

MEETING:	PLANNING COMMITTEE
DATE:	12 MAY 2010
TITLE OF REPORT:	<p>DMNE/092736/F - PROPOSED CONVERSION OF REDUNDANT MILL TO FORM LIVE/WORK UNIT AT HAZLE MILL, HAZLE FARM, DYMOCK ROAD, LEDBURY, HEREFORD, HR1 4JQ</p> <p>For: Mr Lewis per Nigel Teale, Bramble Farm, Naunton, Nr. Upton-Upon-Severn, Worcestershire, WR8 0PZ</p>

Date Received: 23 October 2009 **Ward: Ledbury** **Grid Ref: 370362,235959**

Expiry Date: 12 January 2010

Local Members: Councillor ME Cooper and Councillor PJ Watts

FURTHER INFORMATION REPORT

1. Background

- 1.1 This application was reported to the meeting on 14 April 2010 when the Committee were minded to refuse the application contrary to the recommendation. The Development Control Manager and the Monitoring Officer advised that such a decision raised major policy issues. In accordance with the Constitution Section 4.8.10 of Part 4 – Section 8 – The Planning Rules, determination of the application was deferred.
- 1.2 The up-dated report to that meeting is attached as an Appendix.

2. Further Information

- 2.1 The Constitution in Section 4.8.10.2 of The Planning Rules, sets out the requirements for the content of this Report.
- 2.2 Up-dating Members on any additional information received
- It has not been necessary to seek any.
- 2.3 Reporting on any discussions that have taken place with the applicant/objectors since the initial meeting
- It was not considered necessary for further meetings or discussions with the applicant.
- 2.4 Setting out the legal procedure and likely financial implications of proceeding with the initial resolution
- 2.4.1 National planning policy with regard to the countryside continues to be that it should be protected from unnecessary development. Planning Policy Statements 4 and 7 set out advice

as to the framing of policies in the development plan and how individual proposals should be approached.

- 2.4.2 The UDP contains a range of primarily criteria based policies which adapt national policy to our local circumstances. The most pertinent policies are S1, H7, HBA12, HBA13, DR7 and DR3.

The officer recommendation remains that the proposal is contrary to policy for a number of reasons primarily related to the suitability of the building for conversion, the functional case for the business and the vehicular access.

- 2.4.3 The committee concluded on the basis of the detail as set out in the application, the additional supporting information and following the formal site visit that the proposal was acceptable, subject to conditions.

In the event that the Committee approved the application the following conditions would be appropriate:

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. The development hereby approved shall be carried out strictly in accordance with the approved plans [(drawing nos.)] and the schedule of materials indicated thereon.

Reason: To ensure adherence to the approved plans and to protect the general character and amenities of the area in accordance with the requirements of Policy DR1 of Herefordshire Unitary Development Plan.

3. The business floorspace of the live/work unit hereby permitted shall be made available and ready for occupation prior to the first occupation of the residential accommodation and the residential use shall not precede commencement of the business use.

Reason: To ensure that a new unrestricted dwellinghouse is not permitted in the open countryside contrary to both Central Government advice and Development Plan policies. The only reason for granting permission for the residential use is that it is considered to be a necessary accompaniment to the establishment of a rural based business.

4. The business floorspace of the live/work unit shall not be used for any purpose other than for purposes within Class B1 in the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: To ensure that the occupiers of the residential floorspace enjoy a satisfactory level of amenity and to ensure that the type of vehicular traffic using the access driveway and means of access onto the public highway is of an appropriate type not prejudicing highway safety.

5. The residential floorspace of the live/work unit shall not be occupied other than by a person solely or mainly employed, or last employed in the business occupying the business floorspace of that unit, a widow or widower of such a person, or any resident dependants.

Reasons:

a) To ensure that the occupiers of the residential floorspace enjoy a satisfactory level of amenity and;

b) To ensure that the one of the reasons of allowing a live/work unit being the creation of a sustainable pattern of development where a person lives where they work thus reducing reliance on the private motor vehicle is adhered to.

6. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 1995 as amended, including the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008 and the Town and Country Planning (General Permitted) (Amendment) (England) Order 2010 no development normally permitted by Classes, A, B, C, D, E, F and G of Part 1, Classes A, B, C and D of Part 8 and Classes A and B of Part 41 of Schedule 2 of Article 3 without the express consent of the Local Planning Authority.

Reason:

a) To ensure that the building remains in its original form in compliance with Development Plan policy and the Council's Supplementary Planning Guidance entitled 'Re-Use and Adaptation of Rural Buildings' (July 2004) and;

b) To ensure that the footprint of the building does not increase that would impact on flood storage or flood flows.

7. The woodland planting shown upon drawing number 3231s4 received 2 March 2010 shall be planted in the first planting season following the first use of the business floorspace hereby permitted or the first occupation of the residential floorspace hereby permitted, whichever is the sooner. Any trees which within a period of five years from the first use of the building die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that the long-term timber source to sustain the enterprise in the long-term is made available adjoining the site, thus creating a more sustainable pattern of development.

INFORMATIVES:

1. The attention of the applicant is drawn to the provisions of the Wildlife and Countryside Act 1981 (as amended). This gives statutory protection to a number of species and their habitats. Other animals are also protected under their own legislation. Should any protected species or their habitat be identified during the course of the development then work should cease immediately and Natural England should be informed. They can be contacted at: Block B, Government Buildings, Whittington Road, Worcester, WR5 2LQ. Tel: 01905 763355.

The attention of the applicant is also drawn to the provisions of the Conservation (Natural Habitats & c.) Regulations 1994 (as amended). European protected animal species and their breeding sites or resting places are protected under Regulation 39. It is an offence for anyone to deliberately capture, injure or kill any such animal or to deliberately take or destroy their eggs. It is an offence to damage or destroy a breeding or resting place of such an animal.

Further information on the subject of this report is available from Mr R Close on 01432 261803

2. This permission is for conversion of the building only and if at any time during the course of the works the building is substantially demolished or dismantled the local planning authority will consider any further work to be unauthorised by this planning permission.
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:

Herefordshire Unitary Development Plan 2007

S1	-	Sustainable Development
H7	-	Housing in the Countryside Outside Settlements
HBA12	-	Re-Use of Rural Buildings
HBA13	-	Re-Use of Rural Buildings for Residential Purposes
DR7	-	Flood Risk
DR3	-	Movement

In reaching this decision the local planning authority was mindful of the particular circumstances of the case, namely the extent to which the development complied with policy and the way in which local issues of environmental impact and highway safety were addressed and concluded that planning permission should be granted.

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).

2.5 Any monitoring officer advice

The proposal is not only contrary to elements of the UDP identified elsewhere in this report but is also contrary to national policies contained in PPS4 and PPS7.

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.

MEETING:	PLANNING COMMITTEE
DATE:	14 APRIL 2010
TITLE OF REPORT:	<p>DMNE/092736/F - PROPOSED CONVERSION OF REDUNDANT MILL TO FORM LIVE/WORK UNIT. AT HAZLE MILL, HAZLE FARM, DYMOCK ROAD, LEDBURY, HEREFORD, HR8 2HT</p> <p>For: Mr Lewis per Nigel Teale, Bramble Farm, Naunton, Nr. Upton-Upon-Severn, Worcestershire, WR8 0PZ</p>

Date Received: 23 October 2009 **Ward: Ledbury**

Grid Ref: 370362,235959

Expiry Date: 12 January 2010

Local Members: Councillors ME Cooper and PJ Watts

1 Background

1.1 The application was reported to the meeting on 10 February 2010. A copy of that report together with the Urgent Update Report is attached as Annex 1.

1.2 At the meeting held the applicant stated that it was his intention to plant a woodland of some 9.5 acres on adjoining land. Members resolved to defer a decision upon the application to enable further information to be submitted and for discussions. Following discussions on a number of issues the applicant was requested to provide the following:-

- The matter of the proposed new woodland planting to be clarified and assessed by Officers;
- For the extent of works required to the building to be clarified;
- For matters of traffic generation to be explored further; and
- The matter of flood risk to be clarified

2 Updating Members on additional information received

2.1 The applicant submitted additional information on 2nd March 2010. This further information includes:-

- A business overview that includes detail as to the planting of a 9.5 acre woodland on adjoining land within the applicant's control and a business plan. The proposed operator of the business would rent the land from his father. It is anticipated that the phased planting of this woodland would be completed prior to 1st April 2012; and
- A further submission from a firm of Consulting Engineers listing the works required to facilitate conversion of the building. These works are:-
 - a) Removing roof and replace structure with new structure in accordance with current Building Regulations;

Further information on the subject of this report is available from Mr R Close on 01432 261803

- b) Repair small crack extending over approximately five courses of brickwork;
- c) Re-point stonework panel;
- d) Replace foundation in small area; and
- e) Insert "Helix Bars" to form ancillary foundation beam

3 Officer Assessment

The Woodland Planting & Business Plan

- 3.1 Whilst it is accepted that if one is producing charcoal regularly it is necessary to be close by, most charcoal work is seasonal. In this case the source of the timber in the medium term is not adjacent to the proposed woodland. Whilst it is appreciated that it is proposed to plant adjacent woodland, it is considered that it would take at least six years and probably longer to get an economically viable product from the land being planted (2018). Willow is the only crop that could become more productive in a shorter time, and there is not much willow shown in the planting plan. It is considered that it would take 20-30 years (2032-2042) before the applicant's business could be solely based on the proposed adjacent woodland.
- 3.2 The proposed woodland planting and management plan does not appear realistic. It appears very complex and it would appear that the applicant is trying to get too much from the site, which may compromise his ability to produce anything well. It is considered unlikely that the applicant would get 10,000 rods per hectare from his hazel – that is the output level for the best pure Hazel coppice in Hampshire. The business plan lists a tremendously varied set of activities and income streams but fails to give any robustness to the figures contained in the subsequent cash flows.
- 3.3 In summary, it is considered that it would be at least six years until the applicant got much output from his own proposed woodland and up to 50 years, if ever, before his own woodland became the core element of his business. Thus to grant a permanent dwelling in the countryside on the basis of the proposed new woodland would be premature.
- 3.4 With regard the detail of the business plan itself, including financial forecasts, the following observations are made:-
- The business plan appears to include grant income – however there is no evidence of such grants having been secured. One should not assume that such grants will be forthcoming.
 - The costs side of the business plan does not appear to include provision for lighting, heating, office space, legal fees, printing & stationery, postage and bank charges;
 - It is questioned whether drawings of £300 - £350 per month is sufficient to support an individual?;
 - There does not appear to be any provision for a vehicle or vehicle running expenses;
 - No costs are shown for website design/internet portal;
 - The business plan appears to show charcoal income rising as casual labour decreases – it is questioned whether this is logical considering someone has to be present at all times? Also, it is questioned whether this presents additional insurance costs re: risk of fire?;
 - The balance carried forward in September 2010 does not correspond with the balance brought forward in October 2010;
 - Much of the business plan appears dependant on the ability to contract to the supplier of Tesco and Homebase as a lot of production is dependant on charcoal production. There does not appear to be any assurance about this element;
 - There is no evidence of support from the applicant's bank;
 - There are no costs for woodland management such as fencing, replanting, tree etc.
 - There are no costs for the packaging materials for the charcoal;

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- The business plan does not appear to include the costs of repairs to & conversion of the building proposed to be used as the live/work unit;
- The casual labour element appears somewhat unrealistic. Would it really be possible to employ someone on such an ad hoc basis the amount (£100) equates to only 17.25 hours a month (assuming the national minimum wage)?;
- It appears that the applicant is proposing to draw as a wage a maximum of £350 per month. When one looks at the cash flow he starts off with £8,000 and three years later has £11,075 which means that he has made £3,075 (or £1,025 per annum). It does beg the question as to whether one would work this hard to earn a maximum of £4,200 per annum and earn “interest” of 12.8% on the original £8,000.

Extent of works required to the building

- 3.5 The further information supplied by the Consulting Engineers engaged by the applicant confirms that an entirely new roof structure would be required. It is therefore considered that the building is not capable of conversion without substantial reconstruction and as such is contrary to policy HBA12 (1) of the Herefordshire Unitary Development Plan 2007.
- 3.6 The Conservation Officer has also confirmed that the interior of the building has no architectural interest.

Traffic Generation

- 3.7 The agent for the applicant has failed to provide any additional information with regard forecast vehicle movements (type & numbers).
- 3.8 Members are advised that the visibility splay in the southerly direction is severely sub-standard and it is considered that any intensification of its use would increase hazards to highway safety.

Flood Risk

- 3.9 Part of the site and part of the building lies within Flood Risk Zone 2 (Medium Risk). It is understood that the flood mapping is based on recorded flood levels in the area (there are no specific records for this site) that are them modelled to the best of the Environment Agency's ability.
- 3.10 The anecdotal evidence supplied by the applicant is that the building and the majority of the site does not flood.
- 3.11 However, it is considered that the fundamental point is that the agent for the applicant has failed to demonstrate that a suitable building could not be found in Flood Zone 1 (Low Risk). The basis of good planning advised by Central Government in Planning Policy Statement 25 is to steer new developments to areas at the lowest risk of flooding.

Conclusion

- 3.12 In conclusion, whilst further information has been submitted to seek to justify the proposal it is considered that the application should be refused for the same reasons as outlined in the original report and original urgent update report.

RECOMMENDATION

That planning permission be refused for the following reasons:

- 1 The site lies within Flood Risk Zone 2 (Medium Risk). The application fails to demonstrate that a suitable site could not be found in Flood Risk Zone 1 (Low Risk). As such, the proposal fails to address the sequential test outlined in the Central Government advice contained within Planning Policy Statement 25 entitled 'Development and Flood Risk' which has the objective of steering new development to areas at the lowest possibility of flooding. Notwithstanding this fundamental objection, the submitted Flood Risk Assessment is inadequate in terms of its detail.
- 2 The building is not capable of conversion without major reconstruction and as such the proposal is contrary to policy HBA12 (1) of the Herefordshire Unitary Development Plan 2007.
- 3 No evidence has been submitted to demonstrate that every reasonable attempt has been made to secure a solely employment re-use of the building without introducing a residential element. Furthermore the proposal fails to meet any of the four exception criterion set in policy HBA13 of the Herefordshire Unitary Development Plan 2007. As such the proposal represents new unjustified residential development within the open countryside contrary to the Central Government advice contained within Planning Policy Statement 7 - 'Sustainable Development in Rural Areas' and policy H7 of the Herefordshire Unitary Development Plan 2007.
- 4 The site is physically remote from the short-term and medium term timber source of the proposed business and from retail, leisure and community facilities. In addition, the site is not well served by modes of transport other than the private motor vehicle thus creating an unsustainable pattern of development contrary to the Central Government advice contained within Planning Policy Statement 1 entitled 'Delivering Sustainable Development', Planning Policy Statement 3 entitled 'Housing', Planning Policy Statement 4 'Planning for Sustainable Economic Growth', Planning Policy Guidance 13 entitled 'Transport' and policies S1, S2, S3, DR2 and DR3 of the Herefordshire Unitary Development Plan 2007.
- 5 The vehicular means of access onto the classified B4216 has a severely sub-standard visibility splay in a southerly direction. The intensified use of such a sub-standard access would be prejudicial to highway safety and contrary to policy DR3 of the Herefordshire Unitary Development Plan 2007.
- 7 The proposal fails to provide any legal mechanism to secure the transfer of the land within and adjoining the application site that is upon the safeguarded route of the Herefordshire and Gloucestershire Canal Trust. Nor does the proposal provide for any other mechanism to secure the restoration of canal hereabouts. As such the proposal would prejudice the long-term policy objective of restoring the canal contrary to policy RST9 of the Herefordshire Unitary Development Plan 2007.

INFORMATIVE

- 1 For the avoidance of any doubt the documents to which this decision relates are:-

- Design & Access Statement prepared by Nigel J. Teale;
- Flood Risk Assessment prepared by Nigel J. Teale;
- Condition Survey prepared by A.J. Richardson & Assoc. received 23rd October 2009;
- Location Plan (Scale 1:2500) and Block Plan (Scale 1:1,000) - Drawing number 3231s received 23rd October 2009;
- Proposed floor plans & elevations - Drawing number 3231b (Scale 1:100) received 23rd

Further information on the subject of this report is available from Mr R Close on 01432 261803

October 2009;

- Baseline Protected Species Survey prepared by envirotech received 23rd October 2009;
- Existing Floor Plans & Elevations (Scale 1:100) – Drawing number 3231a received 23rd October 2009;
- Business Overview - George Lewis Coppice Crafts received 2nd March 2010;
- Cash Flow Forecasts (Sept 2010 - Aug 2013) received 2nd March 2010;
- Management Plan for Woodland at Hazle Mill received 2nd March 2010;
- Tree Planting Scheme - Drawing number 3231s4 received 2nd March 2010; and
- Repair Schedule - A J Richardson letter dated 19th February 2010 received 2nd March 2010.

DMNE/092736/F - PROPOSED CONVERSION OF REDUNDANT MILL TO FORM LIVE/WORK UNIT AT HAZLE MILL, HAZLE FARM, DYMOCK ROAD, LEDBURY, HEREFORD, HR8 2HT

For: Mr Lewis per Nigel Teale, Bramble Farm, Naunton, Nr. Upton-Upon-Severn, Worcestershire, WR8 0PZ

Date Received: 23 October 2009 Ward: Ledbury Grid Ref: 370362,235959

Expiry Date: 12 January 2010

Local Members: Councillors JK Swinburne, PJ Watts and ME Cooper

1. Site Description and Proposal

1.1 The application site lies outside of the defined built up confines of Ledbury, west of the Ledbury to Dymock Road (i.e. the classified B4216). This hedge lined road does not have a footway hereabouts. Immediately to the west of the application site is the River Leadon. Clearly there was a time that a Mill stood upon the site and that building would have been of both architectural and historic interest. However, the building upon the site which may have remnants of the original building primarily dates from the mid to late twentieth century. The existing building is a single storey building composed of brickwork and stonework walls with an asymmetrical corrugated asbestos cement sheeted roof. In the 1970's the site was used as a scrap yard.

1.3 The proposal is to convert the existing building into a "live/work" unit. The residential element would comprise a one-bedroomed unit of 58 square metres, whilst the workshop element would have an area of some 50 square metres. There would also be a timber store. It is intended that the son of the applicant would live in the unit and start a business selling products manufactured from timber sourced locally, such as barbeque charcoal, besom brooms, trellis, hurdles, fence posts, firewood, garden mulch, garden ornaments, yurts, tipi's, artisan crayons and mushroom logs. Away from the site he would also be working in woodland management local woodlands and undertaking hedge laying. No business plan accompanies the planning application. No other persons would be employed. The manufactured products would be sold from the site and on occasions educational workshops would be held.

2. Policies

2.1 Central Government Advice

- | | |
|----------------------------------|---|
| Planning Policy Statement 1 | - Delivering Sustainable Development |
| Planning Policy Statement 4 | - Planning for Sustainable Economic Growth |
| Planning Policy Statement 7 | - Sustainable Development in Rural Areas |
| Planning Policy Statement 9 | - Bio-Diversity and Geological Conservation |
| Planning Policy Guidance Note 15 | - Planning and the Historic Environment |
| Planning Policy Statement 23 | - Planning and Pollution Control |
| Planning Policy Statement 25 | - Development and Flood Risk |

2.2 Herefordshire Unitary Development Plan 2007

Further information on the subject of this report is available from Mr R Close on 01432 261803

S1	-	Sustainable Development
S2	-	Development Requirements
S7	-	Natural and Historic Heritage
DR2	-	Land Use and Activity
DR3	-	Movement
DR10	-	Contaminated Land
DR7	-	Flood Risk
LA2	-	Landscape Character and Areas Least Resilient to Change
NC1	-	Biodiversity and Development
NC2	-	Sites of International Importance
NC3	-	Sites of National Importance
NC4	-	Sites of Local Importance
NC5	-	European and Nationally Protected Species
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
NC8	-	Habitat Creation, Restoration and Enhancement
NC9	-	Management of Features of the Landscape Important for Fauna and Flora
HBA12	-	Re-use of Rural Buildings
HBA13	-	Re-use of Rural Buildings for Residential Purposes

3. Planning History

None relevant

4. Consultation Summary

Statutory Consultations

- 4.1 The Environment Agency do not make formal comment on this scale of application but draw this Authority's attention to the requisite Central Government advice with regard to developments in Flood Zone 2, namely PPS 25.

Internal Council Advice

- 4.2 Environmental Health and Trading Standards have no objections to the proposal subject to a condition being attached to address the contaminated land issue.
- 4.3 The Traffic Manager object to the proposal on the basis of the sub-standard southerly, nearside, visibility splay.
- 4.4 The Conservation Manager objects to the proposal on the basis that the building is not capable of conversion without substantial rebuilding and the building is not of architectural or historic quality.

5. Representations

- 5.1 Ledbury Town Council wish to see the application approved.

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

6. Officer's Appraisal

- 6.1 The site lies outside the built-up confines of Ledbury and any of the defined rural settlements. As such it lies within the open countryside in planning policy terms.
- 6.2 This application raises a number of matters of principle.

Flood Risk

- 6.3 Part of the site including part of the building lies within Flood Risk Zone 2. Members will be aware that there are in essence three categories of Flood Risk Zones, Flood Zone 3 where there is a high probability of flooding, Flood Risk Zone 2 where there is a medium risk of flooding and Flood Risk Zone 1 where there is a low probability of flooding.
- 6.4 The Central Government advice contained within Planning Policy Statement 25 (para. 14) states that “a sequential risk-based approach to determining the suitability of land for development in flood risk areas is central to the policy statement and should be applied to all levels of the planning process”. Paragraph 17 of Planning Policy Statement 25 makes it clear that the main aim of the Sequential Test is to steer new development to areas at the lowest possibility of flooding (i.e. Zone 1).
- 6.5 Only where there are no reasonably available sites in Flood Zone 1 should one consider locating development in Flood Zone 2. The agent for the applicant has not submitted any such sequential testing evidence and it is considered that there are clearly many redundant agricultural buildings in Flood Zone 1 that could accommodate the proposed use. Presumably the site in question has been chosen as it is owned by the applicant. However, whilst this may be convenient for the applicant, the ownership of the land is not a material planning consideration.
- 6.6 Therefore the proposal is clearly contrary to the Central Government advice contained within Planning Policy Statement 25 and policy DR7 of the Herefordshire Unitary Development Plan 2007.
- 6.7 Notwithstanding this matter even if the sequential testing had been undertaken and it was proven that no sites were available in Flood Risk Zone 1, the submitted flood risk assessment is not considered to be satisfactory. It does not address the following issues:-
- a full topographical/levels survey of the site detailing the known or modelled 1% (1 in 100 chance each year) river flood level, including climate change and the existing floor level of the building. The agent for the applicant does not specify the one in a hundred year plus climate change level above ordnance datum (AOD) level;
 - an assessment of the risks posed to the site including that based on 1% modelled flooding (including climate change), on any documented historic flooding and risks associated with surface water run-off from the site (including climate change);
 - proposed mitigation measures to control these risks for the lifetime of the development, based on a 1% event, including climate change (e.g. setting an appropriate finished floor level), providing flood proofing; providing suitable means of surface water disposal, safe access & egress for occupiers (especially important where vulnerable users or overnight accommodation);
 - Furthermore one should be able to demonstrate that the development has safe pedestrian access above the 1% river flood level plus climate change.
 - The agent for the applicant does not specify the existing floor level of the building above ordnance datum (AOD).

Employment Element of Proposal

- 6.8 Clearly both Central Government advice, including the recent Planning Policy Statement 4 – ‘Planning for Sustainable Economic Growth’ and Development Plan policies wish to encourage business development in rural areas. This includes the re-use of rural buildings. However, such developments should not be at any environmental cost. In the case of the re-use of rural buildings the Council has adopted a criteria based policy to assess such proposals in full accordance with Central Government advice (i.e. policy HBA12).
- 6.9 The first criteria of this policy require the building to be capable of conversion without major or complete reconstruction. In this instance the structure has a series of defects but what is clear is that the entirety of the roof structure would require replacement. Therefore it is considered that the building is not capable of conversion without substantial reconstruction and as such the proposal is contrary to policy HBA12 (1) of the Herefordshire Unitary Development Plan 2007.

Residential Element of Conversion

- 6.10 The Council’s policy in this respect is set out in policy HBA13 of the Herefordshire Unitary Development Plan 2007.
- 6.11 Firstly, no evidence has been submitted to demonstrate that every reasonable attempt has been made to secure a solely employment re-use of the building without introducing a residential element.
- 6.12 Secondly, the original mill was basically lost in the 1950’s. The existing structure is of no architectural or historic merit. Its loss would not be of detriment to the built heritage of the County.
- 6.13 Thirdly, no evidence has been submitted to demonstrate that the applicant’s son is in housing need and importantly no legal mechanism has been submitted that would secure the affordability of any dwelling in the long-term. This would normally be secured by way of legal agreement transferring the ownership of the land to a Registered Social Landlord and controlling the tenure (e.g. shared ownership or social rent) in perpetuity.
- 6.14 Fourthly, whilst the policies would encourage the business element of the proposal in a suitable redundant agricultural building, which this is not; it is not essential to the business that the operator lives on-site. With regard the proposed charcoal burning activity it is normal practice to locate such an activity at the source of the material (i.e. the woodland(s)), not to transport the wood to a location divorced from the woodland. Indeed in the case of the “artisan charcoal” one usually uses small lengths of timber with small diameters. Of course transporting the timber from the woodland rather than the finished product is not logical, as the raw material weighs more. Furthermore it is an unsustainable form of development placing unnecessary vehicle movements on the highway network. Traditionally charcoal burning has been a transient seasonal activity with the worker often camping and moving between and within woodlands. No other part of the proposed business requires the operator to live on-site.
- 6.15 Fifthly, the proposed residential element of the proposal takes up the majority of the floorspace of the building (54%) and cannot be described as subordinate. Additionally, no part of the proposed business, other than the woodland management and hedge laying that would take place away from the site, appears to be more than a hobby. Certainly no business plan has been submitted to demonstrate the likely financial viability and sustainability of the business.

Highway Safety

- 6.16 The vehicular means of access is onto the classified B4216 that has a 60 mph speed limit. In a 60 mph speed limit one should normally have visibility splays of 2.4 metres x 215 metres. In this case the Traffic Manager believes that average speeds are in the region of 44mph.

Further information on the subject of this report is available from Mr R Close on 01432 261803

Therefore they would be willing to relax the normal standard to 2.4 metres x 160 metres. However, in this case the achievable visibility splay in the southerly direction which is the critical nearside carriageway is only in the region of 2.4 metres x 52 metres. This is seriously sub-standard (N.B. less than 25% of the standard) and its increased use would represent a significant danger to highway safety. The splay cannot be improved as the land in question is not within the applicant's control. Furthermore even if the land was within the applicant's control it appears that a significant length of mixed native hedgerow of landscape merit and possibly of ecological value would need to be removed contrary to policies LA5 and NC6 of the Herefordshire Unitary Development Plan 2007.

Ecology

- 6.17 An Ecological Assessment has been submitted with the application. However, the Planning Ecologist has concern as to the adequacy of that assessment in that the bio-diversity potential of the building and the site has not been fully examined.
- 6.18 In summary, not only is the building not considered capable of conversion without requiring substantial reconstruction and it is not worthy of conversion, its location is inappropriate being on land liable to flood and having a sub-standard access. Clearly if the applicant's son wishes to pursue his proposals further it would be more appropriate to find a structurally sound redundant rural building of architectural merit in or adjacent to woodland that he is or is proposing to manage, that is not within a flood plain and has a satisfactory vehicular means of access. In essence it appears that it is only the convenience of ownership that has led to this proposal.

RECOMMENDATION

That planning permission be refused for the following reasons:

- 1. The site lies within Flood Risk Zone 2 (Medium Risk). The application fails to demonstrate that a suitable site could not be found in Flood Risk Zone 1 (Low Risk). As such, the proposal fails to address the sequential test outlined in the Central Government advice contained within Planning Policy Statement 25 entitled 'Development and Flood Risk' which has the objective of steering new development to areas at the lowest possibility of flooding. Notwithstanding this fundamental objection, the submitted Flood Risk Assessment is inadequate in terms of its detail.**
- 2. The building is not capable of conversion without major reconstruction and as such the proposal is contrary to policy HBA12 (1) of the Herefordshire Unitary Development Plan 2007.**
- 3. No evidence has been submitted to demonstrate that every reasonable attempt has been made to secure a solely employment re-use of the building without introducing a residential element. Furthermore the proposal fails to meet any of the four exception criterion set in policy HBA13 of the Herefordshire Unitary Development Plan 2007. As such the proposal represents new unjustified residential development within the open countryside contrary to the Central Government advice contained within Planning Policy Statement 7 - 'Sustainable Development in Rural Areas' and policy H7 of the Herefordshire Unitary Development Plan 2007.**
- 4. The site is physically remote from the timber source of the proposed business and from retail, leisure and community facilities. In addition, the site is not well served by modes of transport other than the private motor vehicle. As**

Further information on the subject of this report is available from Mr R Close on 01432 261803

such the occupier(s) of the residential element of the proposed development would be reliant on the private motor vehicle thus creating an unsustainable pattern of development contrary to the Central Government advice contained within Planning Policy Statement 1 entitled 'Delivering Sustainable Development', Planning Policy Statement 3 entitled 'Housing', Planning Policy Statement 7 entitled 'Sustainable Development in Rural Areas', Planning Policy Guidance Note 13 entitled 'Transport' and policies S1, S2, S3, DR2 and DR3 of the Herefordshire Unitary Development Plan 2007.

5. The vehicular means of access onto the classified B4216 has a severely sub-standard visibility splay in a southerly direction. The intensified use of such a sub-standard vehicular access would be prejudicial to highway safety and contrary to policy DR3 of the Herefordshire Unitary Development Plan 2007.
- 6 The submitted ecological assessment is considered to be of an inadequate detail and as such is contrary to the Central Government advice contained within paragraph 99 of Circular 06/2005 and Policy NC1 of the Herefordshire Unitary Development Plan 2007.

INFORMATIVE:

1 For the avoidance of any doubt the documents to which this decision relates are:-

- Design & Access Statement prepared by Nigel J. Teale
- Flood Risk Assessment prepared by Nigel J. Teale
- Condition Survey prepared by A.J. Richardson & Assoc. received 23rd October 2009;
- Location Plan (Scale 1:2500) and Block Plan (Scale 1:1,000) – Drawing number 3231s received 23rd October 2009;
- Proposed floor plans & elevations – Drawing number 3231b (Scale 1:100) received 23rd October 2009;
- Baseline Protected Species Survey prepared by envirotech received 23rd October 2009; and
- Existing Floor Plans & Elevations Elevations (Scale 1:100) – Drawing number 32312a received 23rd October 2009.

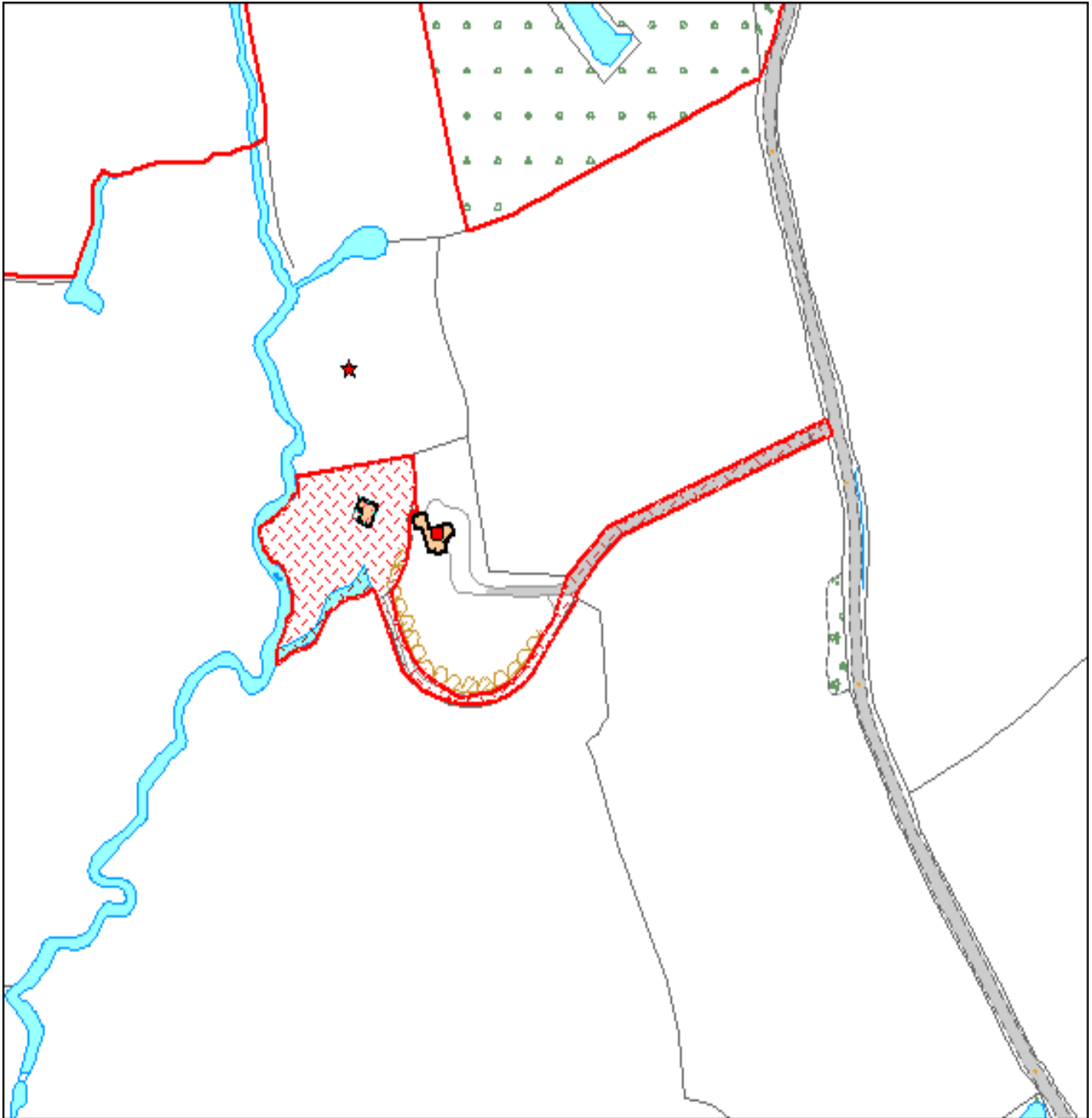
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DMNE/092736/F

SITE ADDRESS : HAZLE MILL, HAZLE FARM, DYMOCK ROAD, LEDBURY, HEREFORD, HR1 4JQ

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URGENT UPDATE REPORT

18 DMNE/092736/F - PROPOSED CONVERSION OF REDUNDANT MILL TO FORM LIVE/WORK UNIT AT HAZLE MILL, HAZLE FARM, DYMOCK ROAD, LEDBURY, HEREFORD, HR8 2HT

For: Mr Lewis per Nigel Teale, Bramble Farm, Naunton, Nr. Upton-Upon-Severn, Worcestershire, WR8 0PZ

ADDITIONAL REPRESENTATIONS

The Herefordshire and Gloucestershire Canal Trust state:-

“Thank you for consulting with the H&G Canal Trust over this planning application. While the proposals would not impact directly on land safeguarded for canal restoration, should the Council be minded to approve the application we would expect any of that land owned by the Applicant to be transferred to us free of charge, and for him to commit to a single access and bridge across the restored canal in the vicinity of Hazle Mill to be shared with the owners of Hazle Mill House, all by way of a s106 agreement as a condition of approval. This would be very similar to the planning obligation that you so successfully negotiated at Oaklebrook Mill. Also, should the Council be minded to grant approval then we would request that the matter be delegated to you to conclude such a planning obligation. Hence we make a holding objection to the application, subject to satisfactory negotiation of this s106 agreement.”

It is understood that the Canal Trust have attempted to negotiate with the landowner without success.

Further representations have been submitted by the agent for the applicant with regard the flooding issue. This suggests that the historic flood level is 1.45 metres lower than the floor level of the building.

OFFICER COMMENTS

The safeguarded route of the Herefordshire and Gloucestershire Canal crosses the application site (bi-sects the driveway) and traverses adjoining land within the applicant's control.

Under the provisions of policy RST 9 of the Herefordshire Unitary Development Plan 2007 the Local Planning Authority would normally require the applicant to enter into a Section 106 legal agreement securing the transfer of the land the subject of the safeguarded canal corridor to the Herefordshire and Gloucestershire Canal at no cost and in this instance to commit to a single access and bridge across the restored canal in the vicinity of Hazle Mill to be shared with the owners of Hazle Mill House.

The agent for the applicant has not submitted any form of draft heads of terms in respect of a legal agreement to address this issue. As such the proposal is also contrary to policy RST 9 of the Herefordshire Unitary Development Plan 2007 and a further ground of refusal is recommended.

With regard the flooding issue, the agent has not undertaken any modelling and relies on anecdotal evidence from the applicant. To require full modelling in such a small-scale case may be rather

excessive and as no new built development (additional footprint) is proposed there would be no impact on flood storage or flood flows. However, the agent for the applicant has still not overcome the sequential test. The site remains in Flood Zone 2 (Medium Risk) and he has failed to provide any evidence that there are no suitable alternative sites entirely in Flood Zone 1 (Low Risk).

As a matter of clarification I understand that the building upon the site has no remnants of the original Mill and that the timbers within it were inserted by a person who operated a scrap yard business upon the site in the late twentieth century.

With regard the recently revised Central Government advice contained within Planning Policy Statement 4 'Planning for Sustainable Growth', there is no mention within that document of "live-work" units. Furthermore with regard the re-use of rural buildings to employment related purposes the advice remains the same. Whilst the Government continue to encourage the re-use of rural buildings for employment related purposes they advise Local Planning Authorities to adopt criteria based policies. The Herefordshire Unitary Development Plan 2007 has such criteria based policies and as such remains compliant with Central Government advice.

CHANGE TO RECOMMENDATION

Amend reason for refusal 1 by deleting its last sentence only.

Add a further ground of refusal:-

7. The proposal fails to provide any legal mechanism to secure the transfer of the land within and adjoining the application site that is upon the safeguarded route of the Herefordshire and Gloucestershire Canal to the Herefordshire and Gloucestershire Canal Trust. Nor does the proposal provide for any other mechanism to secure the restoration of canal hereabouts. As such the proposal would prejudice the long-term policy objective of restoring the canal contrary to policy RST 9 of the Herefordshire Unitary Development Plan 2007.