

APPENDIX 1

Ecological Context

Birchley Hays is registered as a Plantation on Ancient Woodland Site (PAWS - planted woodlands of any species on ancient woodland sites). An Ancient Woodland Site infers an area of land that has been continuously wooded since before 1600 AD in England and Wales, 1750. Some of these woodlands may be primary (i.e. remnants of our prehistoric woodlands) and others will have arisen as secondary woodland on ground cleared sometime prior to these dates. It is also an Ecosite (17/28) and a potential Local Wildlife Site (SP28S1).

There are UK protected species of badger within the woodland, although applicant instructed surveys suggest that a sett is no longer present. There is a locally important species record for a rare county plant called Climbing Corydalis (*Ceratocapnos claviculata*).

During my site visit on 10th December 2009, possible badger snuffle holes were noted within the Scots pine southern compartment of the woodland. These were suggested as squirrels in the submitted ASW Ecology (2011) ecological report.

The woodland consists mainly of conifer plantation (Scots pine and Norway spruce, Abbey Forestry 2009), with some areas of broad-leaved plantation to the north (mainly oak and silver birch with sweet chestnut and cherry). A watercourse ran through the northern part of the wood from west to east.

Within the conifer plantation areas the understory was mainly absent. Oak and silver birch regeneration was present but rare. Ground flora was variable, with locally frequent bluebell, bramble, honeysuckle, male fern and wood sorrel in the south-east of the site and negligible ground flora within heavily shaded dense conifer plantation compartments to the central east of the site.

Within the oak and birch dominated broad-leaved woodland to the north the understory was sparse and consisted mainly of hazel, holly and elder. Ground flora in this area included bluebell, bramble, honeysuckle, male fern, stitchwort spp, bugle, yellow pimpernel, herb Robert, foxglove and bedstraw spp. Wetter areas included locally frequent pendulous sedge, wavy bittercress, iris spp., tufted hair grass and soft rush. Patches of locally frequent pendulous sedge and iris spp were also present throughout the site.

A compartment of young regenerating silver birch to the central west of the site also included occasional oak, pine spp and cherry within the canopy, and locally frequent bluebell within the ground flora and occasional foxglove, honeysuckle, cleavers, fescue spp, and bedstraw spp.

The rides (north to south and east to west) exhibited a more diverse flora mix of pendulous sedge, reed canary grass, tufted hair grass, hard rush and soft rush in the wetter areas with teasel, creeping thistle, monbretia, buddleia and creeping buttercup also noted.

An ecological survey for the adjoining eastern part of Birchley Hayes Wood (not within the ownership of Heart of England Promotions Ltd.) by Mr Paul Hodges summaries this part of the wood as:

"This is a species rich ancient semi-natural woodland coppice with standards. It conforms to the National Vegetation Classification type W10 predominately (pedunculate oak, birch, bramble and bracken). As described in British Plant Communities volume 1 Woodlands and Scrub edited by JS Rodwell 1998. The dominant trees include pedunculate oak, rowan, hairy birch and silver birch. It has an understory of hazel coppice and holly scrub, with willow and alder present near ponds. Field layer – comprising of ancient woodland indicator species – including bluebells, broad leaved heleborine, yellow archangel, yellow pimpernel, wood sorrel, primroses, wood anemones, lords & ladies, pignut, greater stitchwort and common cow wheat. Ground layer – again containing ancient woodland indicator species – including mosses, liverworts and lichens. Woody climber species include honeysuckle and ivy.

The geology and pedology have resulted in a mosaic of damp and dry oak/birch woodland. The site contains a rare fungi as classified as a red data book species (Tiered Toothed Fungus). The presence of the ancient boundary earthwork structures of ditches and banks form an obvious boundary of this site. These archaeological features further confirm this site as ancient semi-natural woodland. It is also listed and shown in the British Archaeological Report 269 1998 – Woods, Wolds and Groves – The woodland of medieval Warwickshire by Sarah J Wager (published by John & Erica Hedges and Archaeo Press. ISBN 1 84058 002 X)."

The 2011 ASW Ecology survey did not carry out an in depth flora and fauna survey, so there is a significant potential that these important species are present in the remaining Birchley Hays Wood.

Birchley Hays Wood is situated within a local complex of woodlands of Meigns, Close, Meriden Shafts woods that exhibit a mixed plantation composition with the majority of ancient woodland flora restricted to rides, isolated stands and woodland edge strips. This complex forms part of a relatively well connected chain of woodlands running south-north from Alcester (in the south of the county near Redditch, Worcestershire) to Tamworth (Staffordshire). Recent connectivity modelling by the University of York shows that this chain acts as an important species commuting route for woodland species migration in response to climate change or population expansion modelling to form robust numbers able to survive "one-off-catastrophic" events.

Within 2km of the woodland there are European Protected Species (EPS) of bats (common and soprano pipistrelle, brown long-eared and indeterminable species) and great crested newt. Within 5km of the site there are additional records for EPS of bats (Daubentons, Natterers and Whiskered), plus UK protected species of grass snake.

Other locally important woodland or woodland edge/ride species within 2km of the wood include Wall, white-letter hairstreak and small heath butterflies (UKBAP, red list), hedgehog (UKBAP), Common Toad (UKBAP), and rare county woodland plants of Marsh Violet, Good-King-Henry, wood horsetail, common marsh bedstraw (*Galium palustre* spp *elongatum*) and wild daffodil.

The Habitat Biodiversity Audit shows that there is a well connected landscape of intact hedges, hedges with trees and lines of trees plus ditches and streams. This network provides local ecological corridors between the ponds, including those that have great created newt and grass snake records.

Habitats less frequent to rare appear to be semi-improved grassland and these are well less connected due to proximity (nearest neighbour), inferring a fragmented landscape for this habitat type.

APPENDIX 2

VARIOUS APPLICATIONS – HEART OF ENGLAND, FILLONGLEY RESPONSE 6 JANUARY 2012 ROBERT WILLIAMS/ALDER MILL – AGENT FOR HEART OF ENGLAND

I respond to the information sent to you by the County ecologist. To save time I've emailed my response directly to the County Council.

I will expand on my views not by blow by blow account, as I feel that there is scope for an agreement on the wider issues relating to ecology matters.

I will again suggest a meeting between the owner and the County Council ecology department for them to fully understand the use of the site and for the owner to be involved in mitigating some of their concerns.

I start with the overall approach. The land and the woods are all economic elements which contribute to my client's business and to the local economy. They also provide recreational use for a wide range of activities. Whilst the woods are cited as an ancient site, there are no historic trees within the boundaries of the site. The flora and fauna and animal life have adapted to the current tree planting which are described within the woodland management plan. The owner is not required to keep his land in a frozen aspic condition. As it happens during the current ownership there has been more tree planting within the site and areas of new woodland created that has not occurred on anyone else's land including the land owned by the adjacent properties where many complaints as to ecological issues have evolved. Similarly, the lake has allowed a wider range of birds and what I will describe as bugs bees as things that bite you. Last year in particular approximately a hundred and fifty Swallows/Swifts fed continuously over the lake resting on the adjacent electrical supply wires prior to moving onto their nesting locations. They continued to feed by following grass cutting operations which disturbed the midges etc. They were not concerned by the presence of people or the activities taking place. This is just one of the new increases in the wildlife within the site. Part of our proposals for the woodland is to remove areas of dense woodland which shade the brook running through the wood to increase the opportunity for butterflies to breed because they need both moisture and the sunlight to assist in breeding. The current proposal includes a substantial area of woodland bringing the tree planting on this site to over 24,000 trees within the last few years. In line with recommendations an area of the ancient woodland has been set aside for conservation use.

I am somewhat perplexed by the negative views of the County ecologist and indeed the adjacent landowners as they have the capacity to do nothing positive so the reaction is always negative and to some extent by calling for reports gain free records of the area.

The report by ASW Ecological deals in my view with the issues raised in the County ecologists comments. I note that the County ecologist recommendation is for further reports relating to noise and protected species.

I confirm to you that I am not prepared to commit to such reports. Whilst I note the reference to the companion accompanying PPS9, what is not described is the follow-on sentence referred to which is **“ bearing in mind the delay and cost involved, developers should not be required to undertake surveys of protected species unless there is a reasonable likelihood of the species being present and affected by the development”**.

These are two important issues because the report carried out by ASW Ecological covers both of these items. It does so with regard to both the activities proposed and already taking place and it comments on the protected species and their likely presence and also the likely effect on such species.

There is no suggestion that any activities proposed will affect any living creature which would put the proposal outside of the law protecting either animals or plants.

I'm not sure whether the County Council has received all of the noise reports or other matters relating to this project as clearly some of the remarks within the letter received are misguided and outside the ecological remit or were dealt with in a previous letter.

As stated before, my client's interests are within the site. He needs to have the site well maintained and teeming with wildlife as this is the added attraction to the visitors to the site. I would be willing to discuss with the county council their concerns at a meeting on site if it can be arranged to discuss how the owner could improve further the management of the site and then consider and include the resolutions in the 106 Agreement.

Before replying to your e-mail I have taken note of guidance from the Forestry Commission relating to bats within a woodland area and other protected species.

APPENDIX 3

Your ref:
My ref:
Your letter received:



Communities

PO Box 43
Shire Hall
Warwick
CV34 4SX

DX 723360 WARWICK 5

Tel: (01926) 412644

Fax: (01926) 412641

karenwalkins@warwickshire.gov.uk

www.warwickshire.gov.uk

Mr J Brown
Head of Planning
NORTH WARWICKSHIRE BOROUGH COUNCIL
PO BOX 6, The Council House
South Street, Atherstone
CV9 1DE

FAO : Erica Levy

21 November 2011

Dear Mr Brown

PROPOSAL: Proposed hotel wing and glazed link to existing conference centre (PAP/2011/0317), Visitor centre and toilets with woodland clearing (PAP/2011/0261), Change of use of part of field from recreational use to a caravan and camping site (PAP/2010/0324), Variation of cond.6 of planning permission PAP/2007/0503 (PAP/2011/0131), Variation of cond.3 of planning permission PAP/2007/0503 (PAP/2011/0132), Variation of cond.4 of planning permission FSP/2002/7800 (PAP/2011/0133), Variation of cond.2 of planning permission FAP/2007/0503 (PAP/2011/0134), Retention of change of use to mixed recreational and forestry use (PAP/2010/0289), Formation of an off-road adventure trail for use by 4x4 vehicles and quad bikes, including the importation 10,000 cubic metres of inert material to form soil structures, infill borrow pit to form conservation pool and access roads (PAP/2011/0229).

LOCATION: Heart of England, Old Hall Farm, Meridan Road, Fillongley, CV7 8DX

APPLICANT: Heart of England Promotions Ltd

The Highway Authority's response to your consultation in regard to the above application which was received by the Council on 20/10/2011, is one of OBJECTION for the following reasons:

The applicant has failed to submit sufficient information regarding the impact the development will have on the public highway for the Highway Authority to be able to make a considered response. The information within the Transport Statement submitted in support of these planning applications does not specifically relate to all the proposals for which planning consent is being sought.

*Working for
Warwickshire*

The Highway Authority are therefore not satisfied that the applicant has sufficiently demonstrated that there will be no detrimental impact onto the highway network as a result of the proposed development.

Notes to North Warwickshire Borough Council;

Whilst the Highway Authority has raised an objection for the reason set out above, in examining each application, the following additional comments are made;

PAP/2011/0317

Trip Generation - The transport statement (TS) that has been submitted is primarily in support of the use of the field access to the north-western boundary of the site in connection with 'Heart Park'. As the subsequent appeal for this development was dismissed, it is unclear what relevance this statement has in respect of the proposed hotel, conference centre and office. The comments from the Highway Authority at the time of the appeal were that it was unclear from the surveys undertaken what events/activities were being served from which access. As there should now only be one access operating to serve the site from the Meridan Road (the access from Wall Hill Road as it is understood being for staff purposes only), all activities/events will be from this one access point.

Although the proposed hotel wing is to link to the existing conference centre, it is still unclear how this is to interact with the existing facility, as it would appear that this could operate independently. No details have been submitted indicating what the maximum potential of this development could be in terms of its operation and associated trips which could be generated as a consequence. Without this information the impact on the existing access arrangements in particular, the existing junction with the B4102 Meridan Road cannot be fully assessed.

Car Parking - Although the proposals include additional parking provision, it is unclear whether the additional parking provision is in accordance with the Local Authority's parking requirements? In view of the potential capacity of both the existing concern centre and proposed facility, there are concerns that parking could be compromised. Additionally the layout as indicated in drawing no.233/21/03 Rev B would appear 'ad hoc', the parking requiring a better arranged layout to provide drivers with a clear route to the parking bays which would enable drivers entering the site to parking as without delay that would create any issues with following vehicles backing along the access road towards the public highway.

PAP/2011/0261

Trip Generation - Whilst the purpose of the visitor centre would appear from the Design & Access Statement to be providing a further facility as part of the recreational and leisure use, and conference/events centre of the site, it is fundamental that the trips associated with both these elements of the site are provided. As has been said in past correspondence the Highway Authority require to know the maximum operational capacity of the site in order for the associated potential trips to be determined.

Therefore, whilst in itself the visitor centre may not generate a significant number of additional movements, as it is proposed to be an integral part of these facilities, this information is required.

Again the transport statement submitted does not break down the various elements of the site and what the anticipated trip generation could be for consideration of the application. It is important that we have a holistic view of the operation of the site in terms of the activities/events that are proposed as part of this application and that are currently taking place.

Car Parking - The car parking layout indicated on drawing no. 255/211/04 Rev A is not consistent with that shown on drawing no.233/21/03 Rev B in respect of the proposed hotel wing, etc. Again, it is unknown if accords with the standards of the Local Planning Authority parking policy, although taking account of the various elements operating on the site, the parking provision would appear to be minimal. Comments that could be made at this stage in relation to the layout indicated are that again, there is no clear circulatory route to the parking bays. To clarify, it would be easier and less disruptive for drivers to have a circulatory route around the parking bays so that they are not 'back-tracking' in looking for empty bays and disrupting the flow of following vehicles. Additionally, width of the aisle between the car parking bays and coach parking bays looking narrow for the manoeuvring of coaches into this parking area.

PAP/2010/0324

Trip Generation - In respect of the transport statement our previous comments remain in as much as this document makes no reference to the development being sought.

Internal Access Road – Drawing no.242/29/04 Rev B indicates a new internal access road connecting with the existing primary access into the site. Concerns are that where this new road spurs off, its proximity to the main junction onto the B4102 Meridan Road could create queuing problems which would impact onto the B4102. This is an issue which should be considered within the transport statement.

PAP/2011/0131 & PAP/2011/0133

Trip Generation – Whilst the proposal to vary a condition for the retention of structures for a 6 month period is unlikely to generate any additional trips per se, this again needs to be considered in the context of those activities that are taking place on site. It is anticipated that the activities associated with the 'beach' area are likely to result in a greater attraction of visitors than those likely to have been generated with the recreational/leisure use that was presented within the earlier planning application PAP/2007/0503.

PAP/2011/0132 & PAP/2011/0134

Trip Generation – Whilst these planning proposals are seeking a variation of conditions to enable the use of all motorised vehicles on site, again the difficulty in assessing this variation is reliant on the transport statement setting out the traffic associated with the

uses in question. It is understood that these uses operate in different scenarios, i.e. associated with the adventure park, operating via a third party, used as part of the corporate events operations, etc. At no point has this information been set out clearly so that it is easy to understand exactly what operations these are associated with, how they are operated and what trips they are generating.

PAP/2011/0229

Trip Generation - The access statement has referred to the activities associated with the adventure trail already occurring at the time the TS by BWB in respect of the 'Heart Park' development was carried out. However as cited in the previous paragraphs, it is unclear from the TS what activities were taking place when the surveys were undertaken, with issues being raised that they were not wholly representative of the maximum capacity the site could accommodate with all elements of the site operating.

Internal Access Road & Car Parking - Drawing no. 268/211/09/Rev B indicates the provision of a new internal access which would have priority over the route into the car parking area for the conference and events centre. This would appear to potentially address the earlier issues raised in respect of planning application PAP/2010/0324, although this again needs to be considered with the context of a new or updated TS incorporating all other points raised. However the car parking layout drawing no.268/211/05/Rev A would appear to be inconsistent with the internal access road drawing, with the priority route remaining as it currently stands and all associated parking served via this route. Again our previous comments with respect to the level of parking proposed and arrangement are applicable, and these are again all elements that need a holistic approach in terms of consideration within a TS.

With respect to the importation of materials, it is assumed from the drawings submitted that access is to be via the new internal route off the existing main access from the B4102. However, 2 drawings have been submitted which appear to contradict one another in terms of priority off the main access. Drawing no.268/211/08 Rev B indicates the new internal road joining the main access road with priority being retained to the Conference and Events Centre. Drawing no.268.211/09 Rev B indicates the new internal road as the priority route with the existing access road to the Conference & events Centre having to give way to traffic on the new road. Additionally, it is unclear if the road is to be built initially as a haul road to enable the importation of material to commence prior to any other element of planning taking place or otherwise. This point together with the other matters raised require clarification.

PAP/2010/0289

Trip Generation – Once again, the TS submitted does not clearly set out the trips associated with the specific elements of the site both existing and proposed in relation to this change of use. There would appear to be a number of inconsistencies within the statements of each of the supporting statements, i.e paragraph 2.2 states 100 school children per week, paragraph 10.0 (Visitor Profile) of the Sustainability Statement for PAP/2011/0317 stating 300 per week.

The accompanying Design and Access Statements all state that the transport element of each of the proposals is anticipated as not generating any significant additional trips as a consequence of development. With an expansion of the overall site area, it is difficult to understand how this can be the case, when the site would have the potential capacity to accommodate increased patronage post development. No indication is provided of what each of the proposed uses are generating either in terms of existing trips or additional trips, how the operation of each use functions/will function as individual elements and also the cumulative impact of these elements which is the main concern to the Highway Authority. Additionally there are a number of inconsistencies with the supporting information that has been submitted, where further clarification of the actual intentions of the applicant are required.

The BWB Transport Statement (TS) which has been submitted to support these latest planning applications was primarily in respect of the development that has taken place (known as Heart Park - Adventure Park & Beach) and the use of a third access point to specifically serve this element of the site. The Highway Authority consistently raised the issue that it was unclear from the TS which access served which events/activities (as listed within the statement), and that the surveys undertaken were not necessarily a typical representation of the trips that these events/activities could attract. Even in considering this TS in the context of these latest applications submitted, there is a significant amount of information lacking and the need for further surveys to be undertaken, not least of which should include the consideration of those junctions within the wider highway network, i.e. Fillongley Crossroads, Wall Hill Road. It is not for the Highway Authority to interpolate the additional information that has been recently submitted by the agent (dated 15/02/2011), into a transport statement which is already lacking in information. As it stands, this report is inadequate for the purpose of fully assessing the potential impact of the additional traffic on the junction of the main access with the B4102 Meridan Road.

To enable the Highway Authority to make an informed decision, a Transport Assessment rather than a Statement is required, and this should be in line with the guidelines as set out by the Department for Transport document 'Guidance on Transport Assessments'

(<http://webarchive.nationalarchives.gov.uk/+/http://www.dft.gov.uk/adobe/pdf/165237/202657/guidanceontapdf>). The scoping for the TA should be agreed with the Highway Authority and must encompass all the existing lawful uses on the site together with these latest proposals. Elements that should be included within the scope are;

- the vehicle trips associated with each element of those uses on the site;- existing (lawful) and proposed
- in terms of the existing lawful uses, the information must be based on up-to-date surveys which are based on the maximum potential of these uses, i.e. peak periods.
- an assessment of the additional trips the proposed development will generate based on the maximum operational capacity of these. This should also consider how these elements will be operated (third party agreements). This should include projections of future visitor number in terms of anticipated future generated trips.
- impact on junctions within wider part of highway network

- the individual impact of each element of use on site and also the cumulative impact to enable the suitability of the access from the B4102 to be considered. There is the clear possibility that improvements will be necessary to the existing junction provide a right hand turning lane into the site.
- the proposed changes by the provision of the internal access route and potential impact on the junction with the public highway B4102 Meridan Road
- the parking provision in accordance with the standards as set by the Local Planning Authority.

The above should be read within the context of the guidance notes.

With respect to the Travel Plan, the following comments are made;

Paragraph 1.2 – it stated that the 'Adventure Park' is used at the weekend. However, it was understood that the adventure park operates daily from April to October.

Paragraph 5.1 – the list does not appear to necessarily encompass all the activities that are being sought within this latest round of applications.

Paragraph 6.2 – it is unlikely that, without enhancement of the service by planning obligations, a regular service would be enhanced by the development alone, the nature of the bus patronage again likely to be seasonal in connection with the adventure park. The development would need to consider how to encourage more travel by coach provided by site in association with events/activities taking place.

Paragraph 7.1 – the baseline survey needs to take into account new staff as a result of development.

Paragraph 11.1 – there would appear to be a number of timetable boxes for implementing elements of the travel plan without any detail, i.e. monitoring of travel plan, public transport initiatives, etc.

No mention has been made of the penalties that would be incurred should targets not be reached. The Highway Authority would refer the applicant/developer to Warwickshire's Practice Note for Developers in respect of travel plans, for the inclusion of this section.

Yours sincerely

Karen Watkins
Development Group

CC – Councillor Hayfield, Arley – For Information Only

Levy, Erica

APPENDIX 4

From: robert williams []
 Sent: 04 January 2012 14:08
 To: Levy, Erica
 Cc: Brown, Jeff
 Subject: Heart of England
 Attachments: waste hoe.PDF; Heart of England - Letter Borrows Pit-April 2011.pdf

Dear Mrs Levy

Thank you for your email dated 23 December 2011.

Relating to the proposal of

1. filling in the existing borrow pit
2. construction of the noise retention bunds
3. the construction of the proposed 4 x 4 soil structure.

I attach the relevant policy number 3 to which I am assuming you refer. I also attach Policy number 4 Land raising, which is applicable.

I consider this particular application to be an engineering operation, which involves the importation of inert materials which will be treated as a recovery operation. In this case they will provide a useful long term benefit to the site and its operation. The materials will be sourced within a reasonable distance to the site from construction projects. These materials would normally go to a landfill site and their beneficial use would be zero. They would also take up room within a landfill facility that would be better used for materials which cannot be used within the type of operation proposed at Heart of England.

Dealing with each proposed element, I comment thus:

1. **Filling in the borrow pit:** The borrow pit provided quality clay necessary for the construction of the lake and as such can be treated as the restoration of mineral workings.
2. **The raised noise bunds and 4 x 4 soil structures:** These again are engineering operations and by using inert materials to provide these, this material is considered to be recovered, i.e. not using other minerals, etc. The whole of the areas, including the bunds are to be planted with trees so the visual impact of all the proposals will be positive.
3. **The environmental biodiversity improvements will also be a net gain.** The pools which are to be formed are shallow and are designed to attract different species than those which occupy the lake and indeed could occupy the borrow pit. The sides are practically vertical, so there is a tendency for small animals to fall into the pit and drown. Similarly, if it is left and fish found their way into the pool, then they will tend to eat the smaller vertebrae and similarly should they survive the vertical sides do not allow easy access when they want to return to land. The pit is unattractive in its present form and is unlikely to be colonised by plants either, as its sides are steep or within the water as the water is extremely deep.

The safety issues have been considered and I attach a letter from a safety consultant.

With regard to the proposals to cut and fill the areas proposed. The site has a limited soil base. The main top soil is only shallow and is underlined with clay and sandstone. Secondly, as we are recreating the woodland area which was once part of an ancient forest, I am advised that these soils may contain seeds which will contribute to the flora and fauna of the woodlands, so where possible they should be left to regenerate.

In my view this project meets the criteria of both Policy 3 and 4 of Warwickshire County Council's waste plan.

With regard to the amounts involved, they have been calculated by outside consultants; some of this information has been provided to you previously.

Robert Williams

06/02/2012

Appendix 5

Extract from 15 March 2010 report to Planning and Development Board

The Alleged Hotel Use

The Heart of England web-site has for some time now, been showing that hotel accommodation is available at the main farmhouse on the site. This now offers seven rooms available for booking. Appendix C is a copy of the web pages. It is considered that the scale and nature of this accommodation, together with the manner of its marketing, does constitute a material change, by fact and by degree, in the use of the main house on the site, from a residence to a hotel. The Company representatives confirmed the presence of this accommodation at the meeting of 15 February referred to earlier. The Board has to assess whether it is expedient to issue an Enforcement Notice.

Development Plan policy is quite explicit. Saved Core Policy 2, and saved Policy ECON11 of the North Warwickshire Local Plan 2006, reflect the overall strategic approach that such uses should be located within sustainable locations such as the Borough's main towns and settlements where other services and facilities are available, and where there is a higher level of public transport availability. The site here is outside of any such settlement. The accommodation is not considered to be part of an overall farm diversification project, as there is no farm holding here. Thus saved policy ECON8, is not relevant. Moreover, the first pre-condition under saved Policy ECON9, relating to the re-use of rural buildings is not met, given that there is not a range of means of travel and transport to the site. As a consequence there are Development Plan policies that run against the continuation of this mixed use. There are however Development Plan policies that would support the use – namely saved Policy ECON10 which relates to "small scale development in existing tourism facilities". This also is reflected by Government Guidance in the shape of its new PPS4 on Planning for Sustainable Economic Growth. The Board will need to assess what weight is given to these two sets of policies. It is considered that the starting point should be the Council's overall approach taken to the whole site – namely that of support for balanced and conditional recreational usage. This carries significant weight as it reflects current planning permissions; is supported by recent appeal decisions, and has been used in the determination of recent planning applications and decisions to pursue further enforcement action. The approach too has already taken account of the mitigating policies referred to above, and the arguments expressed by the owners. As a consequence it is considered that something fairly substantial is needed to deflect the Council from changing approach. This use extends the range of activities; alters that balance, and neither is it considered to be essential to the running of the business, or the maintenance of that balance. It therefore does not provide that additional weight. As a consequence enforcement action is expedient. Such action would require the cessation of the C1 Hotel use within a period of six months.

It will be necessary to confirm whether or not the hotel use is now the whole use of the former farmhouse on the site, or whether there is still a dwelling house use present, before the issue of any Enforcement Notice. The content of the Notice will need to reflect the conclusion of this inspection.

The Board has been made aware that the former farmhouse, and the building the subject of the above discussion, is a Grade 2 Listed Building. No Listed Building Consent has been granted for the internal works undertaken to provide this hotel accommodation. As a consequence there would appear that an offence has been committed, as unauthorised works to a Listed Building are illegal. Officers have not inspected the interior of the building, and it is recommended that such an inspection is required. Members will be aware too that there is no time period in respect of Listed Buildings for works to become immune from action.

Recommendations

A) That the issue of the following Notices be agreed in principle:

- i) An Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 be issued in respect of the unauthorised change in use of land at the Heart of England centre from forestry land to a mixed use of forestry together with recreational uses, including paint ball activities and motor driving activities. The Notice will require the cessation of the recreational uses, such that they do not exceed the limits set out in Part 4 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, as amended, and that the compliance period be three months. The reasons for this Notice are as set out in this report.
- ii) An Enforcement Notice under Section 172 of the Town and Country Planning Act 1990, be issued in respect of the construction of buildings and structures as identified in this report as numbered 1 to 5 in Appendix A to this report, and that the Notice requires their demolition and the removal of the resultant materials from the site within a period of three months. Additionally the Notice to include the unauthorised engineering operations of hard surfacing a length of track with bitumen, together with the formation of a bitumen storage area, requiring their removal and safe disposal, also within a period of three months. The reasons for the Notice are as set out in this report.
- iii) An Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 be issued in respect of the unauthorised change in use of land at the Heart of England centre for motor recreation activity, with the requirement to cease the use of that motor recreation activity, together with the removal of two buildings used in association with this use, within a period of three months. The reasons for the Notice are as set out in this report.
- iv) That an Enforcement Notice be issued under Section 172 of the Town and Country Planning Act 1990, as amended, in respect of the unauthorised material change in the use of a building at the Heart of England centre from a dwelling house to a hotel use, with the requirement to cease the hotel use of the building within a period of six months. The reasons for the Notice are as set out in this report.

B) That the precise wording and land areas to be covered by each of the Notices be agreed by the Solicitor to the Council prior to their service.

C) That the Company be notified that it appears that there may well have been breaches of Listed Building Control in respect of works undertaken within the house at this site, and thus an internal inspection is required to establish the situation. A further report will be submitted to the Board as appropriate.

D) That, if these recommendations are agreed, that the Heart of England Company be informed that the Council will hold their service in abeyance until the end of March 2010.