

WYRE FOREST DISTRICT COUNCIL

PLANNING COMMITTEE
9TH JUNE 2009

PART A

Application Reference: 08/0963/FULL **Date Received:** 31/10/2008
 08/0964/LIST
 08/0965/CAC
Ord Sheet: 383124.1498603 **Expiry Date:** 30/01/2009
 276511.712471425
Case Officer: John Baggott **Ward:** Greenhill

Proposal: Part demolition, part extension and alterations to provide 60 x 1 & 2 bed extra care residential units with 4 x A1/A3 retail units at ground floor together with ancillary care home facilities and associated parking

Site Address: BRINTONS LTD, EXCHANGE STREET, KIDDERMINSTER,

Applicant: Brintons Ltd

Summary of Policy	H1 H2 H4 H10 H13 D1 D3 D7 D9 D11 D13 D15 D19 NR5 NR6 NR7 NR8 NR9 NR10 LA4 LA6 LB1 LB2 LB5 CA1 CA2 CA3 NC3 NC5 NC7 TR1 TR6 TR7 TR9 TR10 TR17 TR18 TR19 RT1 RT4 RT13 TC1 TC2 IMP1 (AWFDLP) SD2 SD3 SD4 SD5 SD9 CTC8 CTC9 CTC12 CTC14 CTC15 CTC2- CTC21 D5 D6 D34 T1 T4 T10 IMP1 (WCSP) UR2 UR3 UR4 CF4 CF5 PA11 QE1 QE2 QE3 QE5 QE7 QE9 T1 T2 T3 (WMRSS) PPS1 PPS3 PPS6 PPS9 PPG13 PPG15 PPG24 PPS25
Reason for Referral to Committee	'Major' planning application
Recommendation	08/0963/FULL – DELEGATED APPROVAL subject to Section 106 Agreement 08/0964/LIST – APPROVAL 08/0965/CAC – APPROVAL

1.0 Site Location and Description

1.1 The application site is located in Kidderminster town centre with its primary frontage to Exchange Street. It is a key town centre site lying adjacent to the Corn Exchange, Town Hall and Central Library. It also overlooks the River Stour which is a Special Wildlife Site and provides a pedestrian connection between the college, the library and Weavers Wharf.

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- 1.2 The site of 0.22 hectares in area is currently occupied and used as the main offices for Brinton's Carpets. The three storey building is listed and was constructed for Brinton's carpet manufacturers during 1876 and extended during 1926. The building is described within the Vicar Street / Exchange Street Conservation Area Appraisal as a high quality 19th century interpretation of the Italianate due to its classical orders and detailing. The building certainly has an imposing and easily recognisable frontage to Exchange Street although it has been subject to more recent unsympathetic four storey additions to the rear facing the service yard.
- 1.3 There is a culvert located underneath the application site which passes under the buildings from the River Stour before opening up on the opposite side of Exchange Street for a short section and then continuing in culvert through the town centre. The culvert, known as the dye house culvert, was originally constructed to drain Brinton's carpets; however it was extended to drain other areas within the town centre. The site also lies within flood zone 3.
- 1.4 The application proposes to redevelop the site through the conversion of the older frontage building to Exchange Street, the demolition of the modern four storey extension to the rear with the construction of a new 5 storey block facing the service yard to the rear and the River Stour.
- 1.5 The extended building would provide:
 - 30 x 1 bed and 30 x 2 bed units of extra care accommodation for those of 55 years of age and over;
 - ancillary facilities at ground floor for future residents such as dining room, hair salon, restaurant, therapy room, IT suite and administrative offices (these facilities would not be accessible by the public); and
 - 4 x A1 retail or A3 restaurant units fronting the River Stour.
- 1.6 The proposed scheme also proposes a roof terrace for residents which would be located on the first floor, a car park with a total of 12 spaces for staff and an enclosed cycle store for 6 bicycles.
- 1.7 It is proposed to retain the existing culvert under the older part of the building but replace the culvert under the new build with a larger concrete sectional structure.
- 1.8 The supporting documents submitted with the current applications comprise the following:
 - Planning Statement & Retail Assessment;
 - Protected Species Scoping Survey & Desk Survey (plus update of January 2009);
 - Flood Risk Assessment (plus Revision P2);
 - PPS25 Flood Risk – Sequential Test (plus revised version);

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- Justification for Redevelopment Over Existing Dye House Culvert;
- Technical Culvert Capacity Report; Construction & Renewal of Culvert Method Statement; Report outlining benefits of culverting beneath Brinton's Building;
- Design & Access Statement (plus addenda to);
- Transport Assessment;
- Transport Statement: Supplementary Report on Comparative Trip Generation
- Brief report on Structural Inspection of Brintons Offices;
- Impact Assessment of the Redevelopment of the Brinton's Office Building on the Character of the Listed Building and Surrounding Conservation Area
- Acoustics Report On Environmental and Road Traffic Noise;
- Retail / Restaurant Ventilation Strategy;
- Geotechnical & Environmental Overview;
- Historic Building Evaluation report;
- Further Addendum to Design & Access Statement to justify demolition of buildings

2.0 Planning History (recent)

- 2.1 WF/0075/00 - Listed Building Consent: Works to replace slates, repaint felt, windows and downpipes, replace ground floor glass with toughened glass, repair brickwork and stone work : Approved 27/03/00
- 2.2 WF0460/99 - Listed Building Consent: Demolition of building adjacent to Brintons Ltd. Offices : Approved 19/10/99

3.0 Consultations and Representations

- 3.1 Highway Authority – (final comments) I have read the financial appraisal of the site and acknowledge that they are unable to provide any pedestrian improvements without making the redevelopment financially unsound. Whilst I note they have not referred to my reduced request for a contribution their position is quite clear. Whilst I am disappointed with the applicants position as I still consider that the occupants would be likely to be elderly and less active so ensuring level access to public access points would have been good gain to the users of the building. However I am mindful of the trip generation comparison the applicant has undertaken and the requirements of Circular 05/2005, and consider that as the applicant has demonstrated a less intensive usage to the site that a Section 106 request would fail on point (iv) "*fairly and reasonably related in scale and kind to the proposed development*". Therefore I have attached an amended recommendation that removes notes in relation to Section 106 contributions. No objections subject to conditions.

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- 3.2 Environment Agency – No objections. After a meeting with the applicant to verify the modelling submitted for the replacement culvert and receipt of further information such as confirmation of finished floor levels in the section of the building to be retained we are now in a position to remove our objection to the proposal. A series of suitable conditions are suggested.
- 3.3 British Waterways – No objections subject to condition.
- 3.4 Crime Risk Manager – No response received.
- 3.5 Disability Action Wyre Forest – No response received.
- 3.6 National Care Standards – No response received.
- 3.7 Natural England (Original Comments) - We welcome and accept findings of the Protected Species Scoping Survey, Desk and Culvert Survey. Based on the information provided Natural England has no objection subject to conditions to secure the mitigation methods suggested.

Following further submissions by the applicants, additional comments have been received, which read:

On the basis of the information provided, Natural England has no objection to the proposal subject to the implementation of the entire Ecological Mitigation Method statement as prepared by RPS on 20 January 2009, and including the subsequent compensation provisions as detailed in the correspondence from RPS, dated 25 February 2009. In addition, we request that the following be included in the Ecology Mitigation Method Statement:

"In the event that more than a solitary bat is discovered during work to the roof areas, operations will cease and natural England will be informed".

A suitable note to this effect is therefore suggested.

- 3.8 Severn Trent Water – No objections subject to condition.
- 3.9 Worcestershire Wildlife Trust – We note the contents of the ecological surveys and are pleased to support the mitigation and enhancement proposals put forward. Accordingly we do not wish to object to the development but would suggest that you append a condition to any permission you may be minded to grant to cover the various recommendations made. In particular we commend the proposed green roof and the otter mitigation and would suggest that further details to support these features be submitted under the appropriate condition. (*Latest comments following details of the additional mitigation measures*) happy to confirm that the additional information looks to be entirely suitable and we are pleased to support the changes that have been made.

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- 3.10 English Heritage – Following receipt of the Historic Building Evaluation report, which was supplemented by the further Addendum to Design & Access Statement to justify demolition of buildings, English Heritage comment as follows:

Following the site meeting on 19 May English Heritage has now received an addendum to the Design and Access Statement direct from the planning consultants.

We have taken into account the additional background information now provided about:

1. The failure of previous investigations to identify suitable, economic alternative uses for the 20th century wings;
2. The wider benefits to the town in terms of flood alleviation which might be forthcoming if the development were to proceed;
3. Our own inspection of the buildings which revealed them not to be of any special historic architectural or historic interest and spatially difficult to adapt satisfactorily.

On this basis we conclude that there is a reasonable case to justify demolition of the later buildings. It is unfortunate that the two storey earlier 19th century range cannot be retained as evidence of probably the earliest phase of factory production on the site. However we recognise that the building is incomplete having been substantially altered at ground floor level leaving scant evidence of its original functions at this level; and also that its retention would effectively block any opportunity to undertake works to the culvert. For these reasons we regrettably accept the case for its demolition.

Overall therefore English Heritage does not object to the current application. We make no further comments on the proposed redevelopment and are content to leave consideration of the detailed design issues with your Council. We would however suggest imposition of a condition that no demolition should take place until a binding contract for redevelopment of the site has been signed and verified by your Council.

- 3.11 National Amenity Societies - No comments received.

- 3.12 Georgian Group – Do not wish to comment.

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- 3.13 Regeneration and Economic Prosperity – The prominent listed building provides an active frontage to Exchange Street and makes a very valuable contribution to the streetscene. As an office building it makes an important contribution to the vitality and viability of the town centre. However, it is understood that the majority of the office building is unused and now represents a relatively inefficient use of town centre floorspace in a key location within the town. It is understood that the building is surplus to requirements.

As part of the redevelopment of Weavers Wharf the western elevation of the premises became exposed to the River Stour. This elevation presents a blank brick wall to the busy pedestrian path adjacent to the River Stour which now connects the Tesco supermarket and bus station to Weavers Wharf and Vicar Street via the small unit shops link next to the Town Hall. This serves to undermine the overall shopping experience through fragmentation.

The opportunity to present a new active commercial frontage to this pedestrian link, complemented by the natural surveillance opportunities of upper floor residential units, is consistent with the Adopted Design Quality Supplementary Planning Guidance (SPG). Specifically, it would appear consistent with Kidderminster Plan 1 and Plan 2 of the Adopted SPG. These plans highlight a policy of seeking to ensure that added value is realised from the waterside setting. Therefore, the active frontage to the riverside is to be welcomed, subject to appropriate safeguards pertaining to nature conservation interests, as it will enhance this route as a key 'people place' and is likely to add to the vitality and viability of the surrounding area.

On a separate matter the junction arrangements around the bridge and bus station access may benefit from further improvements to aid pedestrian connectivity and this is highlighted on Kidderminster Plan 2 of the Adopted Design Quality SPG. A Section 106 contribution might usefully be sought towards improving this junction. It may also be necessary to secure enhanced landscaping (hard and soft landscaping) in the vicinity of the riverside walk in line with the Section 106 Obligations SPD contributions towards enhanced public realm and particularly given the Special Wildlife Site designation.

- 3.14 Watercourse Officer - I notice that despite being designed for vulnerable people the suggested escape in a flood would involve wading through (potentially fast moving and contaminated) flood water. Furthermore there is no more information specifying whether this would be an assisted procedure or if vulnerable inhabitants would be left to their own devices. As per the Environment Agency standing advice such evacuation management plans should be worked out in consultation with Emergency Planners. Do you know if such consultation took place? My only other worries are due to the location of the building in flood zone 3 and the fact that it sits on top of a culvert.

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PPS25 recommends that to pass the exception test: "It must demonstrate that the development provides wider sustainability benefits to the community that outweigh flood risk". and also, "the Flood Risk Assessment must demonstrate that the development will be safe, without increasing flood risk anywhere, and, where possible, will reduce flood risk overall" I am not sure these criteria are met. My concern is that despite the data submitted the developers have only managed to prove that the current plans do not increase current flood risk in fact in relation to the culvert the hydraulic performance was quoted as being identical as what is in place.

Furthermore there is a danger of setting a precedent here in allowing this type of building in Flood Zone 3, it is contradictory to our own Local Development Framework and makes future/other refusals on a flood risk basis difficult to justify. However if the Environment Agency are happy that these are dealt with then I would be somewhat reassured.

- 3.15 Conservation Officer - After having read the historic building report, undertaken by County, it is evident that this raises a couple of potential issues - firstly, the importance of some of the elements of the building, in particular that of the early and mid-C19th elements of the original site, and secondly some of the internal elements, including the lifts, the steel spiral staircase, and the steel trusses.

In looking at the site as a whole, and at the proposals tabled, we have to have regard to PPG15, in particular paragraphs 3.8 - 3.19 - basically, looking at the economic re-use of the building; balancing the economic viability against the special architectural and historic interest, identifying the optimum viable use compatible with the fabric, interior and setting; the possibility of community or charitable ownership; balancing the effect of change on the special interest of the building against the viability of any proposed use and of alternative, possibly less damaging uses; the impact of successive applications and alterations; the possibility of unsuitable alterations; looking at possible unorthodox use of spaces, etc; ensuring full scrutiny of the building when looking at demolition of all or part; ensuring that, if demolition is granted, that this is not due to pure commercial economic attractiveness; and to look at - 1) the condition of the building, the cost of repair and maintenance, 2) the adequacy of efforts made to retain the building in use, and 3) the merits of alternative proposals for the site.

With regards to the early-C19th structure, this has always been recognised as the earliest part of the building, and whilst it is recognised that the first floor element remains *in situ*, the extent of detrimental alteration to the structure has to remain a consideration in this, as does the impact of this building, assessing its historical and architectural importance for the site, and for the carpet industry of Kidderminster, against the viability of repair, possible reinstatement, and realistic re-use within the site as a whole.

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Apropos the mid-C19th structure, again these considerations have to be taken into account. I feel that, whilst the Historic building report indicates that both these buildings have great significance for the site, and for Kidderminster, this does only take into account the pure historical and architectural perspective, and that we need to balance this against the future use of the site, using the guidance mentioned above.

It also needs to be noted at this stage, the efforts to which the owners of the building have gone to ensure the continual use of the building - I have, for one, been involved in a considerable amount of pre-app discussions since about 2005/06, with a variety of different proposals, and prospective purchasers. To give some balance to these arguments above, the site, its access and position need to be considered, what potential uses have been looked at, to what potential uses could the site be put to ensure its survival, the limitations of the site, in terms of future uses (accepting that the current use is not viable anymore, and that the carpet industry is having to relocate), and identifying the elements of the site which 1) are essential to retain; 2) would be desirable to retain; and 3) would be acceptable to lose, if a scheme is tabled which is viable and ensures the long-term future of the elements identified in 1) and possibly 2).

- 3.16 Access Officer - The submitted Design and Access Statement is piecemeal.
- Car parking should be 100% disabled user sized. The suggested use of on-street parking in Oxford Street, 100m and more distant from the site is unrealistic for visitors wishing to collect residents from or return them to the facility.
 - Level access to all the retail units has been resolved.
 - The absence of a "head on" north elevation of the part of the building containing the guest suite, lift and therapy suite has been resolved.
 - The ramp to the new pedestrian access on the Exchange Street frontage is acceptable subject to the top leg of the ramp being the same gradient as the bottom section.
 - The access from the link block lobby to the car park previously precluded by car park space no. 3 has been resolved.
 - The access to the buggy (scooter) charging room previously made awkward by the door into the car park has been resolved.
 - Confirmation is required that the lift at the east end of the building is a through passage lift, opening at both ends, in order to access both ground floor levels (this has since been confirmed by the applicants).
 - Access to and from the stretcher sized to the lift private parking area is now acceptable.
 - There is no protected level pedestrian access to the entrances in the service yard. Bollards protecting the exit from the door are only part of the issue. The major concern is that of a protected route to the public realm, which has not been addressed.

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- There should be a 300mm unobstructed space between a leading edge of a door and a return wall. I accept the listed building constraints however this dimension has still not been addressed for the manager's office, craft area and toilets.
- In response to the query as to how the existing staircases relate to the standard dimensions considered to be adequate for use by ambulant disabled people I accept that the retention of the existing dimensioned staircase on conservation grounds, as a secondary stairway, is satisfactory.
- Whilst the landing is now satisfactory I am concerned that the access to the east side lift is unnecessarily tortuous and could be improved by handing the new wall and door, or removing them completely. I am perplexed at why the double entry lift has been changed to single entry and the exit lobbied? A double entry lift is preferred.
- I accept that a "tenants plant area" on the roof plan is for plant and machinery.
- Details of the treatment to and around the columns of the retail colonnade required to assess their impact on the use of the public open space, particularly by blind and partially sighted people are acceptable.
- Where is the disabled user WC on the ground floor? This is an essential requirement for users of the facilities provided on this floor (further details indicating disabled WC provision have since been provided).

3.17 Conservation & Countryside Officer – Has confirmed that he is generally happy with the proposals and in particular the proposed levels of mitigation. The redevelopment of the Brintons building has the potential to cause harm to 2 protected species, the Otter and the Bat.

Firstly bats. The developers survey of the above ground parts to the development site concludes that there was little potential of bats using this and hence there was a low risk of harm, however concern was raised that the replacement of an old culvert through which the river Stour flows beneath the proposed development, had potential for bats as the ceiling of the culvert has many nooks and crevices suitable for bats and the ceiling had a plentiful covering of cobwebs, suggesting it was above the level of flood events.

To mitigate against the loss of any potential roosts (no evidence of bats currently using the culvert were seen) the developer has agreed to install artificial roost boxes within the ceiling areas of the remaining parts of the old culvert.

Otters are well known to be using Kidderminster town centre and there is a case to suggest they are breeding within the town itself. Otter footprints are regularly seen at the entrance to the culvert and otter have been seen lying up within the culvert itself by the Environment Agency

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No locations that would be suitable as holt sites were identified, however a pipe leading from the culvert was seen. Despite this not being ideal for otter, there is the potential that if this pipe was to be opened up at its end conditions may exist that could be used by otter. This pipe will be further investigated before the development proceeds.

There is an obvious risk to otter that might be lying up in the culvert when work starts and this will be mitigated against by have a trained ecologist survey the site just prior to works. An otter friendly route will then be established to allow otter to pass through the development site without injury as the development proceeds.

The loss of the culvert as a lying up spot for otter will be mitigated through the provision of an artificial lying up area/ holt outside the footprint of the development and by providing ledges within the culvert at different levels for otter to use once the development has been completed.

An additional ledge will be constructed that will run the full length of the culvert that will allow otter safe passage at times of high water.

In addition the new section of culvert will have a hydrological roughened river bed to allow the establishment of a natural mixture of silts and sands to provide purchase and habitat for fish and other aquatics.

These measures with the addition of a green roof to this development are I feel sufficient to mitigate against harm to the above protected species and would provide some enhancement for these species and their environment

3.18 Environmental Health – No objections subject to conditions

3.19 Forward Planning -

- Retail Element:

Part of the proposal seeks to provide new retail space in an edge of centre location, fronting the River Stour. The building is located approx. 40m from the current Primary Shopping Area and is therefore considered to be classed as an edge-of-centre proposal for the purposes of deciding the application. Given the location of the proposal and the mix of uses identified, Policies TC.2 Town Centre Uses and Policy RT.4 Edge-of Centre Retail Proposals are considered to be the most pertinent to this part of the application.

The current designation of the proposal site is for that of General Town Centre Uses. The Local Plan indicates that in these areas, subject to other material considerations and policies a number of land uses will be allowed. The application site is specifically mentioned as a suitable site for A3 uses to be allowed. Therefore this aspect of the application appears to conform to policy.

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However, when considering the retail (A1) element of this proposal then Policy RT.4 needs to be considered. Policy RT.4 indicates that proposals for new retail (A1) development, which fall within 300metres of the Primary Shopping Area (PSA), would normally be limited to:

- i. The modest extension (less than 250 sq. metres Net) of an existing premises within the Secondary Shopping Area
- ii. The visual and functional enhancement of existing stores and infrastructure

The policy indicates further that proposals which individually lead to significant increase in NET retail floorspace (more than 250 sq. metres) must demonstrate that there is a need for the development and that there are no suitable and or available sites within the Primary Shopping Area.

The application seeks to provide a total of 414sq metres of retail (A1) floorspace (as indicated on the application form) within this location. Therefore, taking into account Policy RT.4, the applicants are required to demonstrate need for this proposal. However, there are a number of issues to consider when looking at this.

The applicant has identified that the proposed retail units are to be split between A1/A3, meaning that the overall level of A1 retail floorspace is expected to be fairly minimal. Furthermore, PPS6 identifies that, *“The level of detail and type of evidence and analysis required to address the key considerations should be proportionate to the scale and nature of the proposal.”*

It is therefore considered, in line with PPS6, that the application should be considered based on the scale and nature of the proposal. Therefore, the following issues are thought to be the most appropriate when considering the suitability of retailing within this area:

Location and Scale – The proposal site is considered to be an acceptable location for A3 development, as identified by the Adopted Local Plan. Furthermore, given the sites location within approx 40m of the Primary Shopping Area (PSA) it is felt that a limited amount of A1 retail space is also potentially acceptable in this location. The small scale nature of the proposed units also lend themselves to smaller format retailers, which could also help the local independent traders. Furthermore, the links to and from the PSA from this location are considered to be fairly good and would not constitute a fragmentation of the retail area.

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Sequential Approach – The applicants have provided a short sequential test, and have dismissed a number of other sites for various reasons, mainly to do with the distance from the current PSA, and the effect that this would have on retail ‘fragmentation’. Furthermore, although located within an area zoned as liable to flood (this is discussed in more detail below) the retail element of this proposal is considered by PPS25 to be “less vulnerable” and therefore acceptable within this location. Overall, it is felt that this ‘town centre’ based location could be considered sequentially preferable.

Need – Although the applicants have not provided a detailed needs assessment, they have included in their retail assessment the proposed retail capacity for Kidderminster, as indicated in the Council’s Retail Needs Assessment (carried out by White Young Green consultants in 2006). This study indicates that by 2011, Kidderminster’s capacity for further comparison retail floorspace is up to 8 300sqm. Furthermore, the current West Midlands Regional Spatial Strategy Phase 2 Revision indicates that Kidderminster town centre will be required to provide an extra 25,000sqm of comparison retail floorspace by 2021. Therefore, given the amount of comparison floorspace that identified for Kidderminster up to 2021, it is felt that the need for further retail space could be justified.

Therefore, given the proposed location of the application and its relationship with the PSA; the fact that the units are to be split into A1/A3 use and would be of a relatively small scale; and the retail need that is identified for Kidderminster through the RSS Phase 2 revisions, it appears that the retail element of this proposal is acceptable.

In addition it is considered that there is sufficient capacity, as identified in the White Young Green report of 2006, to accommodate the retail floorspace if all units were to be used for the sale of convenience goods.

- **Flood Risk**

The proposed development lies within a flood zone area, and therefore the risk of flooding must be taken into account. The site is located within Flood Zone 3a, as identified by the Environment Agency (EA). When looking at appropriate developments within areas liable to flood, PPS25 provides guidance on compatible uses. In this case, the proposed application is for a residential care home and retail uses. In looking at flood risk vulnerability classifications in PPS25, residential care homes are classified as a ‘More Vulnerable’ use. Due to this fact, the proposal must pass the PPS25 ‘Exception Test’ in order for permission to be granted.

The applicants have produced a site specific flood risk assessment to accompany the proposal. This Flood Risk Assessment (FRA) looks at the three elements of the exception test:

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- a) it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment (SFRA) where one has been prepared.

The FRA has indicated that works to the culvert, which is located under the proposal site, constitute wider sustainability benefits alongside the redevelopment of the current building. Is this argument robust enough? Need EA advice.

- b) the development should be on developable previously developed land.

In terms of part (b) it is considered that the application passes this part of the exception test

- c) A FRA must demonstrate that the development will be safe, without increasing flood risk elsewhere.

The FRA indicates that there is safe access from the proposed development in a 1 in 100 year flood in 2 places. Is this acceptable? Especially given the potential for well over 100+ people – classified as ‘more vulnerable’ to be in that area at any one time?

- Transport

It is considered that Adopted Local Plan Policies TR. 1 – Bus Infrastructure and TR.17 – Parking Standards are pertinent here.

Firstly it is apparent from the accompanying access and parking statement that the proposed car parking provision does not accord with Policy TR.17 and the required standards as set out at Appendix 9 of the Adopted Local Plan. Furthermore, PPG13 (Paragraph 52) specifies that maximum car parking standards should be used as part of a package of measures to promote sustainable transport choices, reduce the land-take of development, enable schemes to fit into central urban sites, promote linked trips and access to developments for those without use of a car to tackle congestion. The Access and Parking Statement contains no reference or detailed consideration to promoting access to the site by public transport. Since the on site parking provision specified is minimal and given the fact that many people aged over 55 are still very mobile, it is highly likely that they will be reliant on local bus services for transport choice.

Whilst consideration is given to pedestrian and cycle access no mention is made of public transport accessibility and it is considered that Policy TR.1 is particularly relevant to this application given the site’s proximity to the town’s bus station and the reduction in the amount of car parking which needs to be considered in the context of a package of sustainable transport measures.

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Policy TR.1 specifies that where appropriate Section 106 obligations will be sought for contributions towards off site provision of bus priority measures, given the nature of the proposal this is considered to be wholly appropriate in these circumstances.

The Council's Adopted Planning Obligations Supplementary Planning Document (SPD) sets out the requirements in relation to developer contributions towards sustainable transport measures. In particular, paragraphs 7.23 – 7.26 set out the requirements and circumstances in which developer contributions towards the Worcestershire Local Transport Plan 2 Strategy and Objectives (LTP2) will be sought. Here bullet point 3 is pertinent which states *“Where a development will generate travel demand that will put additional pressure on to existing passenger transport services, or could link to LTP2 proposals to improve passenger transport services and facilities.”*

In this context it is considered that the application fails to take account of its impact on the public transport network and does not therefore offer a package of sustainable transport measures. It is considered that transport choice for residents aged over 55 is essential to their quality of life.

- 3.20 Housing Services – Extra Care Housing is meant to provide older people with independent and secure housing, with access to a range of facilities and 24 hour care services when required. It should enable older people to be supported to maintain an independent lifestyle even when they become more infirm and are potentially disabled.

The scheme must be for the purpose of extra care housing and is not simply a standard older persons sheltered type scheme or a leasehold scheme for people of retirement age. The concept of extra care housing takes many forms but must be related to the detailed guidance that appears in “The Extra Care Housing Toolkit” published by the Care Services Improvement Partnership, Department of Health (published October 2006) and the Royal Town Planning Institute Good Practice Note 8 “Extra Care Housing, Development Planning, Control and Management”. It is suggested that the following definition, compiled from the RTPi Good Practice note, provides a benchmark against which a scheme can be measured and this could be adopted in any s106 Agreement.

The definition of Extra Care Housing is as follows - A communal housing scheme for older people (over 55) who have self contained accommodation with exclusive rights of occupation. The scheme must be capable of meeting the support, care and lifestyle needs of an individual who would otherwise require more intensive home care or a residential care bed. Residents who have mobility problems or are disabled must be fully catered for within their own accommodation and throughout the scheme.

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An extra care scheme should contain the following:

- The provision of on site care/support workers, including management
- The provision of 24 hour cover
- The ability to provide hot daily meals (generally from an on site kitchen)
- A 'commercial'/'heavy duty' laundry
- Enhanced bathing and toilet facilities
- Additional communal facilities which could include:
 - Residents' lounge
 - Bar
 - Shops
 - Hairdresser/therapy salon
 - IT suite
 - Trolley/electric scooter parking/charging area
 - Library
 - Craft room
 - Gym/leisure facilities
 - Gardening area

As an affordable housing scheme this must fully comply with the definition of affordable housing as set out in PPS3.

The current proposal is speculative, in that its design and concept of Extra Care Housing has not been developed around a particular model or locally identified need. Approximately 50% of the flats are one bedroom, which would not generally be regarded as suitable in a modern extra care scheme and the need for disabled access and facilities. However, the applicant has confirmed that the internal layout could be revised to change the flats to predominantly two bedroom units.

The District Councils, the County Council and Supporting People are currently carrying out a countywide housing survey of older people's housing needs. This will also consider the range of housing options and interventions that can be provided to meet the housing needs of people into the future and to provide modern and suitable options, of which Extra Care Housing will be one. This survey will help inform the future strategic commissioning intentions of the Local Authorities and the work that needs to be done with parties such as the PCT, the voluntary sector and Housing Associations.

This is a complex area that requires joint commissioning to ensure that the needs of older people in a particular locality are met and that the Revenue and Capital funding required for extra care schemes is properly planned.

At present the County Council's commissioning policy on Extra Care Housing is to provide such a facility in each of the District Council areas. Wyre Forest has an Extra Care Housing Scheme of nearly 100 units run by the Community Housing Group at Arch Hill Court in Kidderminster town centre.

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Any future extra care scheme will require the full support of the Local Authorities in order to ensure that it meets local needs, complements other existing housing and support provision and other policies intended to provide for older persons housing support and care needs. This will be essential if there is to be capital funding made available by the Homes and Communities Agency (formerly the Housing Corporation) for a Housing Association to build an Extra Care Housing Scheme.

3.21 Press Advert / Neighbour / Site Notice – No responses received

4.0 Officer Comments

4.1 With respect to the determination of the current applications the policy implications and the material considerations are quite numerous and complex. There has also been a whole range of supporting documents submitted with the applications. It is therefore considered appropriate to divide the issues into the following topics:

- Proposed Use of the Building – Retail / Extra Care Residential Units
- Proposed Design and impact upon listed building and Exchange Street / Vicar Street Conservation Area
- Flood Risk and Culvert Implications
- Highway Issues and Pedestrian Accessibility
- Impact Upon Ecology And Biodiversity
- Section 106 Obligations

PROPOSED USE OF THE BUILDING – RETAIL UNITS

4.2 As stated previously it is proposed to convert and extend the existing offices to provide retail 4 units totalling 575 square metres (gross) at ground floor fronting the River which could provide either retail (A1) or restaurant / café (A3) uses.

4.3 The application site is specifically designated under Policy TC2 of the Adopted Local Plan for General Town Centre Uses. This Policy permits A1 retail uses in principle whilst Exchange Street is specifically mentioned within the Policy as suitable for food and drink uses therefore the potential alternative A3 uses would also be appropriate.

4.4 In addition to Policy TC2 there is retail Policy RT4 to consider. The building is located approximately 40m outside of the Primary Shopping Area (PSA) as identified in the Adopted Local Plan. In retail terms it is therefore considered to be an edge-of-centre proposal. Policy RT4 indicates that edge of centre proposals which individually lead to a significant increase in net retail floorspace (i.e. more than 250 sq. metres) must demonstrate that there is a need for the development and that there are no suitable and/or available sites within the PSA.

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- 4.5 Comments from Forward Planning indicate that in terms of its location and the scale of the development proposed it is considered that this limited amount of A1 retail space is acceptable in this location. The comments also highlight that the links to and from the PSA are considered to be fairly good. The proposed retail units would not, it is considered, constitute a fragmentation of the retail area whilst there is sufficient justification to be able to support the development in terms of a retail sequential test.
- 4.6 In terms of need, the agent on behalf of the applicant has referred to the Council's retail needs assessment (carried out by White Young Green consultants in 2006). This indicates that there is sufficient capacity for comparison or convenience retail floorspace.
- 4.7 Therefore, it is considered that there is sufficient justification for the retail element to accord with Policy RT4.

PROPOSED USE OF THE BUILDING – EXTRA CARE RESIDENTIAL UNITS

- 4.8 In addition to the four retail units over half of the ground floor floorspace is proposed to be utilised for facilities to serve the extra care residential units located on the upper floors.
- 4.9 The term 'Extra Care Housing' is described by the Royal Town Planning Institute as purpose built accommodation in which varying amounts of care and support can be offered and where some services are shared. To reiterate the description given by the Housing Services Manager Extra Care Housing is meant to provide older people with independent and secure housing, with access to a range of facilities and 24 hour care services when required. It should enable older people to be supported to maintain an independent lifestyle even when they become more infirm and are potentially disabled.
- 4.10 By mid 2006 there were 30 000 units of extra care housing in England. The vast majority of this housing (85%) is within the public sector and has been developed by local councils and housing associations usually with Housing Corporation funding. Most schemes comprise 30 to 60 units however a number of extra care villages of 100 to 130 units have now been developed. Extra care housing is now a significant area of growth for housing associations and private developers, often in partnership with commissioners of adult social care, local housing authorities and /or housing developers.

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4.11 The proposed development would provide 30 x 1 bed and 30 x 2 bed self contained extra care units on five levels above the ground floor where the following facilities, which would be exclusive for use by the residents, would be sited:

- Dining room;
- Hair / beauty salon;
- Shop;
- Kitchen;
- Lounges;
- Guest suite;
- IT suite;
- Craft area;
- Therapy suite
- Laundry
- Cycle store; and
- Buggie recharge area.

There would also be a roof terrace on the first level and two lifts which would serve all floors.

4.12 The agents on behalf of the applicant consider that the Strategic Housing Market Assessment for the Southern Housing Market identifies that there has been little provision of appropriate housing to meet the aspirations of older people and that there is significant evidence of an unmet housing need for older people in both the private and public sector that is unlikely to be met by the existing housing stock. The extra care units would be provided through a Registered Social Landlord (RSL) and would be available for rent or for shared ownership.

4.13 The agent has advised that only token examples of extra care have been delivered within the southern area of the region despite the identified need.

4.14 Referring back to the comments made by the Housing Services Manager, notwithstanding the extracts from Strategic Housing Market Assessment there is a question over the need for this additional extra care facility in Kidderminster. This query regarding need, particularly within Kidderminster, is based on the fact that there is already the provision of nearly 100 extra care units within the town centre by virtue of the existing extra care scheme at Arch Hill Court which lies adjacent the ring road. Furthermore whilst a countywide housing survey of older peoples housing needs is currently being undertaken, to date it is yet to be published.

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- 4.15 The applicants have acknowledged that this is a speculative development, and they are well aware that the necessary commissioning and funding by the public sector to ensure that an extra care facility can be implemented has not been secured to date. Furthermore granting planning consent does not guarantee that it would be commissioned in the future. In addition whilst a RSL has shown interest in developing the scheme it is not one of the Council's five partner RSL's and there is no guarantee that the RSL will still be interested by the time it comes to commissioning. These are not however considered to be robust planning arguments to refuse the current application. Many developments are speculative and may not come to fruition. The type of scheme, to ensure that they are extra care units and their provision by an RSL can be secured via a Section 106 Agreement as can their tenure depending on the housing requirements at that time.
- 4.16 In terms of the policy position regarding an extra care facility at this location within the town centre a residential use at ground floor would be contrary to Policy TC2. It is however considered that as the only possible active frontage facing the River would be utilised for retail purposes and as the proposed use would maintain the use of this listed building and would instigate its refurbishment there is sufficient reason to outweigh Policy.

DESIGN AND IMPACT UPON LISTED BUILDING AND EXCHANGE STREET / VICAR STREET CONSERVATION AREA

- 4.17 The existing imposing three storey building dominates Exchange Street. The building forms part of a group of historic listed buildings comprising the Town Hall, Corn Exchange and the Barclays bank building which focus on the junction of Exchange Street, Vicar Street and Oxford Street.
- 4.18 The intricate detailing of the Exchange Street frontage and the grandly designed pedestrian entrance on the corner contrast greatly to the existing blank frontage of the extensions facing Exchange Street nearer to the bus station and the River.
- 4.19 It is proposed retain the older three storey part of the building fronting Exchange Street and provide a five storey extension which would include a prominent corner balcony feature at the junction of Exchange Street and the River. At their highest points the existing building measures approximately 14.2m whereas the corner feature overlooking the River would reach approximately 19m (a storey higher than the library opposite) and the roof facing the service yard to the rear would measure approximately 21.3m. Whilst the height differentials are significant and the corner feature will be dramatic it is considered that the extensions will provide a strong gateway feature to the town and a lively open frontage to the River.

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- 4.20 Plans propose a clean break between the original building and the corner feature which would be provided by a glazed stairwell measuring 4.5m in width. This also provides a step between the height of the existing building and proposed corner extension. If comparing the elevations of the original building and the proposed extensions it is considered that there is little which pays direct homage to the listed part, particularly with the chosen materials of red terracotta tiles and off white render, plus the clear glazed balconies together with the corner roof design. The contemporary design does however offer the vertical emphasis of the original by virtue of the proposed windows.
- 4.21 It would be fair to acknowledge that the design of the existing building and proposed extensions contrast however it is considered that the elevations will provide attractive vibrant frontages which will appear separate to the remaining listed parts. Notwithstanding the contemporary nature of the extensions the impact upon the character and setting of the listed building and the conservation area is acceptable. Furthermore the scheme has the added advantage of refurbishing and maintaining the life of this listed building which is soon to become vacant, a fact acknowledged and supported by both English Heritage and the Council's own Conservation Officer, as detailed previously in this report.

FLOOD RISK AND CULVERT IMPLICATIONS

- 4.22 The application site lies within the River Stour floodplain and is classified as within flood zone 3a high probability. This zone comprises land assessed as having a 1 in 100 or greater annual probability of flooding. Added to its floodplain zoning is the existing dye house culvert which runs for a length of 90m beneath the entire existing building. This has further implications regarding flood risk. The applicants are proposing to replace the existing culvert beneath the proposed extensions and leave the culvert beneath the original building in situ.
- 4.23 The Environment Agency generally opposes building over culverts and seeks the restoration of existing culverts to open channels. This is because of the increased risk to flooding and the maintenance requirements. They therefore view the redevelopment of the Brinton's site as a lost opportunity. With this background the agents have submitted a range of reports as follows to substantiate that their proposals are worthy of support:

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1. Flood Risk – Sequential Test (plus revised version) – as a residential use is not considered to be a suitable use within flood zone 3a the applicants have provided an Exception Test as required by PPS25. This demonstrates that the development provides wider sustainability benefits to the community which outweighs flood risk. Secondly the submitted Sequential Test considers the suitability of 10 other sites in and around the town centre for the development proposed. This concludes that due to the extent of the retail use a town centre location is required to comply with retail policy; other sites which have been identified have the same flood risk as the application site and therefore cannot be considered to be sequentially acceptable; the existing listed building cannot be relocated to another site where flood risk is less. The final part requires a flood risk assessment to demonstrate that the development will be safe without increasing flood risk elsewhere and where possible will reduce flood risk overall.
2. Flood Risk Assessment and Revision – demonstrates that there would be no greater flood risk to third party land, the development would not have an adverse effect upon the existing surface water drainage systems and describes the possible escape routes via Exchange Street should flood conditions occur.
3. Justification for redevelopment over existing Dye House Culvert – this report advises that it would be preferable to divert a watercourse rather than culvert it however in this case it cannot be diverted due to the listed building and the built up nature of the town centre. The culvert cannot be opened up in its entirety without the loss of the listed building and harm to the character of the conservation area. The part opening up between the River and the listed building would completely restrict any further development on the site and would require an engineered channel with barriers to restrict public access. The extra care scheme proposed requires a minimum of 50 units whilst the conversion of the listed building would only create about 26 units. Furthermore the conversion of the listed building alone would not raise the necessary funds to restore the listed building or open up the culvert.
4. Technical Culvert Capacity Report – this analyses the predicted hydraulic performance using the part replacement culvert and demonstrates that the proposals would not represent a reduction in flow capacity.

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5. Report Outlining Benefits of Culverting Beneath Brinton's Building – it is advised that the section of culvert beneath the listed building will be retained in situ although it shows signs of erosion. Repairs will be undertaken to improve its structural integrity. A new box culvert measuring 2.4m x 5.4m in section is proposed. The estimated capacity of the existing culvert is 15.47cu.m whilst the proposed replacement culvert would be 20cu.m. Therefore the replacement would reduce flood risk. The replacement culvert would provide the opportunity to promote its use by wildlife. The new culvert sections would increase the lifespan of the existing culvert. The culvert will be an independent structure from the building and the risk of collapse or failure is considered very small.
 6. Construction & Renewal of Culvert Method Statement – this report explains that the replacement culvert will be a segmental prefabricated concrete box section of 1m increments installed on site by a mobile crane. During its installation the river flow will be temporarily diverted via a line of pipes within which an otter walkway will be installed. It notes that pile foundations of the new extensions will be located to avoid the culvert and the ground floor slab will be fully suspended.
- 4.24 It should be noted that the culverting of a watercourse requires land drainage consent under the Water Resources Act 1991 which is issued by the Environment Agency. This consent is separate to planning consent and one does not guarantee approval of the other.
- 4.25 In regard to the above matters, the Environment Agency have withdrawn previous objections to the proposed scheme, subject to the imposition of suitable conditions which will ensure that the proposed replacement culvert is constructed in full accordance with current requirements, whilst providing suitable biodiversity measures to minimise the disturbance to protected species, in this case Otters.

HIGHWAY ISSUES AND PEDESTRIAN ACCESSIBILITY

- 4.26 The scheme offers a total of 12 parking spaces (including 2 disabled spaces) which would be accessed off Exchange Street. This is nearly 50% below the Local Plan Parking standard of 23 based on 30 x 1 bed and 30 x 2 bed apartments. However it is considered that the application site offers a very sustainable location with the town's main bus stops serving 11 bus routes located at a distance of approximately 40m from the site, a taxi rank located on the opposite side of Exchange Street and the train station sited approximately 750m from the site. Furthermore the site offers a cycle store for 6 bicycles whilst the occupiers at 55 years of age and over would, according to the transport assessment not have a significant parking requirement given the location and accessibility of the site.

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- 4.27 Should parking be required the nearest public car park is at Market Street just over 100m away. Long stay parking is provided on the opposite side of New Road at the Bateman Yard / Pike Mills site, less than 250m walking distance from the site.
- 4.28 The Highway Authority originally requested a contribution towards improvements to the efficiency of the pedestrian crossing on Exchange Street together with a contribution towards bus enhancements in the town centre. However the agents have responded by stating that there are no problems with the operational or safety aspects of the crossing whilst it is reasonable to expect that demand for the use of the crossing would fall with the proposed redevelopment scheme. These comments are linked to the evidence contained within the originally submitted Transport Assessment together with the later Supplementary Report on Comparative Trip Generation. These documents indicate that proposed use would generate fewer vehicle and pedestrian trips than the existing office use both during the highway peak hours and over the course of a 12 hour day.
- 4.29 The amount of parking and the trip generation rates have been considered by the Highway Authority who have acknowledged that the assumptions submitted by the agents are reasonable. Therefore the Highway Authority has submitted no objections subject to conditions.
- 4.30 Through revisions to the proposed ground floor layout many of the initial objections raised by the Council's Access Officer have been resolved. These are:
- level access to all retail units fronting the riverside walkway;
 - a new ramped pedestrian access from Exchange Street;
 - improved access to the buggy recharge area;
 - improved access from the stretcher lift; and
 - treatment of the columns to the front of the retail units.
- 4.31 Whilst there is still concern from the Access Officer at the lack of parking for residents drop offs could take place in Exchange Street. There is also concern at the lack of a protected pedestrian thoroughfare from the external doorways which lead from the elevation facing the delivery yard. Details could however be conditioned. The remaining concerns relate to the internal arrangement, however this is considered to fall outside the remit of planning control. It is considered that the plans show an acceptable improvement for the provision for disabled access to accord with Policy.

IMPACT UPON ECOLOGY AND BIODIVERSITY

- 4.32 An ecological scoping survey was carried out in August 2008 which assessed the likely presence of protected species within the site including the existing culvert based upon the existing habitat and the surrounding statutory and non-statutory wildlife sites.

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- 4.33 A further inspection of the culvert for evidence of otters was undertaken in November 2008 when otter footprints and a spraint heap at either end of the culvert were discovered and it was clear that at least one otter is using the culvert to pass through to other areas, however there is no evidence that otters are using any features within the culvert as a resting place.
- 4.34 The buildings were assessed for the likelihood of bat roosts however the reports conclude that the buildings have low bat potential which is due to the structure of the buildings which do not encourage the creation of roosts and the poor foraging habitat.
- 4.35 The River Stour Special Wildlife Site lies immediately adjacent to the site and constitutes an important wildlife corridor through Kidderminster connecting the Puxton Marsh Site of Special Scientific interest (SSSI) to the north of the site with the Wilden Marsh and Meadows SSSI to the south. It is important therefore that the proposed development not only provides mitigation for any impacts upon wildlife but also enhances wildlife within the site to accord with PPS9.
- 4.36 The replacement of part of the existing culvert will no doubt have a temporary impact upon its use by otters. Therefore the Method Statement explains that an excavation along one side of the culvert would be undertaken complete with the installation of pipes, and made continuous with the retained culvert and watercourse to accept flow to prevent any adverse impacts on fish and aquatic invertebrates. Once the replacement culvert is implemented an enhancement would be provided in the form of a shelf to aid otter passage during high flows together with an additional resting place on the adjacent river bank upstream of the culvert to benefit otter conservation in the town.
- 4.37 The proposed development would also provide enhancement through the provision of a green roof at first floor level within the proposed courtyard designed to benefit invertebrates including bees and butterflies
- 4.38 After initial concern raised by the Council's Conservation and Countryside Officer the applicants have offered further mitigation in the form of:
- a number of bat roost / hibernation bricks incorporated in the section of culvert to be retained;
 - two otter resting places designed into the ledge to enable lay-up during the day under high-flow conditions
 - two further similar resting places with appropriate ramps to be provided at a lower height to provide lay up opportunities under normal flow conditions
 - a clerk of works to be present on site to check the culvert immediately prior to demolition to ensure that no otters are within it.

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- 4.39 The Council's Conservation and Countryside Officer, along with English Nature and the Environment Agency have now confirmed that the proposed levels and form of mitigation is acceptable.
- 4.40 It is considered that the works to install the replacement culvert together with the provision for otters and a green roof are sufficient to accord with national and local policy regarding mitigation and enhancement measures.

SECTION 106 OBLIGATIONS

- 4.41 As the extra care facility will be managed and provided through a RSL it is deemed to comply with the definition of affordable housing. As the development would provide 100% affordable housing for people of 55 years of age or over there is no requirement for off site contributions towards open space, children's play facilities or education provision. An obligation towards biodiversity has been incorporated on site whilst the maintenance of the listed building and the new retail frontage to the River is considered would contribute to the public realm.
- 4.42 A Section 106 Agreement is proposed to ensure that:
- all 60 units (with the exception of a single unit for a carer to stay on site) will be used in the provision of an extra care facility;
 - the units are restricted to people of 55 years of age or over (or related to); and
 - the units are provided by an RSL and therefore do not become market housing.
- 4.43 As stated previously the highway authority were pressing for a contribution towards improving the pedestrian crossing at Exchange Street and bus enhancements in the town centre. However it should be acknowledged that in order to meet the tests of Circular 05/2005 all obligations must be:
- i. relevant to planning;
 - ii. necessary to make the proposed development acceptable in planning terms;
 - iii. directly related to the proposed development;
 - a. fairly and reasonable related in scale and kind to the proposed development; and
 - b. reasonable in all other respects.
- 4.44 Further to the submission of a follow up highways report entitled Supplementary Report on Comparative Trip Generation, the highways authority do not consider that the requests for contributions can be substantiated.

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5.0 Conclusions and Recommendations

- 5.1 The current applications have raised a number of complex issues and competing demands. The current buildings are listed and within a conservation area, and there needs to be great care given to the design of the extensions within this sensitive area. The site also lies within the floodplain and accommodates a culvert which have their own implications. Finally the use of the proposed development raises its own questions regarding the need for an extra care facility and whether this is the right location for further retail and residential development.
- 5.2 Balancing these competing issues it is considered that the over riding factor is that the proposal would ensure that the building is reused and the development would increase its longevity. It is considered that the existing frontage to Exchange Street provides an important landmark building within the town centre and not only would this proposal ensure that it is retained but also provide a gateway feature to the town centre and a vibrant frontage to the River.
- 5.3 Whilst noting that the public transport contribution aspirations have not been met it is considered that the financial implications associated with replacing the culvert and refurbishing the listed building which the agents have submitted need to be taken into account.
- 5.4 I therefore make the following recommendations:
1. **08/0963/FULL** – (Full planning application) **delegated APPROVAL** subject to the signing of a **Section 106 Agreement** to ensure that:
 - i. all 60 units (with the exception of a single unit for a carer to stay on site) will be used in the provision of an extra care facility;
 - ii. the units are restricted to people of 55 years of age or over (or related to); and
 - iii. the units are provided by an RSL and therefore do not become market housing.
- and subject to the conditions listed below.
1. A6 (Full with no reserved matters)
 2. A11 (Approved plans)
 3. Restriction on occupation (over 55 year olds)
 4. Samples of materials
 5. Sample panel
 6. D1 (Contaminated land)
 7. D2 (Landfill gas investigation)

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8. Details of the proposed ceiling construction above the four separate ground floor retail units to assess potential noise impacts
9. Details of glazing to all habitable windows
10. Details mechanical ventilation within the development as a whole either to serve the retail, residential units or the ancillary facilities to serve extra care units at ground floor
11. Details of a scheme for the extraction, treatment and dispersal of fumes and odours
12. A3 use class of the 4 retail units restricted between 07:00 and 23:00 hours Mondays to Sundays
13. Details of drainage
14. Details of the means of closure and reinstatement of vehicular access onto Exchange Street
15. Details of a management scheme to ensure that the car park is reserved for staff together with visitors offering professional services and not for residents
16. Details of the consolidation, surfacing and drainage of the access, turning area and parking facilities
17. Submission of a green travel plan
18. Details of the proposed cycle storage facilities as shown on the ground floor layout
19. Potential impact upon otters shall be mitigated in accordance with the submitted ecology mitigation method statement
20. In addition to the above condition two otter resting places shall be incorporated into the ledge to enable lay –up places during the day under high flow conditions together with two resting places at a lower height to provide lay up opportunities under 'normal' conditions
21. The potential impact upon bats shall be mitigated in the submitted ecology mitigation method statement
22. Bat bricks shall be incorporated into the approved extensions adjacent to the river together with bat roost / hibernation bricks into the section of the culvert to be retained
23. The potential impact upon fresh water invertebrates, crayfish, and fish shall be mitigated in accordance the submitted ecology mitigation method statement
24. Details regarding the implementation of the proposed green roof
25. An ecological clerk of works will be present on site to check the culvert immediately prior to its demolition
26. Details of any boundary treatment to be sited between the retail frontages and the river
27. Details of any tables and seating proposed within the seating forward of the retail units shall be submitted
28. Details of a protected walkway between the pedestrian entrances to the building facing the service yard and the riverside walkway shall be submitted

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29. Details of an Evacuation Management Plan to be submitted
 30. No demolition works until full details of a timetabled construction programme have been submitted
2. **08/0964/LIST** – (Listed Building application) **APPROVE** subject to the conditions listed below:
1. A7 (listed Building/Conservation Area Consent)
 2. A11 (Approved plans)
 3. G1 (Details of works to listed buildings)
 4. Samples of materials
 5. Sample panel
 6. G2 (Protection of existing building)
 7. G3 (Protection of part of building to be retained)
 8. Details of doors and windows
 9. Details of secondary glazing
 10. Details of repair to stone lettering to Exchange street elevation
 11. Details of details mechanical ventilation within the development as a whole either to serve the retail, residential units or the ancillary facilities to serve extra care units at ground floor
 12. Details of a scheme for the extraction, treatment and dispersal of fumes and odours
 13. Details of repairs to existing culvert that lies beneath the listed building to be retained
 14. No demolition works until full details of a timetabled construction programme have been submitted
3. **08/0965/CAC** – (Conservation Area application) **APPROVE** subject to the conditions listed below:
1. A7 (Listed Building/Conservation Area Consent)
 2. A11 (Approved plans)
 3. The works of demolition hereby authorised shall not be carried out before a contract for the carrying out of the works of redevelopment of the site approved under reference 08/0963/FULL has been made and a copy of the contract shall be submitted to and approved in writing by the Local Planning Authority.

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Reason for Approval

The principle of the proposed A1 / A3 retail units plus the 60 extra care residential units is considered acceptable at this town centre location albeit that in retail terms it is considered to be an edge of centre location whilst a residential use at ground floor is in conflict with Policy TC2. Furthermore the proposed conversion of and extension to this listed building will bring it into full reuse and prolong its longevity. It is considered that the proposed works to the listed building together with the proposed extensions are appropriate as they would enhance the character of the conservation area and maintain the special historic character and setting of the listed building. There are justifiable reasons to build over the culvert whilst the flood risk assessment supported by the sequential and exception tests conclude that there would be no great flood risk to third party land. Whilst there may be an impact upon biodiversity the proposals demonstrate that there would be sufficient measures in place to mitigate against any harm alongside features to enhance the ecology within the site. It is therefore considered to accord with the policies listed above.

Application Reference:	09/0066/FULL	Date Received:	02/02/2009
Ord Sheet:	382957.883583101 278012.095927525	Expiry Date:	04/05/2009
Case Officer:	Paul Round	Ward:	Franche

Proposal: Residential development of 73 No. dwellings with associated internal roads, access, car parking & landscaping

Site Address: LAND OFF PUXTON DRIVE, KIDDERMINSTER, DY115HY

Applicant: A & J Mucklow Ltd

Summary of Policy	H2, H4, H5, H10, D1, D3, D4, D7, D10, D11, D13, D16, NR5, NR7, NR8, NR9, LA2, LA4, NC1, NC5, NC6, NC7, TR1, TR9, TR17, LR1, LR3, LR6, CY4, IMP1 (AWFDLP) SD5, CTC1, CTC8, CTC11, CTC15, D6, T1 (WCSP) CF2, CF5, QE1, QE3, QE4, QE7, QE9, T2 (WMRSS) Design Quality SPG Planning Obligations SPD PPS1, PPS3, PPS9, PPS25
Reason for Referral to Committee	'Major' planning application
Recommendation	DELEGATED APPROVAL subject to Section 106 Agreement

THIS APPLICATION WAS DEFERRED FROM THE 14TH MAY 2009 PLANNING (DEVELOPMENT CONTROL) COMMITTEE MEETING FOR A MEMBERS' SITE VISIT

1.0 Site Location and Description

- 1.1 The application site forms a 1.63 ha piece of land situated on the south east side of the Marlpool Gardens estate. The site constitutes a rectangular shaped piece of ground that wraps around the estate behind properties in Brooklands Drive and Puxton Drive. Access is gained from Brooklands Drive and Hawkstone Close. To the south lies to the Puxton Marsh SSSI and the Stour Valley.
- 1.2 The site is allocated for residential purposes within the Local Plan, and washed over by the Landscape Protection Area. The southern most part of the site falls within Flood Zone 3/2.

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- 1.3 The land in question has been earmarked for development for a considerable amount time. Members will note from the planning history below that permissions for residential development have been secured since 1998. Reserved matters have been approved since the outline permission and work commenced on site. This results in the developer being in a position of having an extant permission for 46 houses that can he can continue to implement at any time in the future. This position has been confirmed by the approval of a Certificate of Lawfulness in 2006.

2.0 Planning History

- 2.1 **WF.243/75** – Residential development – **Refused 20.05.75**
- 2.2 **WF.833/95** (Outline) – Residential development erection of 46 dwellings, construction of new access roads with works to and management of adjoining open space – **Approved 29.9.98**
- 2.3 **WF.159/00** – Variation of condition 1 (b) and (c) of planning permission WF.833/95 – to allow a further 3 years for submission of reserved matters and to allow development to begun no later than 7 years from the date of outline permission – **Approved 14.3.00**
- 2.4 **WF.569/04** – Variation of condition 1 (b) and (c) of planning permission WF.833/95 and WF.159/00 to allow a further 3 years for submission of reserved matters and to allow development to begun no later than 10 years from the date of outline – **Withdrawn**
- 2.5 **WF.64/04** – Reserved Matters: Access and siting of 46 dwellings and associated engineering works to regrade land – **Approved 27.7.04**
- 2.6 **WF.975/94** - Reserved Matters: External appearance, design and landscaping following outline approval (WF.833/95 and WF.159/00) and reserved matters – approval for siting and access (WF.64/04) ON land off Puxton Drive, Wolverley Park, Kidderminster – **Approved 12.10.04**
- 2.7 **WF.50/05** - Engineering works for surface water sewer to link to existing main sewer – **Approved 12.08.2005**
- 2.8 **06/0547/CETE** - Certificate of lawfulness for existing development to confirm that the ground works and erection of the retaining wall undertaken on the land constitute implementation of planning permission reference Nos. WF833/95, WF159/00, WF 64/04 and WF 857/04 which remain extant – **Approved 07.07.06**
- 2.9 **08/0651/FULL** - Residential development of 73 dwellings with associated internal roads, access, car parking & landscaping – **Refused 19.12.08 : Appeal Withdrawn**

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3.0 Consultations and Representations

- 3.1 Wolverley and Cookley Parish Council (parish boundary adjoins the site) – Wolverley and Cookley Parish Council are totally opposed to the above development and wish to write expressing objection to the above planning application. The development will definitely increase the risk of flooding to both Wolverley and Cookley and Caunsall. The Council are totally opposed to building on the flood plain and the increase of landfill on this site will exacerbate the problems experienced in Wolverley over the last few months. The land at Puxton would have to be built up and is unstable and there would be a loss of amenity area in SSSI. The Environmental report is only relevant to the development site and does not address the adverse affect on other areas.
- 3.2 Highway Authority (Revised Plans) – The road layout is now to adoptable standards. No objection subject to conditions.
- 3.3 Environment Agency – We understand that this application is a resubmission of 08/0651/Full and have the following comments to make.

Flood Risk

Previous Consideration

In considering the previous applications for this site the 1 in 100 year flood level was modelled at 35.63mAOD. Accordingly the development levels of the extant permission were set to ensure that this was secured. Achievement of these required some raising of ground on site in 2006. This was a necessary consequence of delivering the abutting Kidderminster Flood Alleviation Scheme (FAS) which provides an overall flood storage capacity in the order of 700,000 metres cubed.

Present Consideration

Recent modelling by us in 2008 has resulted in a new higher theoretical 1 in 100 year level of 35.92m AOD. This results in a very small portion of the current application site (proposed lower site access road area) now falling within Flood Zone 3 (1 in 100 year floodplain) as defined in Planning Policy Statement 25 (PPS25): Development and Flood Risk.

Following implementation of the proposals as detailed in the amended Flood Risk Assessment (FRA) 024354 Wolverley Park, Kidderminster Revision 1 by Buro Happold January 2009, the development will be completely outside Flood Zone 3 (high risk).

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Finished Floor Levels and Access

We note that the amended FRA (Ref 024354 Wolverley Park, Kidderminster Revision 1 by Buro Happold) dated January 2009 states all proposed dwellings will now have finished floor levels set at 36.82m AOD. This is 900mm above the 1 in 100 year flooding level providing an allowance for climate change and freeboard / model error as well as giving added protection from extreme flooding events. This is considered to be in line with best practice as directed in PPS25.

We note that the previously mentioned access road is also proposed to be set above the 100 year level at 36.08m AOD.

It should be noted that the extant permission was granted prior to the current government advice as stated in PPS25 (Dec 2006). No provision was included or required for the impacts of climate change so making the existing permitted scheme more susceptible to flood risk than the proposed development.

The current proposals would provide betterment in relation to fluvial flood risk compared to the extant planning permission.

Flood Storage

As a result of increased 1 in 100 year model levels the applicant proposes to raise a small area of land above the 'new' 1 in 100 year level. Our calculations estimate that this will lead to a loss of flood storage capacity of approximately 16 cubic metres, based on 2% of the site flooding to a minimal depth, in the order of 50mm. In itself this loss is considered insignificant when compared to the 700,000 cubic metres storage of the Kidderminster FAS.

This would have a negligible impact on flood risk for third parties and is so small as to be beyond the capabilities of flood modelling to quantify any impact upon residents upstream or downstream of this proposal.

Surface Water Drainage

The previous planning application was considered in the context of the aim of improving the quality of the adjacent Puxton Marshes SSSI and the then English Nature requirements for recharging the wetlands. This proved to be very complex to implement and difficult to achieve.

Surface water run-off in the current application is intended to be limited to existing undeveloped rates and therefore would not have an adverse flood risk impact on site occupiers or third parties (section 5 of the FRA). The proposal now includes on site attenuation with SUDS and includes a 30% allowance for climate change. This is betterment over the extant permission.

Third party impacts

As detailed above, the proposed development is not considered to incur adverse impacts on third parties in terms of flood risk from fluvial flooding or from surface water run off flooding.

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Conclusion:

The proposed scheme would offer flood risk betterment over that associated with the extant permission and is therefore considered to represent a safer and generally more sustainable development.

On that basis we raise no objection to the proposed development subject to the inclusion of the following condition:

Condition

The development permitted by this permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) 024354 Wolverley Park, Kidderminster Revision 1 by Buro Happold dated January 2009 and the following mitigation measures detailed within the FRA:

1. Limiting the surface water run-off with the use of SUDS and on site attenuation so that it will not exceed the undeveloped run-off rate of 8l/sec/ha as stated in section 5 of the FRA.
2. Finished floor levels shall be set no lower than 36.82m AOD (this is at 900mm above the 1% Flood Level of 35.92mAOD which includes an allowance for the impacts of climate change and for freeboard/modelling error).
3. Pavement access shall be set at least 150mm above the 1% flood level of 35.92m AOD i.e 36.07m AOD

Reason

1. To prevent flooding by ensuring the appropriate storage of and discharge of surface water from the site.
2. To reduce the risk of flooding to the proposed development and future occupants.
3. To provide safe access and egress during flood events and reduce reliance on emergency services during a severe flood event.

Flood Evacuation

Should Members wish to be satisfied on the issue of evacuation during a flooding event more severe than that for which protection is afforded, it is suggested that you consult with your local authority's Emergency Services officer and the Local Resilience Forum as advised by PPS25 and its Practice Guide paragraph 2.57 and paragraph 7.28.

- 3.4 Access Officer – All issues on the previous application have been satisfactorily resolved.
- 3.5 Arboricultural Officer – No objections subject to landscaping scheme and protective fencing for retained trees.
- 3.6 British Waterways – No objection subject to informative note
- 3.7 Crime Risk Manager – No objection in principle. Advice given on crime prevention measures that have been forwarded to the Applicant.

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- 3.8 Environmental Health – No objection
- 3.9 Housing Services Manager – No objections to scheme. The units meet the space standard and satisfied with mix.
- 3.10 Natural England – Considers that the proposed development should have no impact on the SSSI. Would wish to see:
- Surface water utilised by a sustainable drainage method, and should be used to re-wet the SSSI
 - Lighting scheme to be agreed
- 3.11 Severn Trent Water – No objection subject to conditions
- 3.12 Neighbour/Site Notice – 43 letters of objection have been received. These are précised into the following:

1 letter from County Councillor Nigel Knowles:

May I re-iterate my previous objections, as to that companies recent failed application. I do not consider it possible or acceptable or logical that Mucklows could have properly addressed any of the substantial reasons for refusal, with this latest application. I am surprised that Mucklows did not have to go to Appeal, but instead have the option of returning with a further application to WFDC that is in essence, identical to this last application.

County Councillor Nigel Knowles' previous comments: I ask that WFDC rejects this hostile application. I believe the application should be referred back to Government or at least the West Midland Government Office as a special case. Government advice is to reject building on Flood Plains and this falls into that category. Your Committee should have a site visit. Further refusal reasons – inappropriate development in Green Belt land; Floodplain ground proposed would be subject to movement and flooding, proposed site has been built up with soil etc, and is unstable, risk of flooding around and into proposed homes is unacceptably high, current properties more likely to flood because of new proposals adversely affecting drainage, overload & water back up risk, run off risk. Loss of amenity area in SSSI and spoliation of marsh area and nature reserve ruination. Unacceptable precedent to build on flood plain. Complete ignoral of community preference to reject application no meaningful community consultation; proposal could adversely affect the anti-flooding defences protecting Kidderminster Town Centre climate change indicates more future flooding likely. Gross disturbance of wildlife on the site. Overload of road system and infrastructure, increased danger to pedestrians and children.

1 letter from Wolverley FLAG (Flood Action Group):

We wish to object to the application on the following grounds:

- Since the original building of residential development and flood protection on the flood plain we have had numerous instances of flooding Wolverley.
- This we partly attribute to the above

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- The Environment Agency are in the process of reporting back to ourselves and the Parish Council on the effect and impact that this development has had on flooding issues on the village
- The report has been awaited for over a year now but is imminent. Would it be prudent to await the report before pushing forward with this application?
- At a recent meeting the Environment Agency stated that their original model when the original building took place predicted that the maximum flood risk would be as far down as Mill Lane. They also stated that the 1 in 100 years occurrence would have to change to a more realistic time frame due to the number of floods we have had and the ever changing weather patterns.
- Since the original outline planning consent for this development was given many years ago, would it not be sensible to readdress this application given the flood issues we have.
- Are the Council totally disregarding Sir Michael Pitt's report which states that to protect communities "building on flood plains should be **THE ABSOLUTE EXCEPTION**, done only in areas of genuine housing shortage where there is no alternative land available.
- Will the council or the developers pledge funds for the defence of our village as they did to save Kidderminster when the original development took place?
- Or are we too insignificant & unimportant for you to care? And do we take it that you & the developers will keep pressing for approval until the committee agrees.
- Let me assure you that we as a committee and community, will not accept the potential consequences of the above development and make it quite clear that we will appeal to the highest authorities if this application is passed to have it overturned. We will also take legal advice to ascertain our position if the council passes this application and the houses are built causing us more flooding problems and misery.

28 Letters from residents of the Marlpool Estate raising the following issues:

- The site is a Nature Reserve and SSSI
- Houses will be built on the flood plain with greater risk through climate change
- Overdevelopment of the site, unacceptable housing density
- Development will adversely affect the value of landscape and natural environment
- Increased traffic leading to loss of road safety. Access from Brooklands Drive will be problematic. The road network cannot accommodate the additional vehicular movements.
- Sewerage issues. Current system incapable of accommodating additional properties.
- Devaluation of existing properties through the construction of new dwellings (especially in view of social housing tenants)

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12 letters from residents of Wolverley raising the following issues:

- Risk of flooding to Wolverley
- Awaiting report from Environment Agency
- Impact on SSSI and protected species
- The Strategic Flood Risk Assessment is not complete
- Disregards Pitt Report
- Need to take account of loss of water holding volume
- No requirement for housing
- Inappropriate development in the Green Belt
- Increased traffic generation

4.0 Officer Comments

4.1 Members will recall considering the previous application at Planning (Development Control) Committee in December 2008. The application was refused for the following reasons:

1. The proposed development of 73 dwellings would only provide a total of 14 units or 19.2% for Affordable Housing purposes. It is considered that the proposed provision at less than 30% fails to meet the requirement for affordable housing as set out in Policy H.10 of the Adopted Wyre Forest District Local Plan. As such it is also contrary to the aims of Policy D.6 of the Worcestershire County Structure Plan, Policy CF.5 of the West Midlands Regional Spatial Strategy and Government Advice in PPS3.

2. By virtue of the number of dwellings the proposed development would create an unacceptably high density of development which does not give due regard to the character of the surrounding area. As such the proposed scheme would result in harm being caused to the visual amenities of the locality contrary to Policies H.5, D.1 and D.3 of the Adopted Wyre Forest District Local Plan, the aims of the adopted Design Quality Supplementary Planning Guidance and Government Advice in PPS1.

3. Part of the application site falls within flood zone 2 which is defined by PPS25 as having a medium probability of flooding. Notwithstanding the submitted Flood Risk Assessment, the Local Planning Authority is not sufficiently satisfied that the proposed development would not be affected by flooding or that by developing this site would not cause a greater occurrence of flooding elsewhere. To approve the application under these circumstances would be in conflict with Policy NR.5 of the Adopted Wyre Forest District Local Plan, Policy CTC.8 of the Worcestershire County Structure Plan and Government Advice in PPS25.

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4. The proposed development would be located directly adjacent to the Puxton Marsh Site of Special Scientific Interest (SSSI). As a result of the number of proposed dwellings and their siting which would be in close proximity to the SSSI there is the perceived fear of harm to the biodiversity of this area of national importance to nature conservation. In view of this perceived harm it is considered that to approve the application would be contrary to Policy NC.1 of the Adopted Wyre Forest District Local Plan, Policy QE.9 (iii) of the West Midlands Regional Spatial Strategy and Government Advice in PPS9.

5. The proposed highway layout is not considered to be up to the required adoptable standards by the Highway Authority. In particular, due to the lack of connection to the existing adopted footways and lack of closure of the existing turning head at Hawkstone Close, the Local Planning Authority consider that this situation will result in conflict and a reduction of vehicular and pedestrian safety. The responsibility for future highway maintenance of the proposed highway layout, including footways and street lighting, will fall to future residents of the proposed development thereby placing an unacceptable and unnecessary burden upon future residents. In the absence of an alternative management agreement plan, which would identify how the highways will be maintained in the future in accordance with the guidance set out within Manual for Streets, it is considered that insufficient provision has been made to ensure that the highway will be maintained to a satisfactory standard in the future. The proposed development would therefore be contrary to the good practice set out in Manual for Streets, Policies D.1, D.9 and TR.9 of the Adopted Wyre Forest District Local Plan and the adopted Design Quality Supplementary Planning Guidance.

4.2 This application has been submitted with additional and revised details in an attempt to overcome these reasons.

4.3 This report will primarily deal with the issues raised previously and a consideration of the revisions and additional information submitted, however towards the end of the report other issues will be discussed in the interests of clarity.

REASON 1 – AFFORDABLE HOUSING

4.4 The applicants have not altered the submission in respect of affordable housing making the following supporting remarks:

“No change has been made to this assessment [financial viability appraisal] since the last application; there is no requirement to do this as sales prices have fallen considerably in the last year, such that if the assessment was undertaken now it would be able to substantiate a much reduced amount of affordable housing.

Policy H10 seeks the provision of up to 30% affordable housing: 19.2% accords with Policy H10, having regard to the extant permission (0%) and financial viability – a material consideration as set out in PPS3.”

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- 4.5 Policy H10 of the Adopted Wyre Forest District Local Plan requires that proposals for 15 or more dwellings should provide affordable housing up to 30% of the development. Where the maximum percentage cannot be achieved the Affordable Housing Toolkit set out in the adopted Planning Obligations SPD makes it clear of the process that must be followed. This allows for a reduced ratio to be considered on the basis of submitted evidence to allow the Local Planning Authority to be sufficiently convinced that a departure from normal policy requirements can be justified.
- 4.6 The original permission allowed for 46 market houses on the site with no provision for affordable housing. There is therefore an opportunity with this application to provide social housing on the site, an opportunity that has not presented itself prior to this application. The provision needed to take account of the both the extant permission and the financial viability of the scheme to ensure that the social element is deliverable. To this end the developer has submitted a financial viability statement that has been verified by an independent expert, Rupert Scott, to establish the provision on this site. This exercise has resulted in the offer of 14 units being offered to provide the affordable housing element.
- 4.7 It is clear from the submitted financial viability statement and the independent verification report by Rupert Scott that the offer of the number of units here is the total number that the development can support financially. As such the policy framework tests have been met to allow a reduction in the percentage of affordable units.
- 4.8 In addition to this I feel that a material factor in this consideration is the extant permission. Whilst the reduction in the percentage of the total number of dwellings has been justified in its own right, it must be remembered that the Applicants have a viable scheme for 46 dwellings that attracts no affordable units at all, that they can build out at any time. The current proposal offers over 50% of the additional 26 resulting in just 20% of the total. This position of being able to provide affordable housing in an area that has little in this type of housing and on a scheme that has not achieved any units to date, I feel is a substantial benefit.
- 4.9 When weighing these factors together and on the basis that the Applicants have fulfilled their duty under the policy requirements, I consider that that reduced affordable housing number has been fully justified and should be accepted to bring affordable housing into this site and the surrounding area.
- 4.10 It is proposed to provide these 14 units on a 80/20 split of tenure, with three units being utilised for shared ownership / intermediate rent and 11 units being used for rented properties. This split of tenure has been also be agreed with by the Housing Services Manager.

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- 4.11 I feel that notwithstanding the reason for refusal on the previous application, bearing in mind the justification that has been submitted by the Applicant and the material circumstances of the extant permission, the application can be supported in policy terms.

REASON 2 – DENSITY OF DEVELOPMENT

- 4.12 Following the refusal reason on the previous application the Applicant's have undertaken a density study to support the application. Whilst it is acknowledged that no change in the number of units or their position, the density study and additional drawings provide additional information to support the scheme.
- 4.13 The policy framework in the form of Policy H5 of the Adopted Wyre Forest District Local Plan, requiring the density of any development to be at least 30 dwellings per hectare, this is read in the context of PPS3 that requires efficient and effective use of land. However, in all these considerations that character of the area is a determining factor.
- 4.14 The density study has considered the existing surrounding development which could be classified as a medium density area providing 38 dwellings to the hectare, and occupying 1932m² of area per hectare. It should be noted that in some pockets of the estate the density of development is greater.
- 4.15 The extant permission provided less than the requirement in respect of policy and fails the Governments guidance on developing housing sites, providing less than 30 dwellings to the hectare.
- 4.16 The current proposal of 72 dwellings provides 45 dwellings to the hectare and occupies an area of 2028m² per hectare. It can be seen that development provides an increased density of development, however it is my view that this increase does not detract from the surrounding area. This is clearly evidenced in the density study showing how the proposed site will merge with the existing estate with detriment to its character. In addition elevational drawings have been produced comparing the building from of the extant scheme with what is now proposed, showing that the proposal results in no greater visual massing to the previous permission.
- 4.17 When looking at densities of development in this context of what is tantamount to an extension of an existing estate, I feel that the wider picture should be considered. As such when taking both the existing and proposed developments into account it demonstrates that the proposal will result in an increase of 2 dwellings per hectare to the estate as a whole.
- 4.18 I consider that the additional information has justified that the proposed density is comparable and compatible with the surrounding residential estate and that it can be accommodated with detriment to the character of the surroundings. Therefore I consider that with this additional information the refusal reason has been satisfactorily addressed.

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REASON 3 – FLOODING

- 4.19 The reason for refusal on flooding surrounded firstly the risk of flooding on the site and secondly the risk of flooding elsewhere, the Local Planning Authority not being satisfied that the development would not result in increase risk in these two aspects.
- 4.20 Since the refusal of the application, the Applicants have submitted a revised Flood Risk Assessment and information note that deals with the Committee's concerns over flooding and the Environment Agency have submitted the long awaited report on flooding in Wolverley. These additional pieces of evidence provide material considerations in considering this issue.
- 4.21 In respect of on site flooding, the Applicant and the Environment Agency have provided additional information. Following recent modelling of the River Stour has confirmed that the whole of the site falls outside both Flood Zone 2 & 3, as shown on the Environment Agency maps. The application site is clearly earmarked in the Strategic Flood Risk Assessment as being a development site.
- 4.22 The Applicants have, as part of the flood risk assessment, modelled the potential for future flooding taking account of climate change. This modelling has resulted in agreed 1 in 100 flood event being increased with climate change to 36.07m AOD (above ordnance datum). This effectively results in 15 units theoretically being at risk of flooding (a 1 in 100 year flood – Flood Zone 3) at a future time taking account of climate change. As such to take account of future flooding issues the Applicants have agreed to raise the levels of part of the site to ensure that the dwellings are at an extremely low risk of on site fluvial flooding, putting the levels of the site completely within Flood Zone 1 having a 1 in 1000 year probability of flooding. The Applicants have confirmed that 500 cubic metres of soil can be provided from the site works to achieve these levels without resulting in any further importation of material.
- 4.23 Having fully considered the revised proposals the Environment Agency concludes that the proposed scheme offers flood risk betterment over that associated with the extant permission and is therefore considered to represent a safer and generally more sustainable development and offers no objection to the development, as set out in detail under Section 3.3 of this report.
- 4.24 In respect of surface water flooding, the scheme provides a Sustainable Urban Drainage System utilising pervious paving, rainwater harvesting and under ground storage tank to regulate high surface waterflows. These methods have been introduced to take account of a 1 in 100 year storm water flooding event, and are considered by the Environment Agency to provide sufficient provision to take account of such an event.

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- 4.25 Concern was also expressed at the time of the last application, and again has been raised by the residents of Wolverley concerning the impact of development on flooding in Wolverley. I am sure that Member's are aware of recent flooding in Wolverley which is up stream from the application site.
- 4.26 Following the flooding in July 2007 the Environment Agency commissioned a report into the flooding at Wolverley at whether the flood defences at Kidderminster were an attributing factor. The report was published in February 2009.
- 4.27 The report models a 50, 75 and 100 year event and also the flows at July 2007. It concludes that July 2007 was a 1 in 62 year event. In addition having looked between events between 50 and 100 years that the impact of the flood alleviation scheme at Kidderminster on flooding in Wolverley would result in a flooding increase of between 2mm and 13mm.
- 4.28 This report is significant in considering backing up of floodwater. In comparison with the size of the dam, the proposed raising of the levels of the site will have an extremely small impact if any on the flooding issues at Wolverley, especially when in view that the flood storage at for Kidderminster is in excess of 700,000 cubic metres compared with the 17 cubic metres as a result of the increased levels.
- 4.29 As a follow on from this report the Environment Agency has commissioned a report by BWB Consulting looking at a Flood Alleviation Assessment for Horsley Brook. This report has recently been published in draft form. The Watercourse Officer states that *"This report builds on the original JBA model but is looking specifically at Wolverley Village. It also looks more closely at the impact of Horsley Brook tributary. It was commissioned by Environment Agency to look at the potential for any capital schemes or works to mitigate flood effects in Wolverley. The fact remains that the development [at Puxton] is not in the storage area and the calculations used in this and the JBA report use current and in situ measurements. As such the development at Puxton should have no adverse impact on the volume of storage area."*
- 4.30 The site is not within a flood plain. However taking account climate change the flooding issue needs to be considered. In view of the additional information and reports and the advice from the Environment Agency it is concluded that the proposed development will not result in residential dwellings being put at adverse risk of flood nor will surrounding properties or villages be put at increased risk of surface water or river flooding. I believe that the additional information and advice has overcome satisfactorily addressed the reason for refusal.

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REASON 4 – PERCEIVED HARM TO THE SSSI.

- 4.31 Although adjacent, the site falls outside the Puxton Marsh SSSI. English Nature who are the governing body for considering these special areas considers that the proposed development should have no impact on the SSSI. Would wish to see:
- Surface water utilised by a sustainable drainage method, and should be used to re-wet the SSSI
 - Lighting scheme to be agreed
- 4.32 Whilst the previous application proposed that all surface water was to be discharged into the sewage system, this revised application incorporates a system for collecting 'clean water' from roof and discharging water into the SSSI. This would result in approximately 10,000 cubic metres of water being discharged into the SSSI per year. This revised scheme will meet the requirements of Natural England. In respect of concerns over lighting this can be dealt with by way of a condition of any approval given.
- 4.33 On the basis of the revised information I am satisfied that the proposed development will result in no harm or any perception of harm being caused to the SSSI, in fact the proposed works will result in enhancements to the biodiversity and future maintenance of the SSSI meeting the requires of PPS9 and Local Plan policy.

REASON 5 – HIGHWAYS

- 4.34 The highway reason for refusal centred on the internal road layout and its appropriateness in terms of achieving adoption status, it should be noted that the impact of the development on the surrounding highway network was not cited in the reason for refusal.
- 4.35 Since the refusal of the last application significant discussion have taken place between the applicant and County Highways, these discussions have continued through the life of the application resulting in revised plans being submitted.
- 4.36 The revised layout addresses all the issues previously raised, including the linkages through Hawkstone Close. County Highways are now satisfied that the roadways are up to adopted standards that would be considered through the due process. It should be noted that the scheme does include some private drives and parking areas that will not be adopted.
- 4.37 On this basis I consider that the revised plans now have resulted in a scheme that overcomes the previous concerns over maintenance issues and conforms the development to the existing estate have the main roadways adopted by the County Council. This once again in my view has addressed the reason for refusal.

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OTHER ISSUES

- 4.38 Other issues were considered previously and found to be acceptable however for completeness they are dealt with below.

LAYOUT

- 4.39 The proposed design of layout follows a similar form to that of the extant permission splitting the development into two sections with half of the development being accessed from Brooklands Drive and the other half being accessed from Hawkstone Close. The dwellings have been positioned so as to front onto the estate roads provide clear frontages, taking the existing pattern of development on the surrounding estate and expressing it in a modern form. Whilst most of the dwellings have individual driveways some of the units have been designed with communal parking areas. Rear amenity areas and space standards have been maintained to the standard that this sought for in this type of development providing minimum garden lengths of 10 metres. It is considered that this approach to the layout, providing the additional dwellings, is acceptable and will not result in harm to the visual amenities of the area.

DESIGN AND EXTERNAL APPEARANCE

- 4.40 The design of the dwellings has been the subject of detailed consideration by the Developer's Architects. The elevational treatment reflects the proportions of the existing development and aids the visual transition between the existing estate and the new development. The proposal involves a number of house types adding to variety of the development. There are number of occasions where specific designs are required on individual plots to provide dual aspects. Materials are shown to be mixture of brickwork and render, providing a modern context to the traditional proportions of the surrounding estate.
- 4.41 Overall I consider that the proposed design of the properties represents high quality design in this location, utilising the modern principles without contrasting with the surrounding residential area. In this respect the proposal sits comfortably with the design principles contained with the local plan and advice in the Councils Design Quality Supplementary Planning Guidance.

NEIGHBOURING PROPERTIES

- 4.42 Due to the layout of the development, it is considered that neighbouring properties will not be adversely affected through loss of privacy and overlooking. As noted above 10m gardens are maintained throughout and a minimum distance between existing property windows and proposed gables is a least 14m. These distances are considered to provide an acceptable relationship between the neighbouring properties and the development. In fact despite increasing the numbers the distances involved between the development and existing houses is identical to the previous layout.

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DRAINAGE

- 4.43 In respect of other issues, concern has been expressed over the existing drainage system; this is a matter for Severn Trent who has not objected to the proposal, requiring drainage layouts to be submitted prior to works commencing on site. It is worth noting that the drainage strategy attached to the extant permission has been agreed with Severn Trent.

S.106 AGREEMENT

- 4.44 In February 2007 the Council adopted a SPD on Planning Obligations. This sets out the Council's stance on the type and level of contributions that would be required for certain types of development. The following table sets out the requirements set out in that document, to which the Applicant is willing to contribute. All these contributions have been fully integrated into the financial viability statement.

<u>Requirement</u>	<u>Offered Provision</u>	<u>Required by SPD</u>
Open Space	No Additional Monies Offered	✓
Education Facilities	Capped at £38,224	✓
Affordable Housing	14 Units	✓
Highway Authority	£20,000 towards bus shelters	

- 4.45 Members will note that no monies are offered in respect of Open Space. Due to the situation of the existing play area on Willowfield Drive, there would not be a requirement to provide a play area on the site but provide contributions towards existing open space. However, in this case the developer has already contributed £106,435 and transferred land to the Council for improvements to the Puxton Marsh SSSI and to permit public access. On this basis I consider that the payments already made including the land transfer are sufficient to be able to waive the open space contribution as required by the SPD.
- 4.46 In respect of Education Facilities, the County Council have agreed to a substantial decrease in the contributions required partly due to the circumstances of the school but mainly due to being flexible in this regard, acknowledging the opportunity to provide affordable housing in this location. Members will note that the contributions are capped this allows in the event that more affordable housing being provided, a reduction of the amount of contributions in accordance with SPD.
- 4.47 Having taken a flexible view to the contributions, in light of financial viability statement, as required by the SPD, I consider that the proposed contributions are acceptable and accord with the policy context in this case.

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5.0 Conclusions and Recommendations

5.1 The scheme has been re-submitted with additional information, documentation and revised drawings to address the previous concerns of the scheme.

5.2 The proposed development is considered to be acceptable in respect of design, layout and density providing affordable housing at an appropriate level given the financial viability of the scheme. The proposed traffic generation can be accommodated on the exiting road network without compromising highway safety, and neighbouring properties will not be adversely affected by the proposal. The impact of the development on the SSSI and future flooding have been fully considered and following consultation with the appropriate statutory undertakers, is felt no adverse harm will be caused to the SSSI and that the development would not put future residents or other areas at increased risk of flooding.

5.3 I therefore recommend **delegated APPROVAL** subject to the signing of a **Section 106 Agreement** to secure the matters set out at paragraph 4.44 of the report and the following conditions:

1. A6 (Full with No Reserved Matters)
2. A11 (Approved Plans)
3. B1 (Samples)
4. B11 (Details of Enclosure)
5. C2 (Retention of Existing Trees)
6. C7 (Landscaping – Large Scheme)
7. C8 (Landscape Implementation)
8. C12 (Details of Earthworks)
9. J1 (Removal of Permitted Development – Residential)
10. Severn Trent - Drainage
11. Environment Agency – Surface Water
12. Environment Agency – Run Off
13. Environment Agency – Floor Levels
14. Environment Agency – Finished Ground Levels
15. Environment Agency – SUDS scheme to be implemented
16. Natural England – Details of Lighting to be submitted
17. Natural England – Provision of Bat Boxes
18. Natural England – Protected Species Survey and Mitigation prior to Development Commencing
19. Natural England – Details of access to SSSI and information boards as appropriate
20. Natural England – Details of scheme of surface drainage onto SSSI
21. Highways - Access, turning and parking
22. Highways - Highway improvements / offsite works.
23. Highways - Wheel Washing
24. Highways - Parking for Site Operatives
25. Highways - Travel Plan Condition
26. No Implementation of material

09/0066/FULL

Notes

- A SN2 (Section 106 Agreement)
- B SN3 (Protection of Species)
- C Highways - Mud on Highway
- D Highways - Section 278 Agreement
- E Highways - Section 38 Agreement Details
- F Highways - Drainage Details for Section 38
- G Highways - No Drainage to Discharge to Highway
- H Highways - Design of Street Lighting for Section 278
- I Highways - Works Adjoining Highway
- J Highways - Direction Sign
- K Environment Agency – Long Term Management of SSSI
- L Natural England – Informative
- M British Waterways – Run-Off
- N British Waterways – Contact

Reason for Approval

The proposed development is considered to be acceptable in respect of design, layout and density providing affordable housing at an appropriate level. The proposed traffic generation can be accommodated on the existing road network without compromising highway safety, and neighbouring properties will not be adversely affected by the proposal. The impact of the development on the SSSI and future flooding have been fully considered and it is felt no adverse harm will be caused to the SSSI or put future residents or other areas at increased risk of flooding. For these reasons the development is considered to be compliant with the policies and listed above.

Agenda Item No. 5

Application Reference: 09/0230/FULL and 09/0231/LIST **Date Received:** 30/03/2009
Ord Sheet: 378568 275265 **Expiry Date:** 25/05/2009
Case Officer: Stuart Allum **Ward:** Bewdley and Arley

Proposal: Alterations and extensions, glazed smoking shelter, garden pergola, bin store, patio areas to flat roofs

Site Address: TALBOT INN, 73 HIGH STREET, BEWDLEY, DY122DJ

Applicant: The Talbot Inn

Summary of Policy	D.1, D.18, CA.1, LB. 1 LB.2, LB.3, TR.17 (AWFDLP) CTC.19, CTC.20 (WCSP) QE.5 (WMRSS)
Reason for Referral to Committee	Third party has registered to speak at Committee
Recommendation	APPROVAL

THIS APPLICATION WAS DEFERRED FROM THE 14TH MAY 2009 PLANNING (DEVELOPMENT CONTROL) COMMITTEE MEETING FOR A MEMBERS' SITE VISIT

1.0 Site Location and Description

- 1.1 The Talbot Inn, a Grade II Listed Building dating from the early 18th Century, is located close to the road junction with the upper part of Load Street, adjacent to St Anne's Church. The site lies within the Bewdley Conservation Area.
- 1.2 There is an existing rear beer garden, on two levels, and to the side runs a passageway giving access to dwellings and other premises in Load Street. The site is typical of many in Bewdley, with commercial and residential uses in close proximity to each other.

2.0 Planning History

- 2.1 WF.286/91 (LBC – Modifications to first floor fire escape route and repairs to frontage - Approved
- 2.2 WF.799/96 (LBC) – Fire door onto passageway, steps up from rear garden and new gateway onto passage - Withdrawn
- 2.3 07/0479/LIST – Modifications to toilets, public bar areas, new doorway with steps, canopy to rear courtyard, doorway into alleyway, pergola to beer garden, retailing wall alterations, railings to existing first floor patio roof areas - Approved

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09/0231/LIST

- 2.4 08/0857/LIST – Erection of a glazed canopy to rear yard, erection of timber pergola to beer garden, modification to rear retaining wall incorporating wrought iron railings and erection of brick built store to rear - Withdrawn

3.0 Consultations and Representations

3.1 Bewdley Town Council – Objection to the proposal and recommend refusal as this is considered to be an over-development of a very restricted area. In addition to the planning issues associated with this application, Town Councillors expressed their concern at continuing dispute, as they understand it, over the ownership of the alley in question and of the potential fire hazards in what is a very restricted area. Town Councillors considered that a site visit was essential by Members of WFDC before a decision was made on the application.

3.2 Highway Authority – Views awaited.

3.3 Conservation Officer - Whilst I have no objections over the proposals, I would like to see the following conditions placed on any approval:

- a) That details of all new windows and external doors, including 1:10 sections and profiles, finish and material, be approved.
- b) That 1:10 section and profile and finish details of the proposed new wrought iron pergola and of the wrought iron railings be approved
- c) That 1:10 section and finish of the proposed new oak pergola be approved.

All to be approved prior to the commencement of works on site and I recommend Approval subject to the conditions outlined above

3.4 Environmental Health – No adverse comments.

3.5 Hereford & Worcester Fire and Rescue Service – Comments awaited.

3.6 Neighbour/Site Notice – Six letters and emails of objection received. The main objections are summarised below:

- The construction of an emergency exit into a passageway on our client's land and which is part of her property.
- The construction of a balcony which will overhang the said land belonging to our client.

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Both aspects will constitute a trespass and our client would seek to injunct to prevent such trespass incurring if necessary.

- We suffer existing noise pollution from the Talbot till 1.00 am at the rear and 2.00 am at the front at their peak times – more people in the garden would be unacceptable, particularly during the summer months. We however respect that they have a need to expand so that a limit on the licence in the garden to 11.00 and signs informing their clients to respect neighbours and leave quietly as seen in most licensed premises would seem appropriate.
- Practicality of the planned emergency exit which would be opposite my exit from the flat (and the Chinese restaurant). Also, the plans seem to show that the Talbot's exit would block an exit. Bearing in mind the volume of people leaving would hinder the safety of those of us this side of the wall.
- We wish to lodge objections on the grounds of trespass (point 1) and to potential nuisances of noise, cigarette smoke and badly directed lighting (points 2-4).

I would also like to register my wish to speak at the Planning Meeting (unless the landowner wishes to do so).

- 1) We realise that the District Council cannot be involved in legal disputes, but we wish to draw to the attention of the Planning Committee that in September 2008 Mr. Wheway was sent solicitor's letters to the effect that he would be sued for trespass should he allow egress from his premises via his proposed new fire exit and drop-down escape ladder into the private alleyway which runs alongside his building. We are, therefore, somewhat surprised to see that he has resubmitted this application.

Curiously, under 'Certificate of Ownership – Certificate A' the Agent has signed that "The applicant certifies that on the day 21 days before the date of this application nobody except the applicant was owner ... of any part of the land or building to which the application relates." Technically this is true, in that the wall into which the applicant wishes to build his emergency fire exit does belong to him. However, the land onto which it opens does not belong to the applicant. 'Certificate of Ownership – Certificate B' relating to giving the requisite notice to the "owner of any part of the land or building to which this application relates" has been rubber stamped "Not Applicable"!

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In any case, it is obvious from the narrowness of the passage, the slope, the low ceiling at the beginning, the exit onto an extremely narrow pavement – right at a busy road junction – that such an escape route for frightened, hastening customers would, in fact, represent a health and safety hazard in its own right – not only to customers of the pub, but also to residents of numbers 26, 27, 28 & 29 Load Street, whose right of way along the alleyway would be blocked by the proposed fire door whenever it was opened! (see my letters to the District Council dated 28th May and 31st July 2007 and 30th September 2008). It would be interesting to discover the Fire Officer's opinion.

- 2) The proposed building of a bar/servery in the yard. This would result in even more noise invading our premises from the Talbot than we already suffer.
- 3) The proposed lean-to glazed smoking canopy suggests an open-sided construction, from which cigarette smoke could and would easily escape. If Mr Wheway could ensure that his smoking canopy was of a much more substantial construction, from which smoke could not escape, then that would be agreeable to us.

Currently we already suffer the intermittent smell of cigarette smoke in our downstairs sitting room and in our bathroom, which is also downstairs (out house being built into a slope) as well as in the approach to our house.

We would also object strongly to smoking in the beer garden because this is directly opposite to, and only a few metres from, our front door and window – with the result that smoke would invade this part of our premises. We do smell it outside the house now.

Smoking causes fires – even outdoors! Neither of us is a smoker. We have chosen not to smoke. Before the Government ban we did not expect smokers to give up smoking in public buildings – we simply avoided going to those buildings. In turn, we expect smokers to give us some consideration. We do not see why they should inflict the health harming stench of cigarette smoke on us, let alone in our own home and garden. Where are our rights? Or should we have to spend all the hours the pub is open in a public building before we have Government (or, indeed, any other) protection from the harmful and unpleasant effects of other people's cigarette smoke? If people wish to smoke, then that is their choice but they should do so where they cannot inflict the results of their habit onto others.

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09/0231/LIST

Smoking in a public building, like sex in a public place, is against the law and gives offence. Unlike sex, however, smoking is not a nature urge; it is simply a bad habit. If smokers cannot restrain themselves from having a smoke while they are in a public area, then what is to stop them from going home and smoking there – just as they would have to overcome sexual urges until they got home or somewhere more suitable? Then hard pressed landlords would not have to go to the trouble and expense of constructing smoking shelters and outside serveries.

- 4) The proposed lighting to help visually impaired people should not be allowed to intrude onto our premises. Currently, and for at least the last 20 months, a dazzling halogen-type light mounted on the rear roof of the Talbot shines directly into our eyes as we exit our front door. Despite Mr Wheway's several promises to redirect the beam, he has failed to do so.

A right of freedom from nuisance is a right of long-standing. As a matter of common courtesy, surely the landlord should show some duty of care to his neighbours as well as to his staff and customers. He appears to have consulted his patrons, regulars and staff, but he certainly has not consulted his neighbours at number 26 or the owner of the alleyway – nor, we suspect, his other neighbours. Is that because we are a minority, so that our opinion either does not count or can be over-ruled by the majority? Is it some kind of bullying, where the majority opinion is so important as to obliterate others' valid views before they have even been expressed?

Although the text was present on the District Council's computer system on 7th April, shortly after we received your letter, the drawings were not scanned in until 14th April, probably due to pressure of work and the Easter break. Therefore, we would appreciate an acknowledgement of receipt of this letter to assure us that it has arrived before the 21 day deadline for lodging representations. Enclosed for same, please find a stamped self addressed envelope.

We have also notified Bewdley Town Council of the plans regarding the fire exit, but because of the delay in getting the drawings onto the WFDC computer, the Town Council may not be able to make any comments to the WFDC by deadline (23rd April).

4.0 Officer Comments

- 4.1 Several of the elements applied for in these applications already benefit from the Listed Building Consent granted on 9 October 2007. These include the pergola, the flat roofed patio areas, the beer garden servery, stone and changes to rear facing windows.

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- 4.2 The approved smoking shelter from that application has, however, been moved further back in the site, to take advantage of a position adjacent to existing retaining walls.
- 4.3 All the changes applied for have the potential to affect the character and appearance of the Listed Building. However, and following extensive pre-application discussions, the Council's Conservation Officer is satisfied that these effects are manageable with suitably framed conditions. This view is supported by the Planning Case Officer.
- 4.4 In terms of effect upon amenity, the potential for a degree of noise and disturbance from public house, where they lie adjacent to residential properties, is obvious. However, and in consultation with the Principal Pollution Control Officer (who offers no objections to the proposal), these effects could be controlled and mitigated by means other than planning conditions.
- 4.5 Regarding the proposed provision of a fire exit door to the side passageway, there is no compelling policy based reason to deny either planning permission or Listed Building Consent for this alteration. This may be the subject of an ownership or access dispute between the parties but Wyre Forest District Council is unable to arbitrate in such private matters.
- 4.6 As noted above, the Hereford & Worcester Fire and Rescue Service has been consulted with particular reference to the proposed fire exit. Their views will be reported on the Addenda and Corrections sheet.
- 4.7 Also, clarification is being sought from the applicant's agent regarding the proposed garden servery arrangements. A revised plan is anticipated which will clarify the situation and this will also be reported on the Addenda and Corrections sheet.

5.0 Conclusions and Recommendations

- 5.1 These proposals meet the requirements of the appropriate policies and other guidance. Accordingly, these applications are recommended **APPROVAL** subject to the following conditions:

Application reference 09/0230/FULL

1. A6 (Full with no reserved matters)
2. A11 (Approved plans)
3. Material samples/details to be submitted
4. Details of raised patio screening to be submitted

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09/0231/LIST

Note
SN12 (Neighbours' rights)

Reason for Approval

The proposed extensions and alterations are in harmony with the existing building and the surrounding area, and are capable of implementation without seriously harming the amenity or privacy of adjacent neighbouring properties. Accordingly, the policies listed above are considered to have been satisfied.

Application reference 09/0231/LIST

1. A7 (Listed Building/Conservation Area consent)
2. A11 (Approved plans)
3. Details of new windows, doors and pergolas (sections, profiles, materials and finishes) to be submitted.
4. Details of raised patio screening to be submitted

Reason for Approval

The proposed extensions and alterations would not detract from the character and appearance of this Grade II Listed Building and the character and appearance of Bewdley Conservation Area would be preserved. Accordingly, the policies listed above are considered to have been satisfied.

Agenda Item No. 5

Application Reference: 09/0247/FULL **Date Received:** 06/04/2009
Ord Sheet: 385674 274307 **Expiry Date:** 06/07/2009
Case Officer: Paul Wrigglesworth **Ward:** Blakedown and Chaddesley

Proposal: Conversion of existing buildings to provide 22 live works units & 9 affordable dwellings, business support facility for residents/community meeting room, additional new roof structures (buildings 1 & 3) landscape renovation works including off site highway works

Site Address: FORMER DEPOT, BUTTS LANE, STONE, KIDDERMINSTER, DY104BL

Applicant: County to County Professional Ltd

Summary of Policy	GB1 GB2 GB6 LA1 E9 H2 H4 H10 H11 D1 D3 D4 D5 D7 D9 D10 D11 D15 NR2 NR7 NR9 RB1-RB7 NC4 NC5 NC6 NC7 TR9 TR17 TR19 LR5 CY2 CY4 IMP1 (AWFDLP) SD1 SD2 SD3 SD4 SD5 SD6 SD8 CTC1 CTC2 CTC5 CTC6 CTC7 CTC8 CTC9 CTC13 CTC14 CTC15 CTC21 D6 D7 D12 D16 D29 D38 D39 T1 T10 (WCSP) RR1 CF4 CF5 PA14 QE1 QE3T2 T3 (WMRSS) Design Quality SPG PPS1 PPG2 PPS3 PPG4 PPG13 PPS7 PPS9
Reason for Referral to Committee	'Major' planning application
Recommendation	DELEGATED APPROVAL subject to a Section 106 Agreement

1.0 Site Location and Description

- 1.1 The site measures approximately 7.22 hectares of land and is located on the western side of Butts Lane in Stone, approximately 3km (1.9 miles) to the south east of Kidderminster town centre. Vehicular access to the site is gained from Butts Lane. This access also serves an adjacent Severn Trent Water installation.
- 1.2 The land lies within the Green Belt and the surrounding area is rural in character.

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- 1.3 The site rises upwards in a westerly direction from the lane and contains:
- an area of land which has been used as an agricultural sales area. This is characterised by large areas of concrete foundations/hardstanding and grass land,
 - a hard standing area which was until recently a large grain store (with dryers) with 6 No silos to the rear,
 - a wooded area with dense overgrowth close to the western boundary,
 - depot buildings which are mainly comprised of brick built structures with flat roofs although two buildings incorporate pitched roofs. These buildings (together with others subsequently removed) may have been used in the war for the production of ammunition and consequently may have required a significant labour force together with accommodation. It is claimed that there are unconfirmed reports the buildings have been used since to house refugees although they are now derelict,
 - a partially rebuilt structure (building number 5).
- 1.4 The main elements of the proposed development include:
- The conversion of the depot buildings into 22 Live work units and 9 Affordable Housing Units.
 - Restoration of the site formerly used for agricultural sales to an area of landscaped grounds with pools and extensive tree planting.
 - The creation of a new access point to Butts Lane.
 - Creation of a footway towards Stone village (off site).
 - Creation of passing bays after Butts Lane forks in the direction of the Stourbridge /Worcester road (off site).
- 1.5 The application was accompanied by the following documents:
- Planning Supporting Statement,
 - Design & Access Statement,
 - Transport Assessment,
 - Ecological Survey,
 - Bat survey,
 - Landscape Report,
 - Structural Report,
 - Drainage Strategy,
 - Travel Plan.
- 1.6 Although a formal Environmental Impact Assessment screening opinion has not been sought by the applicant, it is considered that whilst the development falls within Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England & Wales) Regulations 1999, an Environmental Impact Assessment is not required for the proposed development.

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2.0 Planning History

- 2.1 KR 299/70 - Sale of agricultural machinery and effects: Approved and renewed on several occasions
- 2.2 WF.1080/80 - Use of site for sale of machinery: Refused
- 2.3 WF.34/83 - Permanent permission for 10 sales per year (agricultural machinery): Approved
- 2.4 WF416/83 - Change of use to hold 4 antique auctions per year: Refused
- 2.5 WF1065/87 - Construction of auction sales room: Refused
- 2.6 WF338/00 - Change of use of building and use of an area of land for testing fireworks for not more than 20 days in a year: Refused
- 2.7 07/0299/FULL - Conversion of existing buildings to provide 22 live works units & 9 affordable dwellings, business support facility for residents/community meeting room, additional new roof structures (buildings 1 & 3) landscape renovation works including off site highway works: Approved 19th October 2007
- 2.8 08/0282/FULL - Removal of condition number 3 (from planning permission 07/0299) that requires a one way system via a Traffic Regulation Order as the free flow of traffic can be achieved by the provision of passing bays which can be facilitated by condition 32: Approved 24 July 2008
- 2.9 09/0030/FULL - Conversion of existing buildings to provide 22 live works units & 9 affordable dwellings, business support facility for residents/community meeting room, additional new roof structures (buildings 1 & 3) landscape renovation works including off site highway works: Withdrawn

3.0 Consultations and Representations

- 3.1 Stone Parish Council – In 2007 Stone Parish Council raised various objections to this development scheme. In spite of these objections, the scheme was approved. Since then, a revised application has been studied by the Parish Council and two specific objections are now made.
 - 1. Following the demolition of building No. 5 it has been replaced in the scheme by the building which was the Stone Sale Site Office, building 12.
 - a) The demolition is the responsibility of the Developer. The Council is unable to understand why the developer should be the beneficiary of this unlawful act.

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- b) In the Planning (Development Control) Committee 14.08.07 Document Agenda Item No.5 on pages 16,17 and 18 it states:-
- (i) Paragraph 4.8 – There are buildings on site which are more prominent and not judged to be in keeping with their surroundings, but these structures are proposed to be demolished.
 - (ii) Paragraph 4.9 – It is felt that this can be justified in terms of Green Belt policy by the required demolition of larger and substantial buildings which are significantly more prominent in the Green Belt, namely the large flat roof building at the top of the site and the Grain Dryer building (together with its attendant silos).
 - (iii) Paragraph 4.17 – The proposed cartilages and operational spaces within the site are predominantly very discrete and hidden from view.
 - (iv) Paragraph 4.22 –Policy LA.1 requires development to safeguard, restore and enhance the character of the surrounding landscape and states that development that would have an adverse impact on landscape will not be permitted.
 - (v) Paragraph 4.24 – A block of substantial single storey units which is the most prominent on the site due to its high position and more open aspect is to be demolished.
- c) In line with these comments from the Planning Officer, it would seem inconceivable that the Stone Sale Office site could now be included in the development scheme. It is the one prominent eyesore that everybody agreed should be demolished.
2. The other objection is at the building mentioned in paragraph 4.37 where five affordable dwellings are to be located. Anyone visiting the site would regard it as being totally unsuited for development. It is closely bound by fence and woodland, restricted in outlook and it seems almost perverse to allow this development for five buildings, so as to ruin the peace and tranquillity that the very close adjacent property has enjoyed for many years. The 1.8 metre high hedge and green paladin rigid mesh fence would moreover make the dwellings even gloomier. Down the road near the old Grain Store silo site are some old building footprints that would make a more congenial site for affordable housing,

Initially in paragraph 4.29 an essential footpath on Butts Lane was proposed. What has happened to this, for without which parents pushing their children to the bus stop on the Bromsgrove Road will have to climb the bank at the edge of the lane to let a car pass?

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- 3.2 Highway Authority – No objection subject to conditions
- 3.3 Environment Agency – Object to the development on grounds of insufficient information. This additional information is in the process of being provided and the revised comments of the Environment Agency will be available by the date of this meeting
- 3.4 Worcestershire County Council Historic Environment and Archaeology Service – No objection subject to condition
- 3.5 Environmental Health Section - Further information requested regarding contamination – see Officer report under ‘Drainage’
- 3.6 Natural England – No objections.
- 3.7 Conservation Officer – I have no objection to these proposals and if approved would like to see the same conditions as placed on the original approval
- 3.8 Countryside and Conservation Officer – No objections
- 3.9 Worcestershire Wildlife Trust – On objection, subject to condition re biodiversity mitigation
- 3.10 Neighbour/Site Notice – 2 letters of objection from residents in the area:

Letter 1 –

“We write with our objections to the new Planning Application put forward in connection with the above.

1. Under the previous Planning application approved by Wyre Forest District Council, building number 12, which is now due to contain affordable houses, was due to be demolished. We were informed by the developers that this was at the behest of Wyre Forest District Council as they did not want building 12 visible from Butts Lane. What has changed? Why has the Planning Department suddenly decided to turn their backs on the original decision to scrap this building?

It was the developers who flouted the application by demolishing a perfectly good building and starting to re-build – NOT US, but are the developers being penalised for this – definitely not – they have now been given approval to use building 12. Along with building 11, this now puts all nine affordable houses immediately on our boundary, and offers us NO PRIVACY whatsoever.

The site for these affordable houses will have an adverse effect on our privacy, as can clearly be seen if the Planning Committee has visited the site. It has already had an adverse effect inasmuch as we have tried to sell our property, but the proposed development has put a blight on it!

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2. The proposed development was recently visited by (a Local District) Councillor, along with various members of Stone Parish Council. It was agreed that the proposed affordable houses were, indeed, too close to our property, and it was suggested that these houses could possibly be erected where the footprint of the grain dryer had been. It was agreed this would be acceptable if the Council would give permission for this to be done. At least we would then have some privacy.

We appreciate that the site is going to be developed, but surely this can be achieved with consideration to the neighbours in the area who are, and have been for many years, paying extremely high rates.

We have resided at the New House for twenty-odd years and have spent a considerable sum of money to improve the property, which we were now hoping to enjoy in our retirement. I have enclosed a page from Wyre Forest District Council website in relation to Stone Parish – this being the reason we moved here. What a pity this could all be spoilt if insufficient thought is given to the matter.

3. Butts Lane is totally unsuitable for two way traffic due to the narrow roadway, without the extra use of both cars and lorries from the development. Where the proposed one way system is due to operate, grass is growing through the tarmac in many areas!

We understand that in February 1998, Planning Permission for a nursery was refused to Mr P George at Half Acre, Butts Lane, by the Highways Department due to the fact that the road was incapable of carrying extra vehicles. The roadway is still the same, but over the years cars have increased in volume. How then is this going to be a feasible proposition with lorries and other incumbent vehicles coming and going to the development site without major road works taking place?

4. The sewage problem in Butts Lane is still ongoing, together with flooding. What, if anything, will be done prior to building work taking place to address this matter?
5. The stated plan for car sharing and cycling to work to keep the volume of traffic down, is absolutely ludicrous. What management will be put in place to ensure this happens?
6. We have already experienced developers going against granted Planning Permission by the excavation of a perfectly good building and part erection of a new one. Who is going to ensure developers adhere to the Planning Permission with regard to both building and landscaping this time around?
7. Unfortunately, we are a small voice, because only a few of us live in the area of this development, but we hope the Committee will consider matters further with a view to taking on board the comments of the people who have lived in the village for many years, and not just the developers.”

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Letter 2 –

“This application appears to be almost identical to Planning Application 07/0299 submitted by Land/Marque and subsequently approved. Objections to 07/0299 were contained in letters dated 4 April, 24 May and 20 July 2007.

The application also appears to be almost identical to Planning Application 09/0030 submitted in January and later withdrawn. Objections to 09/0030 were detailed in a letter dated 2 February 2009.

We object to this latest application for the following reasons:

- We note that it is intended to connect the proposed development to the main sewage system. This sewer is inadequate for the current use and has been subject to numerous complaints to Severn Trent. Connecting the development to the main sewer can only make the situation worse. It is noted from the Fig. 5 of The Flood Risk Assessment submitted with the application, that the sewer is already operating at full capacity.
- Existing storm water drainage in this area is completely inadequate, leading to the roads being flooded during periods of heavy rain. This development would only make this situation worse.
- The road network surrounding the site is, in our opinion, totally unsuitable to sustain a further increase in traffic that this scheme would undoubtedly bring. The lanes are mainly single track and are not designed or built to withstand the extra heavy traffic this development would bring if approved.
- We object most strongly to this proposed development for the reasons outlined above and recommend refusal of this application.”

3.11 Objection from Campaign to Protection Rural England:

Location

The application relates to a derelict developed site, described as a “Former Refugee Camp”. It occupies an elevated site near the edge of a plateau. Like all (or most) of the Parish of Stone, the site lies in the Green Belt. It is adjacent to (but not adjoining to) the village of Stone. This village remains a small one, wholly within Green Belt. It has a number of small groups of houses, but has not been heavily built up. This contrasts with those villages in the district that are excluded from the Green Belt.

The village enjoys few local (and declining) facilities. For example, it no longer has a primary school, a pub, or a shop. The site itself lies up top 750m from the bus route on A448, where there is only an hourly bus service. This is essentially an unsustainable location, which will inevitably be heavily dependent on car use.

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Planning background

WMRSS identifies Kidderminster as an 'Other Large Settlement' and as a 'Local Regeneration Area', but this site is in the rural area around Kidderminster, not in Kidderminster itself. Wyre Forest has a comparatively high level of empty residential property, which is no doubt why its housing target is only an undemanding 170 dwellings per year (policy CF3).

WMRSS Policy CF2 provides that housing in villages should be linked to Local Needs (existing version) or local housing requirements (draft Phase 2 revision). The applicant has provided no evidence of any such need. If such a need were proved, development is required to be prioritised in villages that still have a range of services (but Stone does not). If the application site could pass these hurdles (which it does not), it would conform to the priority of re-using previously developed land and converting existing buildings.

Under its local plan the district was supposed to provide about 3000 new net dwellings between 1996 and 2011, suggesting that 2400 should have been built by April 2008. Up to October 2008, it had already provided 3521, including 78 in the current year (Residential land availability document), implying 3443 were built by that March. At March 2008, 447 dwellings were under construction (Monitoring Report 2008). Accordingly, house building in Wyre Forest district is running ahead of Plan targets by 43%, having built 287 houses per year instead of 200. Its new target under WMRSS is even lower. Wyre Forest District Council has thus failed to comply with its own policy on housing numbers. It follows that no need for this housing arises under Planning Policy. Need could perhaps also be established by means of a housing needs survey, but the applicant appears not to have done one. Accordingly, no need is established.

Live/Work Units

The application is for so-called LIVE/WORK units. The applicants (or their specialists) offer a series of reports, which seek to show how the development would ameliorate its own environmental impact, seeking to imply that it will be self-contained, but they offer no evidence either:

- That there is a demand for such, or
- That the dwellings will in fact be occupied by persons working there.
- That if the occupiers in fact begin as live/work occupiers, such occupation will continue in perpetuity.
- A room designed as an office for tele-working can easily be used (perhaps even without any adaptation) as a living room or bedroom. Thus, a considerable risk that the development will fail to attract buyers (or tenants) from its target market. This will lead to pressure to permit the buildings to be marketed as general housing. This will have the effect of getting around the usual prohibition on the development of new housing in the Green Belt.

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The government has long sought that redundant farm buildings should be used for business, but experience shows that the vast majority of redundant barns are converted to residences, not for employment. Accordingly, we believe there is little demand for factory or office premises in the countryside.

The applicant dresses this up as for live-work units, but this is a novel form of development locally. It should be noted that there is a similar application to Malvern Hills District Council at Larford in Astley parish (at about SO815694) for redundant industrial buildings in a worked out quarry. This is within 1 km of the boundary of Wyre Forest District. It is clearly within the Kidderminster Local Housing Market Area. We hear that this application is likely to be resubmitted.

The pool of potential residents for each development is likely to be the same and a small one. There is unlikely to be sufficient demand in the area for both developments. Indeed (as stated), there is probably not sufficient demand even for one of them, let alone need (which is different).

If no (or insufficient) demand exists for live/work units, the result will merely be to allow an additional housing in the Green Belt in a location where this would not otherwise have been permitted.

Conversion

Redundant farm buildings converted to a residential (or other) use tend to be well-built Victorian or earlier buildings, sometimes of significant architectural merit. The District's policy RB1 encourages (or at least allows) this.

The buildings on this site seem to be non-agricultural. We are not clear as to their origin, but note that the first edition 1:25000 map shows more extensive buildings than exist today. We suspect that these were erected under Emergency Legislation during World War II to house service personnel. We presume that the others were even less substantial and have thus been removed. Certainly the picture page 3 of the applicant's Design and Access Statement (for the applicant's previous application 09/0030/FULL) appears to show a brick building, probably of the 1940s or 1950s, and of little architectural merit. In the corner of the photo, light can be seen through another building, presumably consisting of pillars supporting a roof (Dutch barn style). Having not seen the other buildings we do not know their quality, but suspect that the photo shows the best one. (We have failed to find a Design and Access Statement on the webpage for the present application).

The brick building may just about meet the requirement of being of permanent and substantial construction. However, it must be questioned whether the buildings are of a form, bulk and general design in keeping with their surroundings. Those buildings with a sheeted roof will very probably need reproofing. This is a substantial alteration, meaning that the buildings probably cannot be used without "extensive alterations". With the exception of the Islamic college to the south (also originally a World War II Emergency development), the surrounding area is primarily agricultural. These buildings have never been agricultural and have always represented a non-conforming use, out of keeping with the area.

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Sustainability

By having green roofs, and other features, the applicants seek to ring bells towards the development being environmentally friendly. Warm words are provided about clustering and networking, but no evidence is provided that this will be feasible.

The applicant offers (in its Travel Plan) to extend the pavement along Butts Lane by 190 metres. This would represent significant urbanisation of a country lane. Furthermore, the available verge appears not to be wide enough for a path of the suggested width of 2 metres.

While the provision of allotments would be welcome, we have grave doubts of the merits of leaving any fallow in rotation, as this is liable to encourage the growth of weeds, which will have to be killed off with chemicals. In a rural location such as this, land is not at a premium. Accordingly, there is no reason why each dwelling cannot be provided with a modest garden.

The parts of the site not intended to be developed are shown as laid out with paths as if they were a municipal park. However, no indication is given as to how this will be maintained, or even that such a park is needed or would be desirable; this is not an urban area. The appropriate use for the portion of the south-eastern sector of the site that is to remain undeveloped would be agriculture.

Affordable dwellings

In view of the national shortage of affordable homes, a proposal for such might be welcome. However, since the application is for live-work units, the provision here should surely be of affordable live-work units, not ordinary housing.

While it is likely that a demand for affordable homes can be demonstrated within the district, appropriate unit for determining whether there is a demand should be the village of Stone, not the whole district. This might be defined as the parish of Stone (thus including Shenstone). However, the applicant has provided no evidence that there is a need for such affordable homes within the parish. Accordingly, determination of the application should be deferred until that is provided.

Affordable homes are merely another kind of housing, to which the normal planning policy considerations apply. A need for housing in a Greenbelt village sometimes provides an exception to the normal prohibition on development in the Greenbelt, but this is exceptional. The applicant has not established that any exceptional grounds apply.

Conclusion

Nevertheless, this is fundamentally an unsustainable development in the Green Belt and should be refused.

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Conditions

If the Council is minded to grant this application, it should only be granted subject to tight conditions, such as: that at least one occupier in each household should be engaged in gainful employment within the development. This is so that the development will be used for live-work units, and not as homes for non-working persons such as housewives and the retired.

Removal of permitted development rights

The reversion of the majority of the undeveloped south-eastern portion of the site to an agricultural use. This should be secured by the developer imposing a restriction on the use of the land. The Council should ensure that this use has commenced before any other development is started.

4.0 Officer Comments

BACKGROUND

- 4.1 Planning permission was granted on the 19th October 2007 (Ref 07/0299) for the same description of development as the current application. However, in the early stage of implementing that planning permission and contrary to the terms of the planning permission building number 5 was demolished and rebuilding work commenced. The applicant's were subsequently informed that in our view the planning permission was no longer valid which left several options:
- a) apply for permission without building 5 but unfortunately the scheme is not economically viable without this building,
 - b) abandon the scheme. However there are consequences for Wyre Forest Community Housing if a scheme isn't progressed.
 - c) apply for the scheme with a proposal to rebuild building number 5. However this is contrary to Green Belt Policy and the only reason why permission was granted in the first place was to make good use of existing structures, or,
 - d) to apply for the scheme to be resurrected but utilise a building (No 12) at the top of the site that was proposed to be demolished in previous approved scheme.
- 4.2 It was felt that the only feasible way out of the impasse and to secure the affordable housing was option d) with a few additional variations which are described below.

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CURRENT PROPOSAL AND MAIN DIFFERENCES FROM THE APPROVED SCHEME

- 4.3 The application seeks permission for the same number of units as before (i.e 22 live work units and 9 Affordable dwellings) but as stated the application proposes to utilise building 12 in place of building 5. The affordable units are also now all contained within buildings 11 and 12 which are separated from the live work units whereas before 4 units were sited amongst the live work units. In addition the application now includes the addition for a new roof on buildings 2 and 3. These new roofs increase the capacity of these two buildings in that it provides some accommodation within the roof space and also enables the sloping profiles to be utilised by the application of solar panels.
- 4.4 As before the application makes provision for a community hub which will also be available to the Parish Council, and, a landscaped area containing two pools which will be available to visiting members of the public.
- 4.5 In terms of the highway situation the same revised access point is proposed as in the approved scheme. The off site highway works proposed have however changed. Planning Permission 08/0232 negated the need for a one way system where two lanes branch off in the direction of the Worcester to Stourbridge Road and the approved layout with passing bays is now incorporated into the current proposal. As previously approved a footway is still proposed on one side of the lane which heads towards Stone Church but the highway authority no longer require passing bays on this section of road and these have been removed from the current scheme.
- 4.6 The main issues to consider in the determination of this application are as follows:
- Principle of development in terms of Green Belt and Reuse of Rural Buildings policies.
 - The visual impact of the development on the Green Belt and surrounding countryside
 - Sustainability issues
 - Highway issues
 - The impact of the development on neighbouring amenity
 - Biodiversity/Ecology issues
 - Drainage
 - Affordable Housing
 - Section 106 issues

Many of these arguments have been previously rehearsed when considering the previous planning permission (07/0299) but for the sake of completeness; they are revisited below. It should also be noted though that there are quite a number of differences and particularly with regards to Green Belt Policy, visual impact and the effect on neighbouring property.

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PRINCIPLE OF DEVELOPMENT IN TERMS OF GREEN BELT AND REUSE OF RURAL BUILDINGS POLICIES

- 4.7 Policy H2 of the adopted Wyre Forest District Local Plan (referred to subsequently as the Local Plan) only allows residential development outside of areas allocated for residential purposes provided that it is accordance with Policies H.9 or GB.1. Both of these two policies allow for residential development provided that it involves the re-use of rural buildings in accordance with policies RB.1 – RB.7.
- 4.8 Rural buildings are defined in paragraph 7.95 of the Local Plan and the buildings on site fall in the category of ‘Other rural’ buildings (i.e. ‘of permanent construction, not erected for the purposes of agriculture. Examples include storage facilities or community buildings’). The buildings on site are permanent buildings and are eligible for conversion under this definition. The conversion of these buildings is therefore acceptable in principle and as such does not constitute ‘inappropriate development’ in the Green Belt provided that it is compliant with more detailed policies contained within RB1 -7 of the Local Plan.
- 4.9 Before assessing the application in terms of Policy RB1, Policy RB.2 of the Local Plan requires that a reasonable effort should be made to secure a suitable business or commercial use before residential use is considered. In this particular case it is felt that this requirement has been fulfilled because the scheme is for live/ work units which have a commercial element to them. Although the proposed units have a residential use element, to convert the whole of the buildings into commercial use would not be an option as this would result in a large scale commercial operation contrary to Policy E.9 and would almost certainly not have received the support of the Highway Authority.

Although the scheme does contain some dwellings without a work unit, it should be recognised that these are affordable housing units and have been imposed on the developer as it is a requirement under the provisions of Policy H11 of the Local Plan.

- 4.10 Policy RB.1 of the Local Plan Policy sets out the criteria for considering whether the conversion of buildings is acceptable. These are considered in turn below:
- (i) *The buildings need to be of permanent and substantial construction of a form bulk and general design that are in keeping with their surroundings.*
- 4.11 Although the buildings were originally probably built for a temporary period of time they are of a permanent construction. They have been in position since the war and with the exception of one building where the roof has partially collapsed the majority of the buildings require little structural work. One other building (Building 9) has a badly damaged entrance and requires a degree of rebuilding which is to be glazed in order to achieve an innovative design solution which in my view adds to the character of the building.

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4.12 The Structural Report which accompanies the application concludes that the buildings as they currently exist on site are of a sound construction and that with minor repairs and alterations as noted in the report they are capable of conversion as proposed. With regard to the design being in keeping with the character of the area this is of a more subjective nature. However, the buildings although not intrinsically attractive represent part of the historic landscape. They are generally low lying and in the main are surrounded by trees and merge with their natural environs. As the Parish Council has pointed out there was criticism of the prominence of building 12 at the time of the last application however it will be improved in appearance in line with PPG2 footnote 2 and will merge with the landscape like the other structures when the proposed landscaping matures.

(ii) The buildings should be of a size suitable for re-use without extensions or extensive alterations, or the addition of new buildings within the curtilage

4.13 When the previous application was considered two main exceptions to this clause were cited in that a collapsed roof and an area of walling to building 4 would need to be rebuilt and building 10 would need extending in order for the building to be used as a communal building and room for the Parish Council. Works to building 4 was justified as being required for affordable housing and building 10 in terms of the demolition of larger buildings on the site which more than compensated in terms of the differences in volume and overall gain to the openness of the Green Belt.

Both of these arguments have changed in that building number 4 is not now to be used for affordable housing and with regards to building number 10 the compensatory buildings have already been demolished nevertheless the argument still holds good in terms of loss in overall building volume as the large grain store was considerably larger than the increase in volume to building 10 and it should also be remembered that building 5 has also now been demolished.

4.14 In addition to the changes to buildings 4 and 10 there is now a completely new impact to the Green Belt to consider, namely the introduction of profiled roofs to buildings 2 and 3. This is more significant and represents inappropriate development that is only acceptable if very special circumstances exist that outweigh the harm arising from inappropriateness and visual harm.

4.15 The applicants have put forward the following arguments in terms of very special circumstances:

1 Live Work Consolidation

The previous application for the conversion of the buildings into Live Work units had a number of buildings that had remote workspaces, rather than consolidating the live and workspace into a single unit. The point of this was to allow a range of different types of accommodation.

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Howeve advice taken since from the Live Work Network means that remote workspaces are considered unworkable, and the live and workspace MUST be consolidated into a single unit. This is born out by a Live Work scheme in Marshfield, Wiltshire <http://www.homebarns.co.uk/homebarns.pdf>

where the integrated Live Work units have sold, and the units with the remote workspaces have not. The proposed monopitch roofs forms the 'integrated' workspace, and ensures the successful functioning of each Live Work Unit. The mitigation measures needed to clean up the site are so extensive that the current unit numbers proposed are required to fund this mitigation work.

2 Sustainability

The proposed monopitch roofs are sedum clad, promoting biodiversity, minimizing water run off, and increasing U-Values in terms of insulation. Importantly, they also allow solar panels to be located and to achieve the required solar gain – not possible with the existing flat roofs. It is proposed that as part of the revised application, each monopitch roof will have solar panels – which would not have been possible as part of the previous application. In addition to the sedum, it is proposed to 'superinsulate' each monopitch roof to achieve a u value in excess of 0.1 wm^2k , not easily achievable with the existing flat roofs with minimal head room. Other sustainable measures include using a ground source heat pump for the meeting room, and items as the sustainability action plan, attached in the appendix. It should be noted that reusing these buildings is in itself fundamentally sustainable, as they are structurally sound.

3 Economic

The economic downturn means that the gross 'yield' is substantially less than at the time of the previous application, whereas construction costs have continued to rise along with material costs. The previous valuation indicated a sale value of £170 ft^2 for the finished scheme – the current some 30% lower. The increased volume provided in the units with the monopitch roof means that each unit carries a greater value per m^2 than without – and effectively enables the scheme to stack up financially. An alternative, less dense scheme would result in fewer RSL dwellings, and would not stack up financially, nor provide the significant sustainable enhancements.

4 Design and Visual Impact

Currently, the site is a mess, and is likely to deteriorate further if left with 'nil use'. It is likely, as other vacant sites to attract travellers and fly tipping. The change in the perceived openness in the Green Belt by the introduction of the monopitch roofs is minimal. It should be noted that the buildings are hardly visible from a public place, and the new roofs always viewed against a backdrop of buildings or trees.

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The proposed increased volume remains substantially less than the 'original' buildings that formed the previous application, and given the demolition of building 5, the grain silos etc, is certainly no worse, and probably better, than the 'original' buildings as standing before the previous application. The other modest extensions proposed to form the meeting room etc were permitted as part of the previous application. The new roofs also go a way to improving the appearance of the most drab of the flat roof buildings. It should also be noted that the water features proposed as part of the previous application will be reinstated."

- 4.16 Taken collectively these do in my view amount to a substantial argument and the monopitched roofs would make the two buildings look more interesting and enable greater energy saving benefits from the employment of solar panels. In total the additional volume of these roofs, the extension to building 10 and the works already previously approved to building 4 is substantially less than the volume of the original buildings on this site which have been demolished implementing the previous consent. In terms of visual impact of the new roofs the end of building number 4 is the most prominent but the loss of openness when viewed in conjunction with the overall bulk of existing buildings on the site will not be particularly significant. It is considered therefore that the visual harm arising is outweighed by the very special circumstances of the case and to approve the development in this situation is compliant with Green Belt policy.
- 4.17 Even though the other buildings are large enough for conversion without the need for alterations/extensions some very superficial alterations are proposed as before in order to enhance their appearance and character rather than to increase floor space (i.e. porches, lightweight links, and pergolas). It should be noted in this context that the footnote to paragraph 3.8 in PPG2 states that buildings that have a harmful effect in terms of visual amenity can be subject to structural change to secure an improvement in the external appearance of the building. Where these alterations do occur on this site they do make significant improvements to the appearance of the buildings by adding features that break up the rather regular shapes and regimented settings of the buildings and produce a much more interesting and visually attractive layout. Overall though these alterations and minor extensions are not significant when looking at the site as a whole.
- 4.18 Policy RB.1 iii) *the buildings should be structurally sound and in a condition capable of re-use without significant building works or complete reconstruction and in the case of residential proposals the buildings are of an appropriate form for the intended use.*

This has been dealt with in the above paragraphs. If approved the buildings will provide attractive and efficient dwellings.

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- 4.19 Policy RB.1 iv) *the conversion works would have no significant detrimental effect on the fabric, character or setting of the building;*

The conversion works will have no detrimental effect on the character and setting of the buildings as stated it is considered that there will be an improvement.

- 4.20 Policy RB.1 v) *satisfactory access arrangements can be made;*

The highway authority has no objection to the development (this is considered in more detail below)

- 4.21 Policy RB.1 vi) *the proposal does not lead to the dispersal of an activity, which would have an avoidable adverse impact on the local economy, or prejudice the vitality of nearby towns or villages;*

No uses will be dispersed as a result of this development. A small depot used by a builder has already left the premises as has the former agricultural auction site.

- 4.22 Policy RB.1 vii) *they do not involve the conversion of domestic outbuildings*

No domestic outbuildings are to be converted.

- 4.23 Policy RB3 is designed to ensure that future residents will not be subject to environmental nuisance from adjoining uses such as agricultural operations. This will not be a problem as the only potential source of conflict the Grain Dryer, has already been demolished. The general effect on neighbours is considered later in this report.

- 4.24 Policy RB4 is concerned with the relationship of the residential curtilages and operational space on the quality or character of the countryside; separation of operational spaces and re-used buildings from nearby compatible uses and avoidance of extensive new access roads or servicing areas. The proposed curtilages and operational spaces within the site are predominantly very discrete and hidden from view. There is however a car parking area on the lane side of building 6 but this is to be landscaped and is reduced compared with the previous scheme due to the additional land being available in the vicinity of the space occupied by the unauthorised partially rebuilt building 5 . The scheme that was withdrawn earlier this year (09/0030) showed car parking in a very prominent position close to building 12 but this has now been repositioned to the rear in a concealed location. It should also be borne in mind also that the buildings to be converted are set well back from any highway and that the associated curtilages and facilities shouldn't amount to a detrimental impact.

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- 4.25 There is a need to construct a new access and service road to satisfy the highway authority. This new access and service road has been sensitively handled in terms of landscaping and planting. A large tract of unattractive servicing area associated with the agricultural auction site will also be landscaped to the benefit of the countryside which more than compensates for the new access approach.
- 4.26 Policy RB.6 deals with provision for protected species and the provision for nesting. As can be seen above, Natural England support the application. They have recommended the provision of nesting/roosting boxes which is a recommended condition should permission be granted.
- 4.27 Policy E.9 of the Local Plan deals with employment development in the Green Belt and allows the principle of existing buildings for small scale industrial and commercial developments. The size of the work units involved here is only small (the range is between 9.4 sq m and 25 sq m) and the general criteria to be applied under this policy is very similar to the RB policies as described above.

THE VISUAL IMPACT OF THE DEVELOPMENT ON THE GREEN BELT AND SURROUNDING COUNTRYSIDE

- 4.28 Policy GB.6 of the Local Plan states that development must not be detrimental to the visual amenity of the Green Belt by virtue of siting, materials and design. Policy LA.1 requires development to safeguard, restore and enhance the character of the surrounding landscape and states that development that would have an adverse impact on landscape will not be permitted. Other policies in the Development Plan echo these themes.
- 4.29 The buildings already exist so there is no significant change in this respect. As stated the structures are set well back from the highway and although they are on rising land and some are visible they are generally well screened, particularly in the summer months. The car parking areas are not prominent and most will be hidden by existing buildings and walls. Where the car parking will be seen landscaping is proposed.
- 4.30 Significant visual benefits have already arisen from the removal of the large grain store building and associated silos, and further benefits will arise with the introduction of the pools, tree planting and landscaping an area that is blighted by concrete hardstanding areas. It is nevertheless true that this scheme will have more impact than the previous one in that building 12 is very prominent and the previously approved scheme showed this building to be removed. The Parish Council are concerned about this and would prefer to see this demolished and a replacement building sited elsewhere. However, it is important to realise that building 12 exists and it is compliant with policy to allow existing buildings to be converted. In addition if this scheme was refused and development did not proceed building 12 would still be prominent in the landscape and more so, since there would then be no landscaping in place to act as a screen.

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- 4.31 The visual impact of the new roofs on two buildings has already been considered as has the improvements in visual terms with regards to car parking compared with the previous scheme.

SUSTAINABILITY

- 4.32 PSS1 and its supplement together with PPS7 and other National Planning Policy Statements deal with the importance of sustainable development as does the Development Plan. Criticism can and has been made against the scheme in terms of its remote location in terms of distance to schools, shops and other facilities. This is one of the most serious issues and one made worse by the closure of Stone school.
- 4.33 The Regional Spatial Strategy and Policy SD.4 of the County Structure Plan deals with locating development so as to minimise the need to travel and this is becoming an increasingly important consideration. The District Council's Supplementary Planning Document (SPD) on Planning Obligations contains a chapter entitled Sustainable Transport and amongst other things it requires a financial contribution towards sustainable transport based on the accessibility ranking of various sites within the District based on the County Council's mapping tool 'Accession'. The basic principle is that the more accessible the site to public services the lower the contribution that is required. The live-work units lie within the most accessible zone (Zone 1) where no contributions are required and some of the affordable housing at the top of the site is in zone 2 which is classed as being above average accessibility. Given this fact it is felt that it would be difficult to refuse the application on these grounds.
- 4.34 Also there appears to be no criteria in the Re-use of Rural Buildings policies which specifically rules out the conversion of rural buildings on sustainability grounds provided it is judged to be small scale.
- 4.35 In terms of making the site more accessible it is proposed to lay a footway linking the site with the village footway at the top of Butts Lane in the direction of the Bromsgrove Road. A Travel Plan has been submitted to promote sustainable transport to and from the site. This Travel Plan has been endorsed by the Highway Authority and each proposed unit will be required to submit a Travel Plan within three months of occupation and a Travel Plan Coordinator will oversee this.
- 4.36 The responsibilities of the Travel Plan Co-ordinator will include:
- liaison with the Worcestershire County Council Travel Plans Officer on at least an annual basis
 - organisation of the Travel Plan monitoring regime in agreement with the County Council
 - co-ordination of challenging but achievable targets; the setting up of a cycle forum
 - Ensuring the up to date public transport information is disseminated across the site (there are bus stops on the A448 Bromsgrove Road/Stone Hill for bus service no's 133,134 and X33).
 - Provide information and assistance to individual occupiers and a point of contact for on going support.

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- 4.37 The fact that the units are live/work will mean that whilst there will be an increase in trips over and above the existing situation there will be less than the average household as there will be the benefit of creating a single unit for both living and working.
- 4.38 In addition to trip generation benefits there should be energy savings by this style of living arising from the need to heat and light a single property.
- 4.39 The applicant's agent has described the sustainability credentials of the scheme which can be read in detail in the supporting documents. In addition a summary can be found in paragraph 2 of the applicants very special circumstances, as quoted under paragraph 4.15 of this report. However the objective of the scheme in terms of sustainability has been to:
- engender a co-operative and responsible lifestyle among its inhabitants;
 - use passive solar for heating and lighting;
 - use ground source heating for the hub building
 - employ solar panels
 - use sedum roofs
 - introduce super insulation (i.e. better than $u=0.1$);
 - provide cycle storage
 - include water management and
 - waste management (a proactive management response to the promotion of recycling and composting).

HIGHWAY ISSUES

- 4.40 The traffic associated with the proposal will be placed on the local highway network made up of lanes, some of which are single carriageway width. However, the scheme should be very little different in terms of traffic generation to the previously approved scheme.
- 4.41 The proposal will include the introduction of a new access point which would improve visibility compared with the existing junction; the introduction of passing bays where the lane splits into two in the direction of the Worcester to Stourbridge Road and the provision of a new footway along Butts Lane.
- 4.42 A Transport Assessment was submitted with the application and this has been vetted by the Highway Authority and as before there are no objections to the scheme subject to conditions.

THE IMPACT OF THE DEVELOPMENT ON NEIGHBOURING AMENITY

- 4.43 An existing dwelling (The New House) is located at the top end of the site where the 9 affordable dwellings are proposed to be provided in buildings 11 and 12. As stated, in the previous scheme building 12 was proposed to be demolished and consequently there is now a larger impact on neighbouring amenity.

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- 4.44 The situation with regard to building 11 which is the closest of the two building to 'The New House' is unchanged. The side of this adjacent dwelling is located approximately 14 metres away and the garden at the closest point is approximately 7 metres. In between, is a track running to a STW installation. The scheme proposes an instant 1.8m high beech 'readyhedge' and a 1.8 metre high powder green paladin rigid mesh fence along the STW boundary.
- 4.45 The adjacent property being in a very isolated position has enjoyed considerable levels of peace and privacy for many years and as such their objections to the development are understandable. However, the generally accepted distance from facing windows of a single storey dwelling to a neighbouring boundary is normally 5 metres and all the proposed dwelling units are in excess of this measurement. The proposed boundary treatment will also it is felt maintain an acceptable level of privacy although admittedly this will not be as exclusive as it is at present.
- 4.46 Building 12 as proposed, with the removal of the rear wing, is shown to be about 39 metres distant from the adjacent dwelling house (The New House) and about 27 metres away from the closest point of its front garden. The building is only single storey and this separation distance is considered to be acceptable. However, the car parking area for 8 vehicles is proposed to be at the rear of building 12 . It has been designed in this way in order to reduce the serious visual impact of the cars which would have occurred had the car parking area been positioned at the front of this building. The closest car parking space is about 33 metres away from the front of the neighbouring house and the access point approximately 25 metres distant. The respective distances to the front corner of the garden is approximately 16 metres to the first car parking space and 10 metres to the access point.

This configuration will inevitably increase noise and disturbance into what is a tranquil situation but the noise arising from 4 dwellings at these kind of distances is not a situation that would be expected to result in an impact of sufficient seriousness to warrant a refusal of permission.

- 4.47 The Parish Council would prefer units within building 12 to be rebuilt elsewhere on the site and a more concealed location could be found where its impact on the neighbouring property would be removed, for instance where the Grain Store was located. However, the building of a new structure as opposed to the conversion of an existing one would be contrary to Green Belt policy in the present circumstances.
- 4.48 The closet residential dwelling at the other end of the site is set in extensive grounds and the distance to the dwelling house building to building is approximately 90 metres. There is however a garage building associated with that property that is quite close to the corner of building but the windows do not face directly in this direction and in any event the property enjoys so much privacy that this is not a particular concern.

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- 4.49 The effect of the development on other dwellings in the area including noise and disturbance from traffic has been considered but the impacts are felt to be within acceptable tolerances.

BIODIVERSITY/ECOLOGY ISSUES

- 4.50 The application was submitted with an Ecological Survey. An artificial badger sett has been created on the site and a project is in progress to exclude badgers from their setts in the main area of the site. The buildings have been resurveyed for bats and none have been found although droppings from long eared bats were found in the vicinity of building 3 suggesting that a bat or bats have been flying around the area. Buildings 3, 16 and 11 have been used for roosting in the past. Biodiversity enhancements are proposed through planting to create woodland meadow and water habitats and with the provision of bat and barn owl boxes.
- 4.51 Natural England has responded positively to the proposal and Worcestershire Wildlife and the Council's Countryside Conservation Officer have no objections to the scheme.

DRAINAGE

- 4.52 As can be seen from the Consultation section this has caused concern. The applicant's Agent has summarised the drainage situation as follows:

The concept of the development is to encompass the ideals of sustainability. The drainage proposals will compliment this ideal by using the Framework for Sustainable Drainage Systems as its basis. The storm drainage is to be entirely managed on site with no discharge of storm water to leave the development. The water is to be dealt with by the use of rainwater re harvesting, whereby the rainwater is stored and reused for toilets washing machines etc within the dwellings.

Green roofs are to be used on some dwellings, the remaining discharge from these which is down to 25% of the direct runoff, cannot be re harvested but instead is to be drained to soakaways. Hard surfacing also will be drained to soakaways or filter drains. This will replenish the ground water and be used by the trees and landscaping. Foul water will be discharged to the existing foul sewer that serves this development. The existing foul sewer runs from within the site, down to a pumping station at the junction of Stanklyn Lane and Butts

Lane. Severn Trent Water have evaluated the proposed flows, assessed the current pumping station condition and has determined that the pumping station can cater for the flows without modification. The developer has undertaken some investigation work of their own by the form of cctv surveys of the foul system and has shown that near the pumping station there is a storm connection into the foul system. Severn Trent Water have been made aware of this situation and will be looking at removing this incorrect connection thus alleviating some of the flows through the station. Severn Trent Water have confirmed in writing that they accept the discharge from the proposed development and are not objecting to the development at planning."

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- 4.53 Severn Trent Water Ltd has raised no objection to the development subject to condition.
- 4.54 The site is a major aquifer area and the Environment Agency has been consulted on the application. They have submitted an objection pending further information to demonstrate that the risk of pollution to controlled waters is acceptable. The applicants' consultant is in the process of producing a detailed scope of works to quantify the further works required to satisfy the Environment Agency and the Council's Environmental Health Section. If this is agreed then the works contained therein could be dealt with by condition should the application be approved. This matter will be updated by the time of the Committee Meeting.

AFFORDABLE HOUSING

- 4.55 The Housing Needs Survey (2003) revealed that there is an annual shortfall of 354 affordable units across the District. The South Housing Market Area Housing Market Assessment (2007) indicates a significant need for shared ownership products in the District. Analysis of the housing register/ waiting list (Feb 2007) demonstrates considerable need for 2 bed and 3 bed accommodation in Stone (1268 for 2 beds and 479 for 3 beds).
- 4.56 The scheme, as with the previous approval, will provide for 9 shared equity affordable units, 8 of which will be 2 bed units and 1 will be a 3 bed unit. The Community Housing Group is the registered Social Landlord who is signed up to this scheme.
- 4.57 Policy H10 of the Local Plan requires up to 30% Affordable Housing provision. Although 9 units equate to 29% the Council's Housing Section are satisfied with this level of provision and due to its location for the tenure to be shared equity. Unlike new build schemes the number of units is fixed to a large extent by the constraints of the existing buildings. If one more affordable unit were to be included this would be at the expense of a live/work unit and the proportion would then rise to 32.25%. It is therefore considered that 29% is appropriate in this case.
- 4.58 The Council's Housing Section has commented on the application as follows:
- "The 2007/08 South Housing Market Assessment demonstrates that 47% of households on the housing waiting list in the Wyre Forest Local Housing Market Area require 2 bed properties. Of the newly arising need in the district, 24% of households require shared ownership. This scheme provides 9, 2 bed properties for shared ownership, which is considered to be a sustainable tenure for the rural location with has no nearby shops or regular public transport.*

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With the exception of 1 of the units, all of the proposed units are below the usual required space standards for affordable housing units. However, this is due to the restriction of the site and having to convert existing buildings for housing. Community Housing have also agreed to purchase the units and have worked with the developer to ensure that the units are an acceptable design standard."

SECTION 106 ISSUES

4.59 The following table shows the areas where the Applicant needs to enter into a Section 106 agreement to secure monetary and other provisions in accordance with the adopted Planning Obligations SPD.

REQUIREMENT	OFFERED PROVISION
Affordable Housing	9 shared equity units of accommodation provided via one of the Council's partner RSL's
Community provision	<ul style="list-style-type: none"> • Access of public to the informal landscaped areas. • Use of meeting room by Parish Council. • Management of informal landscaped area
Education Facilities	£45,123 towards Educational Facilities (figure to be confirmed)
Live /Work Units	Prevention of separation of live unit from its respective work unit
Highway Works	<ul style="list-style-type: none"> • New footpath along Butts Lane • Passing bays as required by the highway authority • Travel Plan and Travel Plan Co-ordinator
Sustainable Transport	No contribution necessary
Biodiversity	Biodiversity enhancement provided on site as part of design/layout/landscaping. No contribution required.
Open space	Extensive informal landscaped areas are proposed as part of the development. No contribution required.

5.0 Conclusions and Recommendation

5.1 Overall it is considered that approval of the scheme will benefit the visual amenity of the area when compared with the existing on site situation, even with building 12 in place. In terms of openness the loss of the Grain store, silos and building number 5 more than compensate for the small amount of new build and in conclusion any harm arising is outweighed by the very special circumstances of the case.

The scheme makes good use of an existing building resource by providing affordable housing and rural employment with associated residential accommodation in an imaginative scheme.

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- 5.2 It is recognised however that there are opponents to the scheme including opposition from the Parish Council, The Campaign to Protect Rural England, and local residents. These issues have been carefully assessed but on balance the revised application is considered to provide the best solution to the issues raised within the confines of adopted Planning Policies. The road network is not ideal and the highway arguments have been revisited by the highway authority but no objection to the scheme is being raised.
- 5.3 The proposal is also acceptable to the Highway Authority, Severn Trent Water, and the Environment Agency (unless additional comments to be reported indicate otherwise) in terms of drainage arrangements.
- 5.4 For these reasons, together with other arguments contained within the report and after consideration of Articles 1 & 8 of the Human Rights Act 1998, I recommend that **delegated APPROVAL** be given subject to:
- a) the signing of a **Section 106 Agreement** to secure the following:
- Nine shared equity units of affordable housing via one of the Council's partner RSL's
 - Access of public to the informal landscaped areas,
 - Use of meeting room by Parish Council,
 - Management of informal landscaped area,
 - Education contribution of £45,123,
 - Prevention of separation of live unit from its respective work unit,
 - Highway works to include New footpath along Butts Lane, and one way systems to be implemented at the developer's expense,
 - Travel Plan & Travel Plan Co-ordinator.
- b) and subject to the following conditions:
1. A6 (Full with no reserved matters)
 2. A11 (Approved plans)
 3. B1 (Samples/details of materials)
 4. Implementation of sustainable measures as identified eg ground source heating, solar rain water harvesting, sedum roofs etc.
 5. Use of each work unit to be limited to B1 uses only and to be carried out without detriment to amenity of other units.
 6. Use of work element only to operate in conjunction with the assigned residential unit and the residential accommodation not to be occupied other than by occupiers of the work space.
 7. B15 (Owl/bat box)

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8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modification), no development as specified in Part 1 Class(es) A, B, C, D other than those expressly authorised by this permission, shall be carried out without express planning permission first being obtained from the Local Planning Authority.
9. No development shall take place until detailed plans and sections of the proposed windows and doors at a scale of 1:20 together with details of proposed finishes have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
10. No development shall take place until details of types and colours of all external materials, including hard surfacing have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details
11. Details of colour and materials of gutters downpipes and external flues to be submitted and agreed before work on site commences.
12. No demolition of buildings and repair works limited to the areas of buildings identified for repair.
13. Implementation of means of enclosure including implementation of the boundary treatment adjacent to building 11
14. Laying out of informal landscape areas including provision of pools and footpaths before occupation (planting of trees to be phased in accordance with prior agreement)
15. Landscape implementation
16. C8 (Landscape protection)
17. C2 (Retention of existing trees)
18. C3 (Tree protection during construction)
19. C10 (Visibility splay – replacement hedge)
20. C12 (Details of any earthworks)
21. C13 (Landscape management plan)
22. F5 (Construction site noise/vibration)
23. Any external lighting within the site to be subject of the written consent of the Local Planning Authority
24. Highway conditions (parking; visibility splays; highway improvements; driveway gradients; travel plan; cycle parking; and, construction related conditions – parking and wheel wash)
25. Environment Agency / Environmental Health conditions
26. Severn Trent Water conditions

NOTES

- A The applicant should be aware that the granting of planning permission does not override the need for compliance with the relevant law, including obtaining and complying with the terms and conditions of any licences required as described in Part IV of the Circular 06/2005

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- B SN12 (Neighbours' rights)
- C Highway

Reason for Approval

The development is considered to be compliant with Green Belt policy in that very special circumstances exist which outweigh the harm arising from inappropriate development together with any other harm arising. The proposed scheme taken as a whole is felt to make a valuable contribution to the visual amenity of the area. The scheme is well designed and is acceptable in terms of impact on neighbouring property, the existing vegetation and the ecology of the site. The application has been carefully considered in terms of sustainability, ecology, drainage, highway safety and the existing road network and taken overall the scheme is judged to be satisfactory in these matters subject to conditions. After carefully assessing these factors and other issues raised the proposal is considered to be in general conformity with the policies of the Development Plan.

5.5 In the event that the Section 106 Agreement is not completed by 6 July 2009 I also recommend that delegated authority be given to REFUSE permission for the following reason:

1. The applicants have failed to enter into an agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) to secure on site affordable housing; community provision; associated highway works; travel plan coordination and Education contributions. In the absence of this agreement, the proposed scheme fails to comply with Policies H.10, CY.2, CY.4, TR.9, TR.19 of the Adopted Wyre Forest District Local Plan and the adopted Supplementary Planning Document on Planning Contributions.

Application Reference:	09/0297/FULL	Date Received:	21/04/2009
Ord Sheet:	384516.170857675	Expiry Date:	16/06/2009
	280721.35831005		
Case Officer:	Emma Anning	Ward:	Cookley

Proposal: Replacement of storage unit 5 (ancillary to unit 3)

Site Address: BLUE BALL BUSINESS CENTRE, CAUNSALL ROAD,
CAUNSALL, KIDDERMINSTER, DY115YB

Applicant: Mrs R Argent

Summary of Policy	GB.1 GB.5 GB.6 E.9 D.1 D.3 D.5 (AWFDLP) CTC.1 (WCSP) PPG2, PPG4
Reason for Referral to Committee	Parish Council registered to speak on application.
Recommendation	APPROVAL

1.0 Site Location and Description

- 1.1 The application site forms part of the Blue Ball Business /Industrial estate located on Caunsall Road, Cookley. The site is washed over by Green Belt and is within the Landscape protection Area.
- 1.2 Permission is sought to replace an existing storage building. The replacement building would have a slightly larger footprint but would be similar in form to the existing structure. The existing building takes the form of a Nissan hut, it is made from corrugated sheeting and measures 11m x 5.2m footprint with a height of 2.5m. The replacement structure would occupy a footprint of 12m by 6m and would have a height of 2.5m. The main material alteration in this instance is the form of the storage building which would see the building change from a Nissan hut style building with sloped sides to a high-sided rectangular structure, with a slight pitched roof.

2.0 Planning History

- 2.1 WF/662/84 Repair and temporary storage of TV and hi-fi equipment (Midland Music Services) – Approved
- 2.2 08/0382/FULL Variation of Conditions Nos 1 & 2 attached to planning permission WF/0662/84 to allow use of Unit 3 for storage, distribution & office purposes – Approved

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3.0 Consultations and Representations

3.1 Wolverley and Cookley Parish Council – Awaiting comments

3.2 Highway Authority – No objection

3.3 British Waterways – No comments received

3.4 Neighbour/Site Notice – Four neighbour letters received. The main points raised are summarised as follows:

- I object to the linking of this building to the non-local tenant Flo-Tec. This increased storage will create even more deliveries by totally unsuitable 16 wheeler lorries to this site with unloading and reversing within Caunsall Road. The size of delivery lorries should be limited to 20ft. A condition requiring a turning bay for vehicles within the top yard should be imposed.
- Can the Committee please give us some protection by setting suitable working hours 8am to 6pm weekdays, 8am to 1pm Saturdays and no Sunday or bank holiday working.
- Allowing extra storage would also increase to an increased number of smaller vans using this site.
- The existing use is already causing noise and swearing particularly when on the phone, why can't they use their phone inside their offices. The tenants, who are not local, continue to flout the no Sunday working.
- The noise from the fork lift truck at weekends is not suitable for a village. I request that the planners, if they propose to support this application, would apply a condition stating the fork lift truck be battery powered, a green solution to noise and pollution,
- When the planning applications for this site were considered last year the planners took away the requirement of knowing the name and business of the users, tenants.
- I object to the building being higher than the 6ft 3" of the existing building. The steel shed is totally at odds with the village neighbourhood and being adjacent to a Listed Tudor building. The building is uncompromising and totally out of keeping with the village character and not only with views from Caunsall Road but also from the wildlife corridor of the Stour and Canal footpaths.

4.0 Officer Comments

4.1 Permission is sought to replace an existing 'nissan hut' type storage building located at the front of the site with a modern high-sided pitched roof steel storage building. I consider the main matters to consider are:

- Principle of development
- Impact on amenity
- Other matters

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PRINCIPLE OF DEVELOPMENT

- 4.2 The primary policy considerations in this instance are the Green Belt policies of the Adopted Wyre Forest District Local Plan, in particular Policy GB.5. Policy GB.5 allows for the reuse of existing industrial premises provided that the proposal would not have a materially greater impact than the present use on openness or visual amenity. Policies GB.1 and GB.6 lend strength this policy and the need to preserve the openness and visual amenity of the Green Belt. Policy E.9 relates specifically to employment development in the Green Belt and states that whilst new buildings and extensions will be regarded as inappropriate development, the reuse of existing buildings will be allowed subject to several conditions including; it not adversely affecting amenity or openness, the development being environmentally acceptable, adequate services being available and it not adversely affecting the amenity of neighbours.
- 4.3 The Adopted Wyre Forest District Local Plan discusses storage facilities within existing developments and states that the aim should be to provide storage facilities within properly designed buildings sufficient to meet the needs of the business.
- 4.4 The proposed storage building is required in connection with Unit 3, for storage purposes. Unit 3 is currently occupied by Flo-Dek (UK) Ltd, a company specialising in the application of trowel and hand applied finished products within the Resin Flooring & Screeding Industry. The existing storage building is in need of repair and is no longer suitable for storage purposes as it has collapsed in places and does not lend itself well to being the most space efficient means of storage because of its sloping sides.
- 4.5 As described above, the Adopted Wyre Forest District Local Plan does not normally allow extensions to storage/industrial buildings, however I consider that, in this instance, given that the slight increase in volume would be as a result of altering the form of the storage building, and in considering that the building would be no higher than the existing and that it would represent a more suitable form of storage facility for this type of premises. I am satisfied that the principle of the proposal is acceptable within the spirit of the relevant Adopted Wyre Forest District Local Plan policies.

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IMPACT ON AMENITY

- 4.6 Notwithstanding that the development is acceptable in principle the visual impact of the proposal must be considered against the above mentioned policies of the Local Plan which state that there should be no detriment to the visual amenity or openness of the Green Belt as a result of the proposed development. It has been suggested by neighbours that the design of the storage building would be out of keeping with the village locality, however I consider that the storage building, by virtue of its siting well within the existing industrial yard, would be read against the industrial backdrop where it would harmonise with its surroundings and would not be read in the context of the wider village setting. The applicants have stated that they would accept a condition requiring the steel building to be painted in a colour to be agreed by the Local Planning Authority, I consider this would be an acceptable way of controlling the appearance of the development and to ensure that it blends with its surroundings. The proposal therefore would not be detrimental to visual amenity and would satisfy Policies D.3 GB.6 and GB.1 in this respect.
- 4.7 PPG2 states that it is the openness of the Green Belt with it is its most important feature, therefore any developments which would be detrimental to openness should not be permitted. In this instance I consider, despite the slight increase in the volume of the storage building, the fact that it would be no higher than the existing storage facility and that the building would be sited well within the boundaries of the industrial yard would ensure that there would be no detrimental impact on openness. The proposal therefore accords with Policy GB.1 of the Adopted Wyre Forest District Local Plan.
- 4.8 Concern has been raised by several neighbours that noise from the site emitted by the fork lift truck and site operatives is causing a disturbance to neighbours, however this is not a matter which can be considered as part of this application. I do not consider that the replacement of one storage building for another would give rise to a situation which would be detrimental to amenity.

OTHER MATTERS

- 4.9 Several neighbours have raised concerns that the site is operating outside the specified time periods imposed by earlier permissions. For clarity, the site operating times, across the entire site, state that there is to be no work carried out between 7pm and 7am Monday to Saturday and no work at all on Sundays. Whilst this is a matter which should be referred to the Planning Enforcement Team it is not a material consideration in the determination of this application.

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- 4.10 Numerous neighbour letters raised objections that the way site deliveries are operated is unacceptable. Neighbours note that large lorries regularly bring items to site, parking on the main Caunsall Road causing a danger to pedestrians and blocking the highway for other road users. Whilst I appreciate that this is a concerning situation, it is not something which could be controlled through this planning permission as it is an issue concerning the management of the site rather than the use of the buildings on site.
- 4.11 The Highway Authority has been consulted on this proposal in light of the issues raised above, and in consideration of the slight increase in storage capacity which would result if this proposal were approved. The Highway Authority has raised no objection as previously stated under paragraph 3.2 and I therefore conclude that the proposed replacement building would not give rise to a situation which would be detrimental to highway safety.

5.0 Conclusions and Recommendations

- 5.1 The proposal would not cause harm to visual amenity or openness and is considered to be an acceptable form of development in this Green Belt locality.
- 5.2 The proposal would not give rise to a situation which would be detrimental to highway safety or neighbour amenity and I therefore recommend that the application be **APPROVED** subject to the following conditions:
1. A6 (Full with No Reserved Matters)
 2. A11 (Approved Plans)
 3. Materials as of stated on application form
 4. Within 1 month of completion the storage unit shall be painted in a colour agreed by the Local Planning Authority.
 5. The storage unit shall be used for storage purposes only in association with Unit 3. At no time shall be it sold or let separately.

Reason for Approval

The storage building is considered to be appropriate development in this Green Belt location which would not be detrimental to openness or the visual amenity of the Green Belt. The proposal would not give rise to a situation which would be detrimental to highway safety or the amenity of neighbours. The proposal therefore accords with the relevant policies as listed.

Agenda Item No. 5

Application Reference: 09/0298/FULL **Date Received:** 22/04/2009
Ord Sheet: 379577 277275 **Expiry Date:** 17/06/2009
Case Officer: Stuart Allum **Ward:** Wribbenhall

Proposal: Single storey extension

Site Address: WASSELLWOOD BARN, HABBERLEY ROAD, BEWDLEY,
DY121LD

Applicant: Mr R Bruce

Summary of Policy	D.1, D.3, D.5, RB.1, RB.5, LA.1, LA.2, GB.1, GB.2, GB.6 (AWFDLP) CTC.1, CTC.4, CTC.21, D.16, D.39 (WCSP) QE.1, QE.3, QE.6 (WMRSS)
Reason for Referral to Committee	Third party has registered to speak at Committee
Recommendation	REFUSAL

1.0 Site Location and Description

1.1 The application site is a converted barn accessed off a private drive and set approximately 1.0km from Habberley Road. The site is within the Green Belt and is close to the Grade II Listed Wassell Wood House as well as another converted barn, a stable block and a manège. The barn retains many of its original features.

2.0 Planning History

2.1 WF.1262/88 – Change of use of barn to dwelling : Approved 14/2/89.
'Permitted Development' rights removed

2.2 08/0443/FULL – Single storey extension : Refused 20/6/08

2.3 08/819/FULL – Single storey extension (resubmission of refused application 08/0443/FULL) : Refused 22/10/08

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3.0 Consultations and Representations

- 3.1 Kidderminster Foreign Parish Council – No objection to the proposal and recommend approval. We would repeat our comments as previously:

It is a very minor addition to improve the living amenity of this property. In our opinion the proposed plan improves the look of the building – making it easier on the eye. It has no impact on the character of the area. The rationale behind the proposal should also be taken into consideration as policy dictates that wherever possible, caring for the elderly should be undertaken within the community. This proposal should be considered in light of allowing this to happen in respect of the father-in-law of the applicant.

- 3.2 Highway Authority – No objections

- 3.3 Policy and Regeneration - The site in question is Wasselwood Barn, a dwelling which has been converted from a barn into residential use. The site is located to the north of Bewdley and is situated within the Green Belt. Due to the nature of the application and the location of the dwelling it is considered that Policies RB.1, RB.5 and Policy GB.1 of the Adopted Local Plan are important to consider, with Policy RB.5 perhaps most pertinent.

The applicant is seeking to extend the already converted farm house to provide accommodation for a dependant relative. In considering this application, Policy RB.5 of the Adopted Local Plan identifies that extensions to dwellings created through the re-use and adaptation of rural buildings will not be permitted. As the dwelling in question was created through the re-use of a rural building, this application is contrary to Policy RB.5 of the Adopted Local Plan.

The applicant has submitted letters from a planning consultant as well as a letter from a Consultant Surgeon who recommends that the relative of the applicant resides with the applicant. The planning consultant's letter is considered further below.

The letter from the planning consultant indicates that there is no national support for the Policy RB.5. However, it is an important local policy which seeks to retain the character and historic nature of the Districts rural areas by restricting further extensions to rural buildings that have been converted and essentially 'lost' their original use. Indeed, PPS.7 identifies that *"the Government's overall aim is to protect the countryside for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife"*. It is considered that Policy RB.5 seeks to maintain the intrinsic character and beauty of the countryside while protecting its heritage by not allowing further extensions to already converted rural buildings, and therefore there is national support for its continued use. Additionally, PPS.7 identifies that:

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"Planning authorities should therefore set out in LDDs their policy criteria for permitting the conversion and re-use of building in the countryside...these criteria should take account of:

- *the potential impact on the countryside and landscapes and wildlife;*
- *specific local economic and social needs and opportunities;*
- *settlement patterns and accessibility to service centres, markets and housing;*
- *the suitability of different types of buildings, and of different scales, for re-use;*
- *the need to preserve, or the desirability of preserving, buildings of historic or architectural importance or interest, or which otherwise contribute to local character"*

It is considered that, as outlined by PPS.7, the criteria for dealing with the re-use of existing buildings in the countryside is clearly set out in the Adopted Local Plan.

It is also contended that Policy RB.5 has support from PPS.7 as through restricting extensions to previously converted rural buildings the *"Potential impact on the countryside and landscapes"* is minimised. Furthermore, through RB.5, the local character of the District's rural areas are preserved and maintained, and this is in accordance with the final criteria on the need to *"preserve buildings...which contribute to local character"*. Dilution of this policy could result in a loss of heritage and local character within the District's rural areas. (Many rural buildings within the District are made of local materials and contribute to the heritage and character of the rural areas)

Turning to the proposed design of the extension, the drawings appear to show steps between the proposed new bedroom and the sitting room. My understanding of the reason for the extension was due to the fact that the current en-suite bedroom on the ground floor has stepped internal changes. It is difficult to see how the proposed extension is materially different to the current situation, and would justify special circumstances. Furthermore, the consultant surgeon in his accompanying letter identifies that the relative of the applicant was able to live with the applicants for 5 months recently which was "successful and beneficial", and this was without the aid of an extension to the dwelling. Therefore, the issue of 'need' and 'special circumstance' are questioned. Indeed, as identified by the planning consultant, these personal needs are "not unique", and therefore any deviation away from the policy could lead to an unfortunate precedent being set.

Overall, it is considered that the proposal is contrary to Policy RB.5 of the Adopted Local Plan which clearly identifies that further extensions to already converted rural buildings will not be permitted.

3.4 Neighbour/Site Notice – No representations received

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4.0 Officer Comments

- 4.1 Although the size of the proposed extension has been reduced slightly compared to that refused on two previous occasions, the principle of the scheme remains unchanged – to create an additional bedroom on this dwelling converted from a former agricultural building.
- 4.2 For clarity, the Council’s main objections to the proposal relative to the most recent planning application (08/0819/FULL) are repeated.
1. ‘The applicant has provided a letter from a Consultant Surgeon recommending that the father of the applicant resides with the applicant. Although the companion to Planning Policy Statement 1 states that, exceptionally the personal circumstances of the applicant can be taken into account as a material consideration in the determination of a planning application, such arguments will seldom outweigh more general planning considerations’.
 2. ‘The application property would be classified as a traditional agricultural building using the classifications set out in paragraph 7.95 of the Adopted Wyre Forest District Local Plan. Traditional agricultural buildings are characterised by their high amenity, architectural, historic or cultural value and as such Policy RB.1(ii) sets out to protect the form of these structures if they are to be reused and adapted, often in conjunction with the removal of permitted development rights. Policy RB.5 maintains this protection by stating that extensions to dwelling created through the reuse and adaptation of rural buildings will not be permitted. Permitted Development rights were removed from this property when permission was granted for the conversion to a residential use was approved through application WF.1262/88, it is considered appropriate to apply Policy RB.5 to the proposed development. Whilst Planning Policy Guidance Note 2 permits extensions to properties within the Green Belt Policies RB.1 and RB.5 apply to all rural buildings and, as such, the planning consultants’ case for misinterpretation of the Planning Policy Guidance Note is not considered pertinent’.
 3. ‘In design terms the proposed extension would be considered acceptable as features of the original building such as fenestration and roof shape and style have been replicated’.
- 4.3 A more comprehensive statement has been received from a Planning Consultant, outlining the perceived policy issues associated with this application. This is reproduced below to allow Members to consider the Council’s professional response.

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Background

This new application follows the refusal of WF 08/0819/FUL.

Wassell Wood Barn benefits from approval WF 1262/88, which was for change of use of barn to a dwelling. Permitted Development Rights were removed as a condition of that approval. The barn is of brick construction roofed with clay tiles and there have been no extensions since the original approval.

The existing dwelling has 3 bedrooms, two on the first floor and one on the ground floor. However because the original barn was built on a sloping site, the ground floor bedroom has stepped internal changes in level between the sleeping area and the ensuite and storage areas.

The applicants are Mr and Mrs Bruce who have one daughter. Mrs Bruce's father is Mr James Barnfield who is 83 years old and lives alone in Wolverhampton. Enclosed is a letter of 22.7.08 from Mr Barnfield's Consultant Surgeon setting out the medical background for Mr Barnfield's need to live with Mr and Mrs Bruce. His other children cannot assist.

The application is for a small extension with some internal alterations to provide incidental accommodation for Mr Barnfield on a single floor, without steps. It does not create a new dwelling or a separate planning unit.

The previous application was refused because the Local Planning Authority believed it contravened Local Plan policies relating to barn conversions.

Current Local Plan Policies

The earlier refusal was based partly on Local Plan policies RB1 and RB5. Para 7.92 of the Local Plan draws on PPG7 paras 3.14 to 3.17 and Annex G as support for these policies. PPG7 has been replaced by PPS7.

Several changes between PPG7 and PPS7 are important. The first is simply the titles: PPG7 was "The Countryside: Environmental Quality and Economic and Social Development". PPS7 is "Sustainable Development in Rural Areas", and in para 1 it is stated that a 'key principle' influencing decisions on development should include "social inclusion, recognising the needs of everyone". In this specific case Mr and Mrs Bruce wish to have a modest extension to their dwelling so that they can provide family care for Mr Barnfield. This fits the 'key principle' perfectly.

Whilst PPS7 maintains a strict control over new dwellings in the countryside the advice previously contained in 3.14 to 3.17 and Annex G of PPG7 is not repeated. The national advice supporting Policy RB1 and RB5 has therefore been amended so giving the Local Planning Authority (LPA) more freedom of interpretation.

Turning to the specific wording of these policies, RB1(ii) states that "rural building will be acceptable for conversion to other uses provided that they are of a size suitable for re-use without extensions or extensive alterations, or the additions of new buildings within the curtilage".

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This wording follows the policy context of PPG7, and the original conversion of Wassell Wood Barn complied with that wording as there were no extensions beyond the original barn. Importantly, the wording only refers to the first conversion from agricultural barn to dwelling. It does not refer either expressly or implicitly to subsequent extensions. This is covered by Policy RB5, which states:

“Proposals for the erection of new curtilage buildings, or extensions to dwellings created through the re-use and adaptation of rural buildings will not be permitted. Such proposals are contrary to criteria (ii) of Policy RB1”.

This is supported by para 7.101 which states, inter alia, “Any proposal for the extension of a dwelling created through conversion would result in conflict with criteria (ii) of Policy RB1, which states that the building must be suitable for re-use without extension. The subsequent extension of such buildings is therefore inappropriate”. This logic is wrong. There is nothing in RB1(ii) nor PPG7 which leads to this conclusion. There is no national policy support for RB5, nor has there ever been.

In the light of changes in national guidance, the LPA is therefore asked to set aside Policy RB5 in this case as there is a clear need to provide family care by allowing a modest single storey extension to the dwelling.

Turning to Green Belt policy, Local Plan policy GB1, in GB1(iii) (d) allows development where “it is for the extension of an existing dwelling, provided that it does not result in disproportionate additions over and above the size of the original dwelling”. In this case the submitted design is smaller than the previous refusal and is now the smallest extra floorspace and volume that can accommodate the needs, given internal levels. The elevations are subservient to the existing, but match in design and materials.

Turning to government advice on Green Belts, PPG2 in para 3.4 confirms that limited extension or alteration to an existing building is not inappropriate provided “it does not result in disproportionate additions over and above the size of the original building”. Further, whilst para 3.7(b) urges strict control over the extension of re-used buildings, it does not ban such extensions.

The proposal therefore complies with both national and local policies for the Green Belt.

If the LPA is concerned that the interpretation of policies RB1 and RB5 as suggested in this application will lead to precedent, attention is drawn to the fact that the applicants’ case is personal and special based on the family circumstances of Mr Barnfield and his medical history and condition and on the internal changes in levels in the existing dwelling. Case Law (especially *Chelmsford B.C. v 1st Sec. of State and Draper*) shows that very special circumstances, if personal to the applicant, do not create a precedent. Also that there can be no prescribed list of very special circumstances and that “the list is endless” and that what is very special is not to be considered in an abstract sense but in the context of the particular application. It was also held that what was reasonable should be bound by the ‘Wednesbury’ rules. Finally, the companion to PPS1 states that, exceptionally the personal circumstances of the application can be taken into account as a material consideration in determining a planning application.

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Conclusions

In this specific case the applicants have clearly defined personal needs which whilst not unique, are rare. The original barn conversion has an internal layout and ground floor changes of levels which mean that Mr Barnfield cannot be accommodated without a small extension being added.

These personal circumstances are material considerations and will not set a precedent for all extensions to other converted barns.

The national policy support for policies RB1 and RB5 has changed and gives the LPA more discretion. I also argued that RB5 is a non sequitur from RB1 and goes beyond national advice and Green Belt policy as set out in PPG2.

What is proposed in this application is a well designed, subservient extension which is the smallest extra space possible to meet the specific needs and I believe that the LPA should use its discretion and grant conditional approval.

- 4.4 Bearing in mind the comprehensive response to the above analysis by the Policy and Regeneration Manager as set out under paragraph 3.3, it is considered that the overall policy scenario has not changed since the previous refusal decisions.
- 4.5 The personal circumstances of the applicant and his relative are a material consideration but are not considered, on this occasion, to outweigh the applicable planning policies.

5.0 Conclusions and Recommendations

- 5.1 Having taken account of all the submitted evidence, the development is not considered acceptable and is contrary to the provisions of Policy RB.5 of the Adopted Wyre Forest District Local Plan and Policy D.16 of the Worcestershire County Structure Plan.
- 5.2 Accordingly, the application is recommended for **REFUSAL** for the following reason:
 - 1. The proposed extension would result in an extension to a dwelling which has been created through the re-use and adaptation of a rural building. This is contrary to Policy RB.5 of the Adopted Wyre Forest District Local Plan, Policy D.16 of the Worcestershire County Structure Plan and Policy QE.6 of the West Midlands Regional Spatial Strategy. On this occasion, the personal circumstances of the applicant are not considered to outweigh these adopted policies, and there are no other 'very special circumstances' to justify approval.

Agenda Item No. 5

Application Reference: 09/0314/FULL **Date Received:** 27/04/2009
Ord Sheet: 384746.902125138 **Expiry Date:** 22/06/2009
280176.087376175
Case Officer: Paul Round **Ward:** Cookley

Proposal: Development of 2 no three bedroom houses and 1 no two bedroom bungalow.

Site Address: LAND OFF ELEANOR HARRISON DRIVE, COOKLEY,
KIDDERMINSTER, DY103TY

Applicant: Mr J Martin

Summary of Policy	H2, H5, H6, D1, D3, D10, NR8, NR9, GB6, TR9, TR17, LR8 (AWFDLP) D5, RST3 (WCSP) QE3, QE6 (WMRSS) Design Quality SPG PPS1; PPG2; PPS3
Reason for Referral to Committee	Third party has registered to speak at Committee
Recommendation	APPROVAL

1.0 Site Location and Description

- 1.1 The site forms an 800 square metre piece of land situated to the rear of 22 Gaymore Road, Cookley. Access is achieved via an access drive off Eleanor Harrison Drive and situated adjacent to the recently constructed development by The Community Housing Group.
- 1.2 The site was previously used as a builders' storage yard with an associated building that was removed due to vandalism. Residential properties bound the site to the north, south and west. To the east lies a hedgerow with a Public Right of Way running parallel to the boundary situated within the Green Belt.
- 1.3 The application seeks to extend the existing access drive and construct two houses with garages and a bungalow with accommodation in the roofspace with associated parking.

2.0 Planning History

- 2.1 None on the site, however of relevance on the adjacent site:

06/0871/FULL – Residential Development of 5 dwellings : Approved 17/10/06

09/0314/FULL

3.0 Consultations and Representations

- 3.1 Wolverley and Cookley Parish Council – Views awaited
- 3.2 Highway Authority – No objection subject to conditions
- 3.3 Severn Trent Water – No objections subject to conditions
- 3.4 The Ramblers Association – No objection
- 3.5 Neighbour/Site Notice : 1 letter of objection received raising the following concerns:

The proposed development of 2 houses immediately behind our property will have an unacceptable impact on our right to privacy due to the close proximity to our boundary and the rear bedroom windows in the proposed houses looking directly into our rear bedrooms, bathroom and w.c.

In addition, the 2 houses will also have an impact on our right to light primarily to our living room and kitchen

We believe a compromise can be reached and would agree to the following:

Preferred solution: Erection of 3 or more bungalows on the land only and no houses

We would also accept the erection of 1 or more bungalows on the land directly behind our property (e.g. on the plot where houses are currently proposed) and a house on the land where the bungalow is currently proposed.

Both options above would deal with our objections regarding privacy and light and feel that these are reasonable requests to make.

In addition we would also appreciate it if you would ensure that:

Properties erected to the rear of our property are a minimum of 10 metres from our boundary fence

Properties erected on the land generally is not built up and they are erected on the land levels as detailed on the plans

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4.0 Officer Comments

4.1 This report will consider this proposed development under the following headings:

- Principle of Development and Land Allocation
- Design and Layout
- Residential Amenity
- Highway and Public Right of Way Implications
- Green Belt and Landscape
- Other Issues

PRINCIPLE OF DEVELOPMENT AND LAND ALLOCATION

4.2 The site is allocated within the Adopted Wyre Forest District Local Plan for residential purposes and as such is suitable for residential development subject to the caveat in Policy H.2 that such land must be previously developed. As stated above, the site was previously used as a builder's storage yard fulfilling the definition of previously developed land as set out in Annex A of PPS3.

4.3 Although the site is located to rear of dwellings in Gaymore Road, it has a clear presence in the streetscene and is accessed off Eleanor Harrison Drive and such does not constitute an unacceptable form of backland development as set out in Policy H.6.

4.4 The principle of residential development on this site is acceptable and it falls to consider the detail of the application.

DESIGN AND LAYOUT

4.5 The proposed development consists of two houses and a bungalow. The houses are positioned adjacent to, and follow the line of, the existing dwellings. The houses front onto the internal access road replicating the approach of the adjacent development. The bungalow is positioned strategically at the head of the access road so as to frame the view and completing the development as a whole. All of the properties have ample amenity space and parking/garaging provided. I consider that the layout of the properties has taken account both of the adjacent development, adjoining residential properties and the character of the surrounding area. The resulting layout therefore is acceptable and will not result in harm being caused to these interests.

4.6 The designs of the properties are modern brick and tile construction and merge well with the adjacent development. Although not particularly similar to properties in Gaymore Road, they are seen in the context of development in Eleanor Harrison Drive to which they are akin.

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4.7 The houses incorporate projecting gables and bay windows and linked by garages with suitable fenestration. The bungalow follows this theme whilst being of a more simplistic design.

4.8 Overall, the quality of design of the properties reflects that of the adjacent development and the context in which the development sits. I consider that the scheme fully takes account of the design policies of the Adopted Wyre Forest District Local Plan and the Council's adopted Design Quality Supplementary Planning Guidance.

RESIDENTIAL AMENITY

4.9 Concerns have been expressed by the neighbouring properties in respect of loss of privacy and light to habitable rooms. A hedge and fencing divide the site from residential gardens. The properties have been set 10m from this dividing fence giving a total separation distance of 25m from the properties in Gaymore Road. This separation provides adequate distance to ensure that no loss of privacy or loss of light will occur to either the garden areas or rooms of these properties. The existing hedges to the west and south further give weight to the consideration that no material loss of residential amenity will occur.

HIGHWAY AND PUBLIC RIGHT OF WAY IMPLICATIONS

4.10 The dwellings will be served from an access drive that connects with Eleanor Harrison Drive. The Highway Authority has confirmed that this access road is sufficient to be able to accommodate the additional development and that the surrounding highway network is able to accommodate the additional traffic associated with the development.

4.11 Parking facilities have been provided in accordance with the County Council's maximum standards giving a garage and driveway space for the two houses and one parking space for the bungalow. The Highway Authority has confirmed its acceptance of the parking provision and layout.

4.12 Whilst the public right of way runs along part of the access driveway, both the County Council and The Ramblers Association have stated that the development will have no adverse impact on the Public Right of Way.

4.13 I concur with these considerations which result in the development not resulting in a deterioration of pedestrian or vehicular safety.

GREEN BELT AND LANDSCAPE

4.14 The development is situated adjacent to the Green Belt and open countryside to the east. Particular care should be given so as not to prejudice the visual amenity of countryside. The proposed development has taken into account these important considerations locating the bungalow adjacent to this boundary. This will result in limited impact on the Green Belt as the development will be seen within the context of the built up area beyond. I am confident that no material visual harm will be caused to the Green Belt or the open countryside.

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OTHER ISSUES

- 4.15 Alternative design concepts have been suggested by the neighbour, however due to the acceptability of the scheme as it stands I see no justifiable reason for refusing this application and making the applicant consider an alternative design. In addition, it is considered that the suggestion of a bungalow development as referred to in the neighbour's representation, as set out under paragraph 3.5, would fail to integrate effectively with the adjacent two storey development.
- 4.16 Due to the numbers of dwellings proposed there is no requirement for any contributions to be paid via a Section 106 agreement as set out in the Supplementary Planning Document on Planning Obligations.

5.0 Conclusions and Recommendations

- 5.1 The principle of development is acceptable. The design and layout of the development results in acceptable relationship between the neighbouring properties, the adjacent development and the Green Belt. The impact of the development on the highway network and public right of way has been assessed and found to be acceptable.
- 5.2 In consideration of Articles 1 & 8 of the Human Rights Act 1998, it is recommended that this application be **APPROVED** subject to the following conditions:-
1. A6 (Full with no reserved matters)
 2. A11 (Approved plans)
 3. B1 (Samples/details of materials)
 4. B11 (Details of enclosure)
 5. Levels as per the approved plan
 6. C9 (Hedge protection)
 7. J1 (Removal of permitted development – residential)
 8. J9 (Open plan frontages)
 9. J8 (No further windows)
 10. Highway conditions
 11. E2 (Foul and surface water)

Notes

- A. Public Right of Way
- B. SN1 (Removal of permitted development rights)
- C. SN12 (Neighbours' rights)

Reason for Approval

The principle of development is acceptable. The design and layout of the development results in acceptable relationship between the neighbouring properties, the adjacent development and the Green Belt. The impact of the development on the highway network and public right of way has been assessed and found to be acceptable. For these reasons the proposal is in conformity with all of the policies listed above.

WYRE FOREST DISTRICT COUNCIL

PLANNING COMMITTEE

9TH JUNE 2009

PART B

Application Reference: 09/0133/FULL **Date Received:** 23/02/2009
Ord Sheet: 378177 275654 **Expiry Date:** 20/04/2009
Case Officer: James Houghton **Ward:** Bewdley and Arley

Proposal: Changes to frontage to create domestic driveway

Site Address: 79 WOODTHORPE DRIVE, BEWDLEY, DY122RL

Applicant: Mr P Brook

Summary of Policy	D.1, D.7, NR.4, TR.9 (AWFDLP)
Reason for Referral to Committee	Statutory or non-statutory Consultee has objected and the application is recommended for approval.
Recommendation	APPROVAL

1.0 Site Location and Description

1.1 The application property is a two storey, brick built, pitched roof, detached residential property set off a private drive behind a front garden and drive. The property benefits from half of a double garage to the side accessed by a steeply sloping drive approximately 6.6m in length over which there is a level change of approximately 1.0m. The other half of the garage is owned and utilised by the occupants of no.81 Woodthorpe Drive.

1.2 The applicant seeks approval to regrade and resurface the driveway and frontage in order to provide a more level surface allowing easier access for vehicles. Revised plans have been received indicating that drains are to be provided.

2.0 Planning History

2.1 None relevant.

3.0 Consultations and Representations

3.1 Bewdley Town Council – Object to the proposed development and recommend refusal due to a lack of information on drainage issues.

09/0133/FULL

3.2 Highway Authority – No objections.

3.3 Neighbour/Site Notice – A letter of objection has been received from agents representing a neighbour. The objections are on the following grounds:

- The raising of levels may have an impact on the structure of the garage, the lack of design or engineer's calculations do not show how any impact can be mitigated. The objector also state that no Design and Access statement has been provided, whilst this is noted there is no requirement for a Design and Access statement to be provided for development within the residential curtilage such as this.
- Resurfacing, no details of drainage or permeable surface provided. The neighbouring property is regularly flooded due to the increased surface water as a result of the loss of front gardens in the immediate area.
- The raised levels would result in the exhausts from cars at no. 79 being level with children's faces.
- It is envisaged that the changes in levels would result in a desire to increase the height of the existing garage which may adversely impact on the shared garage structure.
- The objector feels that there is no need for the proposed development to take place and that the drive is usable in its current form.
- The proposed development contributes to the gradual change of character of the area by removing the front garden.

4.0 Officer Comments

4.1 The proposed development would involve regrading and the import of materials to build up part of the drive and as such would be considered an engineering operation requiring planning permission.

4.2 The proposed change in levels is considered acceptable; the development would result in levels being raised by a maximum of 0.6m adjacent to the front of the garage and finished with a retaining wall running along the site boundary approximately 4.0m from the front of the garage, the raised section would rejoin into the original drive beyond this point. The plans indicate that the floor level of the garage is also to be raised, no planning permission would be necessary for this element of the development.

4.3 An area of 69.8m² is to be block paved, revised plans indicate that drainage will be provided. A condition requiring details of all drainage locations and specifications should be added to any permission issued in order to ensure minimal impact on neighbouring properties as a result of increased surface run off. This block paved area would provide parking facilities for two vehicles reducing the need for parking on the private drive and the potential for this to result in vehicles obstructing or constricting the highway.

09/0133/FULL

- 4.4 In response to the concerns raised by the occupant of a neighbouring property it is not considered that the exhausts of vehicles would be a material consideration. The suggested possibility of raising the height of the existing garage has not formed part of this application. Any such proposal which may be forthcoming in the future would need to be examined on its merits. The proposed block paving would have a minimal impact on the street scene and the amenity enjoyed by the residents of properties in the immediate area. There are existing examples of similar block paving schemes, albeit without the increase in levels, at nearby properties.

5.0 Conclusions and Recommendations

- 5.1 It is recommended that this application is **APPROVED** subject to conditions:

1. A6 (Full with No Reserved Matters)
2. A11 (Approved Plans)
3. Details of surface water drainage
4. Details of retaining walls
5. Details of cross sections and calculations indicating the volumes of materials
6. Details of types and colours of all external materials

Note
Party Wall Act

Reason for Approval

The proposed development is considered appropriate in terms of scale, proportion and design, and would offer no detriment to the amenity enjoyed by the occupants of neighbouring properties. As such the proposals would be considered to accord with the requirements of Policies D.1, D.7, NR.4 and TR.9 of the Adopted Wyre Forest District Local Plan (2004).

Agenda Item No. 5

Application Reference: 09/0253/FULL **Date Received:** 07/04/2009
Ord Sheet: 380138.99144865 **Expiry Date:** 02/06/2009
275666.502074338
Case Officer: Paul Round **Ward:** Wribbenhall

Proposal: Retention of Tower Drop amusement ride

Site Address: WEST MIDLAND SAFARI PARK, SPRING GROVE, BEWDLEY,
DY121LF

Applicant: West Midland Safari Park

Summary of Policy	D1, D3, D4, D5, LA1, LA2, LA6, GB1, GB6, TR9, TR17, TM1 (AWFDLP) CTC5, D39, T1, T3, RST14, RST15 (WCSP) PA10, QE1, QE3, QE6, QE8, T2 (WMRSS) Wyre Forest District Council - Integrated Economic Development & Tourism Plan 2005 - 2007 PPS1, PPG2, PPS7, Good Practice Guide on Planning for Tourism (DCLG) West Midlands Visitor Economy Strategy (Advantage West Midlands)
Reason for Referral to Committee	Statutory or non-statutory Consultee has objected and the application is recommended for approval.
Recommendation	APPROVAL

1.0 Site Location and Description

- 1.1 The West Midlands Safari Park is the one of the District's major tourist attractions located on the Kidderminster Road between the towns of Kidderminster and Bewdley, falling within the parish boundary of Bewdley Town Council. The park has been in existence since the 1970's and developed over the last 30 years to its position today
- 1.2 The site falls within the West Midlands Green Belt and Landscape Protection Area.
- 1.3 The application seeks for the retention of the Venom Tower Drop Ride that was installed in 2007.

09/0253/FULL

2.0 Planning History

2.1 The table below shows the original permissions and the most recent applications

Application Number	Description	Decision
BB/0217/68	Wildlife Park	Approved
BB/0080/71	Wildlife Park and Amusement Area	Approved
BB/0009/74	Children's Amusement and Entertainment Area	Approved
WF.0511/04	Retention of Tiger House	Approved
WF.0009/05	Proposed Rhino House	Approved
WF.0274/05	Drive-Thru Tiger Compound	Refused Appeal Allowed
WF.0601/05	Alterations to A456	Refused
07/0221/FULL	Retention of Portacabins and proposed Marquee	Withdrawn
07/223/LBC	Re-instatement of Spring Grove House	Approved
07/0471/FULL	Retention of 3 Entrance Kiosks	Approved
07/0683/FULL	Retention of Staff Car Park for Reserves	Approved
07/0684/FULL	Retention of portacabins and wc	Refused
07/0685/FULL	Retention of Children's Amusement Area	Approved
07/0686/FULL	Retention of General Storage Area	Approved
07/0687/FULL	Retention of Maintenance and Car Parking Area	Refused
07/0688/FULL	Proposed portacabins for staff canteen	Approved
07/0694/FULL	Retention of Maintenance and Car Parking Area	Refused
07/0725/FULL	Retention of Wild Water Rafting ride	Refused
07/0760/FULL	Retention of Cooking Oil Storage building	Refused
07/0761/ADVE	Retention of 1 free standing sign and 3 banner signs	Approved
07/0762/LBC	Retention of Cooking Oil Storage building	Refused
07/0765/LBC	Temporary use of lodge building for Offices (Retrospective)	Approved
07/1013/FULL	Retention of Wild Water Rafting ride	Refused Appeal Dismissed
07/1028/FULL	Extensions and Alterations to form Cheetah Compound	Approved
07/1131/FULL	Retention of portacabins	Approved
07/1132/FULL	Retention of Buffalo Area and replacement bulk silo	Approved
07/1242/FULL	Installation of Fibre Optic Cable	Approved
07/1253/FULL	Installation of ATM	Approved
08/0055/FULL	Works to Spring Grove House	Approved
08/0056/LBC	Works to Spring Grove House	Approved
08/0236/FULL	Erection of Marquee	Approved
08/0458/FULL	Installation of Security Gates and Fencing	Approved
08/0643/FULL	Extension to Animal Building and Fencing	Approved
08/0792/CERTE	Use of land as an amusement Park	Withdrawn
08/0841/FULL	Installation of Replacement Leisure Ride	Approved
08/0914/CERTE	Use of land as an amusement Park	Approved

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3.0 Consultations and Representations

- 3.1 Bewdley Town Council – Object and recommend Refusal as the development is considered to be not in keeping with the wildlife park at 27 metres tall is considered to be too high and above the recommended maximum height of 25 metres.
- 3.2 Highway Authority – No Objection
- 3.3 Conservation Officer – No Objection
- 3.4 Environmental Health – No Adverse Comments. We have no evidence to suggest excessive noise levels/nuisance from the Safari Park at this time.
- 3.5 Neighbour/Site Notice – 2 letters of Objection:
Letter 1 – from resident at Spring Grove Barns
*“With reference to the **retrospective** planning application for the above amusement ride at West Midland Safari Park We wish to register an extremely strong objection. The peace one expects in one’s own home and garden has been ruined by the erection of this equipment. Bordering the safari park lake as we do we are very closely affected by the noise form the fairground. This particular ride however appears to be the loudest. The noise form this tower drop- an instinctively, stomach lurching and alarming whooshing sound, occurs every 5 minutes, accompanied by blood curdling screams: an experience one may liken to living near a rocket factory or battlefield . The beautiful natural environment surrounding our property is completely disrupted during the park opening times. It is becoming apparent that the opening times are increasing with opening now throughout the winter months, and late night opening (mostly in summer months) until 11pm. This causes maximum disturbance at the times one would most like to enjoy the natural environment and SLEEP. During this summer late openings we are unable to leave house windows open as the noise is so bad. Complaints to the Safari Park last summer when our disturbance increased dramatically, were dismissed with the comment that the rides had been in situ since **1972**- with no recent installations, and that there was nothing that could be done, they were running a business and there to make money. As a wildlife park, I fervently believe the Safari park should play a role in preserving the sanctity of our local natural environment, these rides and the inherent noise disruption and pollution they create are disturbing the local wildlife- including the residents- purely in pursuit of financial gain. Whilst we recognise this is a commercial venture there is no need to include amusements that have such a detrimental impact and are so obtrusive. It is noticeable that the safari park on more than one occasion applies for planning retrospectively this is not good practice and shows their complete disregard for policy and procedure and their lack respect for our community. They also continue to flout their current planning restrictions and obligations. We fervently hope that you will reject this planning application, both on the grounds of disruption to the local environment and residents, but also to infer future responsibility to conform to the laws and policies of our society.”*

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Letter 2 from resident at Whitehill Road

"As residents of Whitehill Road, which backs onto land adjacent to the safari park, we would like this opportunity to state how we are increasingly being inconvenienced by the additional commercial ventures of the safari park that seem to be growing in scale and diversity.

Before discussing the theme park rides, it is worth mentioning that there are currently numerous background noise issues that we, and presumably other residents in the area, already tolerate on a daily basis. Specifically, we listen to the host's loudspeaker commentary and resulting audience cheering and participation of the 3 times daily sealion show. This is superimposed over the "theme tune" music constantly playing in the fairground area and the intermittent loudspeaker noise giving instructions such as "close your windows please" and "keep moving". Other noise rituals involve the twice a day 10 minute continuous car horn beeping – presumably to move animals along - when the park is closing or opening. It should be said that the staff at the safari park have, to date, been very co-operative and responsive on the numerous occasions that we have called to discuss the frequency and volume of such announcements but clearly there is an unspoken, expected level of tolerance on our part. To be fair, the noise levels do not seem excessive when one is in the seemingly isolated park but the acoustics of the location are such that sound is carried very effectively into the surrounding areas.

We fully support the safari park and the conservation work they do and are privileged to be allowed to observe and enjoy viewing the animals. We are also aware of the commercial benefits that this park brings to the area and the high overhead cost of supporting the resident animals. That said, we are becoming more concerned that the animals are merely a secondary function of the park. The "special events" that are held throughout the year (firework displays, concerts, car rallies, laser light beams) seem to be playing an increasing role in the park's business model. This, combined with the introduction of the latest rides, seems to be shifting the primary function of the site from safari park to theme park. The flagrant disregard for the planning procedure and the lack of respect for the conserved trees that were demolished to make way for these rides is worrying. It seems that with each new ride, each new proposal and each expansion, we are getting closer to having an "Alton Towers" on our doorstep. How long until the animal numbers are reduced to make way for these presumably more profitable ventures?

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From a personal perspective as local residents, we find the prospect of more noise nuisance completely unacceptable. In addition to the already high level of background noise from the Safari Park, the periodic screams that we listen to when the rides are busy are exceptionally annoying when trying to enjoy the peace and quiet of our garden at the weekend. As well as our own personal land, the safari park backs onto a lot of beautiful, unspoilt woodland such as Rhydd Covert Scout camp, the Devil's Spittleful and Rifle Range nature parks that are already subjected to the existing noise pollution from the park. Allowing the park to keep expanding its range of theme rides and attractions and to "get away" with unlawful building is sending a message of support and is the thin end of a wedge towards the site's conversion into a large theme park. This is inappropriate to the greenbelt site where it is located and will only exacerbate the existing noise problems and is surely detrimental to the well-being of the animals in the park.

In summary, we oppose the proposal for retrospective planning permission for the Venom Tower drop ride and any other large theme park style rides that the safari park may wish to erect in the future."

4.0 Officer Comments

- 4.1 The original amusement area approved in 1971 and 1974 consisted of an area of 1.27 acres (0.5 hectare) and consisted of 12 mechanical rides and side shows. The original permissions restricted the amusement area to the 1.27 acres identified on the original plan and required all rides to be approved by the Local Planning Authority. By 1984 the amusement area had incrementally grown to 5.27 acres (2.4 ha), this is essentially the main area of the amusement park as it exists today. This situation has now been confirmed through the granting of a certificate of lawful use last year.
- 4.2 The granting of the permission for amusement area has established "permitted development" rights for the park. These allow the construction and replacement of rides that do not exceed 25 metres in height.
- 4.3 The Venom Tower Drop ride is, according the West Midland Safari Park Website, 30m in height. It operates by taking guests up to the top of the tower and then dropping them at a phenomenal speed. The tower itself is 1 metre wide and has a base 11.5 metres square. The ride is located with the heart of the Amusement Area adjacent to the existing roller coaster to the north.
- 4.4 The main part of the development is the ride structure with ancillary works associated with it. I do not consider that the works that have been undertaken fall within any of the categories of appropriate development in the Green Belt set out in paragraph 3.4 of PPG2 and as contained with policy GB1 of the Adopted Wyre Forest District Local Plan.

09/0253/FULL

- 4.5 However, in paragraph 3.12 of PPG2 states *“The statutory definition of development includes engineering and other operations, and the making of any material change in the use of the land. The carrying out of such operations and the making of material changes in the use of land are **inappropriate unless they maintain openness and do not conflict with the purposes of including land within the Green Belt.**”*
- 4.6 The purposes for including land within the Green Belt are set out in paragraph 1.5 of PPG2. They are
- ◆ To check the unrestricted sprawl of large built up areas;
 - ◆ To prevent neighbouring towns from merging into one another;
 - ◆ To assist in safeguarding the countryside from encroachment;
 - ◆ To preserve the setting and special character of towns; and
 - ◆ To assist in urban regeneration, by encouraging the recycling of derelict and other urban land
- 4.7 It is clear that by virtue of the height of the structure and its visual impact that it would encroach into the countryside and fail to preserve the openness of the Green Belt. In view of these considerations, it is clear that the development constitutes inappropriate development in the Green Belt. Paragraph 3.2 of PPG2 states that *“inappropriate development is, by definition, harmful to the Green Belt...”*
- 4.8 The Applicants have sought to demonstrate that whilst the Tower Drop ride will be seen from outside the site these are distant views which are not significant. Internal views are seen against the backdrop of the amusement area and as such do not represent a harmful vantage point. As such there is no significant visual harm in this case.
- 4.9 It thus falls to consider the circumstances put forward by the Applicant to assess whether they outweigh the ‘in principle’ harm by virtue of inappropriateness. There are 7 points in their case:
1. The ride forms part of an established Amusement Park
 2. The ride is seen in the context of an Amusement Park
 3. Precedent is set by other Amusement Parks
 4. Planning Policy Support for Tourism Development
 5. The need to secure long term future of the park
 6. Economic benefit to the community
 7. Securing employment long-term

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- 4.10 I feel that item 3 is not relevant as this is an individual case with specific circumstances and falls to be determined accordingly. I also feel that the evidence supplied by the applicants is not strong in any of the individual points; however as a whole I do consider that the harm demonstrated above can be outweighed. It should be noted that the circumstances put forward have been taken as been wholly relevant to this particular ride. Should the park wish to apply for planning permission for another new ride these circumstances could not be used in the form presented again, as they have been instrumental in proving very special circumstances for this ride only.
- 4.11 Members will recall the refusal of the Wild River Rafting Ride and the subsequent dismissal on appeal. The application for the tower drop is considered to be different to that application in that it is located inside the amusement area, it does not push development further, it did not remove any protected trees and it is visually in a more acceptable site. All issues which were not considered to be the case with the previous Wild River Rafting Ride.
- 4.12 The major concern from residents is that of noise and disturbance. The complainant properties are situated at Spring Grove Barns, which is 380m (1/4 mile) from the ride, and Whitehill Road, which is 850m (1/2 mile) from the ride. Although residential properties are close enough to hear the ride it is considered that no direct loss of amenity will occur to an extent that requires the removal of the ride, especially in view of the no objection response from Environmental Health Officers. However, I do sympathise with the complainants especially in respect of the hours of operation. The longest hours that park is open is 9.30am – 9pm in the summer months, with an extended open hours until 10pm on one day close to 5th November. I consider that these hours are acceptable and should be re-enforced by way of any operational condition for this ride alone. I appreciate that this noise issue must be considered in conjunction with other noises associated with the Safari Park, however on the basis of a controlling condition I do not consider that residential properties will be adversely affected by the retention of this ride.

5.0 Conclusions and Recommendations

- 5.1 Whilst the ride constitutes inappropriate development in the Green Belt, I consider that the visual impact and the location of the ride are acceptable. The material circumstances put forward by the applicant although not strong individually when combined they are sufficient on this occasion to outweigh the harm caused by way of inappropriateness. Although residential properties are close enough to hear the ride it is considered that no direct loss of amenity occurs and on the basis of a controlling condition on the hours of operation I consider that the retention of this ride is acceptable.

09/0253/FULL

5.2 I therefore recommend **APPROVAL** subject to the following condition:

1. Hours of operation

Note

Drawings

Reason for Approval

Whilst the ride constitutes inappropriate development in the Green Belt, it is considered that the visual impact and the location of the ride are acceptable. The material circumstances put forward by the applicant although not strong individually when combined they are sufficient on this occasion to outweigh the harm caused by way of inappropriateness. The impact on residential properties has been carefully assessed and on the basis of a restrictive hours condition it is felt that loss of amenity will not be significant.

Application Reference:	09/0286/LIST	Date Received:	22/04/2009
Ord Sheet:	383006.911396156 276894.632164931	Expiry Date:	17/06/2009
Case Officer:	James Houghton	Ward:	Broadwaters

Proposal: Installation of two portland stone plaques to enable the addition of approximately 80 names to the memorial

Site Address: WAR MEMORIAL, ADJACENT ST. MARY & ALL SAINTS CHURCH, CHURCHFIELDS, KIDDERMINSTER, DY102JN

Applicant: Wyre Forest District Council

Summary of Policy	D.1, LB.1, LB.2, LB.3 (AWFDLP)
Reason for Referral to Committee	The applicant is Wyre Forest District Council or is made on land owned by Wyre Forest District Council
Recommendation	DELEGATED APPROVAL

1.0 Site Location and Description

1.1 The application site is a Grade II Listed War Memorial located to the front of St. Mary and All Saints Church.

2.0 Planning History

2.1 None relevant.

3.0 Consultations and Representations

3.1 Conservation Officer – No objections to these proposals and recommend for approval.

3.2 Civic Society – No comments received.

3.3 Neighbour/Site Notice – No representations received.

4.0 Officer Comments

4.1 The applicant seeks approval for the addition of two Portland stone plaques to the memorial to allow the addition of approximately eighty names which would be inscribed in the same font as the names on the existing structure and at the same size.

09/0286/LIST

- 4.2 The proposed plaques would be of the same material as the existing structure and any inscriptions would be in the same font at the same size. The proportions and size of the plaques are dictated by the space remaining on the existing structure. The proposed plaques will appear appropriate. The materials, proportions and design allow them to harmonise seamlessly with the original memorial causing no detriment to the appearance and setting of the listed structure in accordance with Policies LB.1, LB.2 and LB.3 of the Adopted Wyre Forest District Local Plan (2004).

5.0 Conclusions and Recommendations

- 5.1 The proposed development is considered appropriate in terms of scale, proportion and design and would be compatible with the historic fabric of the memorial and utilise materials appropriate to the existing structure. As such the proposals are in accordance with the requirements of Policies LB.1, LB.2 and LB.3 of the Adopted Wyre Forest District Local Plan (2004).
- 5.2 I therefore recommend that **delegated** authority be given to **APPROVE** this application subject to:
- a) the decision of the Secretary of State via the Government Office for the West Midlands not to call in the application
 - b) the following conditions:
 - 1. A7 (Listed Building/Conservation Area consent)
 - 2. A11 (Approved plans)
 - 3. B6 (External details – approved plans)

Reason for Approval

The proposed development is considered appropriate in terms of scale, proportion and design, and would be compatible with the historic fabric of the memorial and utilise materials appropriate to the existing structure. As such, the proposals are in accordance with the requirements of Policies LB.1, LB.2 and LB.3 of the Adopted Wyre Forest District Local Plan (2004).

Agenda Item No. 5

Application Reference: 09/0302/LIST **Date Received:** 23/04/2009
Ord Sheet: 389268 273849 **Expiry Date:** 18/06/2009
Case Officer: James Houghton **Ward:** Blakedown and Chaddesley

Proposal: Conversion of existing outbuildings to form guest suite

Site Address: BROOK COTTAGE, THE VILLAGE, CHADDESLEY CORBETT, KIDDERMINSTER, DY104SD

Applicant: Mr J Carter

Summary of Policy	LB.1, LB.2, CA.1 (AWFDLP) SD2, CTC19, CTC20 (WCSP) QE1 QE3 QE5 (WMRSS) PPG15
Reason for Referral to Committee	Statutory or non-statutory Consultee has objected and the application is recommended for approval
Recommendation	APPROVAL

1.0 Site Location and Description

1.1 Brook Cottage is a detached dwelling, listed at Grade II, located at the northern end of Chaddesley Corbett Village, just within the Conservation Area. The site is also 'washed over' by the West Midlands Green Belt. The building is timber framed, dating originally from the 17th Century, later remodelled and extended in the early 19th Century.

2.0 Planning History

2.1 WF.0339/00 – Erection of garden room/conservatory extension
Approved – 18/07/00

2.2 08/0845/LIST and 08/0846/FULL – Conservatory and garden wall
Approved – 17/10/08

09/0302/LIST

3.0 Consultations and Representations

- 3.1 Chaddesley Corbett Parish Council – Object to the proposal and recommend approval on the grounds that:

“The Parish Council feels that this application could set a precedent for the use of garages as extra accommodation and could lead to an additional separate residential property. The loss of the garage could result in cars being parked on the road alongside the house which is situated on a road junction with Hemming Way, and in an area which is already heavily congested with parked vehicles”

- 3.2 Highway Authority – No objection.

- 3.3 Conservation Officer – No objections to the change of use and considering that there are no external alterations to the building, which is of modern construction, no conditions are suggested.

- 3.4 Neighbour/Site Notice – One letter was received offering no objection on the condition that the exterior of the building is in keeping with architecture in the Conservation Area.

4.0 Officer Comments

- 4.1 The applicant seeks approval for internal alterations to an existing garage and sunroom to provide a guest suite. The proposed changes would require no external alterations to the building.
- 4.2 The use of a curtilage building for a purpose ancillary to that of the main dwelling requires no planning permission. Listed Building Consent is required by virtue of the fact that the application site is connected to the Listed Building by the garden wall.
- 4.3 The proposed alterations would offer no detriment to the amenity enjoyed by the residents of neighbouring properties and would have no impact on the street scene. The setting and character of the Listed Building would be unaffected and the historic fabric of the building would also be unaffected. The proposed development would offer no detriment to the character and setting of the Conservation Area.

09/0302/LIST

- 4.4 The conversion of the garage would leave two parking spaces on the drive to the side of the Listed Building; this is the maximum number of spaces that can be provided under Appendix 9 of the Adopted Wyre Forest District Local Plan (2004). Notwithstanding the Parish Council's comments, Members are advised that the creation of a separate unit of accommodation would require Planning Permission. In this case, no separate unit of accommodation would arise. However, it is suggested that a suitable condition should be added to any permission issued in order to ensure that the garage cannot be sold or let as a separate unit of accommodation.

5.0 Conclusions and Recommendations

- 5.1 The proposed development has no detrimental impact on the amenity enjoyed by the residents of neighbouring properties; the alterations would not result in any detriment to the character, appearance or setting of the Listed Building or the Conservation Area. As such the proposal accords with the requirements of Policies LB.1, LB.2 and CA.1 of the Adopted Wyre Forest District Local Plan (2004).
- 5.2 It is recommended that the application is **APPROVED** subject to the following conditions:
1. A7 (Listed Building/Conservation Area Consent)
 2. A11 (Approved Plans)
 3. J3 (Restriction of Separate Use) (former garage) (Brook Cottage)

Reason for Approval

The proposed development have no detrimental impact on the amenity enjoyed by the residents of neighbouring properties, the change of use would not result in any detriment to the character, appearance or setting of the Listed Building or the Conservation Area. As such the proposal accords with the requirements of Policies LB.1, LB.2 and CA.1 of the Adopted Wyre Forest District Local Plan (2004).

Application Reference:	09/0316/FULL	Date Received:	29/04/2009
Ord Sheet:	376994.779612226 270230.223351114	Expiry Date:	24/06/2009
Case Officer:	Paul Round	Ward:	Rock

Proposal: Private vehicular driveway and associated access.

Site Address: LAND AT LOWER NORCHARD, DUNLEY, STOURPORT-ON-SEVERN, DY130UJ

Applicant: Mr T Newbold

Summary of Policy	D1, D3, D5, N5, NR6, LA1, LA2, LR8 (AWFDLP) CTC1, RST3 (WCSP) QE6 (WMRSS) PPS1, PPS7
Reason for Referral to Committee	Statutory or non-statutory Consultee has objected and the application is recommended for approval
Recommendation	APPROVAL

1.0 Site Location and Description

- 1.1 The site is located within the open countryside between Dunley and Heightington It forms a long strip of land that runs from Lower Norchard Farm down to Dick Brook.
- 1.2 The land is particularly open although it is bounded by trees closer to Dick Brook. The site is within the designated Landscape Protection Area.
- 1.3 The proposal seeks to create a track and parking area on the aforementioned land to enable access and parking for a property called Joans Hole on the north back of Dick Brook.

2.0 Planning History

- 2.1 WF.1292/89 – Private Access Track : Refused; Appeal Withdrawn
- 2.2 WF.0215/91 – Construction of Forestry and Private Access : Approved
- 2.3 WF.0329/94 – Concrete Ford across Brook : Refused
- 2.4 08/1110/FULL – Private Access Road : Withdrawn

09/0316/FULL

3.0 Consultations and Representations

3.1 Rock Parish Council – View awaited.

3.2 Highway Authority – No objection.

3.3 Environment Agency – No objections: Part of the proposed driveway is adjacent to the Dick Brook and falls within flood zone 3...The driveway will be formed by permeable pavement. Where it nears Dick Brook it will be elevated 5m above the bed level. As such we believe flood risk will be minimal.

In carrying out the works the applicant must make sure they maintain any land drainage crossing the route. We recommend that consideration to the potential for the access track to become a route for flood water, leading to potential for the track to be washed away unless full consideration is given to how the track will drain in these circumstances.

3.4 Arboricultural Officer - The proposed new vehicular driveway will travel along the boundary of an agricultural field, through an old hedgerow and finish at the edge of the woodland, where a parking area and turning circle will be situated.

The woodland will be unaffected by the development, however there are a couple of trees on the edge of the old hedgerow that look to be within the new 3m wide driveway and as a result will need to be removed.

Both the trees are over mature and have significant dieback with their crowns, so I have objection to their removal.

The site is rural and very remote and I do not feel there is a need to replace the two trees that need to be removed.

I have no objection to the proposed development, as no trees with high amenity value will be affected.

3.5 Watercourse Officer – No objections

3.6 Countryside Conservation Officer – No objection. During my site visit, I could see no evidence of possible biologic loss, as the proposed access track was, at the time of my visit, already an established muddy track and the parking area was an enriched green area of grass. All of this being above the area of the Dick Brook flood banks.

3.7 Worcestershire Wildlife Trust – No objection

09/0316/FULL

- 3.8 The Ramblers' Association – Object most strongly. The proposed access and car parking will have a significant visual affect upon the surrounding area. It will be immediately adjacent to a particularly attractive part of the Worcestershire Way (Rock Footpaths 792/3) and will be also visible from other footpaths because of its situation on the valley floor.

We believe that the proposed development runs contrary to planning polices LA1, LA2, NC2 and NC3, that quite clearly putting a car park in the middle of a field runs contrary to Key Principle 1(vi) contained in PPS7 dated August 2004 and the application should be rejected.

- 3.9 Worcestershire County Council (Footpaths) – No objection subject to notes.
- 3.10 Neighbour/Site Notice – No representations received

4.0 Officer Comments

- 4.1 The application seeks to reinstate an access driveway and parking area to serve the property known as Joans Hole.
- 4.2 Planning permission was given in 1991 for this same development although this has never been implemented. The applicant has continued to visit the property utilising the field as access resulting in a clear track and parking area being marked out along the field in the position where it is now proposed. As such the application is to formalise and consolidate this route to enable ease of access especially during the winter months, where, due to the undulated form of the land, access is virtually impossible.
- 4.3 The location of the route of the track and the parking area have been positioned close to field boundaries to as to avoid 'scaring' of the landscape and producing the most visually sensitive solution. I firmly believe that, subject to satisfactory landscaping and surface treatment, minimal harm will be caused to this protected landscape. It is also considered necessary to remove permitted development rights for fencing in this location to preserve the open character of the area
- 4.4 I note the comments from The Ramblers' Association, however I cannot agree that the proposed works will cause the level of harm that they are indicating. The proposals do not affect the Public Right of Way and their concerns are purely concerning visual amenity. I acknowledge that the roadway and parking area will be seen, however as stated above I do not consider that significant harm will be caused.
- 4.5 Whilst a small section of the parking area will be in flood zone 3 subject to satisfactory drainage of the roadway and parking area, the Environment Agency and Watercourse Officer have confirmed that it will not adversely impact the flood water of Dick Brook.

09/0316/FULL

- 4.6 Access to the track will be gained from the private access road serving Lower Norchard Farm and Lower Norchard Bungalow. The Highway Authority has no objections to the additional access point or the access track itself. No concerns have been raised by adjoining residents.

5.0 Conclusions and Recommendations

- 5.1 The proposed access track and parking area are considered to be acceptable and will not adversely affect the character of the Landscape Protection Area or the appearance of the open countryside. There are no highway, flooding or residential amenity issues in this case.

- 5.2 I therefore recommend **APPROVAL** subject to the following conditions:

1. A6 (Full with no reserved matters)
2. A11 (Approved plans)
3. Details of surface treatment to be agreed.
4. Details of any land re-modelling or movement of soil to be agreed.
5. No importation of material
6. Level of parking area shall be at least 5m above stream bed.
7. Details of drainage for roadway, passing bay and parking/turning area to be agreed.
8. C6 (Landscaping – small scheme)
9. C8 (Landscape implementation)
10. J1 (Removal of permitted development – residential; of rights to erect fencing)

Notes

- A. The approved plans do not indicate extent of curtilage for the property known as Joans Hole, and the permission relates to a change of use and construction of driveway surface only and does not extend to the rest of the land outlined in red.
- B. Removal permitted development rights for fencing.
- C. Duty to Public Right of Way
- D. SN3 (Protection of species)
- E. SN12 (Neighbours' rights)
- F. SN13 (Landscaping/planning works)

Reason for Approval

The proposed access track and parking area are considered to be acceptable and will not adversely affect the character of the Landscape Protection Area or the appearance of the open countryside. There are no highway, flooding or residential amenity issues in this case. For these reasons, the proposal is compliant with Development Plan policies listed above.

Application Reference: 09/0319/FULL **Date Received:** 01/05/2009
Ord Sheet: 383371 277132 **Expiry Date:** 26/06/2009
Case Officer: Paul Wrigglesworth **Ward:** Broadwaters

Proposal: Change of use from residential to place of worship in association with No 2 Radford Avenue

Site Address: 3 RADFORD AVENUE, KIDDERMINSTER, DY102ES

Applicant: Mr Syed Ahmed

Summary of Policy	H2 D1 D3 TR9 TR17 CY2 (AWFDLP)
Reason for Referral to Committee	The applicant is a Councillor
Recommendation	APPROVAL

1.0 Site Location and Description

- 1.1 This property is the end of a terrace of 3 three- storey properties located at the back of pavement in Radford Avenue lying close to the junction with the Horesfair. Adjacent to No3 is an existing place of worship (No 2) and on the other side in a set back position is an electricity substation.
- 1.2 There is no off-street car parking provision.

2.0 Planning History

- 2.1 WF 1003/86 Change of Use to a Chinese Take-away: Refused 20.1.87
- 2.2 WF998/88 Change of Use from shop to domestic: Approved 1.11.88

3.0 Consultations and Representations

- 3.1 Highway Authority – No objections
- 3.2 Environmental Health – No objections
- 3.3 Hereford & Worcester Fire and Rescue Service – Views awaited

09/0319/FULL

3.4 Neighbour/Site Notice – No representations received.

3.5 Letter of support from the applicant:

- 'Set out here in the details of the daily use of this property as a place or religious worships.
- It is the practise of Muslims to pray five times a day. The first prayer takes place just before sunrise and the other main prayer time s are set according to the timetable which varies with British time. The building is closed after the last prayer until the following morning. The prayer times each last no more than thirty minutes.
- Muslims are forbidden to sing or chant in the course of their worship, and the use of musical instrument in the course of worship is strictly forbidden and also it is not allowed at all at any time in the mosque.
- Between 5pm to 7pm the building is used for the purpose of study of the Quaran for the children of the locality who wish to do so, there is no real noise caused in the course of this study. The children sit quietly learning the Quaran softly to themselves in strict quiet manner.
- Rear garden will be kept cleaned up and will not be used for any worship.
- Only on Friday we have a large number of people up to 100 using the mosque between 1 o'clock to 2 o'clock, again time varies according to the timetable as it is a special pray day called "Jumma".'

4.0 **Officer Comments**

4.1 Planning permission was granted for the change of use of number 2 Radford Avenue to a Mosque in 1993 (WF773/93). The current application proposes to extend the use into the adjoining property without changing the external appearance of the building.

4.2 The main considerations in determining this application are considered to be:

- a) Whether the development is acceptable in this location in terms of planning policy;
- b) The impact on the neighbourhood in terms of noise and general disturbance;
- c) Highway issues.

09/0319/FULL

- 4.3 a) The site lies in an area allocated as part of the Horsefair Local Centre where Policy RT.6 applies. Part of the policy statement does make it clear that uses other than shops will not normally be allowed. However, the thrust of the policy seeks to protect existing shops from changes of use to development other than retail uses. This property is a residential property rather than a shop and to allow it to become a place of worship would not result in the loss of a retail outlet and consequently would not be harmful to the Horsefair shopping offer.

It is felt in these circumstances that this is an acceptable exception to policy and one that still preserves the aims of Policy RT.6.

- 4.4 b) Policy CY2 sets out the criteria for dealing with applications for community uses such as places of worship. The proposal seems compliant with the criteria as described including the requirement to be compatible with the surrounding area. This is because:

- It is an extension to an existing place of worship and although it will increase the potential capacity of the premises and particularly on a Friday the main day of worship. However, for most of the time it will function mainly to improve the cramped space that existing worshippers are experiencing.
- The place of worship has been in existence for approximately 20 years and doesn't appear to have given rise to complaints.
- The existing use does not give rise to any noise as the Islamic worship does not involve singing or the use of musical instruments.
- There will be no visible changes to the property.
- There are no adjoining residential properties in Radford Avenue. As stated on the one side is the existing mosque and on the other there is a gap with a recessed electricity sub-station. Opposite there is a car parking area.

- 4.5 c) The existing mosque was granted retrospective planning permission without any off street car parking because it was appreciated at that time that very few worshippers arrived by car (the application was retrospective). It was also recognised that those that did arrive by car could park in the Horsefair. The existing mosque does not appear to be causing any traffic problems. The applicant has stated that :

There is a car park opposite the mosque and designated street car parking. As the people using the mosque live nearby they intend not to take their car to the mosque. As for people using the mosque on Friday they either work in town and walk to the mosque or if they drive they usually leave their car in the car park in Broad street as the prayer lasts no more than 30 minutes. Most people using the mosque live in Radford Ave, Baxter Ave and Hurcott Road.

09/0319/FULL

The Highway Authority has looked carefully at the application and in the circumstances, it is not considered that off street car parking is a necessity after noting the availability of nearby car parking facilities, and I would concur with this view.

5.0 Conclusions and Recommendations

5.1 The application is compliant with the aims of Policies in the Local Plan.

5.2 I therefore recommend **APPROVAL** subject to the following conditions::

1. A6 (Full with No Reserved Matters)
2. A11 (Approved Plans)
3. This permission shall enure for the benefit of the Islamic Faith only.
4. There shall be no external amplification of sound.
5. The permission shall be used strictly in accordance with the details as described in a letter from the applicant dated the 16th May 2009

NOTES

1. SN10 (Disabled Persons Act 1981)
2. SN11 (Health and Safety at Work Act and Building Act)
3. SN5 (No Advertisements)
4. Building Regulations approval required including the requirement to comply with the Regulatory Reform concerning Fire risks.

Reason for Approval

The application has been carefully assessed in terms of the principle of allowing the development and it is considered that the use is appropriate to this location and will not detract from the retail offer of this Local Centre. In addition the proposal is judged to be acceptable with regards to its impact on residential amenity and in terms of highway safety and car parking issues. To approve the development in these circumstances is in accordance with the above mentioned policies contained in the Adopted Wyre Forest District Local Plan.

Application Reference:	09/0323/LIST	Date Received:	01/05/2009
Ord Sheet:	384114 280063	Expiry Date:	26/06/2009
Case Officer:	James Houghton	Ward:	Greenhill

Proposal: Structural steel supports to the Town Hall server room floor, and creation of UPS/server room in basement room below main server room (formerly gas meter room)

Site Address: WYRE FOREST DISTRICT COUNCIL, TOWN HALL, VICAR STREET, KIDDERMINSTER, DY101DB

Applicant: Wyre Forest District Council

Summary of Policy	LB.1, LB.2, LB.3 (AWFDLP) QE.5 (WMRSS) PPG15
Reason for Referral to Committee	The applicant is Wyre Forest District Council or is made on land owned by Wyre Forest District Council
Recommendation	DELGATED APPROVAL

1.0 Site Location and Description

1.1 The application property is Kidderminster Town Hall, a Grade II Listed Building located on the west side of Vicar Street. The building is currently utilised by the Wyre Forest District Council Hub and provides various rooms for events as well as a council chamber.

2.0 Planning History

2.1 None relevant.

3.0 Consultations and Representations

3.1 Conservation Officer – No objections to the proposed proposals and recommend approval, subject to English Heritage support. Sufficient detail is considered to be provided to negate any material conditions on any approval.

3.2 Neighbour/Site Notice – No representations received.

09/0323/LIST

4.0 Officer Comments

- 4.1 The applicant seeks approval for the installation of steel supports under the floor of a server room. These supports would provide protection to the floor to prevent damage caused by the weight of the servers.
- 4.2 The works proposed would be located within the cellars of the Town Hall strengthening part of the ground floor. The proposals would have a minimal impact on the historic fabric of the building, would be inconspicuously sited and could be removed if required. As such, the proposed works are considered to accord with the provisions of Policies LB.2 and LB.3 of the Adopted Wyre Forest District Local Plan.

5.0 Conclusions and Recommendations

- 5.1 The proposed development would be positioned inconspicuously, would have a minimal impact on the historic fabric of the building and could, if necessary be removed; the proposed support would have no significant impact on the character and setting of the Grade II Listed Building. As such, the proposals would be considered to accord with the requirements of Policies LB.1, LB.2 and LB.3 of the Adopted Wyre Forest District Local Plan.
- 5.2 I therefore recommend that **delegated** authority be given to **APPROVE** this application subject to:
- a. the decision of the Secretary of State via the Government Office for the West Midlands not to call in the application.
 - b. the following conditions:
 - 1. A7 (Listed Building/Conservation Area Consent)
 - 2. A11 (Approved Plans)
 - 3. B6 (External Details – Approved Plan)

Reason for Approval

The proposed development would be positioned inconspicuously, would have a minimal impact on the historic fabric of the building and could if necessary, be removed; the proposed support would have no significant impact on the character and setting of the Grade II Listed Building. The proposals therefore accord with the above listed policies.

Application Reference:	09/0340/S106	Date Received:	14/05/2009
Ord Sheet:	383025 276214	Expiry Date:	09/07/2009
Case Officer:	Paul Round	Ward:	Greenhill

Proposal: Variation of S106 agreement to allow off-site contribution in lieu of on-site affordable housing provision

Site Address: CASTLE LOCKS, CASTLE ROAD, KIDDERMINSTER,

Applicant: John Raynor

Summary of Policy	H2, H10, D1, D3, D4, D9, D10, D11, D13, D15, D16, NR5, NR6, LB1, CA1, CA2, AR2, TR9, TR17, TR18, LR2, IMP1 (AWFDLP) D3, D6, D7, D9, D11, D43, T1, T4, CTC7, CTC8, CTC9, CTC17, CTC19, CTC20 (WCSP) CF3, CF4, CF5, CF6, QE1, QE2, QE3, T7 (WMRSS) PPS1, PPS.3
Reason for Referral to Committee	Application involving proposed Section 106 obligation
Recommendation	DELEGATED APPROVAL

1.0 Site Location and Description

- 1.1 The site is occupied by the former Zanzibar Nightclub, adjacent to the Staffordshire and Worcestershire Canal on Castle Road, Kidderminster. The existing building was built in 1929 and was previously used as the Corporation swimming baths and dance hall. The building has latterly been and used as a licensed nightclub. The site includes the building and associated car park and wraps around the Age Concern's Tulip Tree Centre. The Canal Conservation Area runs to the west of the site.
- 1.2 The site is approximately 0.3 ha. in size. The local plan allocation for the area is for primarily residential use and it is considered that the site forms previously developed land. The building is included within the Local List of buildings of architectural and historic importance.
- 1.3 Permission was given in 2007 for the construction of 46 residential units. This application seeks for a deed of variation to the S.106 agreement that accompanied the planning permission to allow more flexibility in the tenure of the affordable housing units.

09/0340/S106

2.0 Planning History

- 2.1 WF.37/89 – Sheltered Housing (39 Flats) : Refused
- 2.2 WF.726/91 – 25 dwellings : Approved
- 2.3 WF.623/92 – Residential flat scheme 34 units : Approved
- 2.4 WF.48/94 – Warehouse : Refused
- 2.5 WF.434/94 – Certificate of Lawful Use (Dancehall) : Approved
- 2.6 05/1208/FULL – Residential development for 38 flats – Withdrawn
- 2.7 06/0300/FULL - Residential development for 38 flats – Approved
- 2.8 06/1242/FULL – Residential development for 42 flats - Approved

3.0 Consultations and Representations

- 3.1 Housing Services Manager - Due to the current economic circumstances, the proposal to develop 12, 1 bed apartments for shared ownership (as part of the larger scheme) has become an unviable option for the Housing Associations operating within the Wyre Forest area. This is due to the market for shared ownership slowing significantly (mainly due to limited mortgage products available for buyers). Over the last year, since Jephsons withdrew from the purchase of the units, the developer and Principal Strategic Housing Officer have attempted to secure the on site affordable units by discussing a range of tenure options with Housing Association partners. However, this too has proved to be a financially unviable option. The units are below the Homes and Community Agencies current Design and Quality standards, which makes securing grant funding unlikely and Housing Associations are facing difficulties in securing additional finance from the banks to extend their development programmes.
 - Therefore, having been unable to secure a Housing Association partner for the on site units and with the units partially built, the possibility of an off site contribution has been discussed with the developer. Based upon the calculation stated in the Affordable Housing Toolkit(Off site contribution = Open Market less Affordable Value), a figure of £180,000 has been reached.

09/0340/S106

- From discussions with the managing director at Park Ventures, it was established that rather than building the scheme out to sell individual units on the open market, Park Ventures had secured a deal where they would build them out and sell them onto an agent as a package. As a result of this package deal, the agent has offered to purchase the 1 bed apartments at £60,000 each. Whilst this is lower than the average open market value for a 1 bed flat, the deal will guarantee the developer an income at a time when the sale of properties, particularly flats, is slow. It should also be noted that interest in the site has been limited. Park Ventures have been the only developer to contact the authority to proceed with development as it stands (following Bentley Homes going into administration). Based upon this and the knowledge that the developer would face significant difficulty in selling the units on the open market in the current economic climate it has been accepted by the Principal Strategic Housing Officer that £60,000 should be used for the open market value.
- Furthermore work has been undertaken to identify sites that the off site contribution can be used towards. Through this piece of work, it has been identified that Community Housing have a number of sites within their ownership with existing planning permissions but no funding to develop. Through discussions with their Development Consultant, it has been identified that the contribution could finance the development of up to four family houses. Based upon this assumption, sites at Sion Hill, Kidderminster and Amblecote Road, Kidderminster have been identified.
- It is recognised that whilst on site provision is still the preferred option of the Council, the exceptional circumstances surrounding the development of this site have meant that an off site contribution is the only viable option to secure affordable housing and ensure the completion of the partially built Castle locks scheme.

3.2 Neighbour/Site Notice – No representations received

4.0 **Officer Comments**

- 4.1 Section 106A of the Town and Country Planning Act 1990 (as amended) gives developers the ability in which to amend or modify a S.106 agreement. Under the terms of this section such an application can only be considered after a five year period, with any adverse decision being made able to an appeal under S.106V.
- 4.2 As this application has been submitted within 5 years, the Local Planning Authority has the ability to consider whether a deed of variation can be approved, without any reprisals under S.106B in respect of appeals.

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- 4.3 The applicants have negotiated with West Mercia Housing Association and other partner Associations. However, due to the current economic climate the units are not considered to be acceptable to any of the Council's partner RSL's. This is mainly due to the size of the units, being below the minimum recommended space standards for affordable units. The units range from 32.5 m2 to 44 m2 all below the 45 m2 minimum recommend space standard for a 1 bed flat. Whilst RSL's were willing to take on these units when the application was approve in 2006, under the current economic climate shared ownership units are not viable and the units are too small for rental.
- 4.4 The Applicant and the Council need to be innovative to enable continued affordable housing contribution as part of this development. As part of the Council's adopted Affordable Housing Toolkit provision is made for off site contributions in the event that units cannot be provided on site. I am satisfied that the Applicant has pursued every viable route to try and provide the units on site and has been unsuccessful.
- 4.5 The toolkit provides the calculation for off site contributions as being "open market value – affordable value". The 12 units have been valued at £720,000. On the basis that they were being offered on a shared ownership basis, RSL's would expect to buy such units at 75% of the market value. As such there is a 25% difference in the values equating to an off site contribution of £180,000.
- 4.6 The usual concerns over off-site contributions are surrounding how the money will be utilised and whether it will remain unspent, and whether the off-site contribution will provide an equal amount of affordable housing provision.
- 4.7 In this case the Applicant has already entered into discussions with The Community Housing Group in order to fund or partially fund the construction of three sites with extant planning permissions. It has been calculated that the contribution will help fund 4 dwellings.
- 4.8 The sites in question are as follows:

Planning Application Ref.	Site	Type of Accommodation
08/0098/FULL	Sion Hill, Kidderminster	1 x 2 bed 4 person Bungalow
08/0223/FULL	Amblecote Road, Kidderminster	3 x 3 bed 5 person house

- 4.9 On this basis I am satisfied that there is certainty that that the money will be utilised in the short term to provide affordable housing in the District.

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- 4.10 In respect of satisfactory provision, it is acknowledged that the number of units that can be provided through the contributions is less than the 12 units on the original scheme; however I am of the opinion that the provision of houses/bungalow is a substantial improvement on the quality of accommodation and allows extant permissions to be built out of the type and tenure that is required within the most needed areas.
- 4.11 I therefore consider that taking account that the on site units are not acceptable provision in the current climate that the S.106 agreement should be amended to allow for an off site contribution of £180,000 to be utilised in providing affordable units in partnership with The Community Housing Group. This approach is fully endorsed by the Housing Services Manager

5.0 Conclusions and Recommendations

- 5.1 The case for off-site contributions has been proven and the compensatory amount and provision is considered to be acceptable and accord with the guidance contained with the Council's Affordable Housing Toolkit. This approach is fully endorsed by the Housing Services Manager.
- 5.2 I therefore recommend **delegated authority** be given to the Director of Legal and Corporate Services in consultation with the Director of Planning and Regulatory Services **to vary the Section 106 Agreement.**