

**MINUTES of the meeting of Planning Committee held at Council Chamber, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Wednesday 28 October 2015 at 10.00 am**

**Present:** Councillor PGH Cutter (Chairman)  
Councillor J Hardwick (Vice Chairman)

Councillors: BA Baker, CR Butler, PJ Edwards, KS Guthrie, EL Holton, JA Hyde, TM James, JLV Kenyon, FM Norman, AJW Powers, A Seldon, WC Skelton, EJ Swinglehurst and LC Tawn

**In attendance:** Councillor BA Durkin

*(Minute no 93 was amended by the Committee on 18 November 2015)*

**85. APOLOGIES FOR ABSENCE**

Apologies were received from Councillor DW Greenow.

**86. NAMED SUBSTITUTES**

None.

**87. DECLARATIONS OF INTEREST**

**Agenda item 7: Land to the South of Chapel Lane, Bodenham Moor**

Councillor J Hardwick declared a non-pecuniary interest as a member of the River Lugg Internal Drainage Board.

**Agenda item 9: Land off Fernbank Road, Ross-on-Wye**

Councillors PGH Cutter, J Hardwick and EJ Swinglehurst declared non-pecuniary interests as members of the Wye Valley AONB Joint Advisory Committee.

**Agenda item 10: Land West of Larksmead, Church Road, Brampton Abbots.**

Councillors PGH Cutter, J Hardwick and EJ Swinglehurst declared non-pecuniary interests as members of the Wye Valley AONB Joint Advisory Committee.

**88. MINUTES**

**RESOLVED:** That the Minutes of the meetings held on 7 October 2015 be approved as a correct record and signed by the Chairman.

**89. CHAIRMAN'S ANNOUNCEMENTS**

A Member requested that meetings should not be held during a school half-term.

**90. APPEALS**

The Planning Committee noted the report.

**91. 150437 - LAND TO THE SOUTH OF CHAPEL LANE, BODENHAM MOOR, HEREFORDSHIRE**

*(Proposed 49 dwellings including affordable dwellings, associated parking and landscaping.)*

The Principal Planning Officer gave a presentation on the application.

The update issued to the Committee stated that Natural England had withdrawn its objection and accepted the Council's Habitats Screening report. It was also proposed to add a condition relating to slab levels and investigation (contamination).

He noted that if the application was recommended for approval the Secretary of State would have to decide whether or not he wished to call in the application.

In accordance with the criteria for public speaking, Mr T Mitcheson, of Bodenham Parish Council spoke in opposition to the Scheme. Mr Crane, a local resident, spoke in objection. Mr C Austin-Fell, the applicant's agent, spoke in support.

In accordance with the Council's Constitution, the local ward member, Councillor BA Baker, spoke on the application.

He made the following principal comments:

- Bodenham Parish Council accepted that Bodenham and Bodenham Moor should accommodate their share of new housing. It was considered that this would be good for the village and support local services. Local people should be able to shape their communities. The emerging Neighbourhood Plan identified suitable sites for the housing required for Bodenham Parish under the Core Strategy. Existing commitments and expected windfall sites amounted to 64 new dwellings in the Bodenham Moor area. This already exceeded the number identified for Bodenham Moor before 2031.
- There was a large livestock operation within 400 metres of the application site with a large slurry lagoon adjacent to the road. The owner had stated his intention to increase the size of the operation. A Planning Inspector had refused an application for a dwelling near to the farm because of serious infestation by flies and offensive smells. The Environmental Health Officer had supported refusal of that application. The Inspector had concluded that there was an unacceptable risk to the living conditions of residents of the proposed development. The proposal to install a slurry separator was not a solution. In fact there was evidence that this might increase the environmental impact. The operation would have an adverse effect on the health and amenity of residents of the new development if it were to proceed.
- The application was speculative. It would increase the size of Bodenham Moor by over 40%. This was not sustainable. It represented overdevelopment contrary to the Neighbourhood Plan.

In the Committee's discussion of the application the following principal points were made:

- Paragraph 17 of the National Planning Policy Framework stated that planning should be "genuinely plan-led, empowering local people to shape their surroundings."

- The Parish Council had expressed its case for opposing the scheme effectively. It was acting responsibly and had indicated that it was willing to accept housing where it considered it to be suitable.
- Concerns were expressed about the effectiveness of the proposed drainage solution and that there would be a flooding risk.
- The development represented overdevelopment and would change the character of Bodenham Moor. It was not proportionate and conflicted with policy RA2.
- The proximity of the development to an intensive livestock operation was of concern.
- It was questioned whether the proposed housing mix was appropriate.
- The applicant's suggestion that an area of the site including an attenuation pond could provide informal open space was questioned.
- There was an absence of infrastructure including transport links.
- The development offered 17 affordable homes and should be supported. An observation was made in response to this point that development already approved at England's Gate would provide affordable housing.
- The Development Manager commented that there were no objections to the proposal from any of the external or internal consultees. There were other houses between the development site and the livestock unit. No weight could be given to the Neighbourhood Plan which had not reached Regulation 14 Stage. The development, being over 10 houses would provide affordable housing. Windfall development would not guarantee affordable housing.
- A Member asserted that case law and ministerial statements indicated that weight could be given to emerging neighbourhood plans.
- The responses from the consultees were not strongly supportive of the application.
- In the absence of a nutrient management action plan, comment in the report in relation to the River Lugg SAC could not be considered robust.
- Windfall developments could deliver affordable housing.
- A Member commented that when Council had been invited to adopt the Core Strategy he had cautioned that the adoption might not provide the assistance to the Planning Committee that many thought it would.
- Producing a Neighbourhood Plan required considerable effort by the local community. It was questioned whether the Council was processing Neighbourhood Plans submitted to it as swiftly as it could. The Development Manager assured the Committee that there was no delay on the Council's part in processing the plans.

The local ward member was given the opportunity to close the debate. He reiterated that the development would have an adverse impact, was unsustainable and undermined the emerging Neighbourhood Plan.

A number of grounds were advanced for refusing the application.

**RESOLVED: That planning permission be refused and officers named in the Scheme of Delegation to Officers be authorised to finalise the drafting of the reasons for refusal for publication based on the Committee's view that the proposal was contrary to policies RA2, SS6, LD1 and SD1 and National Planning Policy Framework paragraphs 17 and 58.**

*(The meeting adjourned between 11.15 am and 11.25 am.)*

**92. 151315 - LAND AT GARRISON HOUSE, ORDNANCE CLOSE, MORETON ON LUGG, HEREFORD, HR4 8DA**

*(Proposed demolition of existing house and erection of 9 dwellings.)*

The Principal Planning Officer gave a presentation on the application.

The update issued to the Committee stated that having regard to Policy H1 it was now considered that there was no policy requirement to control the combined gross floor area of the development as long as the development was of 10 or less dwellings and it was proposed that condition 5 in the published report therefore be deleted.

She added that in response to concerns that had been expressed about highway safety she had sought further comment from the Highways Agency. The Agency had reaffirmed that it had no objection to the application on the grounds of highway safety. The Agency was undertaking a speed survey review in the area. This was due to be completed in January 2016. Subject to the outcome it was proposed to secure funding for a Traffic Regulation Order in the Heads of Terms if it were possible to do so and add to the Heads of Terms.

In accordance with the criteria for public speaking, Mrs R Floyd and Mr D Ellis, local residents, spoke in objection to the application. Mr N Williams, the applicant, spoke in support.

In accordance with the Council's Constitution, the local ward member, Councillor KS Guthrie, spoke on the application.

Her principal concern was about access to and egress from the site. The stretch of road from Moreton on Lugg to Moreton Business Park had experienced a cluster of serious accidents in recent months including two fatalities. She commented on the danger in turning right into the access and the cumulative effect on traffic of developments along the road. The accident data did not accurately reflect the position.

In the Committee's discussion of the application the following principal points were made:

- The National Planning Policy Framework stated that development should only be refused on transport grounds where the residual cumulative impacts of development were severe. The impacts in relation to this application were severe..
- It was proposed that consideration of the application should be deferred pending the outcome of the Highways Agency's speed survey. The Development Manager commented that the Highways Agency considered the current access to be satisfactory. The outcome of the speed survey would not lead to any deterioration in the safety of the access.

A motion that consideration of the application be deferred was lost.

- There was a view that the mature trees on the site should be retained.
- The absence of any affordable housing provision was regrettable.
- The A49 was a busy road but it had to be accepted that development would take place along it. The key was to ensure that appropriate safety measures were put in place for the development. These would benefit existing residents too. It was requested that an informative be added urging the highways agency to impose a lower speed limit.
- There was no right hand turn lane, only a sign saying private road. There was a risk that a car overtaking another would collide with a vehicle waiting to turn right.
- It was questioned, as the access road was unadopted, whether other residents could refuse access to construction traffic. The legal adviser stated that it would depend on the nature of the legal agreement for the unadopted road. The Development Manager commented that that was a civil matter between the road owners.
- The site was already developed and the proposed replacement housing was of good design.
- The Development Manager commented that no weight could be given to the Neighbourhood Plan; the density of the proposed development was relatively low and the layout was compatible with adjoining areas. The key issue was the access from the A49. The Highways Agency had stated that the access was acceptable and could accommodate the proposed development.
- The local ward member was given the opportunity to close the debate. She reiterated that highway safety was the key concern and anything that could be done to improve the situation would be welcome.

**RESOLVED: That subject to the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement in accordance with the Heads of Terms stated in the report, officers named in the Scheme of Delegation to Officers are authorised to grant outline planning permission, subject to the conditions below and any other further conditions considered necessary:**

1. **A02 Time limit for submission of reserved matters (outline permission)**
2. **A03 Time limit for commencement (outline permission)**
3. **A04 Approval of reserved matters**
4. **A05 Plans and particulars of reserved matters**
5. **B01 Development in accordance with the approved plans**
6. **C01 Samples of external materials**
7. **G05 Pre-Development tree work**
8. **G04 Protection of trees/hedgerows that are to be retained**
9. **G11 Landscaping scheme - implementation**

10. H13 Access, turning area and parking
11. H18 On site roads - submission of details
12. H29 Secure covered cycle parking provision
13. H27 Parking for site operatives
14. I16 Restriction of hours during construction
15. The recommendations for species and habitat enhancements set out in Section 5 of the ecologist's report from Protected Species Surveys dated July 2015 should be followed unless otherwise agreed in writing by the local planning authority and the scheme shall be carried out as approved. On completion of the enhancement measures, confirmation should be made to the local planning authority in writing together with photographic evidence of the measures implemented.

An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.

Reasons: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6 and NC7 of Herefordshire Unitary Development Plan.

To comply with Herefordshire Council's Policy NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of the NPPF and the NERC Act 2006

16. L01 Foul/surface water drainage
17. L02 No surface water to connect to public system
18. L03 No drainage run-off to public system
19. Prior to the first occupation of the development a scheme demonstrating measures for the efficient use of water as per the optional technical standards contained within Policy SD3 shall be submitted to and approved in writing by the local planning authority and implemented as approved.

Reason: To ensure compliance with Policies SD3 and SD4 of the Hereford Local Plan – Core Strategy

#### **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. 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.

## 2. N03 - Access Rights

### 93. 151189 - LAND OFF FERNBANK ROAD, ROSS-ON-WYE, HEREFORDSHIRE,

*(Proposed demolition of existing agricultural building and erection of 5 no, four bedroom detached dwellings. Alterations to existing vehicular access, landscaping and other associated works,)*

*(Councillor J Hardwick, Vice-Chairman, in the chair.)*

The Development Manager gave a presentation on the application.

In accordance with the criteria for public speaking, Mr N Rodger a local resident, spoke in objection to the application. Mr N Callow, the applicant's agent, spoke in support.

In accordance with the Council's Constitution, the local ward member, Councillor PGH Cutter, spoke on the application.

He made the following principal comments:

- The development was not welcomed by the existing local residents. He supported their concerns. However, he noted that some 900 homes were required to be built in Ross-on-Wye under the Core Strategy.
- He expressed a number of concerns about overlooking, and the elevation and orientation of the dwelling on plot 1 in particular.
- Account needed to be taken of the fact that the site was within the Wye Valley AONB.
- If the development were to be approved footpath and cycleway provision would be of benefit, having particular regard to children living in the development.

In the Committee's discussion of the application the following principal points were made:

- It was asked if a condition could be placed upon the access to prevent it being used to open up further development of the area.
- There were no objections from Ross-on-Wye Town Council, the Wye Valley AONB partnership or from any of the other consultees.
- The issues of overlooking and slab levels and drainage needed to be addressed. There was a concern that surface water would be directed from the site onto the road and houses below.
- One point of view was that exceptional design was required in the AONB and the scheme was not exceptional. Another view was that the development's design was suitable and in keeping with adjoining development.
- The development was greenfield development in the AONB and the NPPF and Core Strategy required that brownfield development should be considered first.

- The development would set a precedent for a new building line and mitigation measures were therefore important.
- In response to a question about the assessment of the site in the Strategic Housing Land Availability Assessment, the Development Manager commented that he did not have that information to hand but in any event the SHLAA was high level in its analysis. The application was designed to mitigate the impact and officers considered the scheme acceptable.
- He added that the scheme included significant landscaping measures that over time would provide a substantial buffer. Caution would need to be exercised over amendments to the layout.

The local ward member was given the opportunity to close the debate. He reiterated that the development was not ideal and he remained concerned about overlooking and the elevation of the plots.

The Development Manager commented that conditions could be added in relation to the access. He also suggested including conditions in relation to slab levels and to drainage, requiring a drainage solution to be submitted before development commenced. He suggested that the reorientation of plot 1 was something that might helpfully be discussed with the Vice-Chairman and the local ward member.

**RESOLVED: That subject to further discussions with the applicants regarding the orientation of plot 1 and consultation with the Vice-Chairman and the local ward member officers named in the Scheme of Delegation to Officers are authorised to grant planning permission subject to the conditions below and any other further conditions considered necessary:**

1. **A01 – Time limit for commencement**
2. **B02 – Development in accordance with approved plans and details**
3. **The recommendations set out in Section 6 the ecologist’s report from Focus Ecology dated October 2013 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a species mitigation and habitat enhancement scheme integrated with the landscape scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.**

**Reasons: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the NERC Act 2006, Conservation of Habitats and Species Regulations 2010 and relevant Policies of the Core Strategy.**

4. **An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.**

**Reasons: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the NERC Act 2006, Conservation of Habitats and Species Regulations 2010 and relevant Policies of the Core Strategy.**



5. **Foul water and surface water discharges shall be drained separately from the site.**

**Reason: To protect the integrity of the public sewerage system.**

6. **No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system unless otherwise approved in writing by the Local Planning Authority.**

**Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment.**

7. **Public footpaths RR9 and ZK33 shall not at any time during or after the construction phase be obstructed by the development.**

**Reason: To comply with Herefordshire Unitary Development Plan policies DR2, DR3**

8. **H03 – Visibility Splays 2.4 - 51 (mfs 2 2 seconds)**
9. **H06 – Vehicular access construction**
10. **H09 – Driveway gradient**
11. **H13 – Access, turning area and parking**
12. **H18 – On site roads - submission of details**
13. **H17 – Junction improvement/off site works**
14. **H20 – Road completion in 2 years**
15. **H27 – Parking for site operatives**
16. **H29 – Covered and secure cycle parking provision**
17. **G01 – Earthworks**
18. **G02 – Retention of trees and hedgerows**
19. **G03 – Retention of existing trees/hedgerows: scope of information required**
20. **G04 – Protection of trees/hedgerows that are to be retained**
21. **G05 – Pre-Development tree work**
22. **G09 – Details of Boundary treatments**
23. **G10 – Landscaping scheme**
24. **G11 – Landscaping scheme – implementation**
25. **C01 – Samples of external materials**
26. **F07 – Domestic use only of garage**

27. **F14 – Removal of permitted development rights**
- 28 **Prior to the first occupation of the development a scheme demonstrating measures for the efficient use of water as per the optional technical standards contained within Policy SD3 shall be submitted to and approved in writing by the local planning authority and implemented as approved.**

**Reason: To ensure compliance with Policies SD3 and SD4 of the Hereford Local Plan – Core Strategy**

**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, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
2. **Welsh Water Informatives**
3. **HN01 – Mud on highways**
4. **HN04 – Private apparatus in the highway**
5. **HN05 – Works within the highway**
6. **HN08 – Section 38 Agreement & Drainage details**
7. **HN10 – No drainage to highway**
8. **HN22 – Works adjoining highway**
9. **HN24 – Drainage other than via highway system**
10. **HN28 – Highways Design Guide and Specification**

94. **151299 - LAND WEST OF LARKSMEAD, CHURCH ROAD, BRAMPTON ABBOTTS, HEREFORDSHIRE, HR9 7JE**

*(Proposed new dwelling.)*

The Development Manager gave a presentation on the application.

In accordance with the criteria for public speaking, Mr D Teague, a local resident, spoke in objection to the application.

In accordance with the Council's Constitution, the local ward member, Councillor BA Durkin spoke on the application.

He made the following principal comments:

- The site was in the AONB and in a prominent elevated position on the skyline. It was a greenfield site, the design was not of a high standard and the development was not sustainable. It would have a harmful effect.

- The Parish Council was opposed to the proposal. A number of local residents had expressed concerns to him about the development although they had not submitted written representations.
- In terms of the planning history, in dismissing the appeal referred to at paragraph 3.1 of the report, the Inspector had commented that development on the site would have had a damaging effect. In 1998 an outline application had been refused. In 2014 the current applicant had withdrawn an application on officer advice.
- The proposal was not in line with the emerging Neighbourhood Plan. The local neighbourhood planning group had identified more appropriate sites for development. The Parish Council believed that it could achieve the development required by the Core Strategy by the end of 2031.

In the Committee's discussion of the application the following principal points were made:

- The development was exposed and highly visible. It would have an adverse impact on the amenity of Larksmead and on the AONB.
- The development was contrary to policy RA2 as it did not make a positive contribution to the AONB and it was not in the main built up area.
- The design was not of a high standard.
- There was no justification for the development.
- Paragraph 64 of the NPPF provided grounds for refusal.
- The development would be an improvement on the existing structures that it would replace.

The Development Manager commented that design was a subjective matter. The Scheme did seek to minimise the impact of the development. He considered the property to be a good example of modern design in context.

The local ward member was given the opportunity to close the debate. He reiterated his opposition to the scheme.

A number of grounds for refusal were advanced.

**RESOLVED: That planning permission be refused and officers named in the Scheme of Delegation to Officers be authorised to finalise the drafting of the reasons for refusal for publication based on the Committee's view that the proposal was contrary to policies LD1, SD1 and the National Planning Policy Framework.**

## 95. DATE OF NEXT MEETING

The Planning Committee noted the date of the next meeting.

The meeting ended at 1.40 pm

**CHAIRMAN**