

MINUTES of the meeting of Planning Committee held at The Shire Hall, Hereford HR1 2HX on Wednesday 24 September 2014 at 10.00 am

Present: Councillor PGH Cutter (Chairman)
Councillor PA Andrews (Vice Chairman)

Councillors: AJM Blackshaw, AN Bridges, EMK Chave, BA Durkin, PJ Edwards, KS Guthrie, J Hardwick, EPJ Harvey, JW Hope MBE, JG Lester, RL Mayo, PJ McCaull, NP Nenadich, FM Norman, J Norris, GA Vaughan-Powell and TL Widdows

In attendance: Councillors JM Bartlett and Brig P Jones CBE

(Note Minute no 73 was amended by the Committee on 8 October)

69. APOLOGIES FOR ABSENCE

Apologies were received from Councillors MAF Hubbard, RI Matthews and DB Wilcox.

70. NAMED SUBSTITUTES

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillor EPJ Harvey attended the meeting as a substitute member for Councillor MAF Hubbard, Councillor NP Nenadich for Councillor DB Wilcox and Councillor GA Vaughn-Powell for Councillor RI Matthews.

71. DECLARATIONS OF INTEREST

AGENDA ITEM 5: P140910/O LAND AT MILL STREET, LEOMINSTER

Councillor AN Bridges declared a non-pecuniary interest as an employee of Network Rail.

AGENDA ITEM 7: P141024/F LAND AT FLAG STATION, MANSELL LACY

Councillor AJM Blackshaw declared a non-pecuniary interest because he knew the applicant's father through his role as Ward Councillor.

Councillor PJ Edwards declared a non-pecuniary interest because he knew the applicants, and some of the objectors and supporters.

72. CHAIRMAN'S ANNOUNCEMENTS

The Chairman explained the procedure to be used for determining the applications that were the subject of agenda items 5 and 6: land at Mill Street, Leominster, and land at Southern Avenue Leominster.

He explained that, to ensure fair consideration, each application would be debated in turn but no motions would be moved until the conclusion of both debates. A vote would then be taken on the Mill Street application followed by a vote on the Southern Avenue application.

73. P140910/O LAND AT MILL STREET, LEOMINSTER, HEREFORDSHIRE, HR6 8EF

(Outline application for the part demolition of existing buildings and structures and development of the site to provide a retail store (use class a1) and associated works and improvements including access. Amended plans.)

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 commented that there were two applications before the Committee for convenience goods stores in Leominster. Similar proposals had been refused by the Committee on 8 January 2014. The Town Centres Study update demonstrated that Leominster had capacity for additional convenience goods floor space and this had been confirmed by Deloitte's independent advice on the retail impact assessment submitted by the applicant.

The Committee needed to consider the respective merits of each application. It was not bound to find in favour of one application or the other.

The Committee was advised to have regard to paragraphs 26 and 27 of the National Planning Policy Framework which provided that where an application failed to satisfy the sequential test or was likely to have significant adverse impacts it should be refused.

He highlighted proposed changes to the conditions in the recommendation as set out in the update that had been circulated to the Committee.

In accordance with the criteria for public speaking, Mr P Ellis spoke on behalf of Leominster Town Council in opposition to the Scheme. Mr J Verity, Chairman of the Leominster Civic Society, spoke in objection. Mr S Hoare, the applicant's agent, spoke in support.

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

Councillor Norman commented on a number of issues including:

- The Committee had had strong grounds for refusing the previous application. The new application was for a smaller development and no longer contained a petrol station. The grounds for refusal otherwise remained.
- Concerns about the risk of flooding remained high. The flood risk assessment accompanying the application was desk based. There had been no survey and local knowledge had not been sought. A photograph showing the site under water in Christmas 2012, a state in which it had remained for 2 weeks, had not been made available to the Committee. The Flood Risk Assessment report was therefore inaccurate in stating that there was no evidence of surface water on the site. She noted that it was proposed that the floor level of the store was to be elevated to prevent flooding of the store itself. The flood risk assessment also focused on the risk of fluvial flooding and did not take account of flash flooding and the resulting surface water. It also did not consider what might happen if the flood risk increased.
- The access to the site remained problematic. Network rail had initially responded that an access was not feasible unless a bridge was constructed. The rail crossing would be closed for approximately 17 minutes every hour (one quarter of the day). In the report to the Committee in January 2014 officers had stated that the proposal

would increase the frequency of queuing traffic along Mill Street. This remained an issue.

- There was concern that although the current application was for a smaller development than the previous application the outline plan suggested that a future application may be made to increase the size.
- The Town Centre needed to be safeguarded and the development's impact upon it also remained a concern. Pedestrian access from Mill Street to the Town was not easy. The development would divert trade not provide additional trade. The applicants themselves estimated that there would be a £2m trade loss for the Town. The retail reports for the Council identified the potential risk to the Town Centre.
- The concerns about the impact on the conservation area also remained relevant.
- She did not accept that there were no viable alternative sites. No consideration appeared, for example, to have been given to expanding the two existing supermarkets in the town centre.
- Having regard to the NPPF and the Unitary Development Plan the application should be refused.

Councillor Jones commented that he supported the development, which would provide competition to the benefit of the Town.

The debate opened and the following principal points were made:

- The rail upgrade referred to at paragraph 4.6 had been put back. The railway crossing would be closed for an increased time representing a significant period of time each hour. This would lead to frustration, traffic problems, and increase the risk of misuse of the crossing. High speed trains went through the crossing and there had to be considerable concerns about safety.
- There would be increased queuing of traffic compounding the existing congestion.
- Clarification was sought about a consultation exercise underway on making Mill Street a clearway. The Development Manager commented that the proposal was being made at the request of West Mercia Police in response to traffic generated by car boot sales at Brightwells and was not related to this application.
- A member referred to representations received from Brightwells expressing concerns about the risks of flooding both to the business and to Leominster as a whole and read their submission to the meeting.
- It was noted that the floor level of the supermarket was to be raised to avoid the risk of it flooding. However, there was no mention of the potential impact on neighbouring properties. It was stated that insurers were refusing to renew the insurance of a number of surrounding properties because of the flood risk. Consideration had to be given to the risk that flooding events would increase in frequency. The report stated that "the northerly part of the site is prone to ponding during periods of prolonged and extreme rainfall events."
- It was unrealistic to suggest that people would walk or cycle to the Town Centre having shopped at the supermarket. Most shoppers would wish to take perishable goods straight home. Linked trips were unlikely.
- If there was capacity for additional convenience goods floor space it was questioned why existing stores in the Town Centre could not compete for this market.
- Reference was made to the damage that had been caused to the Town Centre by a previous out of town supermarket development and the investment and time that it had taken to promote a recovery.
- It was suggested that regard needed to be had to the timeframe for development of additional retail capacity. The assessment of demand took account of housing development and employment opportunities that had not yet been secured in the anticipated timescale. This had a bearing on the potential impact on the Town Centre of a new retail development at this time.

- It was acknowledged that increased competition can be a benefit in terms of choice and pricing.
- The provision of only £20k in the S106 agreement for flood defence was questioned, noting that some £6m had been provided for the Asda store development in Hereford City. The Development Manager confirmed that £20k was the sum requested by the Environment Agency.
- Food stores operated to tight margins and there had to be concern that the new development would gain trade at the expense of other retailers.

The Development Manager commented that the application proposed to provide a storage tank to store water to accommodate rainfall. He also observed that the application refused in January had been for a much larger store. This had led to officers removing their objections. He reminded the Committee of the sequential testing conclusions and noted the observations that had been made on the vitality and viability of the Town Centre, whilst reiterating that officers had concluded that there was capacity for additional convenience goods floor space. He acknowledged the traffic issues that had been raised. However, he cautioned against citing flooding issues as a ground for refusal.

The debate concluded at this point.

(The meeting adjourned between 11.25 and 11.35. Following the adjournment the Committee debated the application relating to land at Southern Avenue Leominster. The Committee then returned to consideration of the Mill street application.)

The local ward members were given the opportunity to close the debate on the Mill Street application.

Councillor Jones commented that Leominster needed a new supermarket and the Mill Street proposal was the better option.

Councillor Norman reiterated that the flood risk and traffic issues were major concerns with the application. The impact on the Town Centre and small shops was also relevant.

It was moved that the application should be refused on the grounds that had formed the basis of the previous refusal as set out at paragraph 3.1 of the report paragraphs 1, 2, 3 and 5.

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 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.

Informative

- 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 by identifying matters of concern with the proposal and clearly setting these out in the reasons for refusal. Members of the planning committee which took the decision to refuse planning permission were asked to consider whether there are opportunities to amend the development to address this harm. However, the issues are so fundamental to the proposal that it will not be possible to negotiate a satisfactory way forward and, due to the harm that the reasons for refusal clearly identify, approval has not been possible.

74. P141281/O LAND AT SOUTHERN AVENUE, LEOMINSTER, HEREFORDSHIRE, HR6 0QF

(Site for class a1 foodstore with petrol filling station.)

The Principal Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mrs V Mifflin, representing Friends of Leominster/Leominster Town Centre Action Group spoke in objection. Mr K Nutter, the applicant, spoke in support.

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

Councillor Bartlett commented on a number of issues including:

- The site had no connectivity with the Town and was unsustainable, increasing reliance on car use.
- The proposal entailed the loss of employment land. It would set a precedent, changing the site from an industrial estate to a retail park. It would mean the loss of three small businesses providing 30 jobs paying higher wages than those which would be paid by the supermarket.
- The development would have an adverse effect on the town centre. The Deloitte report described the town centre as vulnerable. It estimated the development would take £5m from the centre, £3m of which would be from small shops which operated on small margins.
- The Aldi and Co-op supermarkets in the town centre were crucial in generating linked trips.
- Shop closures would lead to decline putting at risk the listed buildings in the centre. Policies designed to protect these buildings should be upheld. Policy S7 and the National Planning Policy Framework supported action to safeguard the Leominster conservation area.
- The Town had a significant tourist trade which would be adversely affected if the centre went into decline.
- The Town had suffered decline in the 1990s when the first out of town supermarket had been established. The impact of the proposed development on retail trade in the town centre was of the greatest concern.

Councillor McCaull commented on a number of issues including:

- The industrial estate was really a business park and already included several retail uses.
- The supermarket would provide 200 jobs. Leominster needed part time jobs.
- The site did have footpath access to the Town centre.
- Vehicle access to the site was good and it was easily reached by residents from Ludlow to Hereford via the A49.
- The applicant had offered to fund a bus service from the site to the Town for years.
- The site was not at risk of flooding.
- The Section 106 agreement would bring benefits. However, if the application were approved he requested that the Town Council be consulted on priorities for S106 funding.
- He requested that the Committee support the proposal.

The debate opened and the following principal points were made:

- The development would bring £9m to the Town through the S106 agreement with a further £1m in community benefits.
- The development would provide retail choice and the proposed bus service provided the opportunity for shoppers to visit the town centre making linked trips.
- Out of town stores accessible by cars were necessary.
- It was to be hoped that more diverse shops would emerge in the town centre in response to the development.
- The town centre already had a lot of interesting shops.
- The industrial estate was a business park with a variety of uses. It was unrealistic to expect heavy industry to flourish in the area. Small and medium sized businesses would develop.
- The Committee was not obliged to make a choice between the two supermarket applications before it. It had to consider each application on its merits.
- The report set out substantial grounds for refusing the application. In particular concern was expressed about the adverse impact on the vitality and viability of the town centre.
- The concerns raised by the Committee in refusing the application in January 2014 had not been addressed.
- There wasn't connectivity with the town centre. A hopper bus would not adequately address this issue. There would be an adverse impact on the small shops, risking a spiral of decline.
- It had taken Leominster a number of years to recover from a previous out of centre supermarket development. It was questioned whether there really was capacity to support another out of centre development.
- The development would adversely affect the existing town centre supermarkets which were a part of the shopping mix.
- It was questioned whether there really was an absence of alternative sites in the town centre. It was also suggested that with the closure of public houses there was an opportunity to develop some smaller convenience stores.
- The Unitary Development Plan and the NPPF focused on a town centre first approach.
- Sequential testing identified alternative sites as set out in paragraph 6.10 of the report.
- Paragraph 6.14 of the report stated in relation to the Mill Street and Southern Avenue that it was concluded there was little material difference between the two sites in terms of connectivity to the town centre.

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

Councillor Bartlett reiterated concerns about the vulnerability of the town centre. She considered there were alternatives within the centre.

Councillor McCaull noted that alternative sites referred to in the report were on existing car parks which the town needed to retain.

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 the National Planning Policy Framework and Policies S5, TCR1, TCR2 and TCR9 of the Herefordshire Unitary Development Plan 2007.**
2. **The application site is remote from the town centre and the proposed food retail store would become a destination in its own right with shoppers unlikely to visit the town centre to make linked trips. The proposal is therefore likely to have a detrimental qualitative impact upon the vitality and viability of Leominster town centre contrary to 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 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 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 the guiding principles of the National Planning Policy Framework and Policies S1, S5, S6, DR2 and DR3 of the Herefordshire Unitary Development Plan 2007.**

Informative:

- 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 reasons for the refusal, approval has not been possible.**

75. P141024/F LAND AT FLAG STATION, MANSELL LACY, HEREFORDSHIRE, HR4 7HN

The Committee deferred consideration of this application to its next meeting because it was not practical to proceed in the unavoidable absence of the officer due to present the report on the application.

76. DATE OF NEXT MEETING

The Planning Committee noted the date of the next meeting.

Appendix 1 - Schedule of Committee Updates (Pages 9 - 20)

The meeting ended at 12.55 pm

CHAIRMAN