

**MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 8 January 2014 at 10.00 am**

**Present:** Councillor PGH Cutter (Chairman)  
Councillor BA Durkin (Vice Chairman)

Councillors: AM Atkinson, AN Bridges, PJ Edwards, KS Guthrie, J Hardwick, JW Hope MBE, MAF Hubbard, RC Hunt, Brig P Jones CBE, JG Lester, RI Matthews, FM Norman, AJW Powers and GR Swinford

**In attendance:** Councillors EPJ Harvey, PM Morgan, J Norris and PD Price

**110. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors PA Andrews, DW Greenow and PJ Watts.

**111. NAMED SUBSTITUTES**

There were no substitute members present at the meeting.

**112. DECLARATIONS OF INTEREST**

Councillor AN Bridges declared a Disclosable Pecuniary Interest for agenda item 8: 130616/F Land at Mill Street, Leominster and left the meeting for the duration of that item.

Councillor FM Norman declared a Non-Pecuniary Interest for agenda item 7: 123317/0 Land at Southern Avenue, Leominster on the grounds that her husband had registered an objection to the application.

**113. MINUTES**

**RESOLVED:** That the Minutes of the meeting held on 11 December, 2013 be approved as a correct record and signed by the Chairman.

**114. CHAIRMAN'S ANNOUNCEMENTS**

There were no announcements.

**115. APPEALS**

The Planning Committee noted the report.

**116. 123317/O LAND AT SOUTHERN AVENUE, LEOMINSTER, HEREFORDSHIRE, HR6 0QF**

The Principal Planning Officer gave a presentation on the application, and updates/additional representations received following the publication of the agenda were provided in the update sheet, as appended to these Minutes.

In accordance with the criteria for public speaking, Mr P Ellis, spoke on behalf of Leominster Town Council expressing opposition to the Scheme. Mr D Mifflin spoke on behalf of the

Friends of Leominster Action Group in objection to the application. Mr A Brodie, the applicant's agent spoke in support of the application.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillors RC Hunt and PJ McCaull, the local ward members, spoke on the application.

Councillor PJ McCaull commented on a number of issues including:

- There was already retail development on the Southern Avenue site.
- There was good pedestrian access from the site to the Town Centre and public transport.
- There was good vehicular access to the site from the A49.
- The impact on small traders in the town centre was being overstated.
- A new Supermarket would offer improved choice and value for money. There was public support.
- A supermarket would create employment opportunities.

Councillor RC Hunt commented on a number of issues including:

- The existing supermarkets were very busy and increasing the amount of competition between businesses, including for petrol, was important.
- Access to the site was very good.
- There were only two available sites and the alternative site before the Committee for consideration was impractical.

The Chairman emphasised that the two applications for supermarkets in Leominster on the agenda would be considered in turn as separate applications on their own merits.

The debate opened and the following principal points were made:

- A question was asked about the location of housing development in Leominster proposed in the core strategy. In response officers stated that the Core Strategy did identify significant housing provision to the South of Leominster. However, the Core Strategy carried no weight at the present time and could not form part of the Committee's consideration.
- It was noted that a proposed Section 106 agreement was appended to the report.

### **In support**

- There was demand for a large food store to meet residents' needs. Smaller sites were not always viable options.
- Access to the development was good.
- The development would bring in trade from the fringes of Hereford.
- People would remain loyal to existing traders in the Town.
- The store would be important for Leominster's future development.
- The withdrawal of the Environment Agency's objections was a positive step.

## **In Opposition**

- The development had the potential to generate other retail development on the site which would in time lead to it becoming an alternative to the Town Centre as a shopping destination.
- The development was out of the Town Centre, was unsustainable and would increase reliance on private car use. It was unlikely that those visiting the store would necessarily make a connected trip to the Town Centre.
- Whilst there may not be alternative sites for a large development of the type proposed, there were more suitable sites for retail development in the Town Centre.
- The site was identified as employment land and should be retained to provide employment opportunities.
- The development would put the Town Centre at risk. The Town Centres Study report by Deloitte had assessed the Centre as healthy but vulnerable.
- It was important to preserve the County's Market Towns.
- The proposal was contrary to policy S7 in that it would jeopardise the character of Leominster, potentially putting the Town Centre's listed buildings occupied by traders at risk.
- A Member said that they were not aware of massive support for the Scheme but were aware of real concerns about it.
- The Parish Plan sought for any new retail development to have the support of the whole community.
- The application was contrary to both the National Planning Policy Framework and local planning policies.
- The Town Centre businesses offered consumers a wider choice than the homogenised offerings of supermarkets. Two modestly sized supermarkets along with smaller local shops already served the town. Town centre use should be encouraged
- In recommending refusal it was requested that the resolution specifically identified the paragraphs in the National Planning Policy Framework on which the grounds for refusal were based. It was noted that these were stated in the report to the Committee in September which was appended to the report before the Committee.

The local ward members were given the opportunity to close the debate.

Councillor PJ McCaull reiterated his support for the application.

Councillor RC Hunt had no additional comments.

## **RESOLVED:**

### **That planning permission be refused for the following reasons:**

- 1 The Local Planning Authority does not consider the submitted sequential assessment to be robust and as such is considered to be contrary to paragraph 24 of the National Planning Policy Framework and policies S5, TCR1, TCR2 and TCR9 of the Herefordshire Unitary Development Plan 2007.

- 2 The applicant has failed to demonstrate that the proposal would not have a significant adverse impact upon the viability and vitality of Leominster Town Centre contrary to paragraph 26 of the National Planning Policy Framework and Policies S5, TCR1, TCR2 and TCR9 of the Herefordshire Unitary Development Plan 2007.
- 3 Given reason for refusal 2 above, the Local Planning Authority consider that the proposed development would be likely to adversely affect the character of the Leominster Conservation Area contrary to paragraphs 128 to 133 of the National Planning Policy Framework and policy S7 of the Herefordshire Unitary Development Plan 2007.
- 4 The proposal would result in the loss of good quality employment land. The applicant has not demonstrated that there is a surplus of such land or that removal of the existing use from the site would give rise to substantial benefits to residential or other amenity issues. Furthermore, the proposal is not a minor or incidental activity associated with another use that is compliant with policy. The proposal is therefore contrary to paragraphs 7 and 8 of the National Planning Policy Framework and policies S4 and E5 of the Herefordshire Unitary Development Plan 2007.
- 5 The proposal is considered to be in an unsustainable location that would increase reliance upon the private motor vehicle, contrary to paragraph 29 of the National Planning Policy Framework and policies S1, S5, S6, DR2 and DR3 of the Herefordshire Unitary Development Plan 2007.

## INFORMATIVES

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations and identifying matters of concern with the proposal and discussing those with the applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.**

(The meeting adjourned between 11.15 and 11.25 am.)

### 117. 130616/F LAND AT MILL STREET, LEOMINSTER, HEREFORDSHIRE

*(Councillor AN Bridges declared an interest and left the meeting for the duration of this item.)*

The Principal Planning Officer gave a presentation on the application, and updates/additional representations received following the publication of the agenda were provided in the update sheet, as appended to these Minutes.

He highlighted that the principle of residential units was not opposed in outline as part of the site had been allocated for such housing. The size of the retail development was a fundamental concern.

In accordance with the criteria for public speaking, Mr P Ellis spoke on behalf of Leominster Town Council, opposing the Scheme. Mr J Verity, Chairman of the

Leominster Civic Society, spoke in objection. Mr A Ingram the Applicant's agent spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillors P Jones CBE and FM Norman, the local ward members, spoke on the application.

Councillor FM Norman commented on a number of issues including:

- The size of the proposed store was colossal making it in effect a one stop shop. It would have an unacceptable impact on the Town Centre. This was supported by independent evaluation.
- The loss of trade by the existing supermarkets in the Town would reduce linked trips.
- The proposed petrol station would also affect other businesses.
- The development of an out of centre Supermarket at Llandriddrod Wells was an example of the harmful effects such a development could have on a Town Centre.
- The proposal was contrary to policy S7 in that it would jeopardise the character of Leominster, potentially putting the Town Centre's listed buildings occupied by traders at risk.
- There were concerns that the site was at risk of flooding.
- Highway safety was a concern. A considerable amount of traffic including heavy goods vehicles used Mill Street and account also did not appear to have been taken of traffic visiting Brightwells auctioneers. The intention to increase the length of time for which the gates at the Mill Street level crossing were closed would lead to increased tailbacks. Network Rail had originally proposed that a bridge over the railway would be needed. Their current view that a roundabout would suffice was surprising.
- The Town Council and many residents objected to the proposal. She was unaware of any public support for the application. It was therefore contrary to the Parish Plan.

Councillor P Jones spoke in support of the application. He stated that Supermarkets were liked by customers and the Town would benefit from the proposal. He acknowledged that there were a number of concerns including the volume of traffic using Mill Street, in particular given the increased time for which the level crossing would be closed.

The debate opened and the following principal points were made:

- The focus needed to be on the needs of Leominster and its residents. The sheer scale of the proposal and the detrimental impact it would have on trade in the Town Centre as a consequence was a major concern. A major retail development of this scale, in this location was not proportionate for Leominster.
- In response to questions the Principal Planning Officer commented that part of the site was allocated for housing within the Unitary Development Plan. However, any such development would need to be the subject of a separate planning application.
- The railway level crossing was a considerable constraint and the development would place considerable pressure on the transport network.
- The concerns of the Environment Agency reflected in recommendation 4 as set out in the agenda papers were highlighted.
- The Town Council was opposed to the application.

- There were compliments for Dales as a firm and support for its wish to expand. However, the proposed scheme was not the only option open to it to achieve that aim.
- In recommending refusal of the application it was requested that the resolution specifically identified the paragraphs in the National Planning Policy Framework on which the grounds for refusal were based, to reflect paragraph 2.1 of the report.

The local ward members were given the opportunity to close the debate.

Councillor Norman reiterated her opposition to the Scheme.

Councillor Jones reiterated his support for the Scheme.

#### **RESOLVED:**

**That planning permission be refused for the following reasons:**

- 1 The applicant has failed to demonstrate that the proposal would not have a significant adverse impact upon the viability and vitality of Leominster Town Centre contrary to paragraph 26 of the National Planning Policy Framework and Policies S5, TCR1, TCR2 and TCR9 of the Herefordshire Unitary Development Plan 2007.**
- 2 Given reason for refusal 1 above, the Local Planning Authority consider that the proposed development would be likely to adversely affect the character of the Leominster Conservation Area contrary to paragraphs 128 to 133 of the National Planning Policy Framework and policy S7 of the Herefordshire Unitary Development Plan 2007.**
- 3 The proposal is considered to be in an unsustainable location that would increase reliance upon the private motor vehicle, contrary to paragraph 29 of the National Planning Policy Framework and policies S1, S5, S6, DR2 and DR3 of the Herefordshire Unitary Development Plan 2007.**
- 4 The site is located within a Secondary Aquifer and a groundwater Source Protection Zone 2 and the applicant has not demonstrated that there are overriding reasons to justify its siting in this location. Furthermore it has not been demonstrated that the proposed petrol filling station and its associated underground storage tanks can be accommodated on the site without detriment to water supplies and therefore the proposal is contrary to Policy DR4 of the Herefordshire Unitary Development Plan.**
- 5 The proposal is likely to result in traffic movements that increase the frequency of queuing traffic along Mill Street to the detriment of highway safety, contrary to Policies S1, S2, S6, DR3 and T8 of the Herefordshire Unitary Development Plan.**

#### **INFORMATIVES**

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations and identifying matters of concern with the proposal and discussing those with the applicant. However, the**

**issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.**

(The meeting adjourned between 12.10 and 12.15pm)

**118. 132192/F LLANERCH Y COED, DORSTONE, HEREFORD, HR3 6AG**

The Senior Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mr W Bullough spoke on behalf of Clifford Parish Council opposing the Scheme. Mrs P Cooke, a resident spoke in objection. Mrs K Smolas the applicant spoke in support of her application.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor PD Price the local ward member, spoke on the application

He commented on a number of issues including:

- The latest proposal was different to the applications previously refused
- The area was significant and special in terms of its ecology and environment.
- Following the refusal of previous applications, the applicant had discussed the latest proposal with local people. However, many still objected. A few, in particular businesses who thought they might benefit supported the Scheme. It was noted that some views were not consistent with the actual application.
- The access was poor and there was some uncertainty and inconsistency in the documentation over the number of traffic movements that would in fact take place. There was little if any scope to improve the access because the land that would be required was either common land or privately owned. He questioned the extent to which a traffic management plan would be enforceable and noted that any enforcement would only take place after the event.
- There was concern over the sufficiency of the water supply. He questioned the accuracy of the Environment Agency's analysis.
- There was concern about the noise that would be associated with the development.
- Visit Herefordshire's reference to "exploiting" the County's assets as set out at paragraph 5.7 of the report was unhelpful.
- He believed that the number of visitors would need to increase from the stated level if it were to meet the income forecasts accompanying the application. He was therefore also concerned about the longer term implications if planning permission were to be granted.

The debate opened and the following principal points were made:

- Concern was expressed about the access and the number of vehicle movements. It was suggested that the application could be approved if a suitable traffic management plan was in place and enforced. It was proposed that the details of a Plan should be discussed with the local ward member to ensure that they were as resilient as possible.
- Members questioned the enforceability of a traffic management plan. Officers commented that the Traffic management Plan would form part of the S106

agreement. Any proposal to increase traffic movements would require mitigation measures to be put in place before this could proceed. Enforcement of a traffic management plan would be reactive and rely on local representations, notably from the Parish Council

- The applicant had sought to address the concerns expressed by the Committee in refusing previous applications.
- There was a need for diversification but it must be sympathetic to its location.
- That the application was not in keeping with the location and its context.
- The financial forecast was optimistic based on the number of people it was stated that it was expected would use the site.
- The Development Manager commented that the applicants had addressed the technical issues relating to water management, water resources and ecology that had contributed to the refusal of previous applications. The Highways Officer was satisfied with the Traffic Management Plan and this aspect would be reinforced by the involvement of the local ward member as proposed.
- Members suggested that the Chairman of the Committee should be consulted in addition to the local ward member and no permission should be granted until the Traffic Management Plan was agreed.
- The Planning Officer clarified the level of use of the site and limitations that may be placed on such use.

The local ward member was given the opportunity to close the debate. He reiterated his concerns about the impact of the proposal and his opposition to the Scheme on those grounds.

**RESOLVED:**

**That subject to the completion of a S106 agreement and consultation with the Chairman of the Committee and the local ward member on the content of a Travel Plan, officers named in the scheme of delegation to officers be authorised to grant planning permission subject to the following conditions and any further conditions considered necessary by officers**

1. **A01 Time limit for commencement (full permission)**
2. **B02 Development in accordance with approved plans and materials**
3. **F06 Restriction on Use**
4. **I03 Restriction on specified activities**
5. **F14 Removal of permitted development rights**
6. **F13 Restriction on separate sale**
7. **F30 Use as holiday accommodation**
8. **H28 Public rights of way**
9. **Section 106 Agreement and Travel Plan**
10. **G11 Landscaping scheme - implementation**



11. **G16 Landscape monitoring**
12. **I33 External lighting**
13. **I18 Scheme of foul drainage disposal**
14. **K4 Nature Conservation - Implementation**
15. **D04 Details of window sections, eaves, verges and barge boards**
16. **D05 Details of external joinery finishes**
17. **D06 External finish of flues**
18. **D10 Specification of guttering and downpipes**
19. **D11 Repairs to match existing**
20. **F16 No new windows in specified elevation**
21. **Reinstatement of land**
22. **Details and formation of car park**

#### **INFORMATIVES:**

1. **N01 Access for all**  
**Your attention is drawn to the requirements of Part M of the Building Regulations 1991 in respect of the need to provide access and facilities for the disabled.**
2. **HN25 Travel Plans**
3. **N03 Adjoining property rights**
4. **N04 Rights of way**
5. **N11A Wildlife and Countryside Act 1981 (as amended) - Birds**
6. **N11B Wildlife & Countryside Act 1981 (amended) Cons hab/spec 2010 Bats**
7. **N11C General**
8. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**

**119. DATE OF NEXT MEETING**

The Planning Committee noted the date of the next meeting.

**APPENDIX 1 - SCHEDULE OF COMMITTEE UPDATES**

The meeting ended at 1.02 pm

**CHAIRMAN**

# **PLANNING COMMITTEE**

**Date: 8 January 2014**

## **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

**N123317/O - CLASS A1 FOOD STORE, PETROL FILLING STATION AND ASSOCIATED PARKING AND SERVICING FACILITIES, RESIZING AND REFURBISHMENT OF TWO CLASS B UNITS AND ASSOCIATED HIGHWAY WORKS AT LAND AT SOUTHERN AVENUE, LEOMINSTER, HEREFORDSHIRE, HR6 0QF**

**For: Mr Liptrott per Mr Barris Liptrott, The Finlan Centre, Hale Road, Widnes, Cheshire, WA8 8PU**

### ADDITIONAL REPRESENTATIONS

Further correspondence has been received from Barton Wilmore on behalf of Frank H Dale Ltd. They support the recommendation for refusal and are of the view that their clients site is sequentially preferable, being closer and well linked to the town centre. They also point out that Sainsbury's are contracted to their clients site whilst no operator is specifically identified to this site.

Peacock & Smith Planning Consultants, acting on behalf of Wm Morrison Supermarkets Plc have reinforced their objections to the application on the following grounds:

- The site is safeguarded employment land under Policy E5 of the Herefordshire Unitary Development Plan.
- The site is in an out-of centre location with little prospect of encouraging linked trips.
- The proposal will have a detrimental impact on the performance of existing food retail facilities in Leominster and will adversely impact the vitality and viability of the town centre.

Correspondence from the 'Town Centres First in Herefordshire' group, who represent campaigners from the local market towns of Leominster, Bromyard and Ledbury has also been received. In summary the points raised are as follows:

- They point out that they are not fundamentally opposed to supermarkets and acknowledge a need to strengthen the sustainability of high streets.
- The Committee are urged to take a consistent approach and refuse the application in the same way as they did in Ledbury. The correspondence notes that, despite their suggestions at the time, the applicants did not lodge an appeal against the Council's decision in that particular instance.
- The proposal considers that approval would be disastrous for Leominster and would open the floodgates for similar decisions elsewhere across the county.

A letter of support has been received from a local resident who expresses the view that there is a need for at least one new large food store in Leominster. In summary the points raised are as follows:

- A new store would be of benefit to Leominster and its nearby villages.
- The proposed population expansion in Leominster means that a new food retail outlet will be necessary.

- The opening of new retail premises will have little or no lasting adverse effect upon existing town centre retail activity.
- The opening of new retail premises, combined with the proposed expansion plans of the applicant will offer significant employment opportunities.

### **OFFICER COMMENTS**

The correspondence received does not raise any new issues and therefore no change to the recommendation is proposed.

### **CHANGE TO RECOMMENDATION**

**No change to the recommendation**

**130616/F - HYBRID PLANNING APPLICATION (PART DETAILED/PART OUTLINE) FOR THE PART DEMOLITION OF EXISTING BUILDINGS AND STRUCTURES AND MIXED USE DEVELOPMENT OF THE SITE TO PROVIDE A RETAIL STORE, PETROL FILLING STATION, RESIDENTIAL AND ASSOCIATED WORKS. AT LAND AT MILL STREET, LEOMINSTER, HEREFORDSHIRE,**

**For: Frank H Dale Ltd per 7 Soho Square, London, W1D 3QB**

### **ADDITIONAL REPRESENTATIONS**

Further correspondence has been received from Barton Wilmore on behalf of Frank H Dale Ltd. In summary the following points are raised:

- There is surprise that the application is recommended for refusal on highway grounds given that there is no objection from either Network Rail or the Highways Agency. It does not appear that there has been any technical analysis of the Transport Assessment.
- It is clear from the Retail Assessment and supplementary notes to it that existing convenience stores in the town centre (including Aldi) will continue to trade above company average levels.
- The level of retail impact has been shown to be 6%, a level which cannot be considered to be significantly adverse.
- The benefits of the application have not been appropriately considered; namely:
  - a) The retention of Dales in the town and further job creation
  - b) Improved flood protection measures
  - c) Provision of new housing, including affordable housing
  - d) Improved local choice and competition for stores in Leominster and the retention of leakage to Hereford for both food and non-food shopping
  - e) Potential for linked trips and ease of access by foot from both the town centre and residential areas

Peacock & Smith Planning Consultants, acting on behalf of Wm Morrison Supermarkets Plc have reinforced their objections to the application on the following grounds:

- The site is safeguarded employment land under Policy E5 of the Herefordshire Unitary Development Plan
- The site is in an out-of centre location with little prospect of encouraging linked trips
- The proposal will have a detrimental impact on the performance of existing food retail facilities in Leominster and will adversely impact the vitality and viability of the town centre

Correspondence from the 'Town Centres First in Herefordshire' group, who represent campaigners from the local market towns of Leominster, Bromyard and Ledbury has also been received. In summary the points raised are as follows:

- They point out that they are not fundamentally opposed to supermarkets and acknowledge a need to strengthen the sustainability of high streets
- The Committee are urged to take a consistent approach and refuse the application in the same way as they did in Ledbury. The correspondence notes that, despite their suggestions at the time, the applicants did not lodge an appeal against the Council's decision in that particular instance.
- The proposal considers that approval would be disastrous for Leominster and would open the floodgates for similar decisions elsewhere across the county.

A letter of support has been received from a local resident who expresses the view that there is a need for at least one new large food store in Leominster. In summary the points raised are as follows:

- A new store would be of benefit to Leominster and its nearby villages
- The proposed population expansion in Leominster means that a new food retail outlet will be necessary
- The opening of new retail premises will have little or no lasting adverse effect upon existing town centre retail activity
- The opening of new retail premises, combined with the proposed expansion plans of the applicant will offer significant employment opportunities

## **OFFICER COMMENTS**

Mill Street is not part of the A49(T) and therefore the comments from the Highways Agency do not relate specifically to the intensification of traffic movements along it. The Council's Highway Engineer has considered the Transport Assessment that has been submitted. However, his comments reflect his first hand observations of road conditions along Mill Street rather than the computer modelling upon which the Transport Assessment is based.

## **CHANGE TO RECOMMENDATION**

**No change to the recommendation**