

MINUTES of the meeting of Planning and regulatory committee held at Council Chamber, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Wednesday 17 May 2017 at 10.00 am

Present: Councillor PGH Cutter (Chairman)

Councillors: BA Baker, WLS Bowen, CR Butler, PJ Edwards, DW Greenow, KS Guthrie, JA Hyde, FM Norman, AJW Powers, D Summers, EJ Swinglehurst and LC Tawn

In attendance: Councillors CA Gandy and JG Lester

143. APOLOGIES FOR ABSENCE

Apologies were received from Councillors J Hardwick and A Seldon.

144. NAMED SUBSTITUTES

Councillor WLS Bowen substituted for Councillor J Hardwick.

145. DECLARATIONS OF INTEREST

Agenda item 7: 163707 – Land opposite Mill House Farm, Fownhope

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

146. MINUTES

It was reported that the description of the agenda item in draft minute 134 to which the declaration of interest referred to related was incorrect. It should refer to Agenda item 10: 163364 – land south of ladywell lane, Kingsthorne.

The Lead Development Manager commented with reference to minute number 139 – 153330 – land adjacent to village hall, Aymestrey, that Historic England had expressed some concerns about the application and the matter would therefore be brought back to the Committee for consideration. That report would also include an update on housing provision in Aymestrey.

RESOLVED: That the Minutes of the meeting held on 26 April, 2016 be approved as a correct record, as amended, and signed by the Chairman.

147. CHAIRMAN'S ANNOUNCEMENTS

The Chairman observed that this was the Committee's final meeting of the municipal year. He thanked members and officers for their work and also thanked the public for attending and participating through the public speaking process.

148. APPEALS

The Planning Committee noted the report.

149. 163707 - LAND OPPOSITE MILL HOUSE FARM, FOWNHOPE, HEREFORDSHIRE

(Proposed residential development of 10 open market family homes and 5 affordable homes.)

The Acting Development Manager 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 confirmed that the Conservation Manager (Historic Buildings) had indicated that the impact on the heritage assets was at the lower end of the less than substantial spectrum.

In accordance with the criteria for public speaking, Mrs D Quayle of Fownhope Parish Council spoke in support of the Scheme. Mr F Hemming, a local resident and chairman of the Fownhope Carbon Reduction Action Group spoke in objection. Mr J Spreckley, the applicant's agent, spoke in support.

In accordance with the Council's Constitution, Councillor WLS Bowen spoke in the role of the local ward member, having acted in that capacity on behalf of local residents for this planning application because the local ward member, Councillor J Hardwick, was the applicant.

He made the following principal comments:

- The application was for a much smaller development than that refused by the Committee in February 2017.
- The proposal was supported by the Parish Council and consistent with the Neighbourhood Development Plan. It would provide 5 affordable houses in perpetuity.
- The village was in the Area of Outstanding Natural Beauty (AONB). Landscaping proposals and design would improve the setting of the neighbouring Scotch Firs development.
- It had been suggested that the orientation of the buildings should be changed to benefit from solar gain and make best use of natural resources. However, this would make the development more intrusive on Scotch Firs and increase the extent of the excavation required.
- The proposed S106 agreement would provide for an extended 30mph speed limit and a range of other benefits including a new footpath. He noted that the possibility of providing a footpath alongside the main road itself had been discussed and dismissed.
- The scheme was well designed and every effort had been made to make it attractive and welcoming entrance to the village.
- The landowner intended to manage the proposed orchard as part of the estate in accordance with a biodiversity and landscape enhancement plan.

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

- The Parish Council supported the proposal and it was consistent with the Neighbourhood Development Plan. There were no objections from the statutory consultees.
- The hope was expressed that the applicant would consult the Parish Council over the management of the proposed orchard. A Member expressed the view that there was, however, no need to seek to place any formal requirement upon the landowner in this regard.

- The proposal would soften the entrance to the village and make a valuable contribution to it.
- The scheme was designed to meet the needs of local people.
- Development within the AONB had to meet a high benchmark. It was considered that the revised scheme was not a major development given the size of Fownhope and was policy compliant. The site was adjacent to the settlement. The design and landscaping were of high quality and would soften the village edge.
- The provision of affordable homes was to be welcomed. It was asked whether consideration could be given to making these lifetime homes.
- With regard to the Parish Council's request that consideration be given to changing the orientation of the buildings to benefit from solar gain and make best use of natural resources it was observed that account had to be taken of the constraints imposed by the site and that every effort had been made to deliver the best scheme practicable in this regard.
- If a balancing pond was considered as part of the drainage scheme this would add to the biodiversity of the proposal.

The Acting Development Manager commented that paragraph 6.59 of the report recommended a condition requiring adherence to water efficiency standards and requested that this be added to the printed recommendation. He added that it was to be expected that landscaping and management of the site would be discussed with the Parish Council and others as a matter of good practice. The question of providing lifetime homes would be a matter for consideration under planning and building regulations. The issue of the control of street lighting raised during the public speaking part of the meeting would be a matter for the Parish Council to determine.

The local ward member was given the opportunity to close the debate. He reiterated his support for the scheme and its merits.

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 planning permission, subject to the conditions below and any other further conditions considered necessary.

1. **C01 Time limit for commencement (full permission)**
2. **C08 Amended plans**
3. **C13 Samples of external materials**
4. **CAB Visibility splays**
5. **CAE Vehicular access construction**
6. **CAH Driveway gradient**
7. **CAL Access, turning area and parking**
8. **CAP Junction improvements/off site works**
9. **CAQ On site roads – submission of details**
10. **CAR On site roads – phasing**

11. **CAT Wheel washing**
12. **CAZ Parking for site operatives**
13. **CB2 Covered and secure cycle parking provision**
14. **Prior to commencement of the development, a detailed habitat enhancement scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.**

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework and NERC 2006.

15. **Prior to commencement of development, a Construction Environmental Management Plan shall be submitted for approval in writing by the local planning authority and shall include timing of the works, details of storage of materials and measures to minimise the extent of dust, odour, noise and vibration arising from the construction process. Specific measures to safeguard the integrity of the adjacent Cherry Hill Woods SSSI should be highlighted such as pollution risk and increased use projections and measures to mitigate such increased usage. The Plan shall be implemented as approved.**

Reasons: To ensure that all species and sites are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies LD2 and SD1 of the Herefordshire Local Plan – Core Strategy.

To comply with policies NC8 and NC9 within Herefordshire’s Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of the NPPF and the NERC Act 2006.

16. **Prior to commencement of the development, a Tree Protection Plan to include hedgerow protection following “BS 5837:2012 Trees in relation to design, demolition and construction – Recommendations” should be compiled based upon this survey 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 Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6 and NC7 of Herefordshire Unitary Development Plan.

17. **None of the existing trees and hedgerows on the site (other than those specifically shown to be removed on the approved drawings) shall be removed, destroyed or felled without the prior approval in writing of the Local Planning Authority.**

Reason: To safeguard the amenity of the area and to ensure that the development conforms to Policy DR1 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

18. **C96 Landscaping scheme**
19. **C97 Landscaping scheme - implementation**
20. **CA1 Landscape management plan**
21. **No development shall commence until the Developer has prepared a scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and land drainage will be dealt with and this has been submitted to and approved in writing by the local planning authority in liaison with Dwr Cymru Welsh Water's Network Development Consultant. The work shall be carried out in accordance with the approved scheme.**

Reason: To ensure the effective drainage facilities are provided for the proposed development, and that no adverse impact occurs to the environment or the existing public sewerage system so as to comply with Policy CF2 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

22. **CBK Restriction of hours during construction**
23. **CCK Details of slab levels**
24. **Water Efficiency Standards Condition**

INFORMATIVES:

1. **Statement of Positive and Proactive Working**
2. **The enhancement plan should include details and locations of any proposed Biodiversity/Habitat enhancements as referred to in NPPF and HC Core Strategy. At a minimum we would be looking for proposals to enhance bat roosting, bird nesting and invertebrate/pollinator homes to be incorporated in to the new buildings as well as consideration for amphibian/reptile refugia, hedgehog houses within the landscaping/boundary features. No external lighting should illuminate any of the enhancements or boundary features beyond any existing illumination levels and all lighting on the development should support the Dark Skies initiative.**
3. **I05 No drainage to discharge to highway**
4. **I06 Public rights of way affected'**
5. **I07 Section 38 Agreement & Drainage details**
6. **I35 Highways Design Guide and Specification**
7. **I45 Works within the highway**

(The meeting adjourned between 11.24 am and 11.40 am.)

150. **162900 - TOGPEN, WILLEY LANE, LOWER WILLEY, PRESTEIGNE, LD8 2LU**

(A retrospective planning application for two small outhouses, changes to the entrance on to the public road, the inclusion of a wood burning stove, the erection of fences outside the development area and the resultant increase in the curtilage.)

The Development Manager 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, R Bradbury representing the Campaign to Protect Rural England, spoke in objection.

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

She made the following principal comments:

- Planning permission had been granted in 2005 for a barn conversion in what was a very rural setting of great landscape value. This had been subject to a number of conditions including the removal of permitted development rights. She outlined the history of the site which had involved a number of breaches of those conditions.
- A retrospective application similar to that before the Committee had been refused by officers in February 2016. Subsequently there had been attempts at enforcement that had gone awry. Now a further retrospective application had been submitted. Border Group Parish Council opposed the application.
- In summary she considered that the applicant had ignored the conditions attached to the original application designed to protect the landscape and this was unacceptable.

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

- Some support was expressed for the view set out at paragraph 6.14 of the report that on balance the application could be recommended for approval, retaining control of additional development through a condition restricting permitted development rights.
- Several members took the view that as a matter of principle the conditions should be enforced. The original application had been for a barn conversion. Such applications had been permitted as exceptions with the aim of preserving heritage assets. The purpose of the conditions had been intended to guard against development that would undermine this aim which some of the development which had taken place contrary to those conditions did.
- The Lead Development Manager commented that the Committee had to consider the application before it and could not accept some aspects of the development that had taken place and not others. It also had to be determined on the basis of the policies currently in force. The applicant had removed the greenhouse and the summerhouse from the application. Enforcement action was taken by the council but resources did constrain what was practicable, mindful of the County's rurality. He confirmed that Parish Councils were requested to inform the authority of any enforcement issues that came to their notice. He also advised in response to concerns expressed about the fence that had been erected on the property that if the application was refused at appeal the fence would only be reduced by 8 centimetres, the extent to which it exceeded the permitted development limit of 2m.

A motion that the application be approved was lost.

The Legal officer reminded the members that the legislation allowed them to deal with retrospective applications and that the application should be considered in the light of the current policies and as it was put forward in the application

It was proposed that the application should be refused on the grounds that it was contrary to policies SD1, LD1, LD4 and relevant paragraphs of the National Planning Policy Framework.

The local ward member was given the opportunity to close the debate. She reiterated her concern that conditions had not been enforced and that approving the application would condone those breaches and imply that resisting enforcement would in the end be successful.

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 SD1, LD1, LD4 and relevant paragraphs of the National Planning Policy Framework.

151. 163658 - LAND ADJACENT TO CUCKHORN FARM, STOKE LACY, HEREFORD

(Proposed new build part-earth sheltered dwelling.)

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 clarified how the planning balance should be undertaken in the light of a recent court case given the council's lack of a five year housing land supply.

In accordance with the criteria for public speaking, Mr G Thomas, the applicant's agent, spoke in support of the application.

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

He made the following principal comments:

- He disagreed with the interpretation of policy as set out in the report. In particular he believed the proposal did fall to be considered under policy RA2 rather than RA3. A map of developments within the area submitted as part of the application showed the application site to be at the heart of the historic pattern of development.
- The Parish Council supported the proposal as did he. There were 18 letters of support. There were no objections to the proposal from consultees and no letters of objection.
- The proposal represented the type of organic growth favoured by the local community.
- The authority had recently granted permission for two developments in the area comprising 40 houses, one development of 28 houses and one of 12 houses. The application site was 2 ½ minutes walking distance by road and 2 minutes walk from the centre of Stoke Lacy. A kissing gate leading from the application site would bring the residents out in front of the site where the 28 homes were to be developed. It was not an isolated site. It was a sustainable location.
- The scheme was a high quality sustainable scheme.
- The application was by a local family.
- It was unjust to argue that the minimum target for housing provision in Stoke Lacy had been exceeded and that this militated against the provision of a single dwelling, the approval for 40 dwellings having significantly exceeded the minimum target.

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

- The Parish Council supported the proposal.

- There was support for the local ward member's argument that the development was sustainable and should be considered under policy RA2.
- In the absence of a Neighbourhood Development Plan the policy fell to be considered solely against the Core Strategy policies. The settlement pattern of Stoke Lacy was typical of many Herefordshire villages in that it was not a nucleated village with a settlement around it. There was a risk of setting a precedent for isolated developments of this type if the application were approved.

In response to questions the Lead Development Manager commented:

- The Rural Areas Site Development Plan, once approved, would govern development of areas such as Stoke Lacy where there was no NDP. In such cases a settlement boundary would be drawn and development considered within and adjacent to that boundary. The application site would be outside a boundary drawn for Stoke Lacy. The proposal needed to be considered under policy RA3. Approval would set a precedent for development in the vicinity on adjacent land between the development and the village. An argument could be made that such development might be inappropriate because of the impact it would have on social cohesion.
- The application site had been extended since the previous application to make it reach and become adjacent to the approved site for the development of 28 houses.
- In terms of housing growth the minimum target for proportionate growth had been 24 houses. Approvals and commitments now amounted to 47 houses, substantially over and above the minimum target.
- The design was good but not exceptional. There were other such developments in the county. There were no design criteria that had been externally validated that qualified the proposal for consideration as an exception under paragraph 55 of the NPPF.
- Vehicular access from the main road to the development was 270 metres and the footpath from the property to the road was 130 metres.

The local ward member was given the opportunity to close the debate. He reiterated his view that it was unjust to argue against the application on the grounds that the minimum housing target had been exceeded. The application site was adjacent to the settlement and should be considered against policy RA2.

It was proposed that the application should be approved on the basis that it should be considered against policy RA2 and that it complied with that policy and represented sustainable development in accordance with policy SS1.

RESOLVED: That officers named in the Scheme of Delegation to officers be authorised to grant planning permission subject to any conditions considered necessary by officers on the basis that the application should be considered against policy RA2 and that it complied with that policy and represented sustainable development in accordance with policy SS1.

152. DATE OF NEXT MEETING

The Planning Committee noted the date of the next meeting.

Appendix - Schedule of Updates

The meeting ended at 12.48 pm

CHAIRMAN

PLANNING COMMITTEE

Date: 17 May 2017

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

163707 - PROPOSED RESIDENTIAL DEVELOPMENT OF 10 OPEN MARKET FAMILY HOMES AND 5 AFFORDABLE HOMES AT LAND OPPOSITE MILL HOUSE FARM, FOWNHOPE, HEREFORDSHIRE

For: S C Hardwick & Sons per Mr James Spreckley MRICS, Brinsop House, Brinsop, Hereford, Herefordshire HR4 7AS

ADDITIONAL REPRESENTATIONS

1. **Natural England** have provided comments, which were too late for inclusion in the report. In summary these record no objection subject to the imposition of conditions that will protect the integrity of the R.Wye SAC/SSSI and Cherry Hill Woods SSSI.
2. A letter from the **Fownhope Carbon Reduction Action Group (CRAG)** was received on 10th May 2017. The letter states as follows:-

"The report from the developer in the Design and Access Statement refers to policies FW1, 2, 3, 4, 5, 6, 9, 13 and states that, "This proposed development now complies with both the Herefordshire Council Local Plan Core Strategy 2011-2031 and the Fownhope Neighbourhood Plan 2011-2031."

As there is no mention of FW16 then this is not, in our view, a true statement, as policy FW16 is material to the application. From the Fownhope Neighbourhood Plan Policy FW16 Design Criteria, the initial paragraph of FW16 states that "An integrated approach to achieve a high standard of design will be required in particular to achieve the maximum possible reduction in the carbon footprint of any development." FW16b states one of the means to achieve this by "Utilising physical sustainability measures associated with buildings that include, in particular, orientation of buildings...."*

**(within the limits of current building regulations set by national government and which cannot be varied by neighbourhood plans.)*

Fownhope CRAG is pointing out that policy FW16 needs to be taken into account in order for the development to comply with the Fownhope Neighbourhood Plan. The following is from the Department for Communities & Local Government paper on the Neighbourhood Planning Bill. January 2017

"Key questions and answers: Does the Bill address issues previously raised about neighbourhood plans being respected in decisions on planning applications?"

The measures in the Bill put beyond doubt that once a neighbourhood plan has been independently examined - and the decision taken to put the plan to a referendum – it must be taken into account when determining a planning application, in so far as the policies in the plan are material to the application. This is in addition to our reforms in the Housing and Planning Act which require any conflict with a neighbourhood plan to be set out in the committee report, that will inform any planning committee decision, where that report recommends granting planning permission for development that conflicts with a made neighbourhood plan."

In our view the Fownhope Neighbourhood Plan has not been taken fully into account, and the proposal in its present form should not be granted approval.”

3. **Mr & Mrs Middleton** have written in support of the application:-

We would like to add our support for the above planning application as this will be an important first step towards the local housing needs in Fownhope. We are also delighted to hear that the Parish Council are finally in favour with this development.

4. **Ms Jane Arnold** has written in support of the application:-

I would very much support the building of both affordable and mixed houses as it seems to me there is not a good balance of villagers due to younger locals being priced out of the housing market.

Officer comment in respect of the three updates:

1. The conditions recommended by Natural England are already attached to the recommendation – conditions 15 and 21 refer.
2. The Officer Report makes reference to all relevant NDP policies and takes proper account of the NDP in reaching a recommendation.

3&4. Noted

NO CHANGE TO RECOMMENDATION

162900 - A RETROSPECTIVE PLANNING APPLICATION FOR TWO SMALL OUTHOUSES, CHANGES TO THE ENTRANCE ON TO THE PUBLIC ROAD, THE INCLUSION OF A WOOD BURNING STOVE, THE ERECTION OF FENCES OUTSIDE THE DEVELOPMENT AREA AND THE RESULTANT INCREASE IN THE CURTILAGE AT TOGPEN, WILLEY LANE, LOWER WILLEY, PRESTEIGNE, LD8 2LU

For: Mr Murray per Mr Lewis Price, McCartneys, 54 High Street, Kington, Herefordshire, HR5 3BJ

ADDITIONAL REPRESENTATIONS

OFFICER COMMENTS

For information only - an application ref 171439 has been submitted, 4th May, to retain the greenhouse.

NO CHANGE TO RECOMMENDATION

163658 - PROPOSED NEW BUILD PART-EARTH SHELTERED DWELLING ON LAND ADJACENT TO CUCKHORN FARM. TO INCLUDE SUBMERGED INTEGRAL GARAGE AT LAND ADJACENT TO CUCKHORN FARM, STOKE LACY, HEREFORD,

For: Mr & Mrs White per Mr Garry Thomas, Ring House, Fownhope, Hereford, HR1 4PJ

ADDITIONAL REPRESENTATIONS

The applicant's agent states in rebuttal that:

- Proposal accords with policies SS1 and of Core Strategy, it is in a sustainable location
- The proposal preserves and enhances the local character and distinctiveness in accordance with policies RA2 and SS6 in Core Strategy
- Policy RA3 is not relevant
- No 5 year housing land supply and specific type of housing proposed, which is necessary and underprovided.

OFFICER COMMENTS

The proposal site is sufficiently separate from Stoke Lacy. It is not contiguous with any other residential property. It is not *within or adjacent to the main built up area* and therefore it is not Policy RA2 compliant, notwithstanding the shortfall in the housing land supply and that there is not a Neighbourhood Development Plan. Therefore, given the proposal site falls outside the reasonable limits of Stoke Lacy it falls to be determined in accordance with policy RA3 of Core Strategy. The proportional growth target for Stoke Lacy is 24 dwellings and at the present time 46 have been built or committed.

NO CHANGE TO RECOMMENDATION