

**MINUTES of the meeting of Central Area Planning Sub-Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday, 21st November, 2007 at 2.00 p.m.**

**Present:** Councillor JE Pemberton (Chairman)  
Councillor GA Powell (Vice-Chairman)

**Councillors:** PA Andrews, WU Attfield, DJ Benjamin, SPA Daniels, H Davies, GFM Dawe, PJ Edwards, DW Greenow, KS Guthrie, MAF Hubbard, MD Lloyd-Hayes, RI Matthews, AT Oliver, SJ Robertson, AP Taylor, NL Vaughan, WJ Walling, DB Wilcox and JD Woodward

**In attendance:** Councillors TW Hunt (ex-officio)

**87. APOLOGIES FOR ABSENCE**

Apologies for absence had been received from Councillors AJM Blackshaw, ACR Chappell and RV Stockton (ex-officio).

**88. DECLARATIONS OF INTEREST**

The following declarations of interest were made:

Councillor	Item	Interest
WUA Attfield	Minute 91, Agenda Item 5 DCCW2007/2834/F <b>Land to the rear of Mulberry Close, Belmont, Hereford</b>	Declared a personal interest.

Mr. Withers, the Central Team Leader, declared a personal interest in item 6 [DCCW2007/2684/F - 131 Whitecross Road, Hereford, HR4 0LS].

**89. MINUTES**

The minutes of last meeting were received.

**RESOLVED:** That the minutes of the meeting held on 24th October, 2007 be approved as a correct record and signed by the Chairman.

**90. ITEM FOR INFORMATION - APPEALS**

The Sub-Committee received an information report about the Council's current position in respect of planning appeals for the central area.

**91. DCCW2007/2834/F - LAND TO THE REAR OF MULBERRY CLOSE, BELMONT, HEREFORD [AGENDA ITEM 5]**

*Proposed erection of 69 dwellings and delivery of Haywood Country Park.*

Referring to the Schedule of Committee Updates/Additional Representations that

was circulated at the meeting, the Central Team Leader reported that:

- The Environment Agency had raised an objection due to potential flooding in the north-east corner of the site and the associated lack of clarification in respect of sustainable drainage/surface water run-off techniques proposed.
- The Highways Agency was reviewing the additional information submitted in relation to junction capacity modelling and the Residential Travel Plan.
- A Draft Section 106 Agreement had been received from the applicants confirming agreement to the contributions as stated in the report.
- An amended plan had been provided which showed an improved distribution of the affordable units.
- An amended bridge design had been received but was the subject of consultation with the Conservation Manager.
- The applicants had submitted a proposed phasing condition for delivery of the Country Park.
- The Council's Conservation Manager had requested additional conditions confirming compliance with the Arboricultural Method Statement and the Ecological Planning Statement.

The Central Team Leader commented that:

- The applicants had submitted additional information to the Highways Agency and Environment Agency in order to overcome their respective objections but these matters remained unresolved at the time of the Sub-Committee meeting. Therefore, the recommendation sought officer delegation to approve or refuse permission before 7 December 2007, based upon the outcome of ongoing discussions, in conjunction with the Chairman and Local Ward Members.
- The topography and land ownership difficulties of providing access to Newton Coppice were outlined and the Sub-Committee was advised that an alternative approach was being investigated by the Parks and Countryside Manager. Given the need for funding to establish its feasibility, this requirement was reflected in the increased contribution set against the Transportation Section of the revised Planning Contributions.
- The affordable housing numbers remained at 35% of the development identified but the proposed tenure split had changed to 12 rented and 12 shared ownership, thereby enabling an increase in the Planning Contributions budget.
- The revised Planning Contributions were given as:
  1. £90,000 Education/Children and Young People.
  2. £216,528 Transportation improvements in the area including provision of car parking, directional signage and appropriate infrastructure for the countryside centre, the provision of a safe crossing across Haywood Lane and the enhancement of safe access to Newton Coppice (including footpath upgrades and speed restrictions on the A465 as deemed necessary). This contribution would include any feasibility or detailed design work as well as implementation costs required to provide enhanced facilities.
  3. £28,350 Enhancement of sports facilities in the area.
  4. £34,500 in lieu of LEAP play area.
- In addition to the above contributions, it was recommended that the Section 106 Agreement should enable flexibility to allow any monies not required to be directed towards the design and implementation of the Countryside Centre.

- The phasing condition proposed was considered acceptable subject to the inclusion of the car park and signage for the Country Park.

Councillor PJ Edwards, a Local Ward Member, drew attention to the debate at the last meeting [Minute 85 refers] and to the objections of Belmont Rural Parish Council and Callow & Haywood Parish Council. He commented that there was a difficult balance between providing the long anticipated Country Park for the wider community of Belmont and protecting the amenities of the residents of Mulberry Close. It was noted that the officers and Local Ward Members had worked hard to address the concerns of the parish councils, mitigate the impact of the development and secure suitable contributions for the benefit of the locality. He felt that, subject to the satisfactory resolution of the outstanding issues, the officer's recommendation could be supported.

Councillor H Davies, also a Local Ward Member, felt that the access via Mulberry Close would have an unacceptable impact on local residents and could compromise highway and pedestrian safety. It was noted that concerns had been raised at the last meeting about the use of Mulberry Close as the only means of access for the development and Councillor Davies did not feel that this issue had been addressed. Other members expressed similar views.

Councillor GFM Dawe, Member for the adjoining Hollington Ward, felt that the increase from 60 dwellings indicated in the Unitary Development Plan to 69 dwellings through this application represented over intensification in the use of this site. He felt it essential that sustainable means of transport were promoted and asked that monies be allocated specifically to deliver good cycleway connections between the Country Park and the city.

In response to questions from Councillor AP Taylor, the Central Team Leader advised that, whilst it would not be possible to prevent parking on the public highway directly through this residential scheme, the new car parking area for the Country Park would be provided off Treago Grove and measures would be put in place to actively encourage visitors to use this parking provision in order to reduce occurrences of on street parking.

Councillor PA Andrews drew attention to references in the report to a proposed emergency access off Kingfisher Road and questioned whether this could be utilised as all or part access to the development, particularly given the potential problems resulting from the narrowness of Mulberry Close. The Central Team Leader advised that the issue of access had been raised with the applicant but an access off Kingfisher Road was not without its own problems due to on street parking and the number of accesses in this location. He added that dual access could result in 'rat running' through the estate. Furthermore, the Unitary Development Plan [UDP] sought to identify a preferred vehicular access off Kingfisher Road but the Inspector stated that 'I did not gain the impression that access via Mulberry Close would be any more damaging'.

Councillor AT Oliver expressed concerns about the potential for granting planning permission for unsuitable schemes on the back of the desire to secure funding for separate infrastructure improvements. He also felt that the outstanding objections, especially in relation to flooding, had to be addressed.

Councillor SJ Robertson acknowledged the wider community benefits but felt that this should not be to the detriment of the quality of life for local residents. She also felt that a Local Equipped Area of Play should be an integral part of the scheme and not located on the edge of the development where there might not be adequate

natural surveillance.

Councillor MAF Hubbard sympathised with the concerns of local residents and felt that the impact of the development could be mitigated through the provision of accesses from both Mulberry Close and Kingfisher Road but with each serving one side of the development only. He suggested that cycleways should be fully linked up with other residential developments. He also felt that the limited spread of affordable housing through the development was unsatisfactory and could be improved.

Councillor RI Matthews commended the hard work of officers and the Local Ward Members on this application to achieve the identified benefits to the wider community.

A number of members supported the suggestion of dual but limited access but felt unable to support the scheme in its present form, particularly given the standing objections of the Highway Agency and Environment Agency.

Councillor DB Wilcox commented on the need for flexibility under the Heads of Terms to enable consideration to be given to a range of traffic management measures on or in the immediate vicinity of the site. He also suggested that the authority delegated to officers to determine the application be extended to enable the issue of dual access to be explored properly.

Councillor Edwards commented that: dual access should be explored if technically feasible; cycle routes between this area and the city centre were already established and well used; the UDP Inspector confirmed that the linkage to a residential scheme was appropriate to deliver the Country Park; the affordable housing provision was much needed; and there should be flexibility to allocate sums to a wide range of improvements but any monies not required should be directed towards the provision of the Countryside Centre.

The Development Control Manager advised that refusal on the grounds of highway safety could be difficult to sustain on appeal but noted that members' concerns about the consequential impact of additional traffic on residential amenities was a material planning consideration in this instance. Nevertheless, officers considered that the proposal was acceptable, having regard to the requirement to deliver the Country Park and the wider community benefits. The need for flexibility in respect of transportation improvements was noted and it was suggested that officers could look at this further with the local ward members.

In response to questions, the Central Team Leader advised that dual access was not part of the application and, therefore, it was unlikely that it could be progressed as part of this scheme in its current form.

A motion to approve the application was lost and the resolution below was then agreed.

**RESOLVED:**

**That**

- (i) The Central Area Planning Sub-Committee is minded to refuse the application subject to the reason for refusal set out below (and any further reasons for refusal felt to be necessary by the Head of Planning Services, which in this case may be related to the outstanding concerns expressed by the Environment Agency and the Highways Agency)**

**provided that the Head of Planning Services does not refer the applications to the Planning Committee:**

- 1. The development is entirely reliant upon a single point of vehicular access from Mulberry Close, a lightly trafficked quiet residential cul-de-sac, and by reason of the number of dwellings proposed, there would be a significant uplift in vehicle movements that would be detrimental to residential amenity contrary to Policies DR2 and H13 of the Herefordshire Unitary Development Plan 2007.**
- (ii) If the Head of Planning Services does not refer the application to the Planning Committee, officers named in the Scheme of Delegation to Officers be instructed to refuse the application, subject to such reasons for refusal referred to above.**

*[Note:*

*Following the vote on this application, the Development Control Manager advised that, although the resolution was contrary to the officers' recommendation, he was not minded to refer the matter to the Head of Planning Services.]*

**92. DCCW2007/2684/F - 131 WHITECROSS ROAD, HEREFORD, HR4 0LS [AGENDA ITEM 6]**

*Change of use to house of multiple occupancy [HMO].*

Referring to the Schedule of Committee Updates/Additional Representations that was circulated at the meeting, the Senior Planning Officer reported that:

- The applicant had submitted a revised proposal reducing the number of bedrooms to 7 by removing the bedroom in the basement in order to provide additional communal space.
- The revised proposal met the required standard and it had been confirmed that all of the properties in the terrace were licensed HMOs.
- A correction was made to paragraph 1.5 of the report so that it referred to seven and not eight bedrooms.

Councillor JD Woodward, a Local Ward Member, noted that a bedroom had been removed but said that this was not the only concern that resulted in the deferral of this application at the last meeting. Councillor Woodward noted that the proposal complied with housing standards but remained concerned about the lack of bathroom facilities on each floor and storage space. She also commented on perceived fear of crime issues, the limitations of this type of accommodation and the impact of HMOs on the character of the area.

Councillor DJ Benjamin, the other Local Ward Member, felt that this proposal would have a detrimental impact on the area, commented on the standard of accommodation and about difficulties experienced with similar uses in the locality. He noted that there was no off street car parking provision and felt that it was unrealistic to expect occupants not to have vehicles.

In response to a question from Councillor SJ Robertson, the Legal Practice Manager confirmed that fear of crime was a material planning consideration.

Councillor PA Andrews commented that some HMOs were well run but she felt that this type of accommodation was not satisfactory and that self-contained units would

be preferable. Councillor Andrews noted that the lack of parking provision was considered acceptable given the proximity of the town centre and availability of public transport.

Councillor PJ Edwards supported the views of the Local Ward Members and felt that the proposal would neither improve or enhance the locality and, therefore, proposed that the application be refused due to the impact on the character of the area.

Councillor MD Lloyd-Hayes felt that the lack of parking was unacceptable, that HMOs had a detrimental impact on the area, and on the serious problems encountered by the emergency services when tackling fires at HMOs.

Councillor AT Oliver commented that the proposal was contrary to Herefordshire Unitary Development Plan policy H17 (Subdivision of Existing Houses).

#### **RESOLVED:**

**That**

**(i) The Central Area Planning Sub-Committee is minded to refuse the application subject to the reason for refusal set out below (and any further reasons for refusal felt to be necessary by the Head of Planning Services) provided that the Head of Planning Services does not refer the applications to the Planning Committee:**

- 1. The application site is located within an established residential area, and the proposed conversion of the single dwelling to form a House in Multiple Occupation (HMO) is considered to give rise to an unacceptably harmful impact on the amenity and general character of the area contrary to Policy H17(3) of the Herefordshire Unitary Development Plan 2007.**

**(ii) If the Head of Planning Services does not refer the application to the Planning Committee, officers named in the Scheme of Delegation to Officers be instructed to refuse the application, subject to such reasons for refusal referred to above.**

*[Note:*

*Following the vote on this application, the Development Control Manager advised that, although the resolution was contrary to the officers' recommendation, he was not minded to refer the matter to the Head of Planning Services.]*

**93. DCCW2007/2806/F - BROOK FARM, MARDEN, HEREFORD, HEREFORDSHIRE, HR1 3ET [AGENDA ITEM 7]**

*Continued use of land as a caravan site and retention of accommodation block for seasonal agricultural workers.*

Referring to the Schedule of Committee Updates/Additional Representations that was circulated at the meeting, the Central Team Leader reported that:

- Comments had been received from the Conservation Manager (no objections).
- Comments had been received from the Environmental Health and Trading Standards Manager (no objections).

In accordance with the criteria for public speaking, Mr. Ternouth spoke on behalf of Marden Parish Council and Mr. Fraser spoke in objection to the application.

Councillor KS Guthrie, the Local Ward Member, commented on the value of the site visit that had been undertaken. She expressed concerns about the scale of the development, both in its extent and in the impact on its surroundings and on the local community. Attention was drawn to the objections summarised in the report and it was noted that residents were worried about the potential for the site to become a dormitory settlement, with a population outnumbering that of Marden. The significant influx of workers had also resulted in fear of crime and anti-social behaviour issues. Councillor Guthrie was surprised that the Conservation Manager had no objections to the application given the landscape impact and that planting had failed. She was also surprised that the Environmental Health and Trading Standards Manager had no objections given the noise generated at the site. The impact on the local road network was also noted, particularly the disturbance caused by HGVs in the early hours of the morning. Given these considerations, Councillor Guthrie felt that application should be refused given the adverse impacts on residential amenities and felt that it was contrary to policy E13 (Agricultural and Forestry Development) of the Herefordshire Unitary Development Plan.

Councillor PJ Edwards supported the Local Ward Member and commented on the scale of the development. He felt that the impact on an adjacent Listed Building had been underestimated and the development was contrary to policy HBA4 (Setting of Listed Buildings). He also questioned whether the accommodation on site was solely for agricultural workers at Brook Farm.

Councillor DW Greenow said that he had sympathy for local residents but also noted the difficulties faced by the applicants, especially given the lack of people interested in agricultural work locally. Whilst he felt that the development was an eyesore and expressed concerns about living standards, he noted that the applicants needed the accommodation to support the operation at Brook Farm.

Councillor SJ Robertson commended the hard work of the Local Ward Member and felt that the impact on the landscape and local community was unacceptable.

In response to a question from Councillor AP Taylor, the Central Team Leader advised that the standard of accommodation was an issue for other legislation and was not a material planning consideration in this instance. The Development Control Manager added that fire regulations were also outside the remit of the Sub-Committee.

Councillor PA Andrews noted that the operation needed workers and that it was better for them to be on site than transported to and from the site every day. However, given the rapid expansion of the accommodation and impact on the locality, she suggested that the number of units be restricted to those given temporary permission previously.

Councillor WJ Walling noted that the purpose of temporary permission would be enable the authority to retain effective control over the development but he questioned how such controls could be enforced practically given the history of the site and the issues identified by local residents. In response, the Central Team Leader advised that temporary permission would provide further opportunities to consider the acceptability of the development periodically but noted that it was not possible to monitor the site constantly. He advised that, if permission was refused, the applicants had a fall back position whereby permitted development rights could enable seasonal agricultural workers' caravans to be placed on the land without the

need for planning permission.

Councillor RI Matthews commented on sensitivities in the locality and felt that the applicants could do more to work with the local parish councils.

Councillor NL Vaughan expressed concern about the influx of migrant workers and social cohesion issues.

Councillor MD Lloyd-Hayes noted that comments were awaited from the Environment Agency but there were no objections from council consultees. She also noted that there were large numbers of migrant workers making a positive contribution to the county.

Councillor SPA Daniels, noting that conditions had not been complied with previously, questioned whether the proposed Section 106 Agreement would be effective in this instance. She also expressed concerns about the quality and safety of the accommodation.

Councillor MAF Hubbard commented on the potential difficulties that could result from the refusal of planning permission and felt that any enforcement response should be co-ordinated and involve all relevant services of the authority. The Development Control Manager said that the issue of joined-up enforcement was a priority for the Director of Environment. He re-iterated the reasoning behind the officers' recommendation and commented that the alternatives, where caravans were moved seasonally or where workers were transported to the site each day, could be more disruptive. However, it was noted that the scale of the development was a material planning consideration.

#### **RESOLVED:**

**That**

- (i) The Central Area Planning Sub-Committee is minded to refuse the application subject to the reason for refusal set out below (and any further reasons for refusal felt to be necessary by the Head of Planning Services) provided that the Head of Planning Services does not refer the applications to the Planning Committee:**
  - 1. The site lies in open countryside where residential development will not be permitted unless it is clearly necessary in connection with agriculture and cannot be located within an existing settlement. It is not considered that sufficient justification has been provided to support the scale of accommodation currently provided at Brook Farm and as such the proposal is contrary to Policy H7 of the Herefordshire Unitary Development Plan 2007. Furthermore the overall scale of accommodation, the size of the agricultural workers population the associated need to transport workers on the local road network and the proximity to residential property is considered to have a detrimental impact upon the amenity and setting of the village of Marden and the surrounding locality contrary to Policies DR2, DR3, DR13, E11, E13 and LA3 of the Herefordshire Unitary Development Plan 2007.**
- (ii) If the Head of Planning Services does not refer the application to the Planning Committee, officers named in the Scheme of Delegation to Officers be instructed to refuse the application, subject to such reasons**



**for refusal referred to above.**

[Notes:

- i. *Following the vote on this application, the Development Control Manager advised that, although the resolution was contrary to the officers' recommendation, he was not minded to refer the matter to the Head of Planning Services.*
- ii. *In accordance with SO 4.15.4, Councillors PA Andrews, MD Lloyd-Hayes and WJ Walling wished it to be recorded that they abstained from voting.*
- iii. *In response to a request from Councillor PJ Edwards, the Development Control Manager said that details of the areas covered by accommodation at Brook Farm would be circulated to members.]*

**94. DCCW2007/2689/F - BROOK FARM AND NINE WELLS FARM, MARDEN, HEREFORD, HEREFORDSHIRE, HR1 3ET [AGENDA ITEM 8]**

*Retention of polytunnels.*

Referring to the Schedule of Committee Updates/Additional Representations that was circulated at the meeting, the Central Team Leader reported that:

- Comments had been received from Natural England (no objections).
- Comments had been received from the Environmental Health and Trading Standards Manager (no objections).
- Comments had been received from the Council's Ecologist (no objections). The recommendations of the Landscape Officer in relation to the removal of a section of polytunnels and the planting of a new hedgerow to the north of the public right of way were supported. Consequently, an additional condition was suggested and is incorporated into the recommendation.

In accordance with the criteria for public speaking, Mr. Ternouth spoke on behalf of Marden Parish Council and Mr. Fraser spoke in objection to the application.

Councillor KS Guthrie, the Local Ward Member, noted that the application had to be considered on individual merit but felt that the cumulative impact of development at Brook Farm and the impact on its surroundings had to be taken into consideration. She said that her late father, former Councillor JGS Guthrie, had on many occasions expressed concerns about the extent of the polytunnels in Marden and the detrimental impact on the landscape and on the amenity of local residents. She drew attention to the concerns raised in the letters of objection and felt that the level of activity at the site was more akin to industrial use rather than rural enterprise. She felt it essential that the character and amenity of the area be protected and that the application be refused as the development would be contrary to PPG7 (Sustainable Development in Rural Areas) and policies S2, S7, DR1, DR2, DR4, E6, E10, E13, LA2 and LA3 of the Herefordshire Unitary Development Plan.

Councillor DW Greenow drew attention to the letters of representation and, in particular, noted the unsightly nature of polytunnels, the need to ensure that water and mud did not run-off onto nearby roads, and the need to control hours of operation.

Councillor SJ Robertson was surprised that the Public Rights of Way Manager did not object, especially given recent injuries to horses resulting from rubbish being left on bridleways. She agreed with the Local Ward Member that the application should

be refused given the impact on the area and also commented on the potential impact of the development on tourism.

The Development Control Manager acknowledged concerns about the other polytunnels in the area but emphasised the need to focus on the application before the Sub-Committee. He added, unlike some other areas, officers felt these two fields to be well related to the farm complex and were contained within areas considered acceptable in landscape terms.

Councillor PJ Edwards supported the officers' appraisal and felt that, with the recommended conditions and appropriate landscaping, the site would be reasonably well screened. Furthermore, refusal of planning permission would undermine the authority's position in respect of less suitable sites.

A number of members commented on the detrimental impact of polytunnel development on Marden and the wider landscape, particularly from public vantage points throughout the county.

Councillor AT Oliver felt that the proposal was not a sustainable form of development, particularly in terms of the use of non-renewable resources, and should be refused. Councillor GFM Dawe concurred and commented on the aesthetic intrusiveness of polytunnels.

Councillor DB Wilcox drew attention to the recommended conditions, noted the need for farm diversification and the benefits to the local economy, and felt that temporary planning permission provided the best opportunity to control the development.

#### **RESOLVED:**

#### **That**

- (i) The Central Area Planning Sub-Committee is minded to refuse the application subject to the reasons for refusal set out below (and any further reasons for refusal felt to be necessary by the Head of Planning Services) provided that the Head of Planning Services does not refer the applications to the Planning Committee:**
  - 1. The retention of the polytunnels is considered unacceptable due to their detrimental visual impact on the landscape quality of the area and when taken cumulatively with the existing polytunnels at Brook Farm, the setting of the village of Marden. Accordingly the development is contrary to Policies S2, S7, DR1, DR2, DR4, E6, E10, E13, LA2 and LA3 of the Herefordshire Unitary Development Plan 2007 and the guiding principles of PPS7 - Sustainable Development in Rural Areas**
- (ii) If the Head of Planning Services does not refer the application to the Planning Committee, officers named in the Scheme of Delegation to Officers be instructed to refuse the application, subject to such reasons for refusal referred to above.**

[Note:

*Following the vote on this application, the Development Control Manager advised that, although the resolution was contrary to the officers' recommendation, he was not minded to refer the matter to the Head of Planning Services.]*

**95. DCCE2007/3194/F - LAND ADJACENT 'OLD VICARAGE', PRESTON WYNNE, HEREFORD, HEREFORDSHIRE, HR1 3PE [AGENDA ITEM 9]**

*Siting of wooden cabin to accommodate needs of disabled person.*

Referring to the Schedule of Committee Updates/Additional Representations that was circulated at the meeting, the Senior Planning Officer reported that:

- An additional letter had been received from the occupants of The Old Vicarage, Preston Wynne and the comments were summarised.

In accordance with the criteria for public speaking, Mrs. Fletcher spoke on behalf of Preston Wynne Parish Council and Miss Davies spoke in support of the application.

Councillor DW Greenow, the Local Ward Member, commented on a number of issues, including: the individual needs and wish of the applicant to achieve independence yet remain within the local community; that the temporary nature of the wooden cabin should overcome previous concerns about a permanent structure in this location; he considered the design and scale of the proposed development to be acceptable; no objections had been received from local residents and there was significant support from the parish council and villagers; no objections had been received from statutory consultees, the Traffic Manager or the Public Rights of Way Manager; and the applicant's doctor supported the proposal. Given these considerations, he felt that the exceptional circumstances of the applicant were such that they should override the planning policy objections, particularly if planning permission was restricted to the lifetime of the applicant and a spouse or dependents.

Councillor MD Lloyd-Hayes supported the application, felt that there were contradictions in the Unitary Development Plan and the report, considered that the proposal was backed by community strategy and housing needs objectives, and the personal restriction would control the future use of the site.

Councillor PJ Edwards noted that the dimensions of the development would exceed those given in the definition of a caravan and would be larger than what would be permissible as a three-bedroom dwelling in a smaller settlement. He commented that there were thousands of people in the county who would want a similar dwelling and felt that the Sub-Committee should focus on the national and local planning policy issues. Whilst acknowledging the specific needs of the applicant, he noted that the application did not meet the relevant criteria and supported the officer's recommendation of refusal.

Councillor MAF Hubbard suggested that, if planning permission was granted, the temporary nature of the proposal had to be ensured and suggested conditions preventing connection to mains drainage, requiring overhead connection to main services and restricting the permission to the lifetime of the applicant only and not to a spouse or dependents.

**RESOLVED:**

**That**

- (i) **The Central Area Planning Sub-Committee was minded to approve the application subject to conditions felt to be necessary by the Head of Planning Services provided that the Head of Planning Services does not**

refer the application to the Planning Committee.

- (ii) If the Head of Planning Services does not refer the application to the Planning Committee, officers named in the Scheme of Delegation to Officers be instructed to approve the application, subject to such conditions referred to above.

[Note:

*Following the vote on this application, the Development Control Manager advised that, as the resolution was contrary to the officers' recommendation and there were crucial policy issues at stake, he was minded to refer the matter to the Head of Planning Services.]*

**96. DCCE2007/3147/F - PART 48, ST OWEN STREET, HEREFORD, HEREFORDSHIRE, HR1 2PU [AGENDA ITEM 10]**

*Proposed change of use from retail unit and private members club to A3 restaurant use.*

Referring to the Schedule of Committee Updates/Additional Representations that was circulated at the meeting, the Senior Planning Officer reported that:

- Comments had been received from Hereford City Council (no objections).

In accordance with the criteria for public speaking, Mrs. Wyllie and Mr. Branczik spoke in objection to the application.

Councillor MAF Hubbard, the Local Ward Member, commented that the corner position of the premises meant that noise generated inside carried some distance along nearby streets, thereby having a detrimental impact on residential amenity. It was noted that businesses occupying the premises had folded and he questioned the economic viability of A3 restaurant use in this location. However, he felt that the re-use of the building should be supported, particularly as there had been some vandalism recently, and noted that the Castle Street & District Residents' Association supported the application in principle subject to safeguards. It was considered essential that the amenities of residential property in the locality were protected and additional restrictions were suggested in respect of operating and closing times.

In response, the Legal Practice Manager drew attention to recommended condition 5 which would only allow the use to be open to customers until midnight. Whilst it was for the Sub-Committee to determine the principle of development, it was for the regulatory framework to determine individual applications and conditions in relation to liquor licensing and any additional licensable activities.

In response to a question from Councillor PA Andrews, the Senior Planning Officer advised that the type of restaurant was not specified in the application. The Development Control Manager advised that takeaway use was a different use class and commented that, as the application related to existing commercial premises, it could be difficult to sustain a refusal of planning permission on appeal.

A number of members expressed concerns about the potential for this development to expand further through the incorporation of the former 'Doodies' restaurant. The Senior Planning Officer advised that this restaurant was in the same A3 use class but any direct link created between the premises would require listed building consent.

Given the concerns raised, the Senior Planning Officer suggested additional conditions to prevent the sale of takeaway food, to prevent the use of amplified music, and to require a scheme of noise attenuation. This was supported by the Sub-Committee.

**RESOLVED:**

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

1. **The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

**Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.**

2. **A scheme for the ventilation of fumes and odours arising from the use hereby permitted shall be submitted for the approval of the local planning authority and the use shall not be commenced until the approved scheme has been installed and made fully operational, and thereafter it shall be operated and maintained, as long as the use continues.**

**Reason: In order to ensure that fumes and odours are properly discharged and in the interests of the amenities of residential property in the locality.**

3. **No external flues or extractor equipment shall be installed at the premises without the prior written approval of the local planning authority.**

**Reason: In the interests of the amenity of the area.**

4. **Prior to the commencement of development a scheme for the provision of storage, prior to disposal, of refuse, crates, packing cases and all other waste materials shall be submitted for the approval of the local planning authority. The approved scheme shall be implemented prior to the first occupation of the development hereby permitted.**

**Reason: In the interests of amenity.**

5. **The use hereby permitted shall not be open to customers outside the hours of 0800 hours and 2400 hours (midnight) Mondays to Sundays.**

**Reason: To safeguard the residential amenities of the locality.**

6. **The applicant shall submit for the prior written approval of the local planning authority a scheme of noise attenuating measures. The approved scheme shall be implemented before the first use of the development to which it relates commences and shall be retained for the duration of the use.**

**Reason: To safeguard the amenity of the area.**

7. **No amplified or other music shall be played in the premises.**

**Reason: In order to protect the amenity of occupiers of nearby**

properties.

8. The premises shall be used as an A3 restaurant and for no other purpose.

**Reason:** To suspend the provisions of the Town and Country Planning (Use Classes) Order currently in force, in order to safeguard neighbouring residential amenity.

**Informatives:**

1. This permission does not imply any rights of entry to any adjoining property nor does it imply that the development may extend into or project over or under any adjoining boundary.
2. This permission does not authorise the display of any advertisements on the site (including any shown on the plans accompanying the application). Separate application should be made to Herefordshire Council in accordance with the Town and Country Planning (Control of Advertisements) Regulations 1992.
3. The decision to grant planning permission has been taken having regard to the policies and proposals in the Herefordshire Unitary Development Plan 2007 set out below, and to all relevant material considerations including Supplementary Planning Guidance:

S1 - Sustainable development  
S2 - Development requirements  
S5 - Town centres and retail  
S6 - Transport  
DR2 - Land use and activity  
DR4 - Environment  
TCR1 - Central shopping and commercial areas  
TCR2 - Vitality and viability  
TCR4 - Secondary shopping frontages  
TCR6 - Non-retail uses (Classes A2 and A3)  
HBA3 - Change of use of listed building  
HBA6 - New development within conservation areas

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

**97. DATE OF NEXT MEETING**

19th December, 2007

The meeting ended at 5.45 p.m.

**CHAIRMAN**