



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE PLANNING COMMITTEE

MONDAY 11TH OCTOBER 2010
AT 2.00 P.M.

COUNCIL CHAMBER, THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE

MEMBERS: Councillors E. C. Tibby (Chairman), G. N. Denaro (Vice-Chairman), Mrs. J. M. Boswell, Miss D. H. Campbell JP, R. J. Deeming, Mrs. J. Dyer M.B.E., B. Lewis F.CMI, Mrs. J. D. Luck, E. J. Murray, S. R. Peters, C. J. Tidmarsh, P. J. Whittaker and C. J. K. Wilson

Updates to the Reports of the Head of Planning and Regeneration Services will be available in the Council Chamber one hour prior to Meeting. You are advised to arrive in advance of the start of the Meeting to allow yourself sufficient time to read the updates.

Members of the Committee are requested to arrive at least fifteen minutes before the start of the meeting to read any additional representations and to ask questions of the Officers who will also make themselves available for at least one hour before the meeting. Members are also requested to give Officers at least forty-eight hours notice of detailed, technical questions in order that information can be sought to enable answers to be given at the meeting.

AGENDA

1. To receive apologies for absence and notification of substitutes
2. Declarations of Interest
3. To confirm the accuracy of the minutes of the meeting of the Planning Committee held on 6th September 2010 (Pages 1 - 6)

4. Updates to planning applications reported at the meeting (to be circulated prior to the start of the meeting)
5. 10/0488-DK - Construction of a wildlife pond and alteration of levels - Wadderton Conference Centre, 37 Greenhill, Burcot, Bromsgrove, B60 1BL - Mr. K. Chahal (Pages 7 - 12)
6. 10/0629-MT - Extend existing tree nursery to adjacent land - Whiting Landscape, Wildmoor Lane, Catshill, Bromsgrove, B61 0RJ - Whiting Landscape Ltd. (Pages 13 - 36)
7. 10/0652-MT - Extension of time limit for implementation of B/2007/0433: Erection of three storey building comprising retail use on ground floor and 22 apartments above, and associated works - Land at Beverley Road/New Road, Rubery - Mr. C. Harvey (Pages 37 - 46)
8. 10/0654-DK - Proposed mobile home placement for a temporary agricultural dwelling - Land at Radford Road, Alvechurch - Mrs. J. Parkes (Pages 47 - 50)
9. 10/0727-DK - Proposed industrial warehousing (B1(6) and (C), B2 and B8 (Unit 5)) (Approval of Reserved Matters) - Part Cofton Centre, Groveley Lane, Cofton Hackett - Redman Heenan Properties Ltd. (Pages 51 - 56)
10. 10/0745-MT - Proposed House - Land at 18 Brook Road, Bromsgrove, B61 7DE - Mr. P. Redman (Pages 57 - 62)
11. 10/0782-RL - Change of Use from a residential dwelling to a residential assessment centre, providing overnight accommodation (resubmission of 10/0455) - 8 Gibb Lane, Catshill, Bromsgrove, B61 0JP - Mr. M. Astbury (Pages 63 - 70)
12. 10/0810-DK - Erection of a 10kw vertical axis wind turbine less than 10.7 metres high - 54 High House Drive, Lickey, B45 8ET - Mr. and Mrs. P. Hughes (Pages 71 - 76)
13. Tree Preservation Orders - (No. 2) 2009, (No. 3) 2009 and (No. 9) 2009 (Pages 77 - 84)
14. Appeal Decisions (Pages 85 - 88)
15. To consider any other business, details of which have been notified to the Head of Legal, Equalities and Democratic Services prior to the commencement of the meeting and which the Chairman considers to be of so urgent a nature that it cannot wait until the next meeting

K. DICKS
Chief Executive

The Council House
Burcot Lane
BROMSGROVE
Worcestershire
B60 1AA

30th September 2010

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BROMSGROVE DISTRICT COUNCIL

MEETING OF THE PLANNING COMMITTEE

MONDAY, 6TH SEPTEMBER 2010

AT 2.00 P.M.

PRESENT: Councillors E. C. Tibby (Chairman), G. N. Denaro (Vice-Chairman), Mrs. J. M. Boswell, Miss D. H. Campbell JP, E. J. Murray, D. L. Pardoe (substituting for Mrs. J. D. Luck), S. R. Peters, C. J. Tidmarsh and C. J. K. Wilson

Observers: Councillors P. M. McDonald, C. R. Scurrrell and L. J. Turner

Officers: Ms. R. Bamford, Ms. T. Lovejoy, Mr. D. M. Birch, Mr. R. Goundry, Mr. J. Turner, Ms. J. Carstairs, Mr. A. Bucklitch, Mrs. M. Lowe, Mr. S. Hawley (Worcestershire Highways) and Mr. A. C. Stephens

62/10 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors R. J. Deeming, Mrs. J. Dyer M.B.E., B. Lewis F.CMI, Mrs. J. D. Luck and P. J. Whittaker.

63/10 DECLARATIONS OF INTEREST

Councillor E. J. Murray declared a prejudicial interest in application 10/0720-SC stating that his daughter owned an area of land adjacent to the application site. During consideration of the application, Councillor Murray left the room.

64/10 MINUTES

The minutes of the meeting of the Planning Committee held on 9th August 2010 were submitted.

RESOLVED that the minutes be approved as a correct record.

65/10 10/0378-JT - RESIDENTIAL DEVELOPMENT FOR 38 DWELLINGS - LAND AT BROOK CRESCENT, HAGLEY, DY9 0QE - BILLINGHAM AND KITE LTD.

The Head of Planning and Regeneration Services reported the receipt of a further ten letters of objection.

At the invitation of the Chairman, Mr. P. Thatcher addressed the Committee and spoke against the proposals. Councillor C. R. Scurrrell also addressed the Committee in his capacity as one of the Ward Members for the area in which

the application site was located, and Councillor S. R. Colella spoke in his capacity as Chairman of Hagley Parish Council.

RESOLVED that permission be refused for the reasons set out on pages 43 and 44 of the report.

66/10 **10/0496-MT - USE OF BUILDING FOR CAR VALETING - REAR OF 186-210 NEW ROAD, RUBERY, B45 9JA - MR. P. NDORO**

Further consideration was given to the application which had been deferred at the last meeting of the Committee in order to obtain further information about the building the subject of the application, noise levels and drainage issues.

RESOLVED that permission be granted subject to the conditions and notes set out or referred to on pages 47 and 48 of the report.

67/10 **10/0547-SC - PROPOSED DETACHED BUILDING FOR GARAGING, CAR-PORT AND WOODSTORE - FOXHILL HOUSE BARN, FOXHILL LANE, ALVECHURCH, B48 7BY - MR. C. WOODWISS**

The Head of Planning and Regeneration Services reported the receipt of additional comments from the applicant, and informed the Committee of her response to the comments.

At the invitation of the Chairman, Mr. C. Woodwiss addressed the Committee and spoke in support of his application.

RESOLVED that permission be refused for the reasons set out on pages 56 and 57 of the report.

68/10 **10/0549-JT - RETROSPECTIVE PLANNING APPLICATION FOR THE CHANGE OF USE OF APPROXIMATELY 2,400 SQ M TO USE CLASS B1(C) - THISTLE GROVE POULTRY FARM, QUANTRY LANE, BELL HEATH, BELBROUGHTON, DY9 9UU - MR. AND MRS. PORTMAN**

The Head of Planning and Regeneration Services reported the comments of Worcestershire Highways in respect of the Transport Assessment and Travel Plan which had been submitted with the application. She added that, as a result of these comments, the recommendation would be amended to include the provision for a monetary contribution under Section 106 of the Town and Country Planning Act 1990, as amended, towards public transport improvement works within the vicinity of the application site. The views of the applicant on the comments of Worcestershire Highways were also reported.

RESOLVED:

- (a) that authority be delegated to the Head of Planning and Regeneration Services to approve the application upon the satisfactory completion of an agreement under Section 106 of the Town and Country Planning Act 1990, as amended, in respect of a financial contribution of £10,000 towards the provision of two bus stops on Quantry Lane, and subject to

the conditions and notes set out or referred to on pages 67 to 69 of the report; or

- (b) that, in the event of an agreement under Section 106 of the Town and Country Planning Act 1990, as amended, not being completed to the satisfaction of the Council by 14th September 2010, authority to refuse the application, for reasons relating to transportation and highway issues, be delegated to the Head of Planning and Regeneration Services.

69/10 **10/0578-DK - TWO NEW 30 BEDROOM NURSING HOME UNITS, ONE NEW 15 BEDROOM NURSING HOME UNIT - MOUNDSLEY HALL NURSING HOME, WALKERS HEATH ROAD, KINGS NORTON, B38 0BL - MOUNDSLEY HALL NURSING HOME LTD.**

The Head of Planning and Regeneration Services clarified the description of the application to read as "Two new 30 bedroom nursing home units, one new 15 bedroom nursing home unit," and reported the comments of the Tree Officer.

RESOLVED that permission be granted subject to the conditions and notes set out or referred to on pages 76 to 79 of the report.

70/10 **10/0619-JT - FULL PLANNING APPLICATION FOR THE ERECTION OF CLASS B1, B2 AND B8 BUSINESS UNITS WITH SERVICE YARDS, ACCESS ROADS, PARKING AREAS, LANDSCAPING AND BOUNDARY TREATMENTS AT PLOTS 3, 4, 6-10 - BROMSGROVE TECHNOLOGY PARK PLOTS 1-14, ISIDORE ROAD, ASTON FIELDS, BROMSGROVE, B60 3ET - MR. M. STAPLETON**

The Head of Planning and Regeneration Services reported the comments of the Environment Agency and outlined that, on the basis of these comments, a further condition would be necessary in the event of the application being approved.

At the invitation of the Chairman, Mr. G. Winter addressed the Committee and spoke in support of the application.

RESOLVED that permission be granted subject to the conditions and notes set out or referred to on pages 91 to 94 of the report, together with the following additional condition:-

13. If, during development, contamination not previously identified is found to be present at the site, then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority, a Method Statement for remediation. The Method Statement must detail how this unsuspected contamination shall be dealt with. A verification (validation) report demonstrating completion of the works set out in the Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of any sampling and monitoring. It shall

also include any plan (a "long-term monitoring and maintenance plan") for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action and for the reporting of this to the Local Planning Authority.

Reason: To ensure that any unexpected contamination is dealt with and the development complies with approved details in the interests of protection of ground and surface waters ('controlled waters' as defined under the Water Resources Act 1991).

71/10 **10/0644-DK - REVISED PROPOSALS FOR THE ERECTION OF THREE NEW BUNGALOWS AND ALTERATIONS TO EXISTING HOUSE TO PROVIDE ACCESS (RESUBMISSION OF 10/0195-CE) - 46 ALCESTER ROAD, HOLLYWOOD, WYTHALL, B47 5NB - MR. N. WICKLEN**

The Head of Planning and Regeneration reported the receipt of two additional objections to the application. She also stated that, in respect of paragraph 2 ('Principle') and paragraph 3 ('Design Density Layout and Amenity') on page 98 of the report, (i) minimum densities for housing have been abolished; and (ii) 'garden land' has been removed from the definition of 'previously developed land' as set out in Annex B of PPS3.

At the invitation of the Chairman, Mrs. D. Morton addressed the Committee and spoke against the application. Councillor L. J. Turner also addressed the Committee in his capacity as one of the Ward Members for the area in which the application site was located, and Mr. R. Hall spoke in his capacity as Chairman of Wythall Parish Council's Planning Committee.

On the matter being put to the vote, Members considered that the proposals:-

- amounted to overdevelopment of the application site, resulting in a cramped form of development of inappropriate design;
- were unsuitable in terms of scale and character and did not assimilate with the local context;
- led to a loss of residential amenity due to non-compliance with SPG1; and
- had unacceptable highway implications in respect of access and egress.

RESOLVED that permission be refused, and that the precise wording of the reasons for refusal be delegated to the Head of Planning and Regeneration.

72/10 **10/0720-SC - CONSTRUCTION OF AN ALL-WEATHER EQUESTRIAN AREA (MENAGE) - FIELD 1530, HOCKLEY BROOK LANE, BELBROUGHTON, DY9 0AG - MR. D. RANDLE**

At the invitation of the Chairman, Mrs. L. Randle addressed the Committee and spoke in favour of the application.

RESOLVED that permission be granted subject to the conditions and notes set out or referred to on page 111 of the report.

73/10 **10/0782-RL - CHANGE OF USE FROM A RESIDENTIAL DWELLING TO A RESIDENTIAL ASSESSMENT CENTRE, TO PROVIDING OVERNIGHT ACCOMMODATION (RESUBMISSION OF 10/0455-RL) - 8 GIBB LANE, CATSHILL, BROMSGROVE, B61 0JP - MR. M. ASTBURY**

The Head of Planning and Regeneration Services reported that consideration of the application would be deferred in light of the receipt of amended plans and, as a result, an additional consultation exercise would have to be undertaken as a result.

74/10 **TREE PRESERVATION ORDER (NO. 1) 2010 - TREE ON LAND AT 53 WELLINGTON ROAD, BROMSGROVE**

Members gave consideration to a report relating to Bromsgrove District Council Tree Preservation Order (No. 1) 2010 which had been made in respect of a beech tree on land at 53 Wellington Road, Bromsgrove.

RESOLVED that Bromsgrove District Council Tree Preservation Order (No. 1) 2010 be confirmed without modification.

75/10 **TREE PRESERVATION ORDER (NO. 12) 2002 - APPLICATION 10/042 - 8 CEDAR DRIVE, BROMSGROVE, B60 2JP**

Consideration was given to a report which outlined an application to fell a cedar tree on land between 8 Cedar Drive and 33 Kenyon Close, Bromsgrove, which was subject to the District Council of Bromsgrove Tree Preservation Order (No. 12) 2002. Members were informed that the application to fell the tree was on the grounds that some of the roots had decayed which made the tree unstable.

RESOLVED that permission to fell the tree be granted subject to the planting of a replacement cedar tree.

76/10 **APPEAL DECISIONS**

Consideration was given to a report which outlined the decisions in three recent planning appeals.

RESOLVED that the report be noted.

77/10 **LOCAL GOVERNMENT ACT 1972**

RESOLVED that under Section 100 I of the Local Government Act 1972, as amended, the public be excluded from the meeting during the consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A to the Act, as amended, the relevant paragraphs of that part, in each case, being as set out below, and that it is in the public interest to do so:-

<u>Minute No.</u>	<u>Paragraphs</u>
78/10	2 and 6

<u>Minute No.</u>	<u>Paragraphs</u>
79/10	2 and 6

78/10 **ENFORCEMENT OF PLANNING CONTROL: 10/0289 - THE MOBILE HOME, ALCOTT FARM, ICKNIELD STREET, BEOLEY, B48 7EH**

Consideration was given to a report which related to a breach of planning control on land at Allcott Farm, Icknield Street, Beoley; namely, the unauthorised erection of a shed, garage and fence surrounding a mobile home on the land. However, Members were informed that enforcement action should be commensurate with the breach of planning control in question and, as only one complaint had been received in respect of this matter, it would be considered inappropriate to take action against a trivial or technical breach causing no harm to amenity or location of the site.

RESOLVED that no action be taken in respect of the breach of planning control on land at Alcott Farm, Icknield Street, Beoley.

79/10 **ENFORCEMENT OF PLANNING CONTROL: PI/2010/00233 - 87 HIGH STREET, BROMSGROVE, B61 8AQ**

Consideration was given to a report which detailed a breach of planning control at 87 High Street, Bromsgrove; namely, the unauthorised installation of two uPVC windows at the premises which is a Grade II Listed Building and also within the Bromsgrove Town Conservation Area.

RESOLVED that the Head of Planning and Regeneration Services, in consultation with the Head of Legal, Equalities and Democratic Services, be authorised to proceed with the most appropriate course of enforcement action to remedy the breach of planning control at 87 High Street, Bromsgrove.

The meeting closed at 4.05 p.m.

Chairman

Agenda Item 5

Name of Applicant Type of Certificate	Proposal	Map/Plan Policy	Plan Ref. Expiry Date
Mr. K. Chahal 'A'	Construction of a wildlife pond and alteration of levels - Wadderton Conference Centre, 37 Greenhill, Burcot, Bromsgrove, B60 1BL	GB	10/0488-DK 04.11.2010

RECOMMENDATION: that permission be **REFUSED**.

Consultations

WH Consulted 17.08.2010. Recommends that the permission be **deferred** for the following reasons:-

The applicant should submit details indicated the volume of cut and fill and indicate the size of vehicles proposed to be used, their capacity and the number of vehicle movements to complete the construction project.

There appears to be a significant volume of earthworks required to implement this application and in order to assess if the highway is capable of managing these movements during construction additional information is required.

Lickey and
Blackwell
Parish Council
Drainage
Engineer

Consulted 17.08.2010
No response to date.

Consulted 17.08.2010 Response received 24.08.2010.
The following points need clarification:

1. Whether the method of construction is purely 'cut and fill' or is material being brought in. The nature of the backfill needs to be qualified.
2. Confirm source of water for the pond.
3. Details of overflow structure/weir
4. Outfall to soakaway is adjacent to neighbouring land. A linear soakaway needs to be constructed.

WWT
EHO

Consulted 17.08.2010. No response to date.

Response received: 07.09.2010. The Environment Agency should be consulted given the nature of the application due to the proposals to carry out filling operations and raise ground levels - such an activity may require regulation under waster management legislation.

WCC (Minerals
and Waste)

Consulted 17.08.2010. No response to date.

EDO

Consulted 17.08.2010. No response to date.

EA

Consulted 17.09.2010. No response to date.

Tree Officer

Consulted 17.08.2010. No response to date.

Publicity

2 letters sent 17.08.2010. Expired 07.09.2010.
Press Notice posted 26.08.2010. Expired 16.09.2010.
Site Notice posted 08.09.2010. Expired 29.09.2010.

8 comments received summarised as follows:

- There is no apparent purpose for the proposed pond
- The Wadderton Centre is empty and has become increasingly derelict, the motives for the application are suspicious
- The lorries needed to transport fill material would result in traffic chaos on Green Hill and surrounding lanes
- The character and wildlife of Greenhill must be retained
- The proposal should be rejected and more acceptable uses obtained for the house and grounds.
- The derelict building has been a site for cannabis growing, roof lead and flashings have been removed. The applicant has deliberately let the property go to ruin.
- Land registry details show that the applicant is not the true owner of the site as a means of deceiving planners as to the nature of future proposals
- It is unclear why the owners want a driveway widened and a pond on an empty site
- There is insufficient information regarding the wildlife pond. There are no habitat surveys supporting it and there could be an impact in terms of flooding

The site and its surroundings

The application site comprises lands extending to 2.3ha surrounding the Wadderton Centre, Green Hill, Burcot. The site was previously a Conference Centre occupied by a branch of the Children's Society. There is a narrow entrance with a stone wall each side of it. There are large lime trees at the entrance and leading further along the avenue from it. The inner gate is currently closed and a side gate to the east enables access to a neighbouring field. The existing driveway comprises tarmac with a width of approximately 4m. The existing building is a large, detached, late 19th Century building which has been substantially extended to the rear. The lands which are the subject of this application are bordered to the east by the existing building and avenue and to the immediate west by 'The Uplands'. The area is a large field extending to the back of this property with significant gradients and the large depression in the centre. There are a number of attractive specimen trees on the land.

Proposal

The proposal is for the construction of a wildlife pond to the NW of the existing building and alteration of levels. There is substantial filling proposed in the SW corner of the application site with the level of the land being raised 11m. There is also substantial filling proposed in the NE corner of the site.

Relevant planning history

- B/2009/0762 Alterations to existing access drive to improve visibility (as amended by plans received 8th December 2009). Granted 10.12.2009.
- BU/385/1954 Proposed additions and conversion to conference house. Granted.

Relevant policies

WCSP CTC.1, CTC.14, SD.2, D.38, D.39
BDLP DS2, C17, RAT2, RAT22, ES1, ES14, ES16
Others PPG2, PPG13, PPS11, PPS9

Notes

The site is located in the Green Belt, I consider the main issues in the determination of this application are:

- (i) whether the proposal represents appropriate development in the Green Belt; and if not,
- (ii) whether very special circumstances exist that clearly outweigh the harm caused to the Green Belt, the purposes of Green Belt policy and any other harm.
- (iii) Impact of the proposal on trees.
- (iv) highway safety.
- (v) Implications for residential amenity.

The main policies against which the proposal should be assessed are therefore policies CTC.1, and D.39 of the WCSP; and policies DS2, RAT2 and ES16 of the BDLP.

(i) Green Belt

As the proposal is development in the Green Belt, it must be considered whether the proposal is appropriate or inappropriate. The development does not directly fall into any of the exceptions of policy DS2. There is a lack of detail with the application as to the purpose of the pond and filling operations and future use of the site. This point has been raised in the representations received. Members should note that the assessment of the application must be made on the basis of the description of the development, submitted plans and information.

The proposal involves the building of a pond 65m long and 25m wide to the north west of the existing Wadderton Centre. The application drawings show a transect running across the site from the north running through the position of the pond and terminating on the northern boundary of the curtilage of 'Uplands'. There is 2m increase in the levels of the land proposed to the north of the pond which increases to a 12m increase immediately to the south of the pond. This increased level then continues along the transect across the existing basin of the site before gradually sloping downwards to meet the existing level of the land on the southern boundary of the application site.

It is understood that the pond and surrounding land would be used for recreational purposes in association with the Wadderton Centre. In terms of the requirements of policy RAT2 which requires protection of ecological, environmental or archaeological interests, the proposal conflicts. It would have a significant impact on the character of the site, notwithstanding its relatively enclosed position with respect to Green Hill. This loss of character arises from the impact on the trees on the site and the inevitable loss of natural contours. In the absence of a detailed Phase 1 Habitat Survey, the potential ecological harm remains unknown. The benefits of the pond could be outweighed by the ecological, environmental and sustainability disbenefits of the earthworks. Overall, the potential

benefits in respect of recreation are outweighed. Members should note that policy RAT11 (d) supports the provision of informal recreation facilities at a number of locations in the District but this does not include the application site.

The development involves significant reforming of land and policy ES16 is relevant. Members must consider that relative benefits and disbenefits of the proposal taking the following criteria into account:

- (i) the number of vehicle movements;
- (ii) the quantity and type of the proposed infill material;
- (iii) the effect on the landscape;
- (iv) the impact on the amenities of local residents;
- (v) regard for general safety.

Taking any reasonable approach, the proposal would involve substantial numbers of vehicle movements and additional information in this respect has been requested from the applicant. As discussed above there would be a substantial impact on the local landscape. The benefits of the scheme remain unclear and the site is currently derelict and thereby no existing facility of community benefit would be served. The potential of future uses of the land for recreational purposes in association with the Wadderton Centre can only be accorded limited weight with no apparent benefits arising. It is considered that the considerable increase of the levels of the land would amount to a reduction in openness and visual amenity at the site and amounts to inappropriate development.

(ii) Very Special Circumstances

In considering proposals for inappropriate development in the Green Belt, paragraph 3.2 of PPG2 is relevant.

"Inappropriate development is, by definition, harmful to the Green Belt. It is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In view of the presumption against inappropriate development, the Secretary of State will attach substantial weight to the harm to the Green Belt when considering any planning application or appeal concerning such development."

Members will also now be aware that establishing very special circumstances involves a balancing exercise. On the one side is the extent of the harm to the Green Belt by virtue of inappropriateness and any other factors. On the other side are the positive advantages of the proposal. Very special circumstances exist where the advantages outweigh the harm. In terms of policies RAT2 and DS16, the benefits of the proposal are unclear and without substantial positive benefits, the harm caused to the openness and visual amenity of the Green Belt are not outweighed. The applicant has been invited to present a case for very special circumstances and Members will be updated on this matter.

(iii) Trees

There are a number of attractive trees on the site, both single specimens and clusters especially to the boundaries of the application site and in the centre of it. The application is not accompanied by a Tree Survey and the views of the Tree Officer are awaited.

(iv) Highways

The initial views of Worcestershire Highways have been received on the application and there is concern raised about the significant volume of earthworks required to implement the proposal. Additional information has been requested from the applicant in respect of the volume of material to be imported and the number of lorry movements required. Members will be updated of any additional information and responses on this matter.

(v) Residential Amenity

Members should note the representations received on the application and these exclusively relate to the potential impact of the proposal on the residential amenity of Greenhill. The enclosed layout of the site means that the closest properties (Hillfields Farm, Uplands and No. 39 Greenhill) are either separated from it or are buffered by existing landscaping. The additional movements of vehicles for the imported material would have the greater impact on residential amenity. The application does not contain sufficient information to address any of the concerns of residents and this is a significant planning issue. However, there must be less weight accorded to potential future uses and consideration only of what has been presented with the application.

Other issues

The applicant has confirmed that the imported material would be inert subsoil. There have been additional requests for information from the Drainage Engineer and the Environment Agency have been notified of the application. The application amounts to operational development larger than one hectare and a Flood Risk Assessment is required and has been requested from the applicant.

Conclusion

Whilst the development of a wildlife pond for recreational purposes would generally be acceptable in principle, this development also involves a large amount of earthworks amounting to a substantial engineering operation in the Green Belt which is inappropriate development. Furthermore, there are substantial transport and amenity implications arising. There is insufficient information to show that the benefits of the proposal outweigh the harm.

RECOMMENDATION that planning permission be **REFUSED** for the following reasons:

1. The proposal amounts to inappropriate development in the Green Belt and would cause significant harm to the openness and visual amenities of the Green Belt in this location. No very special circumstances have been put forward or exist that clearly outweigh the harm caused and therefore the proposal is contrary to policies SD.2, D.28, D.38, and D.39 of the Worcestershire County Structure Plan and

policies DS2 and DS13 of the Bromsgrove District Local Plan and the provisions of PPG2 (Green Belts).

2. The proposal would not respect the character and amenity of the site or the amenity of local residents contrary to policies DS13 and ES16 of the Bromsgrove District Local Plan 2004.

Agenda Item 6

Name of Applicant Type of Certificate	Proposal	Map/Plan Policy	Plan Ref. Expiry Date
Whiting Landscape Ltd 'B'	Extend existing tree nursery to adjacent land - Whiting Landscape, Wildmoor Lane, Catshill, Bromsgrove	Green Belt	10/0629-MT 05.10.2010

Councillor Lewis has requested that this application be considered by the Committee, rather than being determined under delegated powers.

RECOMMENDATION: that planning permission is **REFUSED**.

Consultations

WH	Consulted 18.08.2010: No comments received to date.
Bournheath PC	No objections 13.09.2010.
WWT	Comments received 02.09.2010: Request that a Phase I Habitat Survey is submitted.
ENG	Comments received 10.09.2010: No objection.
Tree Officer	Consulted 18.08.2010: No comments received to date.
Highways Agency	Comments received 06.09.2010: <i>'The Highways Agency is concerned that the proximity of the nursery could cause drainage issues on the M5. Therefore, the Highways Agency requests that the applicant provides suitable means of draining surface water from the site. This should be agreed with the Highways Agency and implemented in full prior to any development.'</i>
	It is recommended that a condition is placed on any planning permission granted to secure this.
PROW	Consulted 18.08.2010: No comments received to date
Ramblers	Consulted 18.08.2010: No comments received to date
Publicity	No adjoining occupiers. Site Notice Posted 02.09.2010, expired 23.09.2010. Press Notice published 26.08.2010, expires 16.09.2010. No representations made.

The site and its surroundings

The application site relates to a field adjoining the north eastern boundary of Whiting Landscapes; an established landscape construction business. It is understood that the site was last used for fruit and vegetable growing and ancillary storage. There are remnants of this previous use on the site including a number of small sheds and greenhouses. The site is otherwise undeveloped comprising of litter and dead vegetation. The site is surrounded by trees to its northern, eastern and western boundaries. There is a Public Right of Way running along the southern boundary of the site and the M5 motorway lies to the east. The adjoining business premises comprises of a number of buildings, ancillary parking and servicing areas and vast areas of hardstanding used for the storage of trees and plants. The site is located in the Green Belt as defined in the BDLP.

Proposal

The application proposes to extend the existing tree nursery at the premises into the adjoining land. There are various facets to the proposal and I find it necessary to define these before an assessment of the case can be made. Firstly it is important to consider if the proposed use of the site by Whiting Landscapes would involve a material change of use. Secondly it is important to consider the extent of any operational development associated with the proposed use. I will consider each of these matters under separate headings below.

The Use

As noted above, the site was last used for the cultivation of fruit and vegetables. Such horticultural uses would fall within the definition of Agriculture set out at Section 336 of the Town and Country Planning Act 1990. The present use of the land is therefore considered to be agriculture.

The submitted application form indicates that the land would be used as a tree nursery. The Section 336 definition of agriculture includes 'nursery grounds' but there is no further interpretation of this term in the legislation. Nonetheless, having regard to common definitions of the term 'nursery' from the Oxford and Collins dictionaries, this is taken to be a place where young plants and trees are grown for sale or for planting elsewhere. The growing of trees in a tree nursery would therefore constitute an agricultural use and thus, on face value, no material change of use would occur through the proposal.

However, it is considered that the term 'tree nursery' in the description of the proposal on the application is actually a misnomer. The proposal would involve the importation of trees to the site aged between 3 and 6 years old. The trees will then be stored at the site until they are required for use in the applicant's landscaping business. Trees are normally stored for between 1 and 5 years. During this period irrigation, feeding and pruning operations are carried out.

I am not of the view that the above operations would qualify the proposal as a tree nursery. To substantiate this view I would refer Members to two conjoined appeals against an alleged breach of planning control and the refusal of an associated application for planning permission (Planning Inspectorate refs. APP/U1105/C/06/2023407 and APP/U1105/A/06/2024911 - Appeal Decision attached at Appendix A). Here a garden centre business in Surrey had used adjoining agricultural land for the storage of imported trees until their sale. Public access to the area was restricted and stored trees were sold via the garden centre. Trees were stored on average for between 12 and 18 months, but in some cases for up to 4 years. During this time the trees were tended to as required. This usually involved pruning, top dressing, watering and feeding, and possibly re-potting.

Here the Inspector observed that the trees were kept on the site for two reasons. *'First, to ensure that they are healthy and can be guaranteed, and secondly, until they are sold. Any cultivation which takes place in the interim serves the purpose of keeping the trees healthy and saleable. I consider this to be distinct from bringing up saplings, or cultivating plants from seeds or plugs to a developed state where the primary need for the cultivation is to obtain the finished plants for sale.....For the above reasons I find that the*

use of the appeal site is not agriculture. Therefore, a material change of use has taken place.'

The appeal development described above bears very close similarities with the application proposal. The cultivation operations (irrigation, feeding and pruning) that will take place at the application site are considered to be incidental to the main tree storage use. These operations would merely be for the maintenance of stock until it is required for landscaping operations. Tree cultivation would not form the primary use of the site and I am not therefore of the view that the proposal would amount to agriculture.

The use of the site would be for the storage of stock in connection with Whiting landscapes. The proposal would therefore involve a material change of use from agriculture to ancillary storage in connection with a B1 business use.

Physical Development

The proposal would involve various operational developments and engineering works. Firstly the whole site would be surfaced with permeable gravel to a depth of 40mm. Secondly a chain link security fence would be erected around the perimeter of the site. No details have been provided on the height of this enclosure but it is noted that the existing perimeter fence to the site is at around 2 metres above ground level. Thirdly a wire frame would be erected for each row of trees. This would be suspended on timber posts located at each end of each row. The proposed Site Plan indicates that there will be 24 rows of trees on the site. Each row would, on average, be 45 metres long. The application does not indicate how high each timber post would be, but it is noted that the posts at the existing nursery would be around 3 metres high above ground level. Finally, the proposal would involve the creation of an 8 metre wide 2 metre high soil bund along the eastern boundary of the site.

Relevant Policies

WCSP CTC.1, CTC.8, D.28, D.38, D.39, RST.3
BDLP DS2, DS13, ES2, RAT12
Others PPS1, PPG2, PPS4

Relevant Planning History

B/2005/0613 Removal of top surface to form a bund, area stoned and posts inserted for use as tree supports. Area will be used for storage of potted trees. Overground irrigation system installed but not fixed - Agricultural Notification - Planning permission required.
B/2005/0815 Creation of tree nursery, creation of bund - Granted 31.10.2005

Notes

I consider that the main issues to address in the determination of this application are those relating to Green Belt policy. It is necessary to establish if the proposal would represent an appropriate form of development and, if not, are there are very special circumstances to justify its approval. Further to this, the proposal would represent a

business use thus the policies within Planning Policy Statement 4 (PPS4) would apply. I will deal with each of these matters under a separate heading below.

The Green Belt

As noted above, the proposal would involve a material change of use and various operational developments and engineering works. The advice contained at paragraph 3.12 of PPG2 states that engineering and other operations, and the making of any material change in the use of land are inappropriate development unless they maintain openness and do not conflict with the purposes of including land in the Green Belt.

It is considered that the semi mature trees, the associated timer posts and wire frames, the security fence enclosing the site and the soil bund adjacent to the site boundary would all conflict with the openness of the Green Belt. The proposal would involve the encroachment of a business premises into the countryside contrary to the purposes of including land within the Green Belt. Taking these points into consideration I consider the proposed change of use to represent an inappropriate form of development in the Green Belt.

As noted above the proposal would cause harm to the openness of the Green Belt and the purposes of including land within it. It is also considered that the proposed hardstanding would have an urbanising effect and the neat rows of pots and wire frames would formalise the appearance of the site. Such effects would in my view detract from the visual amenity of the Green Belt.

The proposal would represent an inappropriate form of development that would cause clear harm to the Green Belt. PPG2 and its associated BDLP Policy DS2 provide that there should be a general presumption against inappropriate development within the Green Belt. Such development should not be approved except in very special circumstances.

No very special circumstances have been put forward by the applicant. Nonetheless, I feel that Members should take the following matters into account when considering the harm resulting from proposal. Firstly, it is generally considered that the harm caused to the openness of the Green Belt by the proposed trees is acceptable. Trees represent an appropriate landscape feature in the Green Belt and I am not of the view that any detrimental harm would result. Although I am of the view that the regular pattern and supported nature of the trees would take on a very formalised appearance, this would be akin to a tree nursery which is generally accepted as an appropriate entity in the Green Belt. The tree aspect of the proposal would not therefore present me with any material concerns.

Secondly it is noted that the proposed bund would be planted with a native woodland mix and I am of the view that this would naturalise this feature and negate any resulting harm to the Green Belt.

Thirdly it is considered that the majority of the proposed perimeter fence would benefit from permitted development rights under Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). I feel

therefore that it would be difficult to substantiate an objection to this part of the proposal. This statement is, however, based on the assumption that the fence would not be above 2 metres high above ground level.

Notwithstanding the above I would maintain my concerns over the proposal's harm to the Green Belt as a result of the proposed hardstanding, and the harm resulting from the encroachment of a business premises into the open countryside.

I am mindful of the fact that planning permission was granted at the site in 2005 (B/2005/0815) for a new tree nursery. It is however considered that the development resulting from that permission has had a much lesser impact on the Green Belt than the application proposal. The 2005 application site was sandwiched between the service yard to the business premises and the M5 motorway. This created a more enclosed context in which the development represented infill rather than encroachment. The 2005 application was approved under circumstances that would not apply to this proposal

Members should also be aware of the potential future implications of approving this application. If planning permission is granted, the Council would have accepted a large extension to a business use, and the creation of a large area of hardstanding, in an undeveloped Green Belt location. In the event that Whiting Landscapes withdraw from the site in future it is considered that it would be difficult for the Council to resist the instatement of other uses involving expanses of hardstanding i.e. ancillary car parking, and other external storage uses i.e. the storage of shipping containers or plant and machinery. Such uses would be significantly more detrimental to the Green Belt than the application proposal. Given the site's strategic location close to the M5 and M42 motorways it is considered that it would be attractive to other business users and it is considered highly likely that such alternative scenarios could occur in future.

The applicant has advised that one of the conditions of their 10 year lease with the owner of the site is that the land to which the application relates will be reinstated to its current state at the end of the lease. Member's should not rely on this as a measure to prevent the proposal causing long term harm to the Green Belt as the Council cannot control future changes in ownership and renewals of the lease.

Taking the above matters into consideration and, on balance, it is considered that the proposal would represent an inappropriate form of development in the Green Belt that would cause clear harm to the openness and visual amenities of the Green Belt. The proposal would also conflict with the purposes of including land within the Green Belt. It is considered that very special circumstances exist to outweigh the proposal's harm to the openness of the Green Belt, but no such circumstances exist in respect of the visual harm resulting from the proposed hardstanding, and the harm associated with urban encroachment. On this basis the proposal is found to be in contravention of policies D.38 and D.39 of the WCSP, Policy DS2 of the BDLP and the advice contained within PPG2.

Economic Development

Policy EC11 requires that, in determining planning applications for economic development other than for main town centre uses, which are not in accordance with the development plan, local planning authorities should:

- a. weigh market and other economic information alongside environmental and social information;
- b. take full account of any longer term benefits, as well as the costs, of development, such as job creation or improved productivity including any wider benefits to national, regional or local economies; and
- c. consider whether those proposals help to meet the wider objectives of the development plan.

The proposed development would represent an economic development proposal by virtue of it being an extension to the business use that is Whiting Landscapes. The proposal would not be in accordance with the Development Plan by virtue of it conflicting with the Green Belt policies set out above. Policy EC11 requires that, in such situations, the harm resulting from the development is considered alongside any economic benefits that the proposal would bring.

In this case the proposed development would cause demonstrable harm to the Green Belt. In terms of economic benefits, the applicant has indicated in his letter to the Council dated 3rd August that the proposal will allow the business to expand and this will present employment opportunities. No detailed economic information has however been put forward to substantiate this statement and the submitted application form provides no details of any additional employment that would be attributed to the development. It is appreciated that creating employment opportunities may be a 'cat and mouse' situation whereby expansion comes first and employment comes next. Exact employment figures may therefore be difficult to quantify at this stage. I would however expect the provision of forecasts or business plans to demonstrate the economic benefits and employment opportunities that would result from the proposal.

Without such information only crude assumptions can be made over the proposal's economic benefits. It must therefore be concluded that there are no demonstrable economic benefits resulting from the proposal and, given the proposal's clear harm to the Green Belt, I am of the view that it would be contrary to Policy EC11.

Other matters

I note the comments of WWT and the request for the applicant to provide a Phase I Habitat Survey. The rationale for this requirement is based on the condition of the site as seen from aerial photographs. The site is shown to contain numerous trees which could provide a habitat for various protected species. However, having visited the site it is apparent that all vegetation has now been cleared and I am not of the view that there is a reasonable likelihood of protected species being present.

Conclusion

The proposal would represent an inappropriate form of development in the Green Belt that would cause clear harm to the openness and visual amenities of the Green Belt. The proposal would also conflict with the purposes of including land within the Green Belt. It is considered that very special circumstances exist to outweigh the proposal's harm to the openness of the Green Belt, but no such circumstances exist in respect of the visual harm resulting from the proposed hardstanding, and the harm associated with urban

encroachment. On this basis the proposal is found to be in contravention of policies D.38 and D.39 of the WCSP, Policy DS2 of the BDLP and the advice contained within PPG2.

The proposal would have no demonstrable economic benefits that would outweigh its harm to the Green Belt. The proposal would therefore be contrary to Policy EC11 within PPS4.

Taking the above matters into consideration the proposal is not found to be in accordance with the relevant policies of the adopted Development Plan and national planning policy guidance. I therefore recommend that planning permission is refused.

RECOMMENDATION: that permission be refused for the following reasons:-

The proposal would represent an inappropriate form of development in the Green Belt contrary to policies D.38 and D.39 of the Worcestershire County Structure Plan 2001, Policy DS2 of the Bromsgrove District Local Plan 2004 and the advice contained within PPG2: Green Belts. No very special circumstances exist or have been put forward to outweigh the proposal's harm to the Green Belt.

There is no demonstrable economic benefit resulting from the proposal that would outweigh its environmental harm to the Green Belt. The proposal would therefore be contrary to Policy EC11 within Planning Policy Statement 4.

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Appeal Decision

Inquiry opened on 13 March 2007

Site visit made on 14 March 2007

by **Keith Turner** LLB(Hons) DipArch(Dist) RIBA MRTPI MCI Arb

an Inspector appointed by
the Secretary of State for Communities and Local Government

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Date 25th April 2007

4 Appeals relating to Sidmouth Garden Centre, High Street, Sidford, Devon EX10 0NA

- The appeals are made by Mr I Barlow

Appeal 1: APP/U1105/C/06/2023407

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is against an enforcement notice issued by East Devon District Council.
- The Council's reference is EN06/027.
- The notice was issued on 14 July 2006.
- The breach of planning control as alleged in the notice is a material change of use of the land from agricultural use to use as a hardstanding for car parking, storage of materials and display of goods for sale in relation to the adjacent Garden Centre.
- The requirements of the notice are to cease using the land as a hardstanding for car parking; remove from the land any hard surface for use for car parking; remove any stored materials and goods for sale in relation to the adjacent Garden Centre.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal succeeds in part and permission for that part is granted, but otherwise the appeal fails, and the enforcement notice as varied is upheld as set out below in the Formal Decision.

Appeal 2: APP/U1105/C/06/2032566

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is against an enforcement notice issued by East Devon District Council.
- The Council's reference is EN06/038.
- The notice was issued on 17 November 2006.
- The breach of planning control as alleged in the notice is the carrying out of a material change of use of the land from agricultural use to use as a hardstanding for car parking, storage of materials and display of goods for sale in relation to the adjacent Garden Centre.
- The requirements of the notice are to cease using the land as a hardstanding for car parking; remove from the land any hard surface for use for car parking; remove any stored materials and goods for sale in relation to the adjacent Garden Centre.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and

planning permission is granted in the terms set out below in the Formal Decision.

Appeal 3: APP/U1105/A/06/2024911

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is against the decision of East Devon District Council.
- The application Ref 06/0722/COU, dated 10 March 2006, was refused by notice dated 9 June 2006.
- The development proposed is the extension of garden centre.

Summary of Decision: The appeal is dismissed.

Appeal 4: APP/U1105/A/06/2031652

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is against the decision of East Devon District Council.
- The application Ref 06/2161/FUL, dated 18 July 2006, was refused by notice dated 17 October 2006.
- The development proposed is the retention of car park and storage area (revised application).

Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.

Procedural Matters

1. The inquiry sat for 3 days on 13 to 15 March 2006.
2. At the Inquiry an application for costs was made by Mr I Barlow against East Devon District Council. This application is the subject of a separate Decision.
3. All evidence was taken on oath at the inquiry.
4. The Appellant withdrew Ground (d) of Appeal 1.
5. The Council reconsidered their position having determined the planning application which is the subject of Appeal 4 which did not include refusal on matters of highway safety. They indicated that they no longer wish to pursue Reason (c) for issuing Notice A and Reason for Refusal no.2 in relation to the application which is the subject of Appeal 3.

Background Information

6. The appeals relate to 2 distinct schemes for development. The first, which I shall call Scheme 1, has already been implemented and comprises extension of the garden centre into adjacent land to accommodate a general storage area, extension of the car park and an area in which there are trees in containers. The development was unauthorised. In an effort to regularise matters the Appellant submitted a planning application for it, but this was refused by the Council and this decision is the subject of Appeal 3. Following this the Council served Enforcement Notice A requiring the unauthorised use to cease and operational elements enabling it to be removed. This is the subject of Appeal 1.
7. The Appellant then submitted a second planning application which relates to part of the development carried out, namely the change of use of adjacent land to accommodate a general storage area and an extension of the car park. The area containing the trees was not part of this application. This I shall refer to as Scheme 2. The Council refused planning

permission and their decision is the subject of Appeal 4. They also subsequently served Enforcement Notice B relating to this reduced area requiring the unauthorised use to cease and operational elements enabling it to be removed. This is the subject of Appeal 2.

8. I shall deal first with the 2 appeals relating to Scheme 1. I shall then consider those pertaining to Scheme 2 so far as there are material differences.
9. An area of land at the northern edge of the site to which Appeals 1 and 3 refer, just beyond the extended car park, was used for the display of garden sheds and general storage. That element of the activity is not referred to in the Notice and it has now ceased and the land has been restored to grass. In these circumstances I consider that this use is not before me.

Appeal 1: Ground (c)

10. This ground of appeal is confined to the area of the appeal site currently occupied by the trees in containers. The Appellant contends that there has been no material change of use of this land because the growing on of trees in containers should be regarded as an agricultural use.
11. S336 of the Town and Country Planning Act 1990 defines the term agriculture. Amongst other things it includes horticulture, market gardens and nursery grounds. It also includes the use of woodlands where that use is ancillary to the farming of land for other agricultural purposes. Both parties agreed with me that the definition of the use was a matter of fact and degree.
12. The facts in this case are as follows. The Appellant imports trees of various species and sizes from abroad. Most are acquired already in containers, but some are delivered without, having only a protected root ball. The latter are planted into containers at the site. The trees are then kept on the land until they are sold. This period varies, on average between 12 and 18 months according to the Appellant, though he indicated that some may be there for up to 4 years. However, all are kept on site for at least 6 months to ensure that they have not been damaged or unduly distressed by being moved. This is because they are sold with a 2 year guarantee.
13. During the time they are on the site the trees are tended as required. This can involve pruning, top dressing, watering and feeding, and possibly re-potting. This takes up about 50% of the time for one specialist staff member, though others may assist as required. The watering is automatic, though it has to be checked since the trees are valuable.
14. The trees are quite large and heavy. Consequently, machines are required to move them around the site or to lift them for re-potting. To facilitate this, hard surfaces were laid because experience proved that the machines could not operate on the land in wet conditions without some form of surface. However, the Appellant contends that this operation should be regarded as permitted development under the terms of Class B of Part 5 to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995.
15. The trees are advertised on the internet through the garden centre's website. However, the Appellant conceded that the information was out of date and the main reason for this was that he had never sold a tree by this means and so had not devoted time to it. He stated that all the trees had been sold from the site, with very few being as a result of members of the public browsing.

16. There is restricted public access to the area containing the trees now, though it remains unclear whether this was the case at the time the Notice was issued. However, the area has large fork lift trucks and other vehicles operating within it and so I accept that there are good reasons of health and safety for restricting access. Members of the public can enter the area if accompanied by a member of staff and notices to this effect are displayed at its entrance from the car park.
17. The matter to be determined is whether the primary use of this area of the appeal site is for the storage and display for sale of trees as the Council allege, or whether it is the growing on or cultivation as the Appellant claims.
18. The pattern of activity described by the Appellant indicates that the trees which are brought to the site are generally semi-mature, though I accept that the ages may vary. Having regard to the case law cited¹, the fact that they are containerised does not, in my view, detract from consideration of cultivation taking place, especially since much horticulture uses this technique nowadays. However, they are kept on the site for two reasons. First, to ensure that they are healthy and can be guaranteed, and secondly, until they are sold. Any cultivation which takes place in the interim serves the purpose of keeping the trees healthy and saleable. I consider this to be distinct from bringing on saplings, or cultivating plants from seed or plugs to a developed state where the primary need for the cultivation is to obtain the finished plants for sale.
19. The area on which the trees are kept may be separate from the main sales area, but that does not indicate a different use. The trees are stored and maintained on the land until sold and, whilst the area has restricted access, it can and still is used for the display and sale of the trees to either members of the public, other garden centre operators, or landscaping contractors. Whilst customers may not casually browse and buy them, the primary purpose of their presence on the land is storage and display for sale. The care of the trees required in the interim is, in my judgement, incidental to that use.
20. For the above reasons I find that the use of this part of the appeal site is not agriculture. Therefore, a material change of use has taken place as alleged in the Notice. Accordingly the appeal under Ground (c) fails. It follows from this conclusion that the areas of hard standing which have been laid within this area to facilitate the use of machinery in association with the storage and display of the trees cannot benefit from permitted development rights conferred by Class B of Part 5 to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995.

Appeal 1: Ground (a) and the Deemed Application, and Appeal 3

Planning Policy

21. The appeal site lies outside the boundary of any settlement and so is situated in open countryside for the purposes of planning policy. Policy ST5 of the Devon Structure Plan 2001-2016 states that development in the open countryside should be strictly controlled. This stance is echoed in Policy ST16 relating to Local Centres and Rural Areas. The adopted East Devon Local Plan seeks, through Policy S4, to ensure that development in the countryside will only be permitted where there is a specific Local Plan policy that explicitly permits such development and where it would not harm the landscape, amenity and

¹ *Purser v The Local Board of Health for the District of Worthing QBD (1887)*

environmental qualities of the area. Policy SH9 relates specifically to rural shops, garden centres, nurseries and similar retail uses. It requires that such proposals do not harm the rural character of the landscape or the amenities of the locality.

22. The site is also located within the East Devon Area of Outstanding Natural Beauty [AONB]. Structure Plan Policy CO3 requires that the conservation and enhancement of the natural beauty of such areas is given priority over other considerations. This approach is reflected in Local Plan Policy EN1.

Main Issue

23. The main issue to be considered under Ground (a) of Appeal 1, the deemed application and in Appeal 3 is the effect of the development upon the character and appearance of the surroundings.

Reasons

24. The appeal site lies adjacent to a garden centre which has been long established. The enterprise was taken over by the Appellant some 5 years ago and has developed into a thriving business. This is evidenced by the proposals for development for which planning permission has been granted. It is generally accepted that the garden centre is now more attractive than formerly. The Council also stated clearly that they were not seeking to terminate that use or business. The appeal proposals comprise an extension of that enterprise into adjacent agricultural land.
25. Local Plan Policy SH9 deals with garden centres amongst other things. It permits the conversion of existing buildings or provision of a new building in the countryside for retail use, selling goods wholly or predominantly produced on site or on adjacent land subject to provisos. The appeal development does not involve the provision of or re-use of a building. In addition, the retail sales involved on the appeal site consist of the storage, display and sale of products imported from elsewhere. For these reasons I agree with the Council that this Policy is not relevant to the appeals.
26. The other countryside policies in the Local Plan seek to restrain development generally and this reflects High Level Policy Aim 1 of the Structure Plan. Added to the framework of restraint is the designation of the area as an AONB. Paragraph 21 of Planning Policy Statement 1 [PPS1] indicates that conservation of the natural beauty of the landscape and countryside should be given great weight in planning policies and development control decisions in such areas. Local policy reflects this by placing great emphasis on preserving the character and appearance of the landscape.
27. The characteristics of the landscape were identified in some detail by the Council's expert and these were not challenged. Its essential form derives from the underlying geology. The high ground comprises the remains of a level plateau incised now by river valleys. The rock underlying the ridges has created a poor soil now colonised by heath. Beneath this, on steep slopes, is Greensand which has generated shallow sandy soils now covered with woodland. The more gentle, lower slopes have deep clay soils which have been farmed.
28. The basic structure translates into a landscape which is somewhat unusual in having woodland near the ridges, with open rolling fields beneath. The field pattern tends to follow the topography and forms a patchwork of more or less even sizes and quite small scale. The

field boundaries generally comprise hedgerows, some on Devon banks, with isolated native trees interspersed. The appeal site lies within the lower slopes.

29. The Appellant acknowledges that the surrounding landscape is important and should be preserved. However, he contends that the development carried out is not harmful to it. An analysis carried out on his behalf indicates that the appeal site is visible within the landscape from only limited viewpoints. The topography screens it in large measure from the area identified by the Council as being the zone of visual influence of the appeal site. This difference in view arises because the Council have defined the zone as being the horizon seen from within the site whereas the Appellant has taken viewpoints into the site. Both are relevant, though in the context of this development I consider the latter to be more important.
30. The viewpoints from which the site is visible from its surroundings may be limited, but they are significant. The first is from a short stretch of the B3176 which is one of the main routes into Sidmouth. It provides views down into the site, the whole extent of which can be seen. Whilst I accept that the hedges flanking this road had been recently cut when I saw them, and that in time they would grow again to partially screen these views, this is very probably an annual cycle. It also does not take into account views from vehicles larger than cars, such as coaches and buses taking people to and from the resort town. There are also similar but more elevated viewpoints from further up the valley side and, whilst they may be on less used routes, they are nevertheless accessible.
31. The second significant viewpoint is from Beacon Hill to the north-west of the site with other views being available from Core Hill. This area is popular, publicly accessible and contains public footpaths. From this elevated vantage point the setting of Sidmouth is readily seen together with the setting of the appeal site. Although seen from some distance, the site's physical separation from the edge of the town can be seen together with features within the appeal site itself. The development which has taken place is also apparent.
32. A third vantage point identified by the Appellant some way to the south-east of the appeal site was not considered to be material by the Council's expert who considered it too far away to be of consequence. In the absence of any dispute I accept that opinion.
33. From these viewpoints the character and scale of the landscape can be readily seen. The appeal site, comprising an extension to the garden centre is a somewhat alien feature. This derives from the presence of extensive hard surfaces some of which are partially covered with cars, non-indigenous tree species, and other paraphernalia being present on it. All of these are within an otherwise green setting. In addition, the expanded garden centre incorporating the appeal site has grown into an element which is out of scale with the surrounding grain of the field pattern. Also, the development has encroached on to land which is upslope from the existing garden centre. This is seen by the AONB Manager to render it more visually conspicuous and I agree.
34. I accept the Appellant's contention that these features of the site are partially screened in the viewpoints referred to above. I have also taken into account the Council's concession that with further landscaping and planting within the site, these features could be further concealed. However, merely screening a development which would otherwise be unacceptable does not render it acceptable. I consider that the development has resulted in harm to the appearance and essential character of the landscape which is of acknowledged quality and importance.

35. This impact must be considered in context. The appeal site lies close to the boundary of the AONB. Development, largely housing but including a small food superstore, has occurred within the AONB south of the A3052 extending the edge of Sidmouth northwards. Whilst this has clearly urbanised that part of the landscape, a reduced gap remains between the appeal site and that urban fringe, though I accept that this does, to a limited degree, diminish the visual impact of the appeal development in the wider landscape.
36. The appeal site has been described by the AONB Manager as being within an area having an edge of town feel, but he also stated that it remains isolated from the main settlement. This is particularly evident in views from Beacon Hill and to a lesser extent, Core Hill. Whilst the harm to the AONB remains its impact is tempered to some degree by these factors.
37. The Appellant also suggests that the harm to the surroundings is minimal and that this is evidenced by the fact that not one letter of objection has been received to the development. Whilst he concedes that many of the representations in support of his appeals address other matters, some discussion of the visual impact of the development did arise in local press coverage of the applications. I accept that this indicates the visual impact is not so great that it has given rise to any local opposition, which is unusual. This also tends to temper the extent to which visual harm to the AONB can be regarded as an overriding objection. However, the scheme must be assessed objectively in the context of planning policy and other material considerations.
38. The Appellant submitted a petition containing 1500 signatures. The text at the head of the petition makes no reference to visual impact, or to the fact that the site lies within an AONB. This is also reflected in the comments added by those who signed the petition. I could find only one specific reference to the development's visual impact, and a very small number which might be construed as commenting upon the appearance of the garden centre itself. A few referred non-specifically to there being no harm and the remainder addressed other issues. Given these facts I do not find the petition to be persuasive on the matter of visual impact.
39. Support for the development is sought through Local Plan Policy E5 which relates to rural diversification. It permits proposals to diversify and expand upon the range of traditional agricultural related economic activities undertaken in rural areas subject to 7 criteria. The Council contend that the Policy relates only to farm diversification. Whilst the word "farm" does not appear in the Policy, paragraphs 6.23 to 6.29 of the Local Plan do explicitly deal with them and paragraph 6.26 expressly refers to farmers diversifying into other activities. Whilst I accept that the Policy must be taken on its face, its purpose is clarified by the preceding paragraphs. Furthermore, I do not consider a garden centre to be an agriculture related economic activity. It may buy plants from local producers who may undertake agriculture as defined in the Act, but it is essentially a retail operation in the same way as the local food superstore, the manager of which informed the inquiry that he sought to source products locally whenever possible. I have concluded above that the area used for storing and display trees for sale is not agriculture, and for the above reasons I conclude that Policy E5 is not relevant to the appeal development.
40. The Appellant has raised a number of other matters which he considers should outweigh any harm to the surroundings. The first is the substantial level of public support. The first element of this is the petition. Whilst I accept that the number of signatories is substantial,

it is important to examine why they signed it. The headline text refers to employment, economic and social benefits and the need for an expanded car park. From the comments added it appears that the enterprise is considered to be successful in providing a good standard of service and facilities including the restaurant to which a large number of references are made. It is also regarded as an asset to Sidmouth in catering for and attracting visitors to the town. These matters are not disputed by the Council.

41. The business clearly serves the residents of Sidmouth and its wider surroundings well and is well-supported since its turnover has very significantly increased in the past 5 years. According to the Appellant, it also sources as much of its goods and materials locally as possible. In addition, it employs some 40 staff and is, therefore, along with the Town's hotels, one of the more significant employers in the area. These factors support the Appellant's view that the business is a substantial economic asset to Sidmouth. This is not disputed by the Council and I have no reason to disagree.
42. The Appellant claims that the garden centre provides some social benefits for the area. It provides a facility which is visited by those staying in Sidmouth. It attracts people from a wide area who may not have come, and many of them may go into the town. These suggestions may well be correct, but there is no substantial evidence to support them. What was confirmed by third parties giving evidence is the financial and practical support which the business gives to a number of social events and societies in the town. Whilst I accept that these are beneficial, they cannot outweigh the harm to the environment which I have identified.
43. A further issue which is covered in the petition is the need for the extension to the car park which forms part of the appeals development. Evidence presented by the Appellant indicates that the two garden centres nearest to the appeal site have significantly more car parking space in relation to sales floor area than the appeal premises. Furthermore, the figure which has been achieved at the appeal site following the development would be in line with those garden centres in terms of provision and still below the maximum standard set out for retail premises in Policy TA8 of the Local Plan.
44. Surveys carried out indicate that during the winter season, when demand is at its lowest, in excess of 60 cars park at the premises during the lunchtime period. This falls to between 20 and 30 at other times during the week and is higher at weekends. The capacity of the original lawful car park area is 55 spaces. I accept the Appellant's view that this capacity can be exceeded in low season and inevitably demand will be higher at other times. This demonstrates a need for the car park extension.
45. Since few members of the public are likely to be attracted to the other elements of the unlawful development, namely the large trees or the storage area, I conclude that the business in its unexpanded form has a need for an extension to the lawful car park in order to accommodate its customers on site. The alternative would be for them to park on the adjacent highway. Since that has no footways and limited forward visibility this option would be dangerous. In addition, the likely congestion of vehicles arriving and not being able to park, having to leave and later to return would exacerbate traffic flows into and out of the site and, given the Highway Authority's concerns about the access to the land, this too would be unacceptable.
46. I also note that planning permission has already been granted to increase the covered retail area of the garden centre within its original site by about 25%. Whilst I note the Council's

comment that the Appellant need not implement this, the fact remains he would be entitled to do so using only the current lawful car parking area. This would probably exacerbate the current demand further.

47. The Appellant also contends that, if there is inadequate parking at his garden centre, which is the only one in the vicinity of Sidmouth, customers who cannot park will either have to return later or drive to another garden centre, the nearest being Otter Garden Centre some 12 miles away along narrow lanes. The first would generate additional car trips and the latter longer ones. This would seem to be an inevitable outcome and either option would be contrary to the aims set out in PPS1 which seeks to encourage sustainable development and reducing journeys by private cars.
48. Turning now to the external storage area, this is used for keeping bulky goods. If this could not be retained the business would have to rely on smaller but more frequent deliveries. In addition to the commercial disadvantage of buying reduced quantities on each occasion, it would entail additional trips by delivery vehicles to the site. The Appellant suggests that if stock could not be stored in the present storage area it would have to be brought into the more congested existing site and this would bring deliveries into the area used for car parking. I do not accept this since he stated at the inquiry that he requires deliveries to take place outside normal retail hours. This is intended to and must obviate any conflict with car parking.
49. The Appellant contends that if the appeal development is not permitted it would have a serious adverse impact upon his business. Garden centres sell bulky goods and this necessitates customers visiting them by car. If the car park extension has to be removed then it is anticipated that turnover would fall by some 25%. This would lead to a reduced need for staff with about 10 jobs being lost. There would also be a knock on effect to the local suppliers. The loss of the storage area would result in less economic loads being delivered resulting in increased overheads and reduced profit margins on the bulk items. This would render it more difficult to compete. Since this evidence was not disputed by the Council I have no reason to doubt its veracity.
50. The development, due to its cumulative size and general appearance, has detracted from the character and appearance of the AONB to a material degree. It is therefore contrary to national and local planning policy. However, it comprises several separate and distinct uses. The car park extension and general storage area are small relative to that occupied by the trees stored and displayed for sale. This is demonstrated by the fact that Scheme 2,, which excludes that area occupies only 0.28 hectare whereas Scheme 1 covers some 0.82 hectare.
51. The car park and storage area are required to service the enterprise excluding the large trees since sales of those contribute a relatively small percentage of the turnover according to the Appellant. My finding that this is not an agricultural use means that it would become part of the retail garden centre business. In consequence, the expansion of the enterprise into agricultural land would be substantial. However, that area would appear to be severable from the remainder of the development both physically and in terms of the business. The other area to the north of the car park extension has already been returned to grass and the former storage and display use has ceased. That area too is therefore severable.
52. If these two elements were removed, the remaining development would be very much smaller and this would materially reduce its visual impact upon the surroundings. The

- garden centre overall would no longer be so expansive as to be out of scale with the surrounding field pattern and the extension would be less prominent from the surroundings.
53. The visual harm is, in any event, mitigated by the proximity of the site to the edge of the AONB and particularly because that edge has been eroded by recent and quite extensive development bringing the urban edge closer to the appeal site. Whilst it may not render it acceptable in policy terms a suitable landscaping and screening scheme would further mitigate the visual impact, especially if the area covered were very much smaller.
54. In these circumstances I consider that a reduced development would have a reduced impact upon the landscape which, subject to a suitable landscape scheme, would be outweighed by other material considerations including the fact that the garden centre is a successful business which is well regarded locally. It contributes to the local economy and its social, employment and economic benefits are not disputed.
55. For the above reasons I find that Appeal 1 under Ground (a) succeeds in relation to the areas containing the car park extension and external storage area, and fails in relation to the areas used for the storage and display for sale of trees, general storage north of the car park extension and the display for sale of garden sheds. Accordingly planning permission will be granted to reflect this on the deemed application and Appeal 3 will be dismissed.
56. In reaching this conclusion I have had regard to the issue raised by the Appellant of the permission granted by the Council at Park Farm. It was suggested that the Council had been inconsistent in their approach to the appeal development in the light of their decision in that case. I have considered the appeals on their own merits. I have also concluded that there were material differences between the proposals at Park Farm and the appeal development. First the former involved rural diversification because an active farm enterprise was involved. Second, the scheme involved the refurbishment of two listed buildings, and an extension to one.
57. The Appellant has sought to argue that his case is a matter of balancing the demands of planning policy with other material considerations. I agree with this approach. However, his proposal, in total, was contrary to policy and I found the material considerations insufficient to outweigh that and the harm which gave rise to it. In the case of Park Farm, whilst I do not have all the facts before me, it appears that it accorded with planning policy in relation to rural diversification and listed buildings, whatever the effect of the material considerations. For these reasons I do not find the fact that planning permission was granted at Park Farm assists the Appellants case.

Appeal 1: Ground (f)

58. The Appellant contends that the requirement to remove the hard surfacing would be inconsistent with the lawful use of the land which is claimed in his appeal under Ground (c). However, I have found that the use of the land for the storage and display for sale of trees is not agriculture and so there are no permitted development rights to lay hard surfaces. The hard surfaces were specifically constructed to facilitate the uses in so far as they are unlawful and in the absence of planning permission they must cease.
59. The hard surfaces have materially altered the character of the land and this has had an adverse impact upon the surroundings which I have identified above. For this reason I have decided that planning permission should not be granted for the display for sale of trees. The

hard surfaces in that area would not, therefore serve any practical purpose and, if they remain their adverse impact would remain even if the use did not, In the absence of any alternative and lesser means being suggested to overcome the harm to amenity which these areas cause, I find that the requirements of the Notice are not excessive. Accordingly, the appeal under Ground (f) fails in relation to that area only.

Appeal 1: Ground (g)

60. The Appellant is concerned that the excavation of the hard standing areas and sub-base on the appeal site would generate a substantial volume of material which would have to be removed from the land. This would entail appointing specialist contractors. In the current buoyant construction climate this could well take longer than the 3 months allowed. Also, removal of the material would have to be coordinated to occur outside normal business hours to avoid conflict with customer car parking because lorries carrying the waste material would have to travel through the existing lawful car park. If this were not done the business would be unable to operate effectively. Also the works would entail considerable expenditure and this would also impact upon the business.
61. I agree that there would be substantial amounts of material to be disposed of and that this would entail the use of large wagons. Whilst I accept the Council's argument that the excavation could be done during normal business hours since the appeal land is separate from that on which the business is located, I agree that the lorries would have to go through the existing authorised car park. This would be problematic during normal opening hours. I agree, therefore, that the period of 3 months would be rather short and demanding if the activity of the business is not to be unduly affected. This is an important consideration since the Council have expressly stated that they have no wish to see it cease to operate or prosper. An extended period would also lighten the financial burden of compliance which I accept would also minimise the impact upon the business.
62. These factors must be balanced against the harm I have identified to the surroundings. Whilst the harm must be removed for the long term preservation of the surrounding landscape, it is clear from the lack of objections to the development, that this matter is not contentious locally. In the short-term, therefore, the harm can be tolerated. I note that the Appellant has demonstrated a willingness to seek solutions throughout this process. I have no reason, therefore, to doubt that he would utilise an extended period appropriately. Consequently, I consider that a longer period for compliance could be given.
63. A period of 12 months was suggested by the Appellant at the inquiry. However, because the hard surfaces over the car park and storage area would not now need to be removed, the amount of work required would be less than anticipated by the Appellant. In all the circumstances I consider that a period of nine months would be a reasonable. Accordingly, the appeal under Ground (g) succeeds to this limited extent and the Notice will be varied to reflect this.

Appeal 2

64. Bearing in mind the decision I have reached in relation to the use of the land for the storage and display of trees for sale in Appeal 1, I find that Notice B, which is the subject of Appeal 2, does not accurately describe the breach of planning control which has occurred. Since it covers a smaller area of land, it adds nothing to the scope or effect of Notice A.

Accordingly, I shall quash the Notice in order to avoid duplicity or uncertainty. For this reason the appeal succeeds.

Appeal 4

Planning Policy

65. The policy context for this appeal is identical with that set out in paragraphs 21 and 22 above.

Main Issue

66. The main issue to be considered is the effect of the development upon the character and appearance of the surroundings.

Reasons

67. Scheme 2, which is the subject of this appeal, comprises an extension of the garden centre into about 0.28 hectare of adjacent agricultural land and is identical to that for which I have granted planning permission in Appeal 1. The application was submitted on the premise that planning permission was not required for the change of use of that area because the Appellant postulated that it was an agricultural use and no material change of use had occurred. I have not found that to be the case. I shall, therefore, determine Appeal 4 based upon the assumption that following compliance with Notice A, that land would be restored to an agricultural field.

68. Scheme 2 also excludes an area of land to the north of the extended car park. That was formerly used for casual storage and the display of sheds. However, that land was restored to grass and has been landscaped. I shall deal with the Appeals having regard to these circumstances.

69. This development would be identical to that for which I have granted planning permission above. For the reasons already given Appeal 4 will be allowed.

Conditions

70. A condition is required to mitigate the visual impact of the development. The scheme should demonstrate how, using native species and traditional features, the structure, form and scale of the surrounding field patterns can be maintained and the integrity of the adjoining landscape as described by the Council's expert is to be preserved. Some screening of vehicles in the extended car park would also be beneficial.

Formal Decision

Appeal 1: APP/U1105/C/06/2023407

71. I direct that the enforcement notice be varied by deleting from paragraph 6 the words "*Three months*" and substituting therefor the words "*nine months*".

72. I direct that the enforcement notice be varied by the substitution of the plan attached to this decision for the plan attached to the enforcement notice.

73. I dismiss the appeal and uphold the enforcement notice as varied insofar as it relates to the land shown edged black and outside the black hatching and cross hatching on the plan annexed to this decision, and I refuse planning permission in respect of that land identified

on the substituted plan, on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

74. I allow the appeal in relation to the land hatched black and grant planning permission for change of use of the land to use as a hardstanding for car parking in relation to the adjacent Garden Centre; and I allow the appeal in relation to the land cross hatched black and grant planning permission for change of use of the land to use as storage of materials in relation to the adjacent Garden Centre at Sidmouth Garden Centre, High Street, Sidford, Devon EX10 0NA, subject to the following condition:

- 1) Within two months of the date of this decision full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and circulation areas; hard surfacing materials; minor artefacts and structures (eg. furniture, play equipment, refuse or other storage units, signs, lighting etc); proposed and existing functional services above and below ground (eg. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.); retained historic landscape features and proposals for restoration, where relevant.

Appeal 2: APP/U1105/C/06/2032566/

75. I allow the appeal, and direct that the enforcement notice be quashed.

Appeal 3: APP/U1105/A/06/2024911

76. I dismiss the appeal.

Appeal 4: APP/U1105/A/06/2031652

77. I allow the appeal, and grant planning permission for the retention of car park and storage Area (revised application) at Sidmouth Garden Centre, High Street, Sidford, Devon EX10 0NA in accordance with the terms of the application, Ref: 06/2161/FUL, dated 18 July 2006, and the plans submitted with it, subject to the following condition:

- 1) Within two months of the date of this decision full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and circulation areas; hard surfacing materials; minor artefacts and structures (eg. furniture, play equipment, refuse or other storage units, signs, lighting etc); proposed and existing functional services above and below ground (eg. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.); retained historic landscape features and proposals for restoration, where relevant.

Keith Turner



Plan

This is the plan referred to in my decision dated: April 25th 2007.

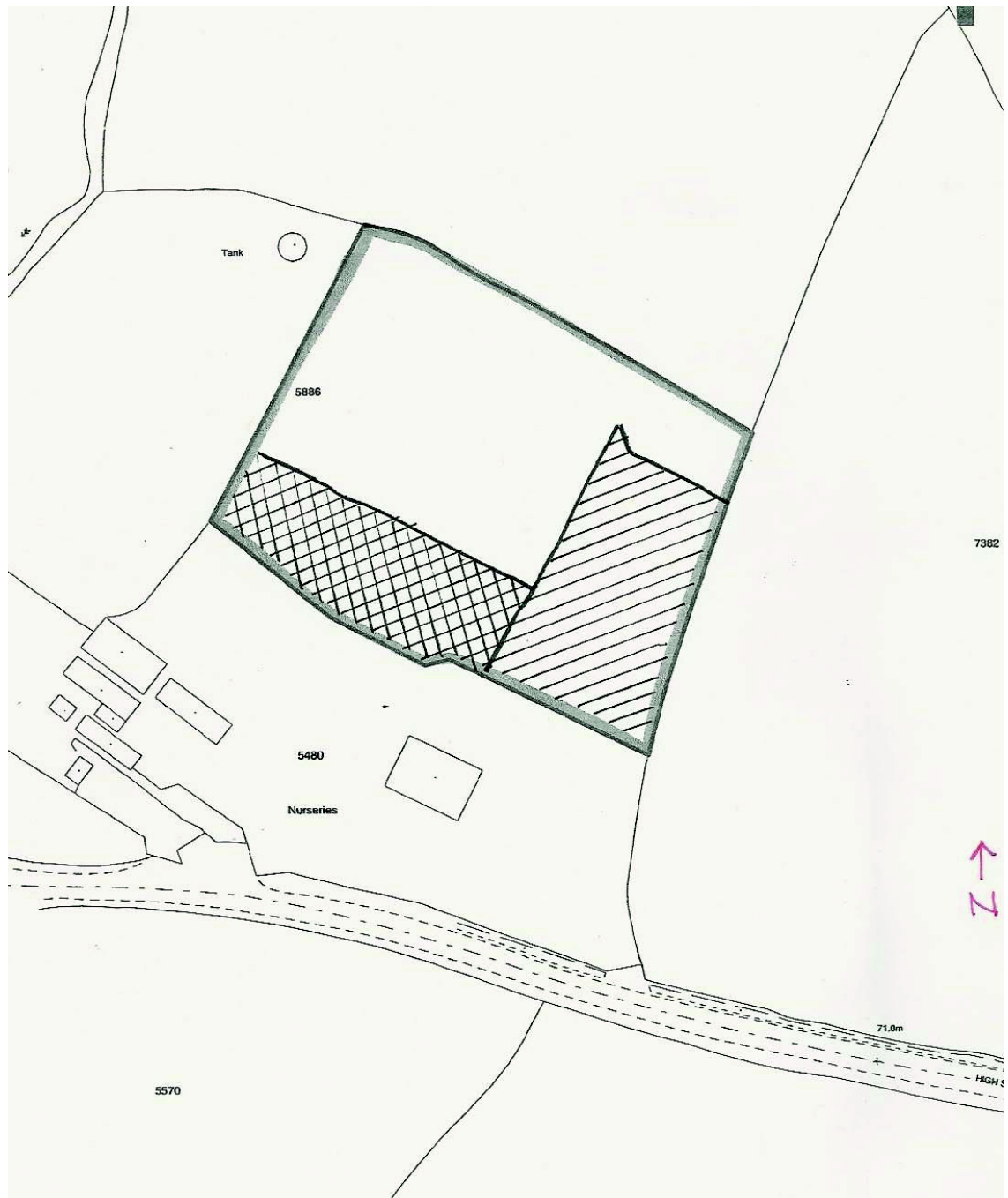
by **Keith Turner** LLB(Hons) DipArch(Dist) RIBA MRTPI MCI Arb

Land at Sidmouth Garden Centre, High Street, Sidford EX10 0NA

Reference: APP/U1105/C/2033407

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-
inspectorate.gsi.gov.uk

Scale:



Keith Turner

Appearances

FOR THE APPELLANT:

Mr T Shepherd	of Counsel, instructed by Stones Solicitors, Linacre House, Southernhay Gardens, Exeter EX1 1UG
He called	
Mr G Gibson BSc(Hons) MA DipArchCon MRTPI	Chartered Town Planner, 6 Rosslyn Park Road, Pverell, Plymouth PL3 4LN
Mr I Barlow	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr A Seddon	Senior Solicitor with East Devon District Council
He called	
Mr A Carmichael	Principal Planning Officer EDDC
Mr R Cooke DipLA MLI CertArb ISA	5 Charlwood Road, Corsham, Wiltshire SN13 9UX

INTERESTED PERSONS:

Cllr C Drew	41 Temple Street, Sidmouth, Devon EX10 9BA
Cllr P Sullivan	Sidmouth Town Council, Woolcombe House, Sidmouth EX10 8BB
Cllr G Gibbings	30 Harcombe Fields, Sidford EX10 9QW
C Taylor	Chair Sidmouth Chamber of Commerce, C & C Electrical, Bradway, Sidmouth EX10 8TL
C Shepherd	4 Springfield, Membury, Axminster, Devon EX13 7AB
E Haslam	7 Curey Mews, Exeter EX2 4TB
D E Borough	Goombe Farm, Salcombe Regis, Sidmouth EX10 0JM

Documents

- 1 Statement of Common Ground
- 2 Letter of notification of the Inquiry and list of those notified
- 3 Report on Purser v The Local Board of Health for the District of Worthing
- 4 Plan showing the boundary of the East Devon AONB in vicinity of the appeal site
- 5 Copy of explanatory text to Local Plan Policy E5
- 6 Revised plans substituting Appendix I of Mr Gibsons evidence
- 7 Copy of letter, dated 27 September 2006, from Mr Gibson to the Council
- 8 Copy of letter, dated 8 February 2007, from Mr Gibson to the Council
- 9 Supporting statement
- 10 Statement made by Cllr C Drew
- 11 Copy of Council's Rule 6 Statement for Appeal 3
- 12 Copy of Council's Rule 6 Statement for Appeal 4
- 13 Set of 4 illustrative plans showing possible landscaping proposals
- 14 Bundle of documents and photographs pertaining to the application for development at Park Farm
- 15 Explanatory text and Structure Plan Policy ENV3
- 16 Closing submissions on behalf of the Council
- 17 Closing submissions on behalf of the Appellant
- 18 Extract of report on Great Portland Estates plc v Westminster City Council

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Agenda Item 7

Name of Applicant Type of Certificate	Proposal	Map/Plan Policy	Plan Ref. Expiry Date
Mr. C. Harvey 'A'	Extension of time limit for implementation of B/2007/0433 (Erection of three storey building comprising retail use on ground floor and 22 apartments above and associated works) - Land at corner of Beverley Road and New Road, Rubery	Shopping	10/0652-MT 18.10.2010

RECOMMENDATION: that **DELEGATED** powers be granted to the Head of Planning and Regeneration Services to determine the application upon receipt of a Section 106 agreement to secure contributions towards education provisions and off site play space.

MINDED TO APPROVE.

Consultations

PROW	Comments received 12.08.2010: No objection.
WCC (Education)	Comments received 02.08.2010: details of required contributions towards education provisions are provided.
Publicity	Site Notice posted 16.08.2010; expires 06.09.2010. Press Notice published 05.08.2010; expires 26.08.2010. 5 Neighbour notification letter posted 30.07.2010; expired 20.08.2010. 1 letters received: concerns raised over loss of privacy.

The site and its surroundings

The application relates to a rectangular site on the corner of New Road and Beverley Road, Rubery, extending to 0.285 hectares. The site was previously occupied by Mr. B'S Market Hall which was subdivided internally into a number of small retail outlets. That building was demolished in April 2007.

At the New Road/Beverley Road junction is a small cluster of more traditional two storey units with narrower frontages and retail uses to ground floor with residential uses above. The majority of this development is however in a very poor state of repair.

The site is adjoined by a public right of way and existing retail/residential units to its western boundary and the residential properties along Beverley Road and Graham Crescent to its southern boundary.

The site is located with Rubery's defined Shopping Area.

Proposal

This application proposes to extend the time limit for the implementation of planning permission ref. B/2007/0433 for the erection of a three storey building on the corner of New Road and Beverley Road. The ground floor of the building would be used for retail and the upper two floors for residential accommodating 22 apartments (21 no. 2 bedroom and 1 no. 1 bedroom). The retail use of the proposed building is speculative (Use Classes A1 to A5) and no end users are associated with the development. All of the

proposed apartments would be for sale/rent on the general market and there are no provisions for affordable housing.

This application has been referred to the Committee as it involves a major development.

Relevant Policies

WCSP SD1, SD2, SD3, SD4, SD5, CTC1, CTC9, T1, D5, D34

BDLP DS13, DS4, S3, S7, S15, S21, S28, S29, RAT5, RAT6, TR11, RUB2, ES3, ES7

Others PPS1, PPS3, PPS4, PPG13, PPG17, PPG23, SPG1, SPG11

Relevant Planning History

B/2003/0987 Residential and retail development - Outline consent - PPG 11.09.2003

B/2007/0142 Demolish existing structures and construct three storey development of retail and residential with associated external works. - Reserved Matters - Withdrawn.

B/2007/0433 Erection of three storey building comprising retail use on ground floor and 22 apartments above, and associated works - PPG 26.07.2010.

Notes

At their meeting on 16th July 2007 Members resolved to grant delegated powers to the Head of Planning and Environment Services to approve B/2007/0433 upon receipt of a Section 106 agreement to secure financial contributions towards education and off site play space. A completed Section 106 agreement was received on 26th July 2007 and planning permission was granted on the same day. Condition 1 of B/2007/0433 requires that the development is commenced within three years of the date of the permission.

The three year period for implementation expired on 26th July 2010 (during the process of this application) and no works in pursuance of the permission have commenced on the site. A new planning permission is therefore sought to replace the expired planning permission.

The Council has already determined the proposal to be acceptable and it is not therefore necessary to reassess the principles of the development here. A copy of the original report to Committee providing a full assessment of the case is provided at Appendix A. Instead Members should focus their attention on development plan policies and other material considerations which may have changed significantly since the original grant of permission. It is also important to consider whether there have been any changes to the site and its surroundings since the original granting of planning permission, and the implications of any such changes for the accuracy of the Council's decision.

I will update Members on the situation regarding the site, the policy framework and any other material considerations under separate headings below.

The site

Your officer can confirm that at the time of visit on 16th August 2010 there have been no significant changes to the site or its surroundings since the determination of B/2007/0433. It is noted that the buildings at 212 to 216 New Road are now in a dilapidated state but it is not considered that this would have any effect on the accuracy of the Council's original decision.

Policy

Since July 2007 the following changes have been made to the relevant framework of Development Plan policies and national policy guidance:

- The West Midlands Regional Spatial Strategy has been abolished.
- Policies SD.6, SD.7, D.1, D.2, D.3, D.4, D.9, D.11 and D.13 of the Worcestershire County Structure Plan 2001 have been deleted from the Development Plan for Bromsgrove.
- Policy S1 of the Bromsgrove District Local Plan 2004 has been deleted from the Development Plan for Bromsgrove.
- The housing moratorium associated with Supplementary Planning Guidance Note 10 (SPG10 - Managing Housing Supply) is no longer a material consideration in the determination of planning applications.
- Planning Policy Statement 6 (PPS6 - Planning for Town Centres) has been replaced with Planning Policy Statement 4 (PPS4 - Planning for Sustainable Economic Growth).
- Amendments have been made to Planning Policy Statement 3 (PPS3 - Housing).

The above changes have not introduced any new policy requirements that are of relevance to the application proposal. The publication of PPS4 has removed the requirement to demonstrate a qualitative and quantitative need for a retail development and revised the requirement to provide an assessment of a proposals impact on existing town centres. These requirements are however only applicable to retail proposals that are not located within a designated centre. In this instance the site is located in Rubery's designated Shopping Area which constitutes a 'centre' for the purposes of PPS4. The new policy requirements resulting from PPS4 are not therefore relevant to this proposal.

Other matters

Members will note that a letter of objection to the scheme has been received from the occupiers of number 10 Beverley Road to the rear of the site. Concerns are raised over the development causing a loss of privacy to these nearby occupiers. It is however noted that the new windows in the proposed development would be over 30 metres away from this property. Having regard to the guidance contained in SPG1 I consider this distance to be too great for any overlooking to occur.

Members will note that B/2007/0433 involved a S106 agreement to secure financial contributions towards education provisions and off site play space. It is necessary to link that agreement with any new planning permission granted as a result of this application. Furthermore, since the completion of that agreement Worcestershire County Council's table of charges for education contributions has changed. A new S106 agreement is

therefore required in relation to this application. The applicant is aware of this requirement but to date a revised agreement has not been received by the Council.

Conclusion

Since the approval of B/2007/0433 there have been no material changes to the site and its surroundings or the relevant framework of Development Plan policies and national policy guidance. It is therefore considered that there are no justifiable reasons why Planning Permission ref. B/2007/0433 should not be replaced with a new permission. However, Members will note the requirement for a new Section 106 agreement to be completed. Planning permission should not be granted until such an agreement has been received by the Council. Members will note that the determination period for the application does not expire until after the meeting of the Planning Committee. It is therefore recommended that Delegated Powers are granted to the Head of Planning and Regeneration Services to determine the application.

RECOMMENDATION: that **DELEGATED** powers are granted to the Head of Planning and Regeneration Services to determine the application upon receipt of a Section 106 agreement to secure contributions towards education provisions and off site play space.

MINDED TO APPROVE.

APPENDIX A

Name of Applicant Type of Certificate	Proposal	Map/Plan Policy	Plan. Ref Expiry Date
Rubery Development Ltd. 'B'	Erection of three storey building comprising retail use in ground floor and 22 apartments above and associated works (as amended by plans, planning statement and Design and Access Statement received 31.05.2007) - Land at junction of New Road/Beverley Road, Rubery	Shopping	B/2007/0433 26.07.2007

RECOMMENDATION: That, subject to the applicants entering into a suitable Legal mechanism covering financial contributions towards the (1) Education Provision and (2) Off Site Play Space, that determination of the application be **DELEGATED** to the Head of Planning and Environment Services.

MINDED TO APPROVE.

Consultations

WCCHP	<p>Recommends deferral as there are inconsistencies between drawings and between plans and the contents of the Planning Statement. Queries need for a Toucan crossing. The HA have already received the Section 106 monies as part of the previous scheme. 15.05.2007</p> <p>Consulted with amended information on 11.06.2007</p>
Adjacent LPA	<p>Recommends conditions (by email) 22.06.2007 Birmingham City Council consulted 27.04.2007 No response received.</p>
PROW	<p>Consulted 27.04.07. No response received.</p>
RA	<p>Development is adjacent to a route that leads to Lickey Hills Country Park and therefore it is important that the opportunity is taken to improve this part of the route if possible. Adds information concerning advertising proposals and refers to relevant legislation, including PPS7, PPG13, Circular 2/93, PPG17. 03.05.2007.</p>
WME	<p>Requests that building use Secure by Design standards. Has some concerns about parking layout and natural surveillance. Request that lighting to the parking area be carefully considered. 08.05.2007.</p>
STW	<p>No objection to proposal, subject to including conditions relating to drainage details and location of existing public sewer. 03.05.2007.</p>
ENG	<p>Existing facilities are available on site; they require checking to ensure correct function. No objections, subject to conditions. 01.05.2007.</p>
EHO	<p>Notes contents of submitted Phase I and Phase II ground investigation reports which provides an initial risk assessment for the development of the site. Further discussion and assessment of the data is required and this should be used to determine what further action is appropriate. Further intrusive site investigation works are required following the demolition of buildings on the site to identify possible pollutant linkages and enable a more detailed risk assessment. Recommends the use of conditions to address these matters. 18.06.2007.</p>

EA	Consulted 11.06.2007. No response received to date.
WCC(Education)	As proposal relates to housing there is a need to seek a contribution towards education provision in accordance with the SPD on planning obligations for education facilities. Table supplied setting out contribution according to dwelling type. 04.05.2007.
LP	Notes that Outline consent has been granted under application B/2003/0987. Site is in Shopping area and Policies RUB2, S7, S21, S25, S26, S27, S27A and SPG2 apply. Good design is advocated in PPS1, PPS3, notes that this application represents a design improvement. Notes parking ration and considers may be substandard, but recognise sustainable characteristics of location. Considers decked area to be amenity space and not play space. Play Space should be provided in accordance with SPG11, which for 22 units equates to 158sq.m. A commuted sum would be requires to address this. 06.06.2007.
HLS	Consulted 27.04.2007. No response received.
Publicity.	Five neighbours notified, expires 21.05.2007. Press notice displayed, expires 24.05.2007. Site notices displayed, expires 06.06.2007. No responses received.

The site and its surroundings

The application relates to a rectangular site on the corner of New Road and Beverley Road, Rubery, extending to 0.285 Hectares.

The site was, until recently, occupied by Mr. B'S Market Hall which was subdivided internally into a number of small retail outlets. That building was a flat roofed two storey structure when viewed from New Road which had an unattractive external appearance and which made little positive contribution to the appearance of the area. At first floor and accessed from the rear were four residential flats.

To the rear of the Market is a vehicular access to the site leading off Beverley Road. This serves a rear access to the market hall, and associated buildings which run along the west-facing boundary and back onto a footpath leading from New Road into Graham Crescent.

At the New Road/Beverley Road junction is a small cluster of more traditional two storey units with narrower frontages and retail uses to ground floor with residential uses above.

Proposal

That scheme includes:

1. The entire demolition of all buildings on the site including the market hall and the two storey units on the corner.
2. The erection of a new retail area at ground floor and fronting onto New Road extending to 1369 sq. m (as opposed to the original 1444sq. m). This area will be divided into four discrete areas with their own shopfront accessed off New Road.

3. To the rear, and using a similar access to the existing off Beverley Road, 18 parking spaces are proposed for the retail element with 22 parking spaces for residential use.
4. Two floors of residential units over the retail area are proposed. This area will have arranged in a shallow 'L' shape around a central communal space at first floor level in the form of a decked area. The resultant building will have a three storey form and the submitted elevations show the ridge height of the structure sitting slightly below the existing three storey development to the west of the site. The development will be made up of 21 two bed units and 1 one bed units.

The application has been accompanied by the following documentation;

1. Design and access statement.
2. Planning Statement.
3. Ground conditions report.
4. Noise assessment Landscape scheme
5. Drainage proposals.

Relevant Policies

WCSP	SD1,SD2,SD3,SD4,SD5,SD6,SD7,CTC1,CTC9, T1,D1,D2,D3,D4,D5,D9, D11, D13, D34
BDLP	DS13, DS4, S1, S3, S7, S15, S21, S28, S29, RAT5, RAT6, TR11, RUB2, ES3, ES7.
Others	PPS1, PPS3, PPS6, PPG13, PPG17, PPG23, SPG1, SPG10, SPG11.

Relevant Planning History

B11918	Internally illuminated sign. 1984.
15536	Change of use from carpark to display of vehicles for sale. Granted 12.10.1987
B1992/0242	Change of use from garage to indoor market. Granted 15.06.1992.
B1992/0748	Permanent change of use to indoor market. Granted 14.12.1992.
B1993/0008	External cladding. Refused. 26.04.1993
B1993/0488	External elevational alteration. Granted 23.07.1993.
B1993/0499	Shop sign. Granted 23.07.1993.
B/2003/0987	Residential and retail development - Outline. Granted with S106. 28.06.2006.
B/2007/0142	Demolish existing structures and construct three storey development of retail and residential with associated works -Reserved Matters. Withdrawn.

Notes

Members will note the planning history for this site and in particular the extant planning permission B/2003/0987. That application was submitted prior to the housing moratorium coming into force in July 2003 and whilst being submitted in Outline, following the issuing of a direction for further information, resolved the matters including access, siting and design. A copy of the report is contained in the attached Appendix.

That application approved four units of retail accommodation at ground floor with a total of 18 two bed, 8 one bed and 2 studios units above arranged in a 'U' shaped configuration around a communal decked area. Some 42 parking spaces were proposed to the rear (divided into 21 spaces for residential use and 18 for retail use). The application was approved in July 2006 following the preparation of a Section 106 agreement relating to education provision, upgrading of a pedestrian crossing and off site play area. That application remains as a live consent and details of materials and landscaping are all that would be required under a Reserved Matters submission in order to enable the application to be implemented. I consider that this fact represents a strong and readily available fall back position to the applicant.

Members will be aware that the suitability of the scheme has already been assessed against Policy RUB2 of the Local Plan and the advice in PPG6 and Draft Planning Statement 6 (DPS6) as it was at that time. In addition the appropriateness of the site for the residential development proposed and the associated requirements for play space and amenity space and the suitability of the proposed parking and serving and access for the site have all been considered on that earlier application.

I consider therefore the matters that require consideration under the current scheme are restricted to those changes proposed to the external appearance of the building and the housing moratorium, as well as the details of any associated S106 agreement.

EXTERNAL APPEARANCE

Guidance contained in PPS1 sets out the Government's objectives for the planning system, which includes the key principle of promoting '*...high quality inclusive design in the layout of new developments and individual buildings in terms of function and impact, not just for the short term but over the life time of the development. Design which fails to take the opportunities available for improving the character and quality of an area should not be accepted*'.

In addition PPS1 includes a section on design which refers to the need for high quality design to go beyond the purely aesthetic considerations and to ensure that designs are integrated into the existing urban form and the natural and built environments and that they respond to their local context and create or reinforce local distinctiveness as well as being visually attractive. The guidance refers to policies which concentrate on guiding the scale, density, massing height and layout of new developments in relation to neighbouring buildings and the local area generally.

With this guidance in mind I note that the previous scheme had a relatively poor external treatment. The two residential floors were designed with an external corridor and a number of balconies and screened walkways. These were not designed with any degree of unity and as such the two residential floors did not relate well to each other. In addition there was little relationship to the fenestration at the ground floor. The current submission seeks to provide a greater cohesion to the external appearance with the introduction of vertical elements along the New Road frontage. This relates to a greater extent to the existing form and design of Rubery as well as creating interest and variety along this frontage. That approach has been replicated along the Beverley Road frontage also.

In addition the variety of external finishes has been reduced from that original scheme and the building will be predominantly brick with some rendered panels. These changes to the external appearance of the unit are considered to improve the appearance of the resultant building and represent a design improvement in relation to the fall back position.

HOUSING MORATORIUM

Policies D2 and D4 of the WSP set out an indicative number of dwellings to be provided in Bromsgrove, and the phasing of that provision. On the basis of these indicative figures the Council identified an oversupply of housing land which, if it continued, could lead to the failure to satisfy the requirements of the then extant Regional Planning Guidance and the WSP. Accordingly, following public consultation, it adopted *Supplementary Planning Guidance Note 10: Managing Housing Supply in the District of Bromsgrove* (SPG10) in July 2003.

The effect of SPG10 is to restrict residential development to a limited number of Categories, however criteria IV includes; *Where renewals of extant planning permissions conform fully with the specific requirements of PPG3, PPG25 and other relevant planning policy guidance.* The guidance produced in July 2003 emphasised that existing permissions that have not yet been started contribute to current housing land supply figures and whilst not all existing permissions are needed to meet the phasing target, the majority are needed.

With respect to criteria (iv) I note the Outline approval on the site and the fact that that allowed for a total of 24 units. The current proposals equates to a total of 22 units and I consider that this represents a fall back position. I do not consider therefore that the application could be resisted on the grounds of the housing moratorium.

PROVISION OF PLAY SPACE/OPEN SPACE

The previous application noted that there was only one amenity area provided for residents on site in the form of the central communal space at first floor level. This area has been amended, however a planted up external space will be provided for residents at this level. This will be substandard with respect to the 30m² suggested per unit in SPG1. However, given the location of the site within the urban area, the constraints provided by the access and parking and extent of the retail use at ground floor, I consider that the location of the adjacent open space off Whetty Lane, provides suitable opportunity for amenity for the residents of the proposed site.

With respect to play space, the constraints on site are such that no on-site provision is proposed.

On the previous submission the Head of Leisure Services objected to the principle of accepting any reduction in play space however if a commuted sum were accepted, his view was that this should be utilized for a broader community based initiative. The Section 106 agreement related to a commuted sum of £80,750 for open space provision.

With respect to the current submission, SPG11 now sets out that 1582m² of play space should be provided. With respect to the current submission the applicants accept the need to enter into a Section 106 agreement to provide for off site play area. However they

are of the view that any new Section 106 contributions should not exceed that required by the 2003 application.

The Section 106 agreement is currently being prepared and Officers are continuing to negotiate on this point.

CONCLUSIONS

The application proposes a mixed retail and residential scheme within a District Centre. The use reflects advice in both PPS3 and PPS6 and the location of the site enables the principle approaches of sustainable development to be implemented.

The proposal seeks to improve a visually poor part of the shopping area of Rubery and would make effective use of urban land. I consider that the application complies with the aims of Policies in both WCSP and BDLP and in addition I consider that the current submission represents a significant visual improvement in relation to the fall back position of the previous application.

RECOMMENDATION: That, subject to the applicants entering into a suitable Legal mechanism covering financial contributions towards the (1) Education Provision and (2) Off Site Play Space, that determination of the application be **DELEGATED** to the Head of Planning and Environment Services.

MINDED TO APPROVE.

Agenda Item 8

Name of Applicant Type of Certificate	Proposal	Map/Plan Policy	Plan Ref. Expiry Date
Mrs. J. Parkes 'A'	Proposed mobile home placement for a temporary agricultural dwelling - Land at Radford Road, Alvechurch	Green Belt	10/0654-DK 12.10.2010

RECOMMENDATION: that planning permission be **REFUSED**.

Consultations

WH Alvechurch PC	Consulted 21.07.2010. Response received 30.07.2010. No objection. Consulted 21.07.2010. Response received 03.08.2010. No objections subject to a 5 year limitation (subject to review). There should be a limitation on the size of the planned dwelling.
ENG	Consulted 21.07.2010. Response received 02.08.2010 No objection subject to conditions.
LP	Consulted 21.07.2010. Response received 05.08.2010. The site is located in designated Green Belt and therefore policies DS2, S9 and DS13 apply to the proposal. As a proposal for an agricultural workers dwelling, it should be assessed against the criteria set out in Annex A of PPS7. Policies C25, C26 and SPG6 are also relevant.
Kernon Countryside Consultants	Consulted 21.07.2010. Response received 12.08.2010. Having assessed the proposal against the relevant policy tests set out in Annex A of PPS7: (i) Given the size of the site, the applicant will have difficulty developing the enterprise to the size proposed; (ii) The enterprise will not be of sufficient scale to warrant a worker being readily available at most times; (iii) The applicants business plan has a number of omissions and there is no evidence that it has been planned on a sound financial basis; (iv) The applicant's existing dwelling can meet the need; (v) If the functional need was accepted, the siting is acceptable from a functional perspective.
EHO (Contaminated Land)	Consulted 21.07.2010. Response Received 11.08.2010. No objection.
EHO (Noise)	Consulted 20.09.2010. Response received 20.09.2010. I would confirm that in my view the road traffic noise levels at the proposed mobile home may fall into noise exposure category C (PPG24). In such circumstances we would normally recommend refusal for this type of structure, as it would not be possible to achieve adequate levels of sound insulation.
Publicity	An acoustic survey would be required to give a definitive answer on which noise exposure category the location falls within. Site notice posted 29.07.2010 expires 19.08.2010. Press Notice posted 05.08.2010 expires 26.08.2010.

1 comment received 02.08.2010, as follows:
If granted, the permission should be a temporary one. The applicant needs to be able to show that the development is necessary for agriculture.

The site and its surroundings

The application site is to the north of Radford Road, east of Alvechurch, between the junction with Rectory Lane and Alvechurch Bypass. It is located in designated Green Belt. The application site contains a number of buildings and enclosures and operates as a smallholding. The site adjoins open land to the north east and west.

Proposal

The proposal is a full application for agricultural workers dwelling.

Relevant policies

WCSP CTC.1, D.12, D.38, D.39, RST1
BDLP DS1, DS2, DS13, S9, C4, C17, C21, C22, C23, TR1
Others SPG1, SPG6, PPS1, PPG2, PPS3, PPS7, PPG24

Relevant planning history

There is no relevant planning history.

Notes

The main issues in the determination of this application are as follows:

- (i) whether the proposal is inappropriate development in the Green Belt;
- (ii) whether very special circumstances exist in the form of a need for a temporary agricultural workers dwelling having been proven;
- (iii) the impact of the proposal on residential amenity and wider public amenity

(i) Green Belt

Policy DS2 of the Bromsgrove District Local Plan (BDLP) and policy D39 of the Worcestershire County Structure Plan state that inappropriate development in the Green Belt will only be allowed in exceptional circumstances. Policy S9 of the BDLP states that new dwellings will be allowed in the Green Belt if certain criteria are fulfilled. As the proposed dwelling is for an agricultural worker, I consider that the criterion (a) of Policy S9 is relevant and the proposal need not be inappropriate development if a functional and financial need for a new dwelling can be demonstrated.

(ii) Functional Need

The requirement for a functional need for a new dwelling in the countryside is clearly set out in Annex A of PPS7 as follows:

(i) There is a clearly established *existing* functional need.

A functional test is necessary to establish whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times. Such a requirement might arise, for example, if workers are needed to be on hand day and night:

- in case animals or agricultural processes require essential care at short notice;
- to deal quickly with emergencies that could otherwise cause serious loss of crops or products, for example by frost damage or the failure of automatic systems.

Members should note that whilst the applicants are enthusiastic about the enterprise, the scale of the holding (at 1.2ha or 3 acres) is insufficient to enable the business to expand. The enterprise is further curtailed by the fact that the site is in a Nitrate Vulnerable Zone which limits the number of pigs which can be kept. In the event of the business being able to expand, the Agricultural Consultant concludes that the enterprise will not be of sufficient scale to warrant a full time worker and therefore, the functional needs test is not met.

Financial Considerations

Test 3 of Annex A of PPS7 requires that the unit and the agricultural activity concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so.

Members should note the views of the Agricultural Consultant in respect of the financial assessment of the holding. There are a number of omissions in the business plan in respect of the operating costs. Therefore there is no clear evidence that the enterprise has been planned on a sound financial basis.

Other Dwellings

It is clear that there is no functional need for a dwelling and it is possible for the applicant to operate the enterprise from her existing property in Alvechurch.

(iii) Amenity issues

The proposal would be sited in an isolated location and therefore I do not consider that there would be any loss of residential amenity. The closest residential property is more than 120m away. There are concerns for future occupiers of this site in respect of the noise from Alvechurch Bypass which is 100m to the east. Members should note the comments from Environmental Health. There is insufficient evidence to show that the amenity of a future occupier of the mobile home would not be negatively impacted upon by the noise from the dual carriageway.

Conclusions

There is no evidence of a functional need for a new temporary dwelling on the site and the requirements of Annex A of PPS7 have not been met. As such, the proposal amounts to inappropriate development and very special circumstances in terms of a functional need for agriculture have not been demonstrated. The requirements of policies C23 and C25 have not been met. Permission should be refused.

RECOMMENDATION that planning permission be **REFUSED** for the following reasons:

1. There is no clear and essential functional need for there to be a dwelling to serve the agricultural enterprise. Therefore the proposal represents inappropriate development, which is detrimental to the openness and visual amenity of the Green Belt. No very special circumstances have been put forward which would clearly outweigh the harm caused. Therefore, the proposal is contrary to policies DS2 and S9 of the Bromsgrove District Local Plan (2004), Policy D39 of the Worcestershire County Structure Plan (2001), and contrary to the guidance contained in PPG2 (Green Belts).
2. There is insufficient evidence to show that the future amenity of the residents of the building would not be harmed by the noise arising from the motorway in proximity to the site. Thereby, the proposal is contrary to policy ES14A of the Bromsgrove District Local Plan (2004) and the advice of PPG24 (Planning and Noise).

Agenda Item 9

Name of Applicant Type of Certificate	Proposal	Map/Plan Policy	Plan Ref. Expiry Date
Redman Heenan Properties Ltd. 'A'	Proposed industrial warehousing (B1, B2 and B8) (Approval of Reserved Matters) - Part Cofton Centre, Groveley Lane, Cofton Hackett	Emp	10/0727-DK 29.10.2010

RECOMMENDATION: that **DELEGATED POWERS** be granted to the Head of Planning and Regeneration to determine the application, subject to the satisfactory views of WH and issue **APPROVAL OF RESERVED MATTERS** following the satisfactory completion of a Section 106 Agreement to secure a financial contribution as part of the Longbridge Infrastructure Tariff (LIT) in accordance with the terms of the adopted Longbridge Area Action Plan.

AND to authorise **REFUSAL** of the application if an agreed legal mechanism as set out above is not received by the expiry date of the application (29th October 2010).

MINDED TO APPROVE.

Consultations

Cofton Hackett PC
WH

Consulted: 09.08.2010. Response received: 27.08.2010.
No objection

Consulted 09.08.2010. Response received: 19.08.2010
Recommends that the permission be **deferred** for the following reasons:-

The applicant does not provide sufficient car parking for the site. The Longbridge Area Action Plan (April 2009) indicates that a maximum car parking ratio of 1 space per 60m² of gross floor area should be provided. Whilst noting that this is a maximum standard the proposed 109 spaces including disabled spaces fall short of the maximum of 239 spaces by a significant margin. There is no travel plan provided as part of the application to reduce car trips and the condition relating to the travel plan in application 07/356 has not been discharged. Notwithstanding this it would seem unlikely that a travel plan could achieve such a significant reduction in car activity to the site.

The LAAP also indicated that the Longbridge Infrastructure Tariff applies to this site. The Tariff for B1, B2 and B8 development is £30 per m² which results in a LIT of £431010. The applicant should provide this to the banker organization through an appropriate legal framework.

National Grid - Transco
GPU Power UK
WCC PROW
Ramblers Association

Consulted 03.09.2010. No response to date.

Consulted 03.09.2010. No response to date.

Consulted 09.08.2010. No response to date.

Consulted 09.08.2010. No response to date.

ENG	Consulted 09.08.2010. Response received: 16.08.2010. No objection subject to the following comments. If wash down areas are to be provided, then appropriate interceptors will be required. EA/DEFRA conditions will need to be complied with especially concerning possible spillage.
EHO (Contaminated Land)	Consulted 09.08.2010. Response received: 20.08.2010. The records in relation indicate that site investigation has been completed for the site and a remediation methodology agreed. Records indicate that planning conditions relating to site investigation and remediation method statement for outline approval 07/0356 have previously been recommended for discharge but that the condition relating to validation remains outstanding because insufficient details relating to gas protection measure have been submitted. As such I recommend that any outstanding conditions relating to contaminated land risk assessment are attached to this application for reserved matters.
EHO (Commercial)	Consulted 09.08.2010. Response received: 20.08.2010. This section has no objections in principle to the above application. The premises and business will be required to comply with health and safety legislation which may be enforced by this Council depending on the actual use of the premises. The business and premises will be subject to routine inspection to assess compliance.
EDO Network Rail	Consulted 09.08.2010. No response to date. Consulted 09.08.2010. Response received 10.08.2010. No objection in principle to the development subject to the addition of advisories because of the proximity of the application site to the railway.
British Waterways	Consulted 09.08.2010. Response received 10.08.2010. No objection.
LP Tree Officer	Consulted 03.09.2010. No response to date. Consulted 03.09.2010. No response to date.
Publicity	Press Notice published 19.08.2010, expires 09.09.2010.

Site Notice posted 24.08.2010, expires 14.09.2010.

The site and its surroundings

The application site is currently a large employment site at the Cofton Centre to the south of Groveley Lane. It was formerly part of the MG Rover works at Longbridge. The Birmingham to Bristol railway line adjoins the site to the west beyond which is the site of the former Longbridge East works. The current application is for Unit 5 and Units 3 and 4 are complete to the west of the application site and approval has been granted for an additional (unit 6) to the south of it. The site is substantially enclosed by a palisade fence and landscape bund.

Proposal

The proposal is for the Approval of Reserved Matters for the erection of industrial warehousing (B1, B2 and B8). The building now proposed is a single substantial warehouse with a floor area of 14,367m² which includes 718m² of first floor offices. The proposed building has a height of 15m. There will be a large service yard to the front

(south side). The materials proposed for the building are a mixture of red brick, blue profiled roof cladding. There will be a double linear arrangement of double glazed windows to the west elevation.

Relevant Planning History

- B/2007/1115 Erection of industrial warehouse units (Reserved Matters) Granted 10.01.2008.
- B/2007/0356 Erection of industrial warehouse units and associated works (B1, B2, B8) (Outline). Granted 02.08.2007.

Relevant Policies

- WCSP SD.2, SD.3, SD.4, SD5, SD.6, SD.7, CTC.1, T.1.
- BDLP DS13, C4, C17, DS13, E4, E9, TR11, ES4, ES7, TR1, TR11, TR12.
- Others PPS1, PPS4, PPS9, Longbridge AAP (2009)

Notes

The site is situated in land designated for Employment purposes within the BDLP and the principle of employment related development has been established through the granting of outline application B/2007/0556. The reserved matters being considered in this application relate to the appearance, landscaping and layout and scale of the proposal.

The main development plan policies relevant to the consideration of this application are policies E9, DS13 and TR11 of the BDLP as well as policy T1 of the WCSP. It is noted that the proposal for Unit 5 corresponds with the indicative layout for this unit presented at outline stage. It is noted that the proposal includes first floor offices but scale was a reserved matter on the outline application so this can be considered at this stage.

Policy E9 states that:

All applications for new employment development will need to demonstrate that:

- (i) traffic to be generated by the development will not overload the capacity of the highway system or adversely affect residential or other non-industrial development.
- (ii) Adequate parking and servicing areas are provided
- (iii) there would be no undue environmental disturbance, by way of noise, vibration, smell, dust or significantly reduced daylighting will be caused to adjacent residential properties. If necessary, restrictions on the use or hours of operation of the site will be imposed;
- (iv) there shall be no open storage of industrial goods allowed and appropriate landscaping provided

The proposal is acceptable in principle and its appearance is appropriate for the context of an employment site. The materials proposal will be in keeping with the already completed units 3 and 4. There is no conflict with the scale of the proposal and what was permitted at outline stage. In terms of landscaping, the applicant has presented a plan

(Ref: 10030 A002 Rev A Received 13th September 2010) which shows indicative hard and soft landscaping areas. The views of the Tree Officer are awaited.

In terms of residential amenity, the site is enclosed and buffered by Green Belt to the south. There are no residential properties in the immediate vicinity and I do not consider that a loss of residential amenity would arise from noise and the proposal is compatible with the approved land uses on the site.

In terms of access, parking and servicing, there is a significant shortfall in the parking requirement with the initial plans. There are 109 spaces proposed and the requirement is for 239. The applicant has presented a revised plan as detailed above which increases the provision to 170 spaces. The Green Travel Plan required by condition on the outline application has not been discharged so limited weight can be attached to this in respect of the parking requirements. The views of Worcestershire Highways are awaited on the revised plan and Members will be updated on this matter.

I do not consider that the issues of scale, appearance or landscaping are a significant concern such that this application should be rejected. I note that there are additional sustainability requirements in respect of carbon emissions outlined in PPS4. However, the principle of development has already been accepted at outline stage and I do not consider that additional requirements would be reasonable. The conditions which have not been discharged and require additional information are added to this consent (if approved).

The issue of the Longbridge Infrastructure Tariff has been raised in this application. The requirement for contributions towards infrastructure is outlined in paragraphs 4.11 - 4.13 of the Longbridge Area Action Plan (adopted April 2009). This tariff will facilitate the development of transport, physical and ecological infrastructure and assist in providing a number of community services identified in pages 48-51 of the Longbridge AAP. The tariff would require a contribution of £30 per square metre for the development proposed. Thereby, the tariff requirement for the scheme amounts to £431,010. There are mechanisms in the AAP which allow the contributions to be varied but these would require the submission of a viability assessment and none has been forthcoming. The issue has been raised with the applicant who has responded to the effect that the requirements for contributions cannot be made since the principle of development has been agreed at outline stage. Paragraph 42 of Circular 05/05 states that planning registers need to include details of any planning obligation (including unilateral undertakings) entered into or proposed in respect of an application for planning permission or application for the approval of reserved matters. This implies it is possible to require a contribution for these sorts of application. Legal advice has confirmed this position.

It is evident that the proposal falls within the scope of the outline application which permitted B1, B2 and B8 uses at a scale of 28,000m². It should be noted that landscape, design, siting and materials were reserved matters at outline stage. The principle of development has been accepted at the site and Members must consider whether the benefits of the scheme in terms of the wider regeneration of the area. However, the issue of developer contributions is also important in terms of physical and community infrastructure provision so the decision of Members must involve a balanced analysis of these issues. The views of Members as to the reasonableness of requesting

contributions in accordance with the requirements of the Longbridge Infrastructure Tariff is sought.

RECOMMENDATION: that **DELEGATED POWERS** be granted to the Head of Planning and Regeneration to determine the application, subject to the satisfactory views of WH and issue **APPROVAL OF RESERVED MATTERS** following the satisfactory completion of a Section 106 Agreement to secure a financial contribution as part of the Longbridge Infrastructure Tariff (LIT) in accordance with the terms of the adopted Longbridge Area Action Plan.

AND to authorise **REFUSAL** of the application if an agreed legal mechanism as set out above is not received by the expiry date of the application (29th October 2010).

MINDED TO APPROVE.

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Agenda Item 10

Name of Applicant Type of Certificate	Proposal	Map/Plan Policy	Plan Ref. Expiry Date
Mr. P. Redman 'A'	Proposed House (as amended by plans received 22.09.2010) - Land at 18 Brook Road, Bromsgrove, B61 7DE	RES Flood Zone 3	10/0745-MT 29.09.2010

Councillor Tibby has requested that this application be considered by the Committee, rather than being determined under delegated powers.

RECOMMENDATION: that permission is **GRANTED** subject to the receipt of satisfactory comments from the Highways Authority.

Consultations

WH	Consulted 16.08.2010; no comments received to date.
ENG	Comments received 10.09.2010: No objections <i>sfc</i>
EA	Comments received 16.09.2010: No objections <i>sfc</i>
Publicity	1 Neighbour notification letter posted 16.08.2010; expired 06.09.2010. 3 representations and a 31 signature petition received. Concerns raised over flood risk, parking, highway safety and disruption during construction works.

The site and its surroundings

The application site relates to a double garage building and an area of hardstanding on the eastern side of Brook Road. The site is adjoined by an existing dwelling (number 16 Brook Road) to its southern boundary and an identical arrangement of garaging and hardstanding to its northern boundary. The Spadesbourne Brook runs along the eastern boundary of the site.

Brook Road has a rather uneven development pattern with the western side predominately involving a dense arrangement of Victorian terraced housing, and the eastern side involving a more irregular arrangement of detached and semi detached houses and garages. The majority of the dwellings on the eastern side are located in the southern half of the road. The northern half of the road, in which the proposed dwelling would be located, is predominately comprised of garages and parking areas. The plot adjacent to the application site (occupied by no. 16 Brook Road) is an exception to this norm).

The site is located in a Residential Area as defined in the BDLP. The site is located in Flood Zone 3 as defined in the Environment Agency's indicative flood zone map.

Proposal

The application proposes to demolish the existing garage building on the site and erect a detached two bedroom dwelling in its place. The dwelling would be for sale on the general market.

Members will note that this application is a resubmission of 10/0353 which was withdrawn following officer concerns over parking and access and loss of residential amenity. The scheme has been amended in an attempt to address those concerns.

Relevant Policies

WCSP CTC.1, CTC.8, T.1, T.4
BDLP DS13, S7, ES1, ES2, TR11
Others PPS1, PPS3, PPS25, PPG13, SPG1

Relevant Planning History

10/0353 Proposed House - Withdrawn

Notes

I consider that the main issues to address in the determination of this application are those relating to Policy S7 of the BDLP. This provides that, within Residential Areas, new dwellings will be considered favourably where they meet the following criteria:

- a. the proposal does not lead to development at a density inappropriate for the site;
- b. the form and layout of the development is appropriate to the area;
- c. the proposal minimises the loss of mature hedges, trees and landscaping;
- d. the proposal does not adversely affect the existing amenities of adjoining occupiers;
- e. the proposal does not involve a loss of open space, allotments or other amenity areas which it is desirable to maintain;
- f. the development can be appropriately serviced;
- g. the proposal would not have unacceptable traffic implications or perpetuate a traffic hazard;
- h. it conforms with other relevant policies of the Plan.

For ease of assessment I consider that these criteria can be grouped together under three main headings:

- Density, form and layout
- Residential amenity
- Highways and servicing issues

I will deal with each of these matters under a separate heading below. Further to this I am mindful of the site's location in Flood Zone 3. This indicates that there is a high probability of flooding and the site. I will therefore have regard to the advice received from the Environment Agency and the Council's Drainage Engineer in relation to this matter and the government's planning policy advice for Development and Flood Risk set out PPS25.

I note the objections to this proposal by local residents. These relate to flood risk, parking and highway safety. Such concerns relate to the issues for assessment identified above thus I will not give them separate treatment in this report. Concerns are also raised over the potential disruption to surrounding properties during the construction of the proposed

dwelling. This is an unfortunate but inevitable consequence of development. Any disruption would only be temporary and Members are reminded that such a matter is not a material planning consideration.

Density, form and layout

Policy S7 requires that the density of the development is appropriate for the site. The proposal would be at a fairly high density at around 52 dwellings per hectare. I am of the view that this represents an efficient use of land as advocated in PPS3. It is however important to ensure that achieving this higher density does not jeopardise the quality of the local environment and the living conditions of the site's future occupants.

In this case it is noted that sufficient spacing is provided around the proposed dwelling and I am of the view that it would sit comfortably within its plot. I would not therefore have any aesthetic or environmental concerns in relation to density.

The Council's Residential Design Guide (SPG1) advises that small house types should provide a minimum private amenity area of 42m². An area in excess of this requirement (45m²) would be provided to the rear of dwelling and I am satisfied in this respect.

The street scene along this side of Brook Road is of a mixed character. The dwelling immediately adjacent to the site is of a very simple form and appearance and the properties further down the road are more distinctive involving gable walls fronting the road. It is considered that the proposal displays elements of all of the different dwellings in the street scene. Its simple general form and roof pitch would reflect that of the adjacent dwelling and its dormer and gable features would be in keeping with the other properties further down the road. On this basis I am of the view that the form of the development is acceptable.

The development would be located in line with the adjacent dwelling and I would not have any concerns in relation to its layout.

Residential Amenity

To prevent overlooking SPG1 advises that a distance of 21 metres is provided between windows in new development and opposing windows in existing development. The windows in the front of the proposed dwelling would be approximately 16.5 metres away from the windows in the front of numbers 25 and 27 Brook Road. This would be contrary to the guideline set out in SPG1. With regard to the new ground floor windows, any overlooking from there would be no different to views gained by passers-by along Brook Road. I would not therefore have any concerns in relation to these windows. The new first floor windows would serve the bathrooms and stairway to the dwelling. In the case of the bathroom windows it is highly likely that these will be fitted with obscure glazing and I consider that this would prevent any views being gained of the opposing property. I recommend that a condition is placed on any planning permission granted to secure this. In the case of the stairway windows, these would not serve a habitable room and it is considered that views of the opposing properties would only be gained in passing. This would not in my view result in an unacceptable loss of privacy to the occupiers of the opposing properties. I recommend that a condition is placed on any planning permission granted to secure this internal arrangement and the resulting use of the windows.

Highways and Servicing Issues

I am aware of the objections to the scheme from local residents in relation to parking and highway safety. Concerns are raised over the loss of the existing parking spaces on the site and the lack of parking space associated with the new dwelling. The views of the County Council Highways Authority have been sought on these matters but no comments have been received to date. I will update Members on this matter at their meeting.

The Council's Drainage Engineer has raised no objection to the proposal in relation to foul and storm drainage.

Flood Risk

In accordance with the advice contained within PPS25 the applicant has submitted a Flood Risk Assessment (FRA) with the application. This determines that the development satisfies the requirements of the Sequential and Exception Tests set out in PPS25. The site is shown to lie outside of the high risk floodplain and the development to not increase flood risk elsewhere. The FRA recommends that finished floor levels are set above surrounding ground levels.

The Environment Agency (EA) and the Council's Drainage Engineer have been consulted on the FRA. The EA raise no objection to the proposed development based on the findings on the FRA. The EA recommend that a condition is placed on any planning permission granted to ensure that the finished floor levels are set no lower than 80.44 metres above Ordnance Datum (mean sea level). The FRA indicates that the existing ground level is 79.84 metres above Ordnance Datum requiring the finished floor levels to be set at least 600mm above ground level. The Proposed Site Plan submitted with the application indicates compliance with this requirement.

The Council's Drainage Engineer has advised that the floor levels and flood plain for the development would comply with the recommendations of the FRA. In any event, the property is unlikely to be affected by flooding as the site is protected by Ford Road Bridge immediately up stream.

Taking the above matters into consideration it is not considered that the development will be at risk from flooding or increase flood risk elsewhere.

Conclusion

The density, form and layout of the development would be acceptable and the proposal is found to have no adverse impact on Residential Amenity. However, without the views of the Highways Engineer a full assessment of the proposal in relation to Policy S7 of the BDLP cannot be made. The proposal is considered to be acceptable in terms of Flood Risk and it is considered to comply with the advice within PPS25.

The proposal would largely be in compliance with the relevant policies of the adopted Development Plan and national planning policy guidance thus I am minded to recommend its approval. This recommendation is however contingent on the receipt of satisfactory comments from the Highways Authority.

RECOMMENDATION: that permission is **GRANTED** subject to the receipt of satisfactory comments from the Highways Authority.

Conditions:

1. C001 (time limit for implementation)
2. C003 (materials to be submitted)
3. C007 (storm and foul drainage details)
4. C010 (landscaping scheme)
5. C022 (removal of permitted development rights)
6. The internal layout of the development hereby approved shall be as specified on approved drawing number 09:33:03 (received 04.08.2010) unless otherwise agreed in writing with the local planning authority.
7. The first floor windows in the front elevation of the dwelling serving the bathroom and ensuite (as featured on approved drawing number 09:33:03 received 04.08.2010) shall be fitted with obscure glazing and fixed shut. The said windows shall remain as such in perpetuity.
8. The finished floor levels of the development hereby approved shall be set no lower than 79.93 metres above Ordnance Datum unless otherwise agreed in writing by the local planning authority.

Reasons:

1. Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004
2. To protect the visual amenity of the area in accordance with policy DS13 of the Bromsgrove District Local Plan January 2004 and Policy CTC.1 of the Worcestershire County Structure Plan 2001.
3. In order to secure satisfactory drainage conditions in accordance with Policy CTC.8 of the Worcestershire County Structure Plan 2001 and Policy ES1 of the Bromsgrove District Local Plan 2004.
4. In order to secure a visually pleasing development in accordance with Policy CTC.1 of the Worcestershire County Structure Plan 2001 and Policy DS13 of the Bromsgrove District Local Plan 2004.
5. To protect the site against flooding and to prevent the development contributing to flooding elsewhere in accordance with CTC.8 of the Worcestershire County Structure Plan 2001, policies ES1 and ES2 of the Bromsgrove District Local Plan 2004 and the advice contained within PPS225: Development and Flood Risk.

Notes:

This decision has been taken having regard to the policies within the Worcestershire County Structure Plan (WCSP) June 2001 and the Bromsgrove District Local Plan January 2004 (BDLP) and other material considerations as summarised below:

WCSP	CTC.1, CTC.8, T.1, T.4
BDLP	DS13, S7, ES1, ES2, TR11
Others	PPS1, PPS3, PPS25, PPG13, SPG1

It is the Council's view that the proposed development complies with the provisions of the development plan and that, on balance, there are no justifiable reasons to refuse planning permission.

Agenda Item 11

Name of Applicant Type of Certificate	Proposal	Map/Plan Policy	Plan Ref. Expiry Date
Mr. M. Astbury 'B'	Change of use from a residential dwelling (Class C3) to Residential Assessment Centre providing overnight accommodation (Class C2) - 8 Gibb Lane, Catshill, Bromsgrove	RES	10/0782-RL 08.10.2010

RECOMMENDATION: that planning permission be **REFUSED**.

Consultations

Catshill and North Marlbrook PC	Consulted 19.08.2010: Objection received 27.08.2010 as per comments for 10/0455. Re-consulted 06.09.2010 (following additional information being submitted): Objection received 27.09.2010 - Insufficient information on the amended plans has been received on the parking spaces and how they are accessed. Concern with regard to the reduction of recreational space for residents and their children.
WH	Consulted 19.08.2010: No comments received. Re-consulted 31.08.10: Conditional approval recommended 01.09.10.
Publicity	Site notice posted 24.08.2010 (expired 14.10.2010). 2nd site notice (following additional information being submitted) posted 09.09.10 (expired 30.09.10). 3 neighbour notification letters sent 19.08.2010 (expired 10.09.2010). 3 neighbour notification letters sent (following additional information being submitted) 06.09.10 (expired 27.09.10). 9 letters of objection received: Concerns include: <ul style="list-style-type: none">▪ Increased traffic and the resultant safety implications▪ Health and safety regulations connected to the proposal?▪ Insufficient space provided for client, staff and visitor parking▪ Evacuation routes would be compromised by the additional parking/vehicles on site▪ Inappropriate use for a 'Residential' area▪ Loss of wildlife habitat▪ Access to rear parking area not wide enough▪ Not sufficient turning area▪ How would the parking area be drained▪ Domestic garden being used for parking is inappropriate▪ Insufficient garden left for recreation▪ Residents would give little respect for the neighbourhood given the temporary nature of their residence.

The site and its surroundings

This application is a resubmission of application referenced 10/0455 which was previously refused by your Committee at the meeting dated 09.08.2010 and then deferred at the previous Committee dated 06.09.2010 following the submission of additional information and the need for re-consultation with the neighbouring properties.

The proposal relates to a detached residential property on the south side of Gibb Lane, Catshill which is located within the 'Residential' allocation. The property has a substantial rear garden and tarmac forecourt at the front. The property is currently being leased by the applicant on a short term basis.

Proposal

The applicant is proposing to change the use of the existing residential dwelling house to a Residential Assessment Centre providing overnight accommodation. Additional information has been submitted following the refusal of 10/0455 on the grounds of insufficient parking provision and now includes the provision of 8 parking spaces in the rear garden to be accessed down the eastern side of the property adjacent to number 10 Gibb Lane, 1 space at the front along with 1 disabled space on the front forecourt and spaces for 6 bicycles also on the front forecourt. In support of the proposed parking provision, shift and work patterns have been provided.

The residents would be referred to the centre via Social Services or the family courts that have recognised that they are vulnerable families in need of guidance with regard to their parenting skills. The maximum number of families who would reside at the centre at any one time would be 3 and this is likely to be a young single parent with a baby or toddler. Each family would have their own bedroom and meals would be eaten in the communal kitchen prepared by the residents on a rota basis.

Upon admission to the centre, an assessment would be carried out of the parent/s and child in accordance with the Department of Health guideline of assessment framework by a registered social worker. This is aimed to assess the parenting capacity of a person who needs to improve their parenting skills and incorporates such things as bonding and attachments, routines and boundary setting, healthy eating, managing toddlers behaviours and life choices that are conducive to healthy child rearing, etc.

Families First Ltd would offer a residential assessment service to support families to remain together safely. One full, comprehensive assessment that would give a clear, professional outcome of 'Good enough Parenting' and whether a parent can provide it.

The centre would aim to offer:

- A free pre-study of each family presented, considering the past and present situation, the needs of the child, the needs of the parent/s, any necessary risk assessment, management of risk and a conclusion of whether a family would be viable to succeed in our centre.
- A ten week comprehensive residential assessment working to the framework of assessment, individual circumstances and Every Child Matters legislation, this to conclude detailed, evidence based analytical report recommending whether a child/ren should return into the community with their parent/s.
- A four week continued support package whereby the family's social worker/key worker from Families First visits them in the community on a daily basis. (This in recognition of the ever increasing demands on area social workers and how they do not have the resources to visit regularly). This is to ensure the continuity of a parent's ability and commitment and to support the family in maintaining safe care for their child/ren once placed back into their own community.

Families First aim to offer a friendly and welcoming environment to the families who come to stay. There is a staff group of social workers, social work assistants/support workers, night waking officers and domestic staff, this alongside, community health visitors, GP services, nursery nurse, parent and toddler play and stay groups and family centre services, all of who are committed to working alongside families to enable them every opportunity to remain together.

Other services included within the parenting package are:

- Regular workshops to enable families to work together and gain insight into what constitutes abuse and neglect and how it impacts on the wellbeing of children.
- Anger management
- Family mediation
- Budgeting and financial organisation
- Debt counselling
- Crisis counselling
- Safe and supervised contact sessions between the children in residence and wider family members.
- Specialist Health services can be accessed if necessary.

The families who stay would be greeted by the staff group, introduced to their own individual key workers and provided with a starter pack of essentials to meet their immediate families' needs. They would be guided through their own individual care plan/written agreement and the expectations required of them whilst residing in the centre.

Families First will strive to give vulnerable families the chance to remain together, to grow and learn in a 24 hour supervised environment, completing a 10 week parenting assessment that will be tailored to their own specific needs and circumstances, this, enabling them every chance to offer 'Good Enough' parenting to their child/ren.

However the parents would have to abide by the rules of the centre and a curfew would be in force. If the rules are not abided by then a parent may need to be ruled out as a long term safe and positive caregiver to their child, this enabling that child to move to another environment, forming healthy attachments to an alternative caregiver in a timeframe that will allow the child to have a safe and healthy childhood, being loved and valued until adulthood. Centres such as these are therefore seen as a final chance for parents to prove they can take care of their child/ren before they are allowed to return home and therefore it is highly unlikely that any caring parent would want to jeopardise this opportunity by breaking the rules or cause nuisance to other residents in the home or their neighbours.

A risk assessment would be in place which would be carried out on each referral prior to arrival at the centre. Information would be given by Children's Services but further information may be required by the manager in order to collate the risk assessment which would ascertain the likelihood of success by the nominated family.

An example of what would be included in the risk assessment has been submitted by the applicant and would include:

- A full background/chronology of the family composition/situation and any previous concerns raised by Children's Services.
- The consideration of any parent/child having had experience of the care system or subject of child protection planning and the impact this has had on an individual's perspective of authority.
- Has the parent/child/close family member perpetrated significant harm or experienced significant harm via abuse or persistent neglect and what the outcome following any investigation. Any person considered to be a significant risk to children would not be considered viable.
- Any separation or loss issues and how they will impact on parenting capacity.
- Any attachment issues and how they would impact on parenting capacity.
- Any history of domestic violence (either the witnessing of it or direct involvement). Any person considered to be of violent nature or with serious offences of violence against them would no be considered viable.
- Present alcohol misuse would not be considered.
- Present illicit drug misuse would not be considered.
- Any mental health considerations would be explored further and medical advice would be sought.
- Any learning difficulties would be considered and psychological testing would be requested if necessary.
- Anything further that an individual family's situation may highlight would be considered under the 'working together to safeguard children' legislation (1999) using the risk assessment tool.

An analysis would then be completed by the registered manager to conclude the viability of the family for an assessment within the Families First organisation.

Relevant Policies

WCSP	CTC.1, D.5, SD.5, T.1
BDLP	DS13, TR1, TR11, S19
Others	PPS1

Relevant Planning History

10/0455 Change of use from a residential dwelling (Class C3) to Residential Assessment Centre providing overnight accommodation (Class C2). Refused 10.08.2010.

Notes

Policy DS13 is a general policy relating to sustainable development. Amongst other things it sets out a requirement for all development to reflect the need to safeguard and improve the quality of life of residents by ensuring social progress which recognises the needs of everyone and by protecting the area's character and environmental assets, including the character of settlements.

I note that the majority of objections raise concern that the introduction of a commercial development will be harmful to the nature and character of the residential area. I note that the use will be predominantly residential and follows Government community care policy.

PPS3 actively encourages mixed communities that have a variety of housing, particularly in terms of tenure, price and a mix of different households such as families with children, single person households, older and disabled people. The residential neighbourhood will still have a solid base in single-family occupation and I am therefore content that the introduction of an alternative residential use will not have any significant impact upon the character of the area.

I also note the views arising from the publicity process whereby local residents are concerned that the introduction of a different use would set a precedent in the street for more business uses to open. Should a further application for a business use be submitted in the locality, this would be assessed on its own merits based on the usual criteria as with any application for a change of use.

I did not consider that the proposed use of the property for the assessment centre would create any significant noise or disturbance compared to a large family occupying the property. The dwelling is detached and the EHM has raised no objection on noise grounds.

However, with regard to the current proposal, and since the scheme has now been amended to include parking provision in the rear garden with an access proposed along the boundary with number 10 Gibb Lane, I am concerned with regard to the increased noise caused by the additional traffic movements despite the information with regard to shift patterns stating that these would be kept to a minimum. From the information provided, there could be up to 10 vehicle movements during any normal working day but this does not take into account any visitors to the premises, any delivery vehicles or any impromptu movements. Given that all these vehicles would be leaving and entering along the access adjacent to number 10 Gibb Lane, I find this excessive in a residential locality which would undoubtedly cause disturbance to these neighbours by reason of increased noise and fumes, early in the morning and evening and particularly at weekends. There is dense vegetation along the boundary but a lot of this would have to be cleared to ensure room for the access so this would also not be sufficient then to dissipate potential noise increases. This loss of vegetation has also been raised as a concern through the publicity process. The loss of the garden to make space for the parking area is also a concern as the remaining area may not be sufficient in size to accommodate 3 families and their children comfortably.

Members will note the views from the publicity process relating to the fear of crime and anti-social behaviour. It has been established in the court of appeal (West Midlands Probation Committee -v- SoSE and Walsall MBC (1998)) that fear of crime is a material planning consideration. However, a more recent case (Smith -v- FSS and Mid Bedfordshire DC (2005)) has made it clear that, if the fear of crime is to be a material consideration, there will be a need to be some reasonable evidential basis for that fear. Section 17 of the Crime and Disorder Act 1998 states that a LPA has a duty 'to exercise its various functions with due regard to the likely affect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area'. Whilst I acknowledge the fears of the local residents with regard to this matter, they are unsupported by clear evidence and Members should also be aware that the West Mercia Constabulary Crime Risk Manager has raised no objections to the proposal.

I am mindful of the government's aim to create safe and accessible environments where crime and disorder, or fear of crime, does not undermine quality of life or community cohesion (paragraph 36 of *Planning Policy Statement 1: Delivering Sustainable Development*). Sites for such schemes have to be found. I acknowledge that the third parties' fear of crime is very real but I am not aware of any reasonable evidential basis for that fear. In my view this issue cannot therefore be a material consideration, or a legitimate basis on which to refuse planning permission.

Given the use of the premises, its operation and now the addition of the off-street parking arrangements proposed to the rear of the premises to attempt to overcome the previous reason for refusal, I am not satisfied the development would not affect the existing amenities of the adjoining occupiers. As such, despite the use being predominantly of a residential character and therefore would not be demonstrably incompatible with the character and function of the locality, the addition of the proposed parking arrangements has now resulted in, in my opinion, a greater detrimental affect on the neighbouring properties with regard to noise, air pollution and general disturbance.

Fall-back position

It needs to be assessed as to whether the proposed use would be similar to that which could be developed without the requirement for planning permission. In this case there would be more than six residents living together at any one time and in my opinion, they would not be living together as a family despite the fact that within the information provided, meals would be eaten together. The fact there could be up to 3 separate families residing in the house along with social workers, carers and a manager results in the premises falling into class C2 (residential institutions) rather than Class C3 (dwelling houses) (this relating to a dwelling occupied by a person or family, or by no more than six residents living together, including a household where care is provided). On this basis I am of the view that a fall-back position relying on Class C3 does not exist in this case.

Highway issues

Members will note the views of third parties relating to parking and traffic issues. It should be noted that Worcestershire Highways have raised no objection to the amended scheme due to the introduction of parking spaces at the rear and front of the premises. For the original application (10/0455), it was stated that 12 parking spaces would be required for the proposed use. In order to overcome the concerns of the Highways Officer, the application has been amended to create 10 off-street parking spaces on-site which following a site meeting, was considered acceptable given staff numbers and shift patterns. Given the technical objection to the scheme arising from WH has now been overcome, I am of the view that the development would be acceptable in highway terms and this could no longer be considered as a reason to warrant refusal.

Conclusions

Members will note that the residents of the new use would be strictly controlled in terms of management and supervision. The applicants have also submitted a risk assessment document which would have to be completed prior to the submission of a new resident which clearly states that there would be control over the residents admitted to the centre and control over them while they reside there via a curfew and stringent management

tools. This should provide the residents with the relevant responsibility to complete the 10 week assessment and be able to return home with their child/children.

Policy S19 of the BDLP is also relevant to this application in terms of assessing whether the proposed use would be suitable in a residential area. This policy takes into consideration any adverse affect that a proposed use may have on the local residents with regard to such elements as noise, smell, safety, traffic and health. Despite overcoming the previous reason for refusal with regard to insufficient parking provision, the amendments made to the scheme have now increased the likelihood of it having a greater detrimental affect on the neighbouring properties with regard to noise, smell and potential health problems caused in terms of increased car fumes. I therefore consider that the proposal would be contrary to policy S19 of the BDLP and on this basis I consider the scheme to be unacceptable.

RECOMMENDATION: that planning permission be **REFUSED**.

The proposed change of use and new parking provision in the rear garden would have a detrimental affect on the amenities of the neighbouring properties with regard to increased noise, smell, car fumes and general disturbance and would thus be contrary to policies S19 and DS13 of the BDLP and the general provisions of PPS1 Delivering Sustainable Development.

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Agenda Item 12

Name of Applicant Type of Certificate	Proposal	Map/Plan Policy	Plan Ref. Expiry Date
Mr. and Mrs. P. Hughes 'A'	Erection of a 10kw vertical axis wind turbine less than 10.7 metres high - 54 High House Drive, Lickey, B45 8ET	GB	10/0810-DK 19.10.2010

Councillor Doyle has requested that this application is dealt with by Planning Committee, rather than being dealt with under delegated powers

RECOMMENDATION: that permission be **REFUSED**.

Consultations

Lickey and Blackwell PC Consulted 02.09.2010. No response to date.

Worcestershire Highways Consulted: 02.09.2010. No response to date.

Environmental Health Consulted: 02.09.2010. No response to date.

Climate Change Renewable Energy Officer Consulted 02.09.2010. No response to date.

The Joint Radio Company Ltd. Consulted: 21.09.2010. No response to date.

Natural England Consulted 21.09.2010. No response to date.

Worcestershire Wildlife Trust Consulted 21.09.2010. No response to date.

National Grid-Transo Consulted: 21.09.2009. No response to date.

NATS (Civil Aviation Authority) Consulted: 21.12.2009. No response to date.

Publicity Site Notice posted 02.09.2010; expires 23.09.2010.
2 responses received to date summarized as follows:

- Objection: Increased Noise, Light flicker, Visual effect in area of outstanding landscape value.
- The proposal is unsuited to a residential area. The power generated would be greatly in excess of the requirements for a residential property.

The site and its surroundings

The application site lies to the NW of High House Farm at the end of High House Drive. The dwelling is a large detached three storey original farmhouse and there the curtilage and surrounding land is being used as a mixed smallholding. There are no immediately

adjoining properties and there is a converted annex at the north end of the farmhouse. The site forms part of a landscape protection area.

Proposal

The application seeks planning permission for a wind generator turbine, with an overall height of 10.7m. The type of turbine proposed is called a vertical axis wind turbine. This is a different design from many turbines with a pole 5.5m high and concentric blades a further 5.2m in height. There will also be a concrete foundation with hidden cabling. The pole of the turbine will be of galvanized metal and the standard blades will be of a white/light grey colour. It is understood that the proposal will provide the electricity for High House Farm.

Relevant Planning History

There is no relevant planning history.

Relevant Policies

WCSP	CTC.1, CTC.2, CTC.7, D.38, D.39, EN.2, SD.2
BDLP	C1, C4, C31, C32, DS1, DS2, DS13, ES1, ES6, S19
Others	PPS1, PPG2, PPS22, Planning for Renewable Energy: A Companion Guide to PPS22.

Notes

It is considered that the main issues in determining the application are:

- the appropriateness of the development in the Green Belt;
- if the development is considered inappropriate, whether any very special circumstances exist to justify the harm caused;
- the impact on the visual amenity of the landscape protection area;
- the impact on surrounding residents and properties including noise issues; and
- the compatibility of the proposals with farm diversification policies.

Green Belt

Policy D.39 of the County Structure Plan states that there will be a presumption against allowing inappropriate development in the Green Belt, reflecting the advice contained in national planning guidance PPG2: Green Belts. Inappropriate development is, by definition, harmful to the Green Belt. Policy D.38 of the Structure Plan and Policy DS2 of the Local Plan are in general accordance with PPG2 in resisting development in the Green Belt unless proposals fall within a defined list of appropriate development.

Para. 13 of PPS22: Renewable Energy states that:

"when located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development, which may impact on the openness of the Green Belt. Careful consideration will therefore need to be given to the visual impact of projects, and developers will need to demonstrate very special circumstances that clearly outweigh

any harm by reason of inappropriateness and any other harm if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources."

The development would not be defined as 'appropriate' in the context, and is therefore inappropriate, and harmful by definition.

Very Special Circumstances

Such development is by definition harmful to the Green Belt, and may only be approved where very special circumstances can be demonstrated that outweigh any harm caused as a result of the proposals.

I note that the turbine would be in a fixed position but would have a height of almost 11m. High House Farm is located in an elevated position with the land falling away to the north and west. The turbine would be significantly taller than any structure in the immediate vicinity and for some distance beyond and would also be highly visible, given the elevated and open nature of the site from the north. I note the screening by the trees to the south of the site but these are deciduous and the effect is seasonal. The proposals are therefore considered to have a material impact on the openness of the Green Belt.

According to Para. 1.5 of PPG2, the purposes of including land in the Green Belt include checking the unrestricted sprawl of large built-up areas, preventing neighbouring towns from merging into one another, and assisting in safeguarding the countryside from encroachment. Although the proposals would not contribute significantly to urban sprawl or the merger of any settlements, it is considered that the turbine would add a modern feature to a rural landscape, and would therefore not 'safeguard the countryside from encroachment'.

In terms of very special circumstances, these have been requested from the applicant and Members will be updated on this matter.

A contribution towards meeting national, regional and local targets for increased renewable energy generation are welcomed, and national guidance, in the form of PPS 22 and the Draft PPS Planning for a Low Carbon Future in a Changing Climate, advises against the rejection planning applications for small scale renewable energy projects simply because the level of output, or number of buildings supplied, is small.

However, these facts must be weighed against the presumption against inappropriate development in the Green Belt, the harm caused to the Green Belt, and any other policy and material considerations. It is noted that this turbine would only serve High House Farm and the harm caused to the openness and visual amenity of the Green Belt is not outweighed.

Wind turbine policy

Policy EN.2 of the Worcestershire County Structure Plan supports the provision of individual wind turbines or small clusters where they:

- do not cause unacceptable harm to the surrounding environment, in particular sensitive landscapes;
- do not cause unacceptable harm to nature conservation interests;
- do not result in excessive noise pollution; and
- are acceptable in relation to other policies in the Structure Plan.

Landscape impact

Worcestershire County Structure Plan Policy CTC.1 sets out criteria for the assessment of proposals relating to landscape. The implications of such development will be assessed having regard to the degree to which they would:

- be appropriate to, and integrate with, the landscape character of the area;
- safeguard or strengthen the features and patterns that contribute to the landscape character and local distinctiveness of the area with particular attention being paid to existing buildings, other manmade features and seminatural vegetation; and
- relate to the sensitivity of the particular landscape, and location, and to accommodate change.

Policy CTC.2 states that proposals should demonstrate that they will not have an adverse effect on skylines and hill features, including prominent views of such features. Where development will have a significant adverse impact they will not normally be allowed.

Local Plan Policy C4 states that development will not be permitted where it would have a materially detrimental effect on the landscape, in particular within LPAs. When assessing the effect on the landscape, special attention will be given to:

- prominent slopes or major ridge lines;
- woodland and hedgerows including ancient areas;
- water features where these are an important component in the landscape.

The perspective of the applicant is that the design of the proposal is in keeping with its surroundings and the colours will match that of the sky. I consider that the scale and design of the proposal would be detrimental to the character of the landscape protection area. In particular the design of the rotor blades would be an incongruent feature in the landscape. I note the presence of large mature trees which shield the proposal from High House Drive. However, this effect is seasonal and would not outweigh the overall harm to the landscape. In terms of ecology, the views of Natural England and Worcestershire Wildlife Trust are awaited.

Residential Amenity

The applicant has presented a Noise Assessment Statement. The views of the Environmental Health Officer are awaited and Members will be updated on this matter. The representations received from local residents in terms of the impact on amenity should be noted.

Farm diversification

Structure Plan Policy CTC.7 states that any development on agricultural land should not prejudice the viability of farming operations on the remaining agricultural land. Local Plan Policy C31 supports farm diversification schemes where proposals are of an appropriate scale, can be accommodated within a rural location without detriment to the environment and are consistent with Green Belt Policy. Policy C32 sets out the criteria against which such applications will be judged, including impact on high quality agricultural land, landscape impact, cumulative effect with other activities, and the minimisation of visual impact. I note that High House Farm operates as a smallholding and Members must consider whether eligibility of the proposal under policies supporting farm diversification outweighs other negative impacts.

Conclusion

It has been determined that on balance the proposals would represent inappropriate development in the Green Belt, would not preserve the openness of the Green Belt, and would not be wholly consistent with the aims of including land in the Green Belt. Inappropriate development in the Green Belt is by definition harmful.

The benefits of the increased production of renewable energy and the diversification of, and support for, the rural economy have been weighed against that harm caused. The fallback position in terms of permitted development for microgeneration equipment is noted. However, this does not extend to turbines and Members should note that the siting of the proposal does not fall within what is considered to be the residential curtilage.

RECOMMENDATION: that permission be **REFUSED** for the following reasons:

The proposals are considered to represent inappropriate development in the Green Belt, which is considered to be harmful by definition. The applicant has not demonstrated that very special circumstances exist sufficient to outweigh the harm caused to the Green Belt. The proposal is therefore contrary to Policies D.39 and SD.2 of the Worcestershire County Structure Plan 2001, Policies, DS2 and DS13 of the Bromsgrove District Local Plan 2004, and the provisions of PPG2 and PPS22.

The development would have a detrimental impact on a designated Landscape Protection Area by virtue of its design and position. The proposal is thereby contrary to policies CTC.1, CTC.2 and EN2 of the Worcestershire County Structure Plan 2001, policies C1, C4 and DS13 of the Bromsgrove District Local Plan 2004.

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TREE PRESERVATION ORDERS - (NO. 2) 2009, (NO. 3) 2009 AND (NO. 9) 2009

Relevant Portfolio Holder	Councillor Mrs. J. Dyer M.B.E.
Relevant Head of Service	Head of Planning and Regeneration
Non-Key Decision	

1. **SUMMARY OF PROPOSALS**

1.1 The Committee is asked to consider not to confirm **three** Tree Preservation Orders in accordance with Regulation 7 of the Town and Country Planning (Trees) Regulations 1999.

- TPO (No. 2) 2009 - trees on land at and adjoining 64 Worcester Road, Hagley
- TPO (No. 3) 2009 - trees on land at the rear of 1 Willow Brook Road, Alvechurch
- TPO (No. 9) 2009 - trees on land at Woodend House, Wood End Drive, Barnt Green

2 **RECOMMENDATION**

2.1 That the Committee approves the non-confirmation of the following Tree Preservation Orders:-

- (i) TPO (No. 2) 2009 - trees on land at and adjoining 64 Worcester Road, Hagley
- (ii) TPO (No. 3) 2009 - trees on land at the rear of 1 Willow Brook Road, Alvechurch
- (iii) TPO (No. 9) 2009 - trees on land at Woodend House, Wood End Drive, Barnt Green

3. **BACKGROUND**

TPO (No. 2) 2009 - trees on land at and adjoining 64 Worcester Road, Hagley

3.1 On the 21st May 2009, a provisional Tree Preservation Order was made in relation to two trees, on the frontage of 64 Worcester Road, Hagley, and at the rear of 4 South Road, Hagley. The Woodland Officer has reviewed this matter and, in his opinion, whilst this is "an excellent example of a Cedar tree... the lack of an evident threat makes confirmation of the TPO

and subsequent need to apply to carry out routine maintenance [would cause] an unnecessary administrative burden to the tree owner."

TPO (No. 3) 2009 - trees on land at the rear of 1 Willow Brook Road, Alvechurch

- 3.2 On the 19th June 2009, a provisional Tree Preservation Order was made in respect of one oak tree situated on land at the rear of 1 Willow Brook Road, Alvechurch. The Woodland Officer has assessed the tree and forms the opinion that it is "of limited amenity value following a history of poor pruning and is now in need of work rather than protection... thus it does not merit a permanent TPO."

TPO (No. 9) 2009 - trees on land at Woodend House, Wood End Drive, Barnt Green

- 3.3 On the 1st October 2009, a provisional Tree Preservation Order was made in respect of an area order to cover "all trees of whatever species within the area" defined as land at Woodend House, Wood End Lane, Barnt Green. The Woodland Officer has assessed the area and has formed the opinion that the "trees are of a moderate amenity value, however the threat to the trees was perceived as a result of an ongoing neighbour dispute... specific trees involved in dispute on boundary are of little amenity value and others are not significantly threatened to require protection under a TPO."

4. **KEY ISSUES**

- 4.1 N/A

5. **FINANCIAL IMPLICATIONS**

- 5.1 There are no financial implications.

6. **LEGAL IMPLICATIONS**

- 6.1 This course of action is in accordance with Regulation 7 of the Town and Country Planning (Trees) Regulations 1999.

7. **POLICY IMPLICATIONS**

- 7.1 None.

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8. **COUNCIL OBJECTIVES**

8.1 Council Objective No. 4 - Environment; Priority CO4 - Planning.

9. **RISK MANAGEMENT INCLUDING HEALTH AND SAFETY CONSIDERATIONS**

9.1 There are no significant risks associated with the details included in this report.

10. **CUSTOMER IMPLICATIONS**

10.1 The parties affected by the non-confirmation will be notified of the decision of the Committee and the provisional Tree Preservation Order will be removed from the Land Registry records.

11. **EQUALITIES AND DIVERSITY IMPLICATIONS**

11.1 None.

12. **VALUE FOR MONEY IMPLICATIONS, PROCUREMENT AND ASSET MANAGEMENT**

12.1 None.

13. **CLIMATE CHANGE, CARBON IMPLICATIONS AND BIODIVERSITY**

13.1 None.

14. **HUMAN RESOURCES IMPLICATIONS**

14.1 None.

15. **GOVERNANCE / PERFORMANCE MANAGEMENT IMPLICATIONS**

15.1 None.

16. **COMMUNITY SAFETY IMPLICATIONS INCLUDING SECTION 17 OF THE CRIME AND DISORDER ACT 1998**

16.1 None.

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17. **HEALTH INEQUALITIES IMPLICATIONS**

17.1 None.

18. **LESSONS LEARNT**

18.1 None.

19. **COMMUNITY AND STAKEHOLDER ENGAGEMENT**

19.1 The Committee's decision will be notified to all those affected by the original Order.

20. **OTHERS CONSULTED ON THE REPORT**

20.1	Portfolio Holder	No
	Chief Executive	No
	Executive Director (S.151 Officer)	No
	Executive Director - Leisure, Cultural, Environmental and Community Services	No
	Executive Director - Planning and Regeneration, Regulatory and Housing Services	No
	Director of Policy, Performance and Partnerships	No
	Head of Planning and Regeneration Services	Yes
	Head of Resources	No
	Head of Legal, Equalities and Democratic Services	Yes
	Corporate Procurement Team	No

21. **WARDS AFFECTED**

21.1 TPO (No. 2) 2009 - Worcester Road, Hagley: Furlongs
TPO (No. 3) 2009 - Willow Brook Road, Alvechurch: Alvechurch
TPO (No. 9) 2009 - Wood End Drive, Barnt Green: Hillside

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22. **APPENDICES**

22.1 Appendix A - Report from the Woodland Officer

23. **BACKGROUND PAPERS**

23.1 None.

24. **KEY**

24.1 N/A

AUTHOR OF REPORT

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APPENDIX A

Report for Planning Committee for the 11th October 2010.

Report by Andrew Bucklitch - Woodland Officer - in relation to the non confirmation of three Tree Preservation Orders.

TPO (2) 2009 - 64 Worcester Road, Hagley - Excellent example of mature Cedar tree located in highly conspicuous frontage of Worcester Road, Hagley. However, discussions with owner and examination of the tree have revealed past history of good management and desire to retain tree by current owner and intention to continue such management in future. Although tree is of ample merit, the lack of an evident threat makes confirmation of the TPO and subsequent need to apply to carry out routine maintenance an unnecessary administrative burden on tree owner .

TPO (3) 2009 - 1 Willow Brook Road, Alvechurch - Tree is of limited amenity value following a history of poor pruning and is now in need of works rather than protection. Ownership is still unclear after considerable searches have been carried out. Overall, tree is of limited amenity value and little identified threat and thus does not merit permanent TPO.

TPO (9) 2009 - Woodend House, Wood End Drive, Barnt Green - Trees are of moderate amenity value, however threat to trees was perceived as a result of ongoing neighbour dispute between Woodend House and adjacent property. Specific trees involved in dispute on boundary of site are of little amenity value and others are not significantly threatened to require protection of a TPO.

Andy Bucklitch

Tree & Landscape Officer

Planning & Environment Services - Bromsgrove District Council

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email a.bucklitch@bromsgrove.gov.uk

<http://bromsgrove.whub.org.uk/cms/environment-and-planning/planning/planning-trees.aspx>

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PLANNING COMMITTEE

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APPEAL DECISIONS

Relevant Portfolio Holder	Councillor Mrs. J. Dyer M.B.E.
Relevant Head of Service	Head of Planning and Regeneration Services
Non-Key Decision	

1. **SUMMARY OF PROPOSALS**

- 1.1 To note the planning appeal decisions which have been received since the last meeting of the Committee.

2. **RECOMMENDATION**

- 2.1 Members are requested to note the report.

3. **BACKGROUND**

Name of Appellant	Plan Ref. / Proposal / Decision
3.1 Hartley Park Homes	<p>09/0809-NH - Appeal against the refusal to grant a Certificate of Lawful Use or Development for ancillary amenity space to accommodate the stationing of 8 additional caravans for residential purposes - Dells Farm, Bateman's Lane, Wythall, B47 5DF</p> <p>Refused: 15th December 2009 Appeal decision: dismissed - 16th September 2010</p>
3.2 Hartley Park Homes	<p>PI/2009/00001-NH - Enforcement notice appeal in respect of the unauthorised construction of a gravel track - Dells Farm, Bateman's Lane, Wythall, B47 5DF</p> <p>Refused: 30th April 2010 Appeal decision: dismissed - 16th September 2010</p>
3.3 H. Gibbs and Sons Ltd.	<p>09/0513-DK - Certificate of Lawfulness appeal in respect of a mixed B1, B2 and B8 use - Unit 9, Avoncroft Cattle Breeders Site, Buntsford Hill, Bromsgrove, B60 3AS</p> <p>Refused: 23rd June 2009 Appeal decision: dismissed - 23rd September 2010</p>

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4. **KEY ISSUES**

4.1 N/A

5. **FINANCIAL IMPLICATIONS**

5.1 There are no financial implications arising from this report.

6. **LEGAL IMPLICATIONS**

6.1 There are no legal implications arising from this report.

7. **POLICY IMPLICATIONS**

7.1 There are no policy implications arising from this report.

8. **COUNCIL OBJECTIVES**

8.1 This report is for information only and, therefore, does not directly relate to the Council's Objectives.

9. **RISK MANAGEMENT INCLUDING HEALTH AND SAFETY CONSIDERATIONS**

9.1 N/A

10. **CUSTOMER IMPLICATIONS**

10.1 There are no customer implications arising from this report.

11. **EQUALITIES AND DIVERSITY IMPLICATIONS**

11.1 There are no equalities or diversity implications arising from this report.

12. **VALUE FOR MONEY IMPLICATIONS, PROCUREMENT AND ASSET MANAGEMENT**

12.1 N/A

13. **CLIMATE CHANGE, CARBON IMPLICATIONS AND BIODIVERSITY**

13.1 N/A

14. **HUMAN RESOURCES IMPLICATIONS**

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14.1 N/A

15. **GOVERNANCE / PERFORMANCE MANAGEMENT IMPLICATIONS**

15.1 N/A

16. **COMMUNITY SAFETY IMPLICATIONS INCLUDING SECTION 17 OF THE CRIME AND DISORDER ACT 1998**

16.1 N/A

17. **HEALTH INEQUALITIES IMPLICATIONS**

17.1 N/A

18. **LESSONS LEARNT**

18.1 N/A

19. **COMMUNITY AND STAKEHOLDER ENGAGEMENT**

19.1 N/A

20. **OTHERS CONSULTED ON THE REPORT**

20.1	Portfolio Holder	No
	Chief Executive	No
	Executive Director (S.151 Officer)	No
	Executive Director - Leisure, Cultural, Environmental and Community Services	No
	Executive Director - Planning and Regeneration, Regulatory and Housing Services	No
	Director of Policy, Performance and Partnerships	No
	Head of Planning and Regeneration Services	Yes
	Head of Resources	No

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	Head of Legal, Equalities and Democratic Services	No
	Corporate Procurement Team	No

21. **WARDS AFFECTED**

21.1 Drakes Cross and Walkers Heath

22. **APPENDICES**

22.1 N/A

23. **BACKGROUND PAPERS**

23.1 Appeal decision letters received from the Planning Inspectorate, dated 16th and 23rd September 2010.

24. **KEY**

24.1 N/A

AUTHOR OF REPORT

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