were also concerns regarding light pollution.
- The applicant needed to communicate better with the local residents and the parish council.
- The application should be refused.

Members opened the debate by voicing their concerns in respect of the 'events facility' part of the application. It was considered that this usage was alien to such a rural area and that the highway infrastructure was not suitable for the proposed usage. Members discussed the proposed use of taxis and minibuses for visitors and considered that this would not be enforceable. Concern was also expressed regarding light pollution.

Members considered that the issues regarding water could be addressed through appropriate conditions

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

- That he had met the applicants previously and had advised them that he was supportive of a training events venue however he could not support the current larger scale application.
- The current application was half the size of the original application but it was still too large for the proposed location.

In response to a question, the Development Manager advised Members that they could not issue a split decision in respect of the application.

RESOLVED

That planning permission be refused for the following reasons:

- 1. The proposal represents a significant risk to highway safety and the free flow of traffic through the resultant increase in vehicular movements generated by the proposal on the local network. The proposed transport mitigation can not be controlled, monitored or unenforced and conditions would not be compliant with Circular 11/95. Furthermore there is a reliance on the use of passing places adjacent to the public highway which are located on private land outside the applicant's or Authority's control and as such these can not be relied on for their availability or use. The submitted Transport Assessment is also deficient, having insufficient survey data and has not assessed adequately two substandard road junctions where traffic flow will be significantly increased. As such the proposal is contrary to Herefordshire Unitary Development Plan policies S1, S2, S6, DR1, DR2, DR3, T6, T8, E11 and RST13**
- 2. Given there will be a significant increase of vehicles and people into this isolated, tranquil landscape area and the land use and activities proposed, this will significantly reduce the character, amenity and tranquillity of this sensitive isolated area and therefore have a negative impact on the overall landscape character. This is contrary to the stated aims and objectives of the National Planning Policy Framework and Herefordshire Unitary Development Plan policies S1, S2, S7, DR1, DR2, E11, LA2 and RST13**
- 3. The proposal fails to demonstrate that the valued dark landscape and sky resource will be protected and not adversely affected. As such the aims and objectives of the National Planning Policy Framework and**

Herefordshire Unitary Development Plan policies S1, S2, S7, DR2, DR14, E11, LA2 and RST13 are therefore not satisfied.

- 4. The proposal fails to ensure protected habitats and species will be suitably protected and safeguarded. The proposal, through the increased number of people into the area, traffic generated and requirement of unspecified vehicular passing places on common land, Special Wildlife Site and Ancient Woodland, and the location of the proposed package treatment plant all represent an unacceptable unquantified risk and impact to ecological and biodiversity resources, included designated resources and protected species, contrary to the aims and objectives of the National Planning Policy Framework and Herefordshire Unitary Development Plan policies S1, S2, S7, DR2, DR4, DR13, DR14, E11, NC1, NC4, NC6 and NC7.**

185. 130426/F - FORMER POMONA WORKS, ATTWOOD LANE, HOLMER, HEREFORD, HR1 1LJ

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 the criteria for public speaking, Mrs Philpotts, representing Holmer and Shelwick Parish Council, spoke in objection to the application and Mr Cole, representing the applicant, spoke in support.

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

- The applicant had done a lot of additional work on the revised application, which as welcomed.
- The public speakers were thanked for their contribution.
- The site was designated as employment land, which had always been safeguarded by previous committee decisions.
- Live/work units would have been welcomed.
- The site would be better suited for a community usage.
- The traffic concerns were still valid.
- There were also concerns in respect of street lighting, density, drainage, and the impact on the open countryside.

Members discussed the application and noted that a lot of work had been undertaken by the applicant to address the concerns raised through the previous application on the site. Concern was expressed that the applicants had not considered live/work units on the site and had not investigated alternative drainage systems on the site.

In response to a number of questions from the Committee, the Principal Planning Officer advised that as density had been a concern on the site previously the decision was made to remove the onsite play area from the application and upgrade the existing Wentworth Road play facility instead; that permitted development rights would be removed to address the issue of the 'no dig layer'; and that contamination hotspots would be removed from the site to the satisfaction of the Environmental Health Officer.

Members noted that there were no stand-out features to the application and that it was disappointing that there were no sustainable features incorporated into the development such as live/work units. Members discussed the Parish Plan and sought clarification as

to the status of the plan in planning terms. The Head of Neighbourhood Planning advised that a parish plan could be a material planning consideration if it had been endorsed or adopted by the Council, however this was not the case for Holmer and Shelwick parish council's parish plan, therefore it could not be given any weight in policy terms.

Councillor Robertson was given the opportunity to close the debate. She reiterated her opening remarks and made additional comments, including:

- The Parish Plan had not yet been adopted.
- There were 41 people employed on the site previously.
- The decision should be made democratically.

RESOLVED

That subject to final clarification in relation to the acceptability of the proposed S106 Obligation terms, officers named in the scheme of Delegation to Officers be authorised to grant planning permission subject to the following conditions:

1. **A01 Time limit for commencement (full permission)**
2. **B01 Development in accordance with the approved plans**
3. **B07 Section 106 Agreement**
4. **C01 Samples of external materials**
5. **K4 Nature Conservation - Implementation**
6. **G11 Landscaping scheme - implementation**
7. **G15 Landscape maintenance arrangements**
10. **I50 Measures to deal with soil contamination**
11. **I55 Site Waste Management**
12. **I51 Details of slab levels**
13. **L01 Foul/surface water drainage**
14. **L02 No surface water to connect to public system**
15. **L03 No drainage run-off to public system**
16. **L04 Comprehensive & Integrated draining of site**
17. **F14 Removal of permitted development rights**
18. **I16 Restriction of hours during construction**
19. **H27 Parking for site operatives**
20. **M09 Land affected by contamination**
21. **H26 Access location**

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. HN10 No drainage discharge to highway**
- 3. HN08 Section 38 Agreement and Drainage details**
- 4. HN07 Section 278 Agreement**
- 5. HN04 Private Apparatus within the highway**
- 6. HN1 Mud on the highway**
- 7. HN28 Highways design guide**
- 8. HN13 Protection of visibility splays on private land**
- 9. HN05 Works within the highway**

Reason for Approval

- 1. The application site lies within the urban settlement of Hereford City, within which residential development is supported by policy H1 of the UDP. Whilst the site is allocated as an employment site, the Local Planning Authority is satisfied that there is no reasonable prospect of this site coming forward for that purpose, and that, given the predominantly residential context this would be a suitable site for residential development. As such the proposal would comply with the requirements of policy H1 and the guidance contained within the NPPF.**

The detailed design and layout of the proposed scheme, coupled with the inclusion of planting and landscaping proposals would represent a form of development that would be acceptable in respect of landscape impact, design and layout in accordance with policies DR1, H13, LA2, LA3 and LA6 of the UDP.

The developments relationship with neighbouring properties has been considered and subject to ensuring that landscaping and boundary treatments are undertaken, the proposal is considered to be acceptable in accordance with the requirements of policies DR2 and H13 of the UDP.

The proposed development would not adversely impact upon the local highway network in terms of capacity or highway safety. The site lies in a location that is considered to be sustainable, with good access to alternative means of transport and the proposal makes provision of a new footway to serve the development and provide connectivity with Roman Road. As such the proposal is considered to comply with the requirements of policy DR3 of the UDP.

It is considered that the proposed development, subject to a condition, can be served by an acceptable and adopted drainage system in accordance with policy DR4 and CF2 of the UDP.

Provision has been made, through a Section 106 agreement or the appropriate contributions having regard to the requirements of policy DR5 and the SPD – Planning Obligations. The appropriate affordable housing provision and play space provision has also been provided and secured by way of the Section 106 agreement in accordance with Policies H9, H19 and DR5 of the UDP.

186. 123417/F - DAIRY FARM - LODGE FARM, WALTERSTONE COMMON, HEREFORDSHIRE, HR2 0DT

The Development Manager 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 Farr, the applicant's agent, spoke in support of the application.

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

- There was no objection to the dwelling itself.
- There were no issues with ingress or egress.
- There were no objections from local residents or the Parish Council.
- The application had been submitted in 2011 but was withdrawn.
- In July 2012 a further agricultural building on the site was granted.
- The businesses had increased by 35% year on year.
- There were 600 standard man days required to run the business.
- The agricultural services enterprise that had been set up had grown.
- The breeding cattle business would bring in more profit than the agricultural services enterprise.
- There were no affordable dwellings in the area.
- The application met the requirements of NPPF Paragraph 28.

The first Councillor to speak in support of the application noted that the business had been established and financially viable for over three years and therefore met the requirements of the Unitary Development Plan. It was however noted that an agricultural tie condition should be added to any planning permission.

In response to a question, the Development Manager advised that none of the three previous planning approvals on the site had been implemented.

Members discussed the application and noted that the applicant's contracting equipment was all stored on the farm. Some concern was expressed in respect of the time taken for a response to be received from the County Land Agent in respect of the application.

The Committee considered the application and was of the opinion that the functional need for the development had been met. In terms of policy issues, the Committee noted that Unitary Development Plan Policies S1, DR1, H7 and H13 as well as National Planning Policy Framework paragraph 28 supported the application.

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

RESOLVED

That planning permission be granted subject to the following condition and any conditions deemed necessary by officers named in the scheme of delegation to officers.

1 Agricultural occupancy condition.

187. DATE OF NEXT MEETING

The Planning Committee noted the date of the next meeting.

APPENDIX 1 - SCHEDULE OF COMMITTEE UPDATES

The meeting ended at 3.45 pm

CHAIRMAN

PLANNING COMMITTEE

24 April 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.

S123556/F - ERECTION OF 10 NO. AFFORDABLE HOMES WITH ASSOCIATED PARKING, ACCESS & LANDSCAPING AT LAND ADJ ROSE COTTAGE, GORSLEY, ROSS-ON-WYE, HEREFORDSHIRE

For: Two Rivers Housing Association per Quattro Design Architects Ltd, Imperial Chambers, Longsmith Street, Gloucester, Gloucestershire, GL1 2HT

ADDITIONAL REPRESENTATIONS

Following the comments from Members, Gorsley Goffs Primary School was contacted regarding attendance of pupils on the last day of term before the Easter holidays. The school confirmed that of 195 pupils on the roll, 9 were absent on 27th March.

The Council's Education department has provided figures illustrating where attending pupil's currently live. Ross on Wye is the most common home of pupils, with 37 children coming from there. 28 pupils from Gorsley attend the school. The overall data shows that a significant number of pupils travel considerable distances, often passing other existing schools to attend Gorsley Goffs Primary School.

Gorsley and Kilcot Parish Council made a representation of objection on 22 April 2013. The Parish Council objects to the application on a number of grounds. These are summarised as –

- The school is at capacity and cannot cope with the demand for places from local children as it is
- Ivy House Lane is used at peak school times by parents parking and is very congested. The proposal will make the situation worse
- The proposal will result in more vehicles driving through the village and B4221

Via the Councils Housing Development Officer, a local resident has provided details of a 2007 survey of the existing drainage infrastructure in the Ivy House estate. This suggests that part of the system in the vicinity of 12-14 Ivy House was deteriorating.

On 21 April 2013, the council received confirmation that the applicant had lodged an appeal against the non-determination of the application.

OFFICER COMMENTS

9 pupils being absent represents under 5% of the pupil roll. It is not considered these absences had a demonstrable impact upon the number of vehicles witnessed by officers accessing the school or parking in Ivy House Lane taking into account the number of free spaces available within the pub car park which is used by parents collecting children.

The data regarding where attending pupils come from shows that parents are making either specific or linked trips to use a school often some distance away and only accessible to them by the use of a private vehicle. This undermines wider objectives regarding sustainability. The proposed development therefore

would help redress this balance and help it contribute to sustainability objectives, including reducing the county's carbon footprint by helping reduce the need for people to travel to access services.

In response to the Parish Council's comments, the Area Engineer has made no objection and the proposal enhances road safety through improvements to the junction with the B Class road and also through additional pedestrian infrastructure. The additional traffic generated from the proposal is not considered to have a significant impact over the existing situation having regard to the improvements proposed, sustainable location of the site, and the status of the B Class road.

In response to the details of the 2007 drain survey, it remains the case that the statutory undertaker has raised no objection to the proposal and subject to a condition requiring details of the drainage system to serve the proposed development being agreed before construction starts and implemented before first occupation, this is not considered to be a sustainable reason for refusal.

The effect of the appeal against non-determination is that determination of the application now rests with the Planning Inspectorate and the council cannot now issue a decision. However to assist the preparation of the Council's case it would be appropriate for the Committee to debate this item and reach a resolution on the decision that it would have reached had the appeal not been lodged.

NO CHANGE TO RECOMMENDATION

SE100966/F - APPLICATION (PART RETROSPECTIVE) TO ERECT, TAKE DOWN AND RE-ERECT POLYTUNNELS, ROTATED AROUND FIELDS AS REQUIRED BY THE CROPS UNDER CULTIVATION (SOFT FRUIT) AT PENNOXSTONE COURT FARM, KINGS CAPLE, HEREFORDSHIRE, HR1 4TX

For: NJ & IE Cockburn per Mr Antony Aspbury, Unit 20, Park Lane Business Centre, Park Lane, Basford, Nottingham, NG6 0DW

ADDITIONAL REPRESENTATIONS

A letter has been received from Burges Salmon solicitors acting on behalf of the applicants. The letter sets out what are perceived as material deficiencies in the Report to Committee. These are as follows:

- 1) The Report fails to properly explain the circumstances as to why this application is being reconsidered. In particular, the Report fails to set out the basis on which the Council approved the application previously. This is a material consideration to this matter. The Report also fails to note that whilst the judicial challenge sought to challenge the lawfulness of the Council's assessment of the planning merits of the application that challenge was successfully resisted by the Council and rejected at the High Court. It is a material consideration to this matter that the Council's planning assessment of the application was upheld by the High Court, and it was simply the articulation of the reasons for approval rather than the basis on which the application was approved that was found to be deficient. The Report should set out clearly the grounds of challenge that were successfully resisted by the Council.
- 2) The Report refers to certain matters in the economic report provided by the applicant as "unresolved." As you will be well aware, officers have never asked the applicant to address these matters. Having never brought these matters to the attention of the applicant or expressed any concerns regarding their economic report, it is disingenuous for Officers to then describe the matters listed as "unresolved." In any event the applicants have been advised that the matters identified in the Report to Committee can be addressed.
- 3) The Report to Committee fails to note that the conclusions of the applicants' economic report are not challenged. It also fails to note that the economic benefits of the development were found to be valid grounds to approve this application previously. As noted above, that approach was

successfully defended by the Council in the High Court. That is a material consideration to this application.

- 4) The criticisms of the ZVI are misconceived. No attempt has been made by Officers to seek clarification from the applicants on any of the issues belatedly raised.
- 5) The Council's assessment of landscape and visual impacts is predicated upon the application site and surrounding area being located within a part of the AONB with a higher value and sensitivity than the rest of the AONB. The Report provides no justification for this approach beyond the development being located within the Wye Valley and no policy support is cited. The assessment of impacts is fundamentally undermined by this erroneous approach.
- 6) The assessment of impacts fails to set out clearly the baseline position. It also fails to properly set out and consider the benefits that the proposal will provide by restricting the use of polytunnels and cloches in other areas. This is a material consideration to this matter.
- 7) The analysis of Policy LA1 is flawed. The example of a 50-storey building is irrelevant to a temporary and transient development as proposed. The Report fails to properly articulate the applicants' position on Policy LA1.

The applicants request that the application be withdrawn from the agenda for the meeting of 24 April.

A separate letter has been received from Antony Aspbury Associates, the applicants' planning consultant. The letter restates the benefits of using polytunnels, revisits the original Planning Committee resolution to approve and also reaffirms that because of the controls that can be imposed via conditions, the applicants are only seeking an increase in covered polytunnels of 15 hectares. Reference is also made to the well established nature of the enterprise and the ability to secure, via a legal agreement, a restriction on the use of other forms of plastic crop protection that are considered to fall outside planning control e.g. cloches. It is stated that this additional control, together with landscape enhancements will only be possible upon the grant of planning permission. Comparison is also drawn to other polytunnel sites within the AONB. The letter also restates the applicants' position regarding Policy LA1 and the economic benefits that the soft fruit enterprise generates. These issues are covered at length in the Committee Report.

OFFICER COMMENTS

The planning permission was quashed by Consent Order. The Order was based on the Council's failure to provide adequate reasons for the decision to grant planning permission; specifically the failure to articulate how the proposal complied with Unitary Development Plan Policy LA1. Against the background of an earlier resolution to approve, Members are not obliged to disregard their previous opinions or the decision to grant planning permission but should look at the proposal on the basis of the evidence before them and consider any material change in circumstances that have occurred since that time. The application as it stands now is the one to be considered.

Reference to unresolved issues is at 6.21 of the report, where the Council's commissioned response to the applicants' 2013 Economic Impact Appraisal is summarised. The methodology employed by the applicants' is not challenged and the Report to Committee recognises at 6.22 that the economic benefits to the local economy must be afforded considerable weight and that the economic benefit is not 'inconsiderable'. It is the conclusion of officers, however, that having regard to Policy LA1, NPPF guidance and the SPD, this benefit should not override protection of the AONB.

Although the letter does not specify, perceived criticism of the Zone of Visual Influence (ZVI) is taken to refer to paragraphs 4.4.3, 4.4.4 and 4.4.5 of the Report on page 37 of the printed agenda. Paragraph 4.4.3 refers to the usefulness of the ZVI images in demonstrating the potential visibility of the polytunnels based on the underlying landform of the area. Analysis of the application of the ZVI to the development (4.4.5) explains the limitations of the ZVI given that people's experience of the polytunnels will not be influenced by the fact that the overall ZVI is small or that the whole development cannot be seen from a single vantage point.

Officers disagree with the criticism that the Report seeks to elevate the sensitivity of the local landscape above other parts of the AONB. The Landscape Manager's assessment at 4.4.4 reflects the fact that large parts of the application site are found within the river valley, and therefore in the part of the landscape with the highest value and sensitivity in the context of the whole AONB.

The baseline position, if taken as the 9.86ha of lawful polytunnels, is reported at 1.2.2.

The applicants' position in relation to Policy LA1 is reported at length in the summary of the updated Supplementary Planning Statement (paragraph 1.4.2.).

One further letter of support and one of objection have been received. No new issues are raised.

NO CHANGE TO RECOMMENDATION

130461/F - CHANGE OF USE OF FARM BUILDINGS TO CREATE 3 LETTING HOLIDAY COTTAGES, 1 B&B LETTING ROOM & AN EVENTS VENUE FACILITY. ERECTION OF 5 DEMOUNTABLE GEO DOMES FOR HOLIDAY/EVENTS LETTING USE, WITH WC/SHOWER FACILITIES IN A NEW BUILDING & COMMUNAL FACILITIES IN ONE FARM BUILDINGS AT LLANERCH Y COED, DORSTONE, HEREFORD, HR3 6AG

For: Mr & Mrs Smolas per Mr David F Baume, 41 Widemarsh Street, Hereford, HR4 9EA

ADDITIONAL REPRESENTATIONS

Dorstone Parish Council reiterates its objection to the application.

Natural England has no objection to the application. Natural England confirms that with respect to our previous consultation response regarding the withdrawn application S122992/F, their opinion has not changed, and do not object to the application on the grounds of any impacts to the River Wye Special Area of Conservation (SAC), or the River Wye Site of Special Scientific Interest (SSSI).

Three further objections have been received as of 23 April 2013. These are from people who have already objected and includes a letter signed on behalf of 21 people and one family. No new issues are raised, however the following points are made –

- The letter to neighbours referred to by the applicant's was not received by many local people
- There was only 11 working days from the withdrawal of the previous application to the submission of this application
- There is no desire to keep new comers to the area out and the community is made up of recent new residents from outside the area
- Contrary to the diversification report there are numerous properties within 1 mile of the application site
- Existing Wedding venues within a 25 mile radius have vacancies and capacity for bookings so there is adequate existing supply
- No business case has been presented demonstrating the proposal will generate employment. The previous larger application stated no jobs would be created, however this reduced application states jobs will be created

OFFICER COMMENTS

The updated comments made by Dorstone Parish Council are noted and have been considered and are covered within the Committee Report. This also applies to the further representation received from the local residents. The above points are referenced for Members benefit.

The comments from Natural England do not conflict with or contradict the ecological assessment and findings of the Council. Natural England note that they expect the Local Planning Authority to assess and consider the other possible impacts resulting from this proposal on local sites (biodiversity and geodiversity), local landscape character and local or national biodiversity priority habitats and species. This assessment has been carried out and is within the Committee Report.

NO CHANGE TO RECOMMENDATION

130426/F - DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF 34 NO HOUSES AND GARAGES TOGETHER WITH ROADS, SEWERS AND ASSOCIATED EXTERNAL WORKS AT FORMER POMONA WORKS, ATTWOOD LANE, HOLMER, HEREFORD, HR1 1LJ

For: Lioncourt Homes Ltd per Mr Paul Harris, The Stables, Woodbury Lane, Norton, Worcester, WR5 2PT

ADDITIONAL REPRESENTATIONS

Holmer and Shelwick Parish Council's objection to the application to build 34 houses at the above site remains unchanged from previous applications, the objection is based on the following points:

1. contamination - the fact remains that the soil at the site is contaminated and there is no proposal to remove that contamination simply cover over with topsoil, now to a level of 600mm. Planting of fruit trees and digging to install ponds in gardens would take you down further than 600mm. The site is not suitable for residential development.

2. The site was identified in the Parish Plan for retention as employment land or for community use, such as a doctors surgery or community hall. In view of the contaminated nature of the soil this is the most suitable use of the site. The Core Strategy although not adopted does intend to create more employment sites north of the city, it does not seem sensible to turn an existing brownfield site into a residential development and create new industrial/commercial sites on greenfield sites. The parishioners of Holmer and Shelwick have confirmed through the Parish Plan that they would like this site to retain its availability to provide employment in the parish.

OFFICER COMMENTS

In response to the above comments received from the Parish Council, Officers would refer to the committee report, details about the additional testing and the remediation strategy that was circulated to members.

CHANGE TO RECOMMENDATION

Following on from discussion with the applicants, it has been agreed that the application proceed with the Heads of Terms attached to this report. As such, the recommendation should now read as follows:

That planning permission be granted subject to the following conditions: (see report)

130534/FH - PROPOSED FIRST FLOOR EXTENSION AT 45 WALKERS GREEN, MARDEN, HEREFORD, HR1 3DZ

For: Mr Williams, 45 Walkers Green, Marden, Hereford, Herefordshire HR1 3DZ

ADDITIONAL REPRESENTATIONS

Marden Parish Council support the application but raise concerns about the lack of a proposed ground floor plan.

OFFICER COMMENTS

In response to the concern raised by the Parish Council, the proposal does not involve any changes to the existing ground floor

CHANGE TO RECOMMENDATION

Since the publication of the report the consultation period has expired and so the recommendation is now one of approval subject to conditions.