

APPENDIX

Ref. 1
BRIERLEY
DCNC2004/0321/F

Construction of amenity building, toilet buildings and siteworks for 300 unit caravan standing for farmworkers' accommodation at:

BRIERLEY COURT FARM, BRIERLEY, LEOMINSTER, HEREFORDSHIRE, HR6 0NU

For: S & A Property Ltd per McConaghy BGP Architects, 2 Shrubbery Avenue, Worcester, WR1 1QH

The Legal Practice Manager stated that, although being considered at a special meeting, this planning application was subject to the same rules as every planning application. He referred to some of the reporting in the media which had misinterpreted Herefordshire Council's press statement by indicating incorrectly that officers had already determined the application. He emphasised that the application would be determined democratically, based on the Sub-Committee's debate, with public speakers and representations all being considered. In addition, he reported on the following:

- Counsel's opinion, dated 9th May 2004, which had been circulated to members and officers, had been obtained and issued by Mr S. Head and not by the Council. He added that the Council's Legal Services had advised planning officers throughout.
- With reference to a proposal from the Arrow Valley Residents' Association for an Environmental Impact Assessment (EIA), he stated that planning officers had had no involvement with this. He confirmed that the Council had undertaken screening in accordance with Schedule 2 of the Regulations, and had concluded that an EIA was not deemed necessary. The screening procedure had been dealt with professionally, and within the proper time limits.
- The issue of polytunnels was not part of the planning application. Because the Arrow Valley Resident's Association had circulated some legal advice, however, he felt it was necessary to clarify the Council's legal position. With particular reference to the case of Brinksman, he stated that the Planning Inspector's decision had been based on the specific facts of the case, which were that trestle tables and "gro' bags" had been used within those polytunnels, enabling them to be used all year round and from year to year, for so long as the farmer chose to renew the growing medium. The polytunnels at Brierley Court Farm were covering crops planted directly into the ground soil, and as such, would need to be removed when the soil became depleted of nutrients after one or two growing seasons. He added that the Council was currently reviewing its policy on polytunnels.
- On the issue of costs he advised that, had a stop Notice been served at an early stage, there might have been cost consequences because of

the length of time taken for members to determine the application. He felt that it was not expedient at present, however. If the application was refused and the applicant appealed against the decision, there would be minimal costs involved for the Council. The issue of costs, therefore, was not significant.

The Northern Divisional Planning Officer reported the receipt of the following information since the publication of the agenda:

- 4th May, 2004 – Information from Mr D. Hallmark in respect of crop picking, the estimated crop tonnage, and the proposed number of employees. Initially, 800 pickers would be employed under the Home Office Seasonal Agricultural Workers' Scheme (SAWS), and these numbers would increase after 6 months. Mr Hallmark had also confirmed that a company bus would provide workers with transport into Hereford three times a day, and that he was willing to meet with officers to discuss requirements for any appropriate Green Transport Plans or Section 106 Obligations.
- 7th May, 2004 – A response to Mr Hallmark's above submission, from Mr Greene. He had asked for consideration of the application to be deferred, to enable further time to study the figures.
- 10th May, 2004 – A request from Mr Greene – sent to all members - for further information about traffic flows. In addition, Mr Greene had expressed an opinion that an EIA was required.
- Correspondence from FPD Savilles, consultants for the Arrow Valley Residents' Association, referring to Counsel's opinion, planning policies considered to be relevant to the application, and Planning Policy Guidance Note (PPG) 5. Refusal was requested on the grounds that it was felt that the application was contrary to policy.
- Birley with Upper Hill Parish Council had objected to the application.
- 12th May, 2004 – Further information from Mr Head, referring to case law on polytunnels.
- 12th May, 2004 – The Head of Community and Economic Development had reported that 9.2% of jobs in Herefordshire were linked to tourism, and 6.4% were linked to agriculture. These figures did not include supplies to allied industries. In the view of the Head of Community and Economic Development, the agriculture and tourism industries were of equal value to Herefordshire.

Referring to the report, the Northern Divisional Planning Officer made the following points:

- The appendix to the report was to be deleted. It had been included in an earlier report to the Sub-Committee, and the application had been deferred on that occasion. Subsequently, the information contained in the appendix had been incorporated into the main body of the report.
- The proposed mobile homes were not considered as Permitted Development under the terms of this application. This was because the application had proposed their permanent stationing with no removal at the end of the season.
- The conditions included in the recommendation had addressed the Environment Agency's request to install mains drainage.
- He drew member's attention to the observations of English Heritage (Paragraph 4.3), the Chief Conservation Officer (Paragraph 4.4), and the Head of Engineering and Transportation (Paragraph 4.5), the representations of the Parish Councils, the Campaign to Protect Rural England, the Green Party, and the Civic Trust.
- He confirmed that, contrary to the statements of certain bodies, the application site was not located in an Area of Great Landscape Value (AGLV); nor had it been designated "land least resistant to change".
- He reported that, to date, 57 letters of support had been received, including one from the Chamber of Commerce.
- The report had provided definitions of "Permitted Development Rights" and "Agriculture" as requested by members.
- He stated that the most significant policy relating to the application was Policy A2, which had formed the basis of the recommendation by planning officers. He concluded that sufficient need existed for 300 caravans, and this need had not been outweighed by any other planning considerations. He referred to Paragraph 6.3 of the report, emphasising that the application was not considered to be contrary to policy.
- He reported that, because a Section 106 Obligation was now considered necessary if the application was approved, the recommendation, and any subsequent Notice of Planning Permission, required amendments to reflect this.

In accordance with the criteria for public speaking, Mr S. Head and Mr M. Don spoke in objection to the application, and Mr D. Hallmark spoke in support.

Councillor J.P. Thomas, a local member, noted the complex issues surrounding

the application. Whilst acknowledging the applicant's requirement to proceed with development in order to attain approval for the SAWS scheme, he felt that this development had been premature and presumptuous from a planning perspective. He expressed concerns about the visual impact of the application from various public places, with particular reference to the view from Ivington Camp. He expressed dissatisfaction with the proposal to discharge treated sewage effluent into the Little Arrow, and felt that this aspect warranted an EIA contrary to advice given by officers. He opined that the application did not accord with several planning policies besides A2, and in this sense they bore significant relevance to the application, namely: A9, A24, A54, A78, and Draft UDP Policy S1. Policy A3 was also crucial in his opinion because it stated that development outside market towns should only be permitted where it would not have an adverse effect on the landscape. He said that the application site, although not in an AGLV, was immediately adjacent to one, and he felt that it would clearly affect the setting of the AGLV. He noted that the Agricultural Workers' Act, 1960 afforded the applicant an alternative strategy if the application was refused, whereby some development could proceed without planning permission. He requested that, if approved, a condition be included to protect visual amenity by creating a bund with grown-on shrubs to the east and the west of the site.

In response to Councillor Thomas's comments, the Northern Divisional Planning Officer reported that an Application of Discharge had been forwarded to the Environment Agency in respect of a sewerage scheme. There was a treatment plant in place which was deemed acceptable, and foul sewerage treatment would still be a requirement under Permitted Development Rights if the application were refused.

Councillor R.B.A. Burke, the other local member, expressed concern about the impact of the amenity of the residents closest to the application site.

Councillor Brig P. Jones whilst acknowledging that an EIA was not mandatory, felt that it was necessary in order to determine the application. Other members concurred with this view, and in response to his proposal, the Legal Practice Manager outlined the screening procedure followed when deciding on the necessity of an EIA. He advised that the Sub-Committee was entitled to request an EIA, although this could be challenged by the developer if already deemed to be unnecessary.

Councillor Mrs J.P. French expressed disappointment at the way the development had evolved, being retrospective, although she supported the application on the basis that it proposed a managed site with good working conditions for employees, and it would address problems with inadequate numbers of workforce in the locality. If approved, she requested that the caravans be painted green, and that the landscaping scheme should include a high number of grown-on species. She also called for regular meetings between local members and the developer to ensure that local residents were given adequate support and information.

Councillor B.F. Ashton opposed the application in the grounds that he felt there would be a significant impact on the environment, the sewerage system, and the

local emergency and health services.

Councillor T.M. James felt that the application would set an unwelcome precedent in Herefordshire, and that the possible social impact of the application was an additional reason for refusal.

Councillor W.L.S. Bowen felt that approval of the application would have an adverse effect on Herefordshire for some considerable time, because it might encourage the principle of retrospective development, and because it was on such a comparatively large scale.

Councillor R.J. Phillips questioned the permanency of the proposed buildings and the infrastructure, given the changing nature of agriculture. He felt that the policy guidance available to local planning authorities on such issues was insufficiently detailed and robust, and for this reason, if the application were approved, he would write to the Secretary of State and request that the application be called in.

In response to earlier comments, the Head of Planning Services and the Northern Divisional Planning Officer said that, although it was clear that the application would have an impact on the environment, it was difficult to assess what additional information an EIA would provide that was not already known and available to the Sub-Committee. They concluded that the only two possible grounds for requesting an assessment were the discharge of foul drainage into the Little Arrow, and the visual impact on the landscape. The Sub-Committee felt that the impact of these issues was already known, and the earlier amendment to conduct an EIA was withdrawn.

Having considered all of the issues surrounding the application, members were minded to refuse it on the grounds that it proposed inadequate sewerage arrangements, it constituted development in open countryside, and it would be detrimental to the visual amenity of the area.

The Council's referral procedure, applicable in instances when members were minded to make a decision against officers' advice, was noted.

RESOLVED:

- That (i) The Northern 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 application to the Planning Committee:

1. It is considered that the proposal is contrary to Policy A2(D) of the Adopted Leominster District Local Plan (Herefordshire), and to Policy H20 of the Hereford and Worcester County Structure Plan, in that it represents residential development in open countryside. It does not appear to the Local Planning Authority that there is need for the development such that these policies can be overridden.
 2. It is considered that the proposal is contrary to Policy A9 of the Adopted Leominster District Local Plan (Herefordshire) in that it would be detrimental to the visual amenity of the area and to the character and amenity of the nearby Area of Great Landscape Value.
 3. In the absence of evidence to the contrary, it is considered that the proposal fails to comply with Policies A14 and A16 of the Adopted Leominster District Local Plan (Herefordshire) which seeks to safeguard water resources and ensure adequate arrangements for foul sewage disposal. There is particular concern for the nearby Little Arrow.
- (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: The Northern Divisional Planning Officer said that he would refer the application to the Head of Planning Services, given that there were crucial policy issues at stake.)