

Supplement to the agenda for

Planning and regulatory committee

Wednesday 4 October 2017

10.00 am

**The Council Chamber - The Shire Hall, St. Peter's Square,
Hereford, HR1 2HX**

Schedule of Updates

Public Speakers

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PLANNING COMMITTEE

Date: 4 October 2017

Morning

Schedule of Committee Updates/Additional Representations

Note: The following schedule represents a summary of the additional representations received following the publication of the agenda and received up to midday on the day before the Committee meeting where they raise new and relevant material planning considerations.

SCHEDULE OF COMMITTEE UPDATES

163391 - PROPOSED ERECTION OF FOUR POULTRY UNITS, FEED BINS, SERVICE BUILDING, ALTERATIONS TO EXISTING ACCESS AND ASSOCIATED DEVELOPMENT AT BOWLING GREEN FARM, CLEHONGER, HEREFORDSHIRE,

For: Mr Whittal per Mr Graham Clark, Newchurch Farm, Kinnersley, Hereford, Herefordshire HR3 6QQ

ADDITIONAL REPRESENTATIONS

A further representation has been received from the Allensmore & Clehonger Action Group stating:-

“We are aware that this Planning Application is nearing a decision. ACAG still has concerns about the potential environmental effects and its impact on other businesses and residents whose lives will be detrimentally affected for decades to come if Planning Permission is granted.

ENVIRONMENTAL EFFECTS

We are aware that the Environment Agency has decided to grant an Environmental Permit for Bowling Green Farm’s proposed broiler units. You may not be aware that this is normal practice for the Environment Agency. We do not have a figure for how many industrial broiler units or poultry units nationally the Environment Agency has permitted since 2010, but they have confirmed to us that not one has ever been refused. This will also be the case in Herefordshire where we know there are approximately 700 such units spread over 100 Farms. As such Permits are always granted it suggests to us that approval is a formality, which in turn begs the question of how much reliance can be placed on very similar ‘expert’ reports undertaken for different farms about the environmental impact of each project.

Fortunately, the Planning Authority has the final responsibility for evaluating the agent’s Environmental Statement to ensure it addresses all of the environmental issues and that the information is presented accurately, clearly and systematically. Because of the number of these units in Herefordshire, (12 within a five mile radius of this application alone) we believe the Council must by now have some serious concerns about the significant environmental effects of this type of ‘farming’. We noted that the issue of the cumulative effect of so many of these industrial units was raised some months ago by yourself with the agent, since this information was omitted from his Environmental Statement. We are concerned that the E.S. and amended reports still contain errors and omissions, which will not enable the environmental impact of the Bowling Green Farm project to be properly evaluated. According to UK legislation through Town & Country planning assessment of environmental effects, England regulations 2011/known as EIA regulations the authority has to ensure that it has in its possession all relevant environmental information about the likely significant effects of the project before its makes its decision whether to grant planning permission.

IMPACT ON LOCAL BUSINESSES AND RESIDENTS.

We also wish to bring to your attention the Human Rights Act protocol 1, Article 1. This has a substantive guarantee which states that a person has the right to peaceful enjoyment of all their possessions which include the Home and other Land. See also Article 8 (The substantive right of respect for a person's home) The two substantive rights listed above enables those affected by the planning process to reinforce their objections by stating that to allow such a development to proceed or such an enforcement order to stand would infringe their human rights. There are "two procedural guarantees" to ensure that all "victims" are given a fair hearing. In a recent case, *Britton v SOS*, the Courts re-appraised the purpose of the law and concluded that the protection of the countryside falls within the interests of article 8 (2) 'Private and family life' therefore encompasses not only home but also the surroundings.

First protocol article 1 (the protection of property) 2nd paragraph. The grant or refusal of planning permission, listed building consent or conservation area consent will frequently affect the lives, homes and property of others. Notably the applicants and the owners and occupiers of neighbouring properties, all of whom have the right to respect for their home and the right for peaceful enjoyment of their property. In practise, it is likely that the interests of the community and those of the applicant will be balanced. It will be necessary for the local planning authority, the planning inspectorate and the courts to ensure this balance is fair.

Public authorities may also need to consider whether there are situations putting them under obligation to take active steps to promote and protect the right of individuals (Article 8) from systematic interference by third parties, for example private businesses.

We trust that you and the Planning Committee will take all of the above concerns and points into account when considering whether to recommend granting or refusing this Planning Application."

OFFICER COMMENTS

I consider that it is worth elaborating and clarifying further with regard the issue of cumulative impacts referred to in paragraph 6.51 of my report. In addressing cumulative impacts consideration has not only been given to major schemes in the locality with planning permission but not yet implemented and outstanding undetermined applications, but also existing development in the locality (i.e. the existing baseline position).

When visiting the site I was not unduly concerned as to cumulative effects arising as there are no other significant major developments in the immediate vicinity. My primary areas of concern were:-

- a) The matter of whether there would be combined effects of odour with the existing layers building at Building Green Farm itself, some 800 metres to the NNW;
- b) To address concerns in the locality as to potential cumulative effects arising from traffic generation;
- c) To address exacerbated concerns in the locality as at one stage during the processing of this application there was another application that involved

replacing four poultry buildings accommodating 318,000 birds with 8 buildings accommodating 320,000 birds at Stoney Street, Madley, albeit some 4km to the west. I had concern as to the adequacy of the highway network including more traffic having to pass through Clehonger village and pass this application site in an along the B4349. That application has now been refused and no appeal has been lodged.

The issue of combined effects of odour arising from the proposed development and the existing layers building some 800 m to the NNW has been fully assessed and no residential property would in my opinion suffer an undue loss of amenity by way of odour.

There are no other poultry related developments (or indeed other developments emitting odour) in the vicinity that are of a proximity and scale (*in the case of poultry the number of birds*) that would lead me to consider that the assessment of odour should extend to a wider geographic area. I am unaware of any previously expressed concerns as to background odour levels in the vicinity of the application site.

The impact of cumulative impact regarding highway capacity and safety has been addressed.

In terms of air quality and noise, I have sought further advice from our Environmental Health Section regarding the issues surrounding “cumulative impact”. They state:-

“The concerns you raise as regards air quality and other Environmental Health related matters have been previously addressed in my consultation responses. The main concerns as regards cumulative effects on Air Quality appear to be about small /fine particulates. DEFRA research has demonstrated that small particulates (PM₁₀) generated by poultry housing drops to background levels, i.e. an elevation of levels cannot be detected within 100 m. (DEFRA research project report AC0104). DEFRA also provides technical guidance for Local Air Quality Management TG16 2016 which prescribes a screening tool for use when considering the likely effect on Air Quality of large poultry installations so that those that may be problematic might be identified, however this proposal falls outside the scope for consideration in that it is not sufficiently large nor is it close enough to a receptor. The advice only requires that the screening tool provided is used with poultry houses with 400,000 birds or more and are within 100m of a dwelling. According to this advice this proposed poultry housing needs not to be considered as being potentially problematic. Whilst the Government has made a commitment as regards the reduction of fine particulate levels (PM_{2.5}) setting a specific objective for 2020, there is no explicit advice for poultry units. I would refer you to the consultation response dated 8/9/17 which also advises of Public Health England and the Council’s Public Health Consultants advice. Public Health England confirmed in June this year that this was still their position on this matter. You may wish to confirm that our consultant is still of the same opinion.

We have a map of poultry units and have undertaken an initial indicative desk top screening exercise in accordance with DEFRA’s Local Air Quality Management Technical Guidance TG16. This initial screening exercise used Environment Agency permit information to determine sites where poultry numbers were in excess of 400,000 and then to assess mapping data to identify relevant exposure within 100m of the poultry sites. This exercise found that there is one poultry site that

accommodates over 400,000 birds in one location. This site did not have any relevant exposure within 100m of the poultry units. It was found from the mapping and permits that most large poultry operations (even where the Environment Agency Permit identifies bird numbers in excess of 400,000), are spread over a number of locations, therefore it is difficult to apply the DEFRA screening assessment absolutely and work is ongoing to assess poultry units and cumulative impacts in circumstances that do not fit the DEFRA screening. This is considering emissions from all sources.

At present it is not possible to definitively identify areas of concern and applications have to be considered on a site by site basis. Cumulative effects would appear to only be of concern where there is a high density of potentially polluting activities and/or very close to receptors (dwellings).

Due to its location I do not see how cumulative effects on air quality are a factor for this application. Odour from both this and the nearest site have been considered in the odour assessment and it is too distant from other poultry units to be a concern for cumulative effects of on-site noise.”

In terms of the existing baseline, I would stress that this is not an area where the LPA has received any previous concerns / evidence regarding existing background noise levels nor is it an Air Quality Management area.

In terms of Ammonia the application is accompanied by a ‘Report on the Modelling of Dispersion and Deposition of Ammonia’. This includes existing background levels in the form of the APIS (Air Pollution Information System) figures that are based on a national model (FRAME), which takes information on animal numbers / land usage from the UK Ammonia Emission Inventory. I understand that the only tool our own Ecologist would have to examine ammonia impacts is the SCAIL tool. I understand that it only identifies ‘single impact without mitigation’ effects in order to point the way to any requirement for further ammonia screening – it does not allow more than a single site input and so cumulative effects would not be highlighted.

It is understood that the Environment Agency only take in-combination effects into account for SAC/Ramsar sites between 4-20 % and SSSIs between 20-50 % (between Y-Z). So if values are below Y the value is insignificant, and if the value is above Z all it means is that ammonia modelling is required. This application site is not a SAC / Ramsar site nor does it lie with an SSSI.

There is an error within my report. As a consequence I substitute the words “approximately 500 metres” at para. 6.9 with the words “approximately 700 metres”. I would stress that the uninterrupted view from this public right of way, whilst a new hedgerow with hedgerow trees matures, is approximately 300 metres of the aforementioned 700 metres.

I wish to add a paragraph 4.5.3. The Senior Landscape Officer’s comments on the Landscape Plans now under consideration were received on 25.07.2017. He stated:-

“Reference the above application I have now seen the following landscape drawings:

- Landscape Proposals, Drawing No PR119723-11 Revision G, Sheet 1 of 2 and
- Landscape Proposals, Drawing No PR119723-11 Revision G, Sheet 2 of 2

Both these landscape drawings now show the appropriate landscape mitigation and enhancement requirements requested.

Landscape maintenance post Practical Completion shall be for five years.

I have no further comment to make on this application. I do not object.”

For the avoidance of doubt the existing land drainage serves land on Bowling Green Farm and then crosses third party land before discharging into the drainage ditch. The owner of the neighbouring land (Mr J. Harris, Court Plocks, Allensmore) has previously provided a letter confirming that they give their permission for the proposed attenuation pond to be connected to the land drain. Given this letter and the longstanding arrangements between Mr Whittal and Mr Harris it is clear that there is an existing agreement in place for the land drain to be maintained and repaired should any blockage occur.

On page 35 of my report at the end of paragraph 1.24 I wish to delete the sentence “ It is a fundamental of Planning that one should not deal with matters that are controlled under separate legislation”. I wish to replace that sentence with:-

“ The Environmental Permits require that Best Available Techniques (BATS) should be used in respect of pollution control and provides for periodic monitoring and review of impacts which may cause the requirements of an Environmental Permit to be revisited / amended. In consideration of this case the Local Planning Authority can take into account land-use planning impacts and can impose conditions where they feel such impacts can be controlled by the planning system.

On page 68 within paragraph 6.37 there is an error. I substitute the words “St. James Church” with “Church of All Saints”. I also wish to add the following sentence:- “ In addition, there would be no harm to the significance of the asset itself.” I would add that there would be no impact upon the setting and / or significance of other heritage assets within the theoretical sphere of influence.

On page 68 at paragraph 6.38 I wish to delete the sentence “It is also a fundamental principle that the Planning process should not get involved in matters control” and amend the following sentence to read:- “However, to reassure Members as to the land-use implications, I make a number of observations”.

I wish to amend the final sentence of paragraph 7.1 by substituting the sentence:- “ It is considered that the proposal would comply with the overarching aims of the Framework and it would constitute sustainable development” with:- “It is considered that the proposal would overall comply with the provisions of the Development Plan in accordance with s38(6) of the 2004 Act, the overarching aims of the Framework and it would constitute sustainable development”.

CHANGE TO RECOMMENDATION

Amend conditions 2 and 6 by adding “Rev. G” at the end of the Landscape drawing numbers referred to.

Add the following conditions:-

15. There shall be no more than 212,000 birds accommodated within the buildings at any one time and to ensure that the development is delivered within the parameters of the Environmental Statement;

Reason:- So that the environmental impact of any intensification of production / use can be fully assessed against the provisions of the Development Plan and any other material planning considerations;

16. All recommendations identified in the Betts Ecology Report dated October 2016 shall be fully implemented, unless otherwise agreed in writing by the Local Planning Authority;

Reason:- To ensure that all species are protected having regard to the Wildlife & Countryside Act 1981 (as amended), the Conservation (Natural Habitats, etc) Regulations 1994 (as amended), policy LA2 of the Herefordshire Local Plan Core Strategy 2011-2031, the National Planning Policy Framework (NPPF) and the NERC Act 2006;

17. If the development hereby permitted becomes redundant for the keeping / rearing of poultry a fully detailed scheme (including timescales) for the decommissioning of the facility, demolition of the buildings and restoration of the land to its former state shall be submitted to the Local Planning Authority within six months for their written approval. No work pursuant to this condition shall commence until the Local Planning Authority has given its written approval. In the event of the development becoming redundant for the keeping / rearing of poultry, the approved decommissioning and restoration scheme shall be fully implemented;

Reason: To safeguard the countryside from unnecessary large scale redundant developments and to comply with Policy LD1 of the Herefordshire Local Plan – Core Strategy

18. There shall be no manure stored within 100 metres of the curtilage of any residential property other than that of the applicant only at 'Bowling Green Farm';

Reason:- To safeguard the amenity of residential properties in the area, in accordance with policies RA6 and SD1;

Add an informative:-

"In the event that the hedge translocations referred to in condition 4 were to take place between February and April, an Ecologist should undertake a "walkover survey" and inspect for presence of nesting birds."

171573 - SITE FOR THE PROPOSED ERECTION OF UP TO 10 DWELLINGS WITH GARAGES AND CONSTRUCTION OF ACCESS ROAD (IN LIEU OF PLANNING PERMISSION 151315 ON ADJACENT SITE). LAND ADJACENT TO GARRISON HOUSE, ORDNANCE CLOSE, MORETON-ON-LUGG, HEREFORDSHIRE

For: Mr Williams per Mr John Phipps, Bank Lodge, Coldwells Road, Holmer, Hereford HR1 1LH

OFFICER COMMENTS

Officers would like to note the following changes to the report:

Para 1.1 – Ordnance close serves 10 dwellings including Garrison House, not nine as stated.

Para 3.9 – Date should be 28/10/2015. It is also noted that the decision was not issued until the 9th May 2016 due to the completion of the section 106 agreement.

Para 6.22 – Natural England comments were received and were included in the report as published. They had no objections subject to conditions (para 4.3)

Previous land use and Contamination

Local residents also raised concern about the potential for contamination due to the former MOD use of the land (POW Camp). The EHO has also been consulted and notes that according to records, the proposed development is, in part, within 250m of an unauthorised tip. This is a potentially contaminative use. As such I'd recommend the following condition be appended to any approval to consider risk from this and any other identified given the proposed sensitive residential use. Conditions are recommended that would address both of the issues raised and would ensure compliance with the requirements of policy SD1 of the Herefordshire Local Plan Core Strategy.

CHANGE TO RECOMMENDATION

Condition 7 – delete reference to Arbortech and replace with: Tree Survey & Arboricultural Impact assessment etc. was carried out on 28th February 2017 by Stretton Tree Services.

**172420 - PROPOSED SINGLE STOREY DWELLING AT LAND ADJACENT
THE OLD CHAPEL, TILLINGTON, HEREFORD,**

**For: Mr Crockett per Mrs Angela Tyler, 39 Grandison Rise, Hereford,
Herefordshire, HR1 1PP**

ADDITIONAL REPRESENTATIONS

Two additional representations have been received namely:-

- concern as to whether a package sewage treatment unit can be provided on site (email from Mr Anthony Vaughan);
- an email to Members of the Planning Committee in respect of the status of Tillington and Tillington Common during the preparation of the Herefordshire Local Plan: Core Strategy, (email from Mr David King). Mr King advocates that neither Tillington Common nor Tillington are Policy RA2 settlements according to defining criteria.

OFFICER COMMENTS

It is considered that a suitable method of waste water collection and disposal can be engineered at this location (whether package sewage treatment scheme or more rudimentary septic tank arrangement).

The planning report is factually correct in that Tillington is the nearest adopted Policy RA2 settlement. As stated in the report Tillington Common is not a Policy RA2 settlement. The Core Strategy is now an adopted document, and had followed due legal process in its adoption.

NO CHANGE TO RECOMMENDATION

PLANNING COMMITTEE - 4 October 2017

PUBLIC SPEAKERS

Morning

APPLICATIONS RECEIVED

Ref No.	Applicant	Proposal and Site	Application No.	Page No.
7	Mr Whittal per Mr Graham Clark,	Proposed erection of four poultry units, feed bins, service building, alterations to existing access and associated development at Bowling Green Farm, Clehonger, Herefordshire	163391	31
PARISH COUNCIL		MRS C PROTHEROUGH (Clehonger Parish Council)		
OBJECTORS		MR T CRAMP (Allensmore Parish Council)		
SUPPORTER		MR P GRIFFITHS (local resident)		
		MRS S WOOSNAM (Allensmore and Clehonger Action Group)		
		MR P WHITTAL (applicant) and Mr G CLARK (applicant's agent)		
8	Mr Williams Per Mr J Phipps	Site for the proposed erection of up to 10 dwellings with garages and construction of access road (in lieu of planning permission 151315 on adjacent site). Land adjacent to Garrison House, Ordnance Close, Moreton-on-Lugg, Herefordshire	171573	75
OBJECTOR		MR D HAMILTON (local resident)		
SUPPORTER		MR N WILLIAMS (applicant)		
9	Mr Crockett Per Mrs A Tyler	Proposed single storey dwelling at Land Adjacent The Old Chapel, Tillington, Hereford	172420	99
SUPPORTER		MRS A TYLER (applicant's agent)		

