

**Minutes of the meeting of Planning and regulatory committee held at The Council Chamber - The Shire Hall, St. Peter's Square, Hereford, HR1 2HX on Wednesday 4 October 2017 at 10.00 am**

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

**Councillors:** BA Baker, CR Butler, PJ Edwards, DW Greenow, KS Guthrie, EPJ Harvey, TM James, JLV Kenyon, FM Norman, D Summers, EJ Swinglehurst and SD Williams

**In attendance:** Councillors WLS Bowen, JF Johnson and NE Shaw

**53. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors EL Holton, AJW Powers, A Seldon and WC Skelton.

**54. NAMED SUBSTITUTES**

Councillor EPJ Harvey substituted for Councillor AJW Powers, Councillor D Summers for Councillor A Seldon and Councillor SD Williams for Councillor WC Skelton.

**55. DECLARATIONS OF INTEREST**

**Agenda item 7: 163391 – Bowling Green Farm, Clehonger**

Councillor J Hardwick declared a non-pecuniary interest because he knew the applicant.

Councillor DW Greenow declared a non-pecuniary interest because he knew the applicant.

Councillor FM Norman declared a non-pecuniary interest because she knew one of the public speakers.

**Agenda item 9: 172420 – Land adjacent to the Old Chapel, Tillington**

Councillor J Hardwick declared a non-pecuniary interest because he knew the applicant.

**56. MINUTES**

A member questioned the accuracy of the minutes on the grounds that they did not precisely reflect a recording of the meeting in relation to the wording of one of the resolutions.

It was advised that the resolution in question, where an application had been approved contrary to the printed officer recommendation, chiefly reflected the intent of the committee that the application be approved and provided a mechanism to give practical effect to the approval in accordance with established practice.

**RESOLVED: That the Minutes of the meeting held on 13 September 2017 be approved as a correct record and signed by the Chairman.**

**57. CHAIRMAN'S ANNOUNCEMENTS**

None.

**58. APPEALS**

The Planning Committee noted the report.

**59. 163391 - BOWLING GREEN FARM, CLEHONGER, HEREFORDSHIRE**

*(Proposed erection of four poultry units, feed bins, service building, alterations to existing access and associated development.)*

*(Councillor SD Williams was fulfilling the local ward member role and accordingly had no vote on this application.)*

The Principal Planning Officer (PPO) 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 elaborated on the proposed additional conditions set out in the update.

The Chairman had permitted additional time to be allocated for public speaking. In accordance with the criteria for public speaking, Mrs C Protherough, of Clehonger Parish Council and Mr T Cramp of Allensmore Parish Council spoke in opposition to the Scheme. Mr P Griffiths, a local resident, and Mrs S Woosnam, representing Clehonger and Allensmore Parish Council, spoke in objection. Mr G Clark, the applicant's agent, and Mr P Whittal, the applicant, spoke in support.

In accordance with the Council's Constitution, the local ward members, Councillors JF Johnson and SD Williams spoke on the application. *(The vast majority of the development was in Councillor Johnson's ward, the access being in Councillor Williams' ward.*

Councillor Johnson made the following principal comments:

- The application had clearly generated considerable emotion and the aim had to be to seek to strike a balance.
- The site was located well down in the valley and work had been done to mitigate the landscape impact.
- It would be important to ensure that the concerns about the impact on the environment including those associated with waste and odour were managed in accordance with the relevant policies.
- His biggest concern was about flooding. There was an existing flood risk to the A465 downfield from the site, attributed to a culvert that was considered to be of insufficient capacity. He would pursue this issue whether or not the application was approved.
- The access to the east to Clehonger had also generated comment and there was concern about speeding vehicles and a blind corner. However, he considered that the proposed work on the access would make the road safer. He had had many conversations about implementing Traffic Regulation Orders. However, there had been no recorded accidents on that stretch of road so the police would not support them.

- The site was relatively close to Cargill's where the chickens would be processed. The proposal would generate jobs for local businesses.

Councillor Williams referenced the concerns expressed by Clehonger Parish Council about the application. Whilst visibility to the east was fine, to the west it was restricted.

*(The meeting adjourned between 11.05-11.10)*

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

- The proposed highways mitigation was broadly acceptable. It was asked whether there could be a sign cautioning drivers about the business operation and the road marked with the word "slow".
- The site's location in a dip was acceptable and the landscaping proposals would provide further mitigation.
- Conditions addressed flooding and surface water run off.
- Herefordshire was an agricultural county and such farming operations provided employment benefits to the County that it was important to retain. The proposal was in accordance with policy RA6.
- It was suggested that it would be preferable if as much manure as possible could be spread at the farm rather than transported elsewhere.
- The applicant had sought to modify the proposal to accommodate some of the local concerns that had been expressed.
- The way in which the farm was currently managed gave confidence that the proposed operation would also be well managed.
- An environmental permit had been issued by the Environment Agency.
- Natural England had commented that the proposed development would not have likely significant effects on the River Wye Special Area of Conservation and it had no objection.
- The land drainage officer considered the proposed attenuation pond to be satisfactory.
- The tourism sector was a major employer in the county and the ever increasing number of chicken units in the county posed a risk to its success.
- It remained regrettable that the Core Strategy did not include a specific policy on intensive livestock units.
- The technical reports and assessments, for example those relating to odour, did not reflect the reality. In response the PPO commented that in the most recent appeal the inspector had commented that people living in the countryside should expect higher levels of odour at certain times noting the relatively short time that clearing out, when odour levels peaked, took.
- It was asked whether there was a map showing the location of chicken and egg production facilities in the county to assist in gauging the cumulative impact of such developments. It was noted in reply that some records were currently held but further work would need to be done to produce a map. The Chairman undertook to pursue this request.
- The PPO confirmed that the cumulative impact of odour from units in the locality had been assessed and relevant levels would not be exceeded.
- Noting the matters that fell within the Environment Agency's responsibility, clarification was sought on the transparency of any consultation the Agency

undertook when making its assessment on the granting of an environmental permit and whether there was any link to the Council's planning portal to assist people to respond to any such consultations. The PPO commented that he considered this to be a matter for the Agency.

- In relation to noise the Head of Regulatory & Development Management Services commented that he was not aware of any particular complaints about noise from such units in the locality.

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

Councillor Johnson reiterated that a balance needed to be struck between the competing demands of economic development and the preservation of the natural environment. He noted the comments about the economic benefits of tourism. He reiterated that he would pursue the issue of flooding whether the site was approved or not.

Councillor Williams had no additional comment.

Councillor Baker proposed and Councillor Greenow seconded a motion that the application be approved in accordance with the printed recommendation with additional conditions as set out in the update sheet. The motion was carried with 11 votes in favour, 2 against and no abstentions.)

**RESOLVED: That planning permission be granted subject to the following conditions:**

1. **The development hereby permitted shall be begun before the expiration of three years from the date of this permission;**

**Reason:- As required by Section 91 of the Town and Country Planning Act 1990;**

2. **The development hereby permitted shall be carried out in strict accordance with the following approved plans:-**

- **Location Plan – Drawing number HA24899/01 Revision A (Scale 1:2500 @ A2);**
- **Access arrangements / Upper Section of Proposed Block – Drawing number HA24899/06 Revision A (Scale 1:500 @ A1);**
- **Block Plan – Drawing number HA24899/02 (Scale 1:500 @ A1);**
- **Floor Plans and Elevations and Poultry Service Buildings – Drawing number HA24899/03 Revision A (Scales 1:100 & 1:200 @ A1);**
- **Site Sections – Drawing number HA24899/04 (Scale 1:250 @ A1);**
- **Landscape Proposals – Drawing number PRI19723-11 Sheet 1 of 2 (Scale 1:1000 @ A1) rev.g;**
- **Landscape Proposals – Drawing number PRI19723-11 Sheet 2 of 2 (Scale 1:1000 @ A1) rev.g;**
- **Site Access – Visibility Splays – Drawing number 17480-02 Revision A (Scale 1:1000 @ A3); and**
- **Max Legal Articulated Lorry Tracking – Drawing number 17480-04 (Scale 1:500) @ A3);**

**except where otherwise stipulated by conditions attached to this permission;**

**Reason:- To ensure that the development is satisfactorily integrated into the landscape in accordance with policies SS6, LD1, RA6 and SD1 of the Herefordshire Local Plan Core Strategy 2011-2031;**

3. **The visibility splays in both directions shown upon Drawing number 17480-02 Revision A (Scale 1:1000 @ A3) together with the 160 metre forward visibility shall be provided with no obstruction above 600mm above carriageway level shall be provided prior to commencement of the development hereby permitted and thereafter shall be maintained as such;**

**Reason:- In the interests of highway safety in accordance with policies SS4 and MT1 of the Herefordshire Local Plan Core Strategy 2011-2031;**

4. **The translocation of hedgerows required to meet the requirements of condition 3 shall not take place between 1st April and 31 August (inclusive) in any calendar year;**

**Reason:- To ensure that the hedges to be translocated have the best opportunity of survival without dying, to accord with policies SS6, LD2 and LD3 of the Herefordshire Local Plan Core Strategy 2011-2031;**

5. **Any of the sections of translocated hedgerows that within a period of ten years of their translocation die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation;**

**Reason:- To ensure that the development is satisfactorily integrated into the landscape in accordance with policies SS6, LD2 and LD3 of the Herefordshire Local Plan Core Strategy 2011-2031;**

6. **All planting detailed upon Landscape Proposals – Drawing number PRI19723-11 Sheet 1 of 2 (Scale 1:1000 @ A1) rev.g and Landscape Proposals – Drawing number PRI19723-11 Sheet 2 of 2 (Scale 1:1000 @ A1) rev.g shall be carried out in the first planting season following completion of the development or first use of any of the buildings for agricultural purposes (whichever is the sooner). Any trees or plants that within a period of ten years die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation;**

**Reason:- To ensure a satisfactory appearance to the development in the landscape, in accordance with policies SS6, LD1, RA6 and SD1 of the Herefordshire Local Plan Core Strategy 2011-2031;**

7. **Prior to the first use of the buildings for agricultural purposes all external elevations of all of the buildings (including the service building & including the doors any louvres and steel supports to those buildings) shall be finished with the HPS200 Ardenne (RAL 7022) matt colour and the roof of the buildings, ridge vents and feed bins shall be finished with HPS200 Anthracite (RAL7016) matt colour and shall thereafter be maintained with those colour finishes;**

**Reason:- To ensure a satisfactory appearance to the development in the landscape in accordance with policies SS6, LD1, RA6 and SD1 of the Herefordshire Local plan Core Strategy 2011-2031;**

8. Prior to the first use of any of the buildings hereby permitted the vehicle access (including passing bays along the internal access route) and vehicle / turning / manoeuvring areas shown upon the approved plans shall be provided and thereafter kept free of obstruction for use by motor vehicles;

Reason:- In the interests of highway safety in accordance with policies SS4 and MT1 of the Herefordshire Local Plan Core Strategy 2011-2031;

9. Prior to commencement of the development hereby permitted the following matters shall be submitted to the Local Planning Authority for their written approval:-

- A habitat enhancement scheme integrated with the approved landscaping and attenuation pond;
- A hedgerow and tree protection strategy during the construction phase including a protection plan informed by the advice contained with BS5837:2012;
- A plan that identifies levels identified by the topographical survey in the vicinity of the proposed pond and those areas of the swale affected by high water levels, with proposed ground re-profiling to achieve the required freeboard;
- Scaled cross sections of the attenuation pond; and
- A detailed foul water drainage strategy showing how foul water from the package treatment works would be disposed of;

The development shall not commence until the Local Planning Authority has given such written approval. The development shall be carried out in full accordance with the approved details and thereafter maintained as such;

Reasons:-

- a) To secure ecological / bio-diversity enhancement in accordance with policy LD2 of the Herefordshire Local Plan Core Strategy 2011-2031;
- b) To ensure that existing green infrastructure is retained, in accordance with policy LD3 of the Herefordshire Local Plan Core Strategy 2011-2031; and
- c) To ensure satisfactory foul and surface water drainage arrangements in accordance with policies SS6, SD3 and SD4

10. No existing trees or hedgerows within the application site or on the boundaries of the application site shall be removed;

Reason:- To safeguard existing green infrastructure in accordance with policy LD3 of the Herefordshire Local Plan Core Strategy 2011-2031.

11. There shall be no more than eight cropping cycles in any one calendar year;

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

12. No gates across the vehicular access shall be provided within 32 metres of the southern carriageway edge of the B4349;

**Reason:- In the interests of highway safety in accordance with policies SS4 and MT1 of the Herefordshire Local Plan Core Strategy 2011-2031;**

- 13. No part of the vehicle access shall exceed a gradient of 1:12;**

**Reason:- In the interests of highway safety in accordance with policies SS4 and MT1 of the Herefordshire Local Plan Core Strategy 2011-2031;**

- 14. CAT Wheel Washing**

**Reason:- In the interests of highway safety in accordance with policies SS4 and MT1 of the Herefordshire Local Plan Core Strategy 2011-2031;**

- 15. There shall be no more than 212,000 birds accommodated within the buildings at any one time;**

**Reason:- So that the environmental impact of any intensification of production / use can be fully assessed against the provisions of the Development Plan and any other material planning considerations and to ensure that the development is delivered within the parameters of the Environmental Statement;**

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

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

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

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

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

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

**INFORMATIVES:**

- 1. Statement of Positive & Pro-active Working – the Local Planning Authority have acted positively and pro-actively in their processing of this**

application by engaging with the agent for the applicant in a positive manner to address all of the relevant material planning considerations. The Local Planning Authority has made every attempt to process and determine the application in as timely fashion as has been possible given the scale of the application and the issues that have arisen. 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. I11 - HN01 Mud on highway
3. I09 - HN04 Private apparatus within highway
4. I45 - HN05 Works within the highway
5. I05 - HN10 No drainage to discharge to highway
6. I47 - HN24 Drainage other than via highway system
7. I35 - HN28 Highways Design Guide and Specification.
8. In the event that the hedge translocations referred to in condition 4 were to take place between February and April, an Ecologist should undertake a “walkover survey” and inspect for presence of nesting birds.

*(The meeting adjourned between 11.45 and 11.58 am).*

**60. 171573 - LAND ADJACENT TO GARRISON HOUSE, ORDNANCE CLOSE, MORETON-ON-LUGG, HEREFORDSHIRE**

*(Site for the proposed erection of up to 10 dwellings with garages and construction of access road (in lieu of planning permission 151315 on adjacent site.)*

*(Councillor Greenow had left the meeting and was not present during consideration of this application. Councillor Guthrie was fulfilling the role of local ward member and accordingly did not vote on this application.)*

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 D Hamilton, a local resident, spoke in objection. 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.

She made the following principal comments:

- She expressed particular concern about the access to the site off the A49. Accidents that did occur often did not involve injury and were not recorded and there were also a number of near misses. Nonetheless Highways England had no objection and a recent speed review had concluded that there was no safety issue and there were no plans to reduce the speed limit. She considered that signage for the junction should be provided but there was no indication that Highways England would be willing to do so. She highlighted the cumulative impact of increased traffic on the A49 generally.



- She noted that the application was intended to replace a permission previously granted for 9 houses elsewhere on the site. She sought assurance that only one development would proceed. Two developments would exacerbate the traffic issues still further.
- The proposal would lead to a loss of amenity and privacy for existing residents, a loss of a green space and wildlife habitat.
- There were concerns about pedestrian and cyclist safety.
- She referred to the comments of the Conservation Officer (landscape) at paragraph 4.5 of the report that the quality of treatment of the site boundaries was varied, She considered that if the application were to be approved additional tree planting should be required on the eastern boundary to protect the privacy of properties on St Peter's Close.

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

- The Committee had previously approved a development of 9 houses on the adjoining site. Highways England continued to have no objection. There did not appear to be any grounds for refusing the application.
- Some misgivings were expressed about Highways England's stance. It was suggested that in any event that body should extend the 50mph speed limit to include the access point. If not there should be additional signage to warn motorists. It was noted that there was no waiting lane for stationary traffic seeking to turn into the access.
- The proposal was that the properties would be self-build. This raised questions of uniformity of design. Development would also be likely to take longer. It was therefore asked whether the section 106 development authorising the development in lieu of the previously approved application should take effect on the granting of the new permission rather than on its implementation.
- The development was sustainable.
- It was asked if the application could be limited to 9 dwellings like the previous application to permit scope for greater landscaping.
- It was disappointing that no amenity land was being offered. A green space was being lost to the community.
- Connectivity for pedestrians and cyclists to the village was not good. It was noted that lighting was within the Parish Council's remit.
- Assurance was sought that development would take account of the protection of trees on the site.

The Lead Development Manager commented that Moreton-on-Lugg had been identified for development within the Core Strategy with a minimum of 63 dwellings to be provided 14 currently being committed. He confirmed that the S106 agreement would prohibit the currently approved development adjacent to the site commencing. In any event it would be likely that Highways England would object to any further additional traffic that two sites would generate. Landscaping was an important consideration and conditions would govern the overall development of the site. A development of 10 houses could be accommodated with limited impact on trees on the site. In response to a request that reserved matters applications should be brought back to the Committee he observed that as these were to be self-build properties it did not seem the best use of the committee's time to consider a number of single such reserved matters applications. He noted that if there were concerns the local ward member could exercise their power to seek to redirect an application to the Committee.

The local ward member was given the opportunity to close the debate. She reiterated her concerns about highway safety and the importance of tree planting on the eastern boundary of the site to provide privacy for residents of St Peter's close.

Councillor Baker proposed and Councillor Swinglehurst seconded a motion that the application be approved in accordance with the printed recommendation with an amended condition 7 as set out in the update sheet. The motion was carried unanimously with 12 votes in favour, none against and no abstentions.)

**RESOLVED: That subject to the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement that ensures implementation only in lieu of planning permission 151315 that planning permission be granted subject to the following conditions and any others considered necessary by officers named in the scheme of delegation to officers:**

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. **B01 Development in accordance with the approved plans**
5. **C01 Samples of external materials**
6. **CNS - Contaminated Land**
7. **No development shall take place until the following has been submitted to and approved in writing by the local planning authority:**
  - a) **a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice**
  - b) **if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors**
  - c) **if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed shall be submitted in writing. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.**

**Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment.**

8. **The Remediation Scheme, as approved pursuant to condition no. (1) above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.**

**Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment.**

9. **If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, an amendment to the Method Statement detailing how this unsuspected contamination shall be dealt with.**

**Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment.**

10. **CNS – Trees**

**The development shall be carried out strictly in accordance with recommendations set out within the following documents: ‘Arboricultural Impact Assessment & Arboricultural Method Statement. Tree Survey & Arboricultural Impact assessment etc. was carried out on 28th February 2017 by Stretton Tree Services.**

**Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with the requirements of policy LD2 of the Herefordshire Local Plan – Core Strategy and guidance contained within the National planning Policy Framework**

11. **CNS – Drainage**

**No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul, surface and land water, and include an assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system.**

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

12. **CNS – Biodiversity**

**Prior to commencement of the development, an extended Ecological Survey with relevant Optimal period surveys should be carried out and a detailed report with recommendations for specific ecological Risk Avoidance Measures and mitigation 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, NERC 2006**

**13. CNS – Biodiversity**

**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, NERC 2006**

**14. C97 – Landscape Implementation**

**15. CAE – Vehicular Access Construction**

**16. CAL – Access, turning area and parking**

**17. CAQ – On site roads – submission of details**

**18. CAR – On site roads – phasing**

**19. CAS – Road Completion in 2 years**

**20. CAT – Wheel Washing**

**21. CAZ – Parking for site operatives and Construction Environmental Management Plan.**

**22. CB2 – Secure Cycle Parking Provision**

**23. CBK – Hours of working during construction**

**24. CE6 – Water Efficiency**

**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. The applicants attention is drawn to the comments of the Land Drainage Officer and their requirements in respect of condition 8

3. With reference to condition 8

Welsh Water / Dwr Cymru advise that their records show that the proposed development site is crossed by a public sewer and watermain with the approximate position being marked on the attached Statutory Public Sewer Record. The position shall be accurately located, marked out on site before works commence. Thereafter, no part of any building will be permitted within 3 metres either side of the centreline of the rising main.

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com)

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

4. With reference to condition 6

The assessment is required to be undertaken in accordance with good practice guidance and needs to be carried out by a suitably competent person as defined within the National Planning Policy Framework 2012.

And as a final technical point, we require all investigations of potentially contaminated sites to undertake asbestos sampling and analysis as a matter of routine and this should be included with any submission.

5. With reference to conditions 9&10

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 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.

6. **I11 - HN01 Mud on highway**
7. **I54 - HN19 Disabled needs**
8. **I35 - HN28 Highways Design Guide and Specification**

**61. 172420 - LAND ADJACENT THE OLD CHAPEL, TILLINGTON, HEREFORD.**

*(Councillors Greenow and Guthrie had left the meeting and were not present during consideration of this application.)*

The Senior 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, Mrs A Tyler, the applicant's agent, spoke in support of the application.

Councillor WLS Bowen fulfilled the role of local ward member on behalf of Councillor WPC Crockett and spoke on the application in accordance with the Council's Constitution.

He made the following principal comments:

- The site was a small dwelling within Tillington and Tillington Common. The site was sustainable with 6 bus services every weekday and 5 on weekends. The road was wide and open with a 30mph speed limit. There were some verges and these were safe with no hedges to obstruct the view. The village had plentiful facilities.
- He suggested the proposal could be considered under policy RA2 as a location where sustainable housing growth would be supported rather than RA3 as argued in the report.
- The proposed dwelling itself was sustainable and was an interesting design that met the requirements of paragraph 55 of the NPPF. It would provide a good addition to the County's housing stock.

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

- Clarification was sought as to why the report classified Tillington as an RA2 settlement not Tillington Common. It was suggested there was a possible anomaly in that the Rural Settlement hierarchy background paper showed that Tillington Common had been assessed as a sustainable settlement, not Tillington.

The Lead Development Manager commented that Tillington and Tillington Common were two distinct settlements. The Burghill Neighbourhood Development Plan, which was at Regulation 16 stage referred to them as separate areas and defined Tillington Common as being in open countryside with no settlement boundary around it. The Core Strategy identified Tillington, not Tillington Common, as an RA2 settlement.

- In addition to considering the application to be a good application representing sustainable development with other existing buildings around the plot some members considered that the application met the requirements of paragraph 55 of the NPPF. Others considered the application to have merit and to be sustainable but not to fulfil the requirements of paragraph 55 and, as the area was not defined in policy RA2,

and did not meet the criteria in policy RA3 it therefore represented development in the open countryside and approval would be contrary to policy.

- The Lead Development Manager commented that having regard to appeal decisions the proposal could not be considered to meet the requirements of paragraph 55 of the NPPF. The planning authority required an applicant to commission a recognised body at their own cost to undertake a peer review to support a case that an application met the paragraph 55 requirements. No such review had taken place to support this application. The proposal was a good design but could not be considered exceptional.

The local ward member was given the opportunity to close the debate. He considered that the question as to whether the design met the Paragraph 55 test was subjective. However, the design was interesting and innovative; the location was sustainable and the plot was not in the open countryside; there were houses surrounding it.

Councillor Edwards proposed and Councillor Baker seconded a motion that the application be approved on the grounds that it met exception criteria 6 in policy RA3. The motion was carried with 7 votes in favour, 3 against and 2 abstentions.)

**RESOLVED: that planning permission be granted and officers named in the Scheme of Delegation to officers be authorised to detail the conditions and reasons put forward for approval by the committee and any other conditions considered necessary by officers on the grounds that the proposal met exception criteria 6 in policy RA3.**

#### **Appendix - Schedule of Updates**

The meeting ended at 1.35 pm

**Chairman**





# **PLANNING COMMITTEE**

**Date: 4 October 2017**

**Morning**

## **Schedule of Committee Updates/Additional Representations**

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

## **SCHEDULE OF COMMITTEE UPDATES**

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

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

### **ADDITIONAL REPRESENTATIONS**

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

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

### **ENVIRONMENTAL EFFECTS**

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

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

## **IMPACT ON LOCAL BUSINESSES AND RESIDENTS.**

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

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

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

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

## **OFFICER COMMENTS**

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

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

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

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

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

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

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

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

“The concerns you raise as regards air quality and other Environmental Health related matters have been previously addressed in my consultation responses. The main concerns as regards cumulative effects on Air Quality appear to be about small /fine particulates. DEFRA research has demonstrated that small particulates (PM<sub>10</sub>) generated by poultry housing drops to background levels, i.e. an elevation of levels cannot be detected within 100 m. ( DEFRA research project report AC0104). DEFRA also provides technical guidance for Local Air Quality Management TG16 2016 which prescribes a screening tool for use when considering the likely effect on Air Quality of large poultry installations so that those that may be problematic might be identified, however this proposal falls outside the scope for consideration in that it is not sufficiently large nor is it close enough to a receptor. The advice only requires that the screening tool provided is used with poultry houses with 400,000 birds or more and are within 100m of a dwelling. According to this advice this proposed poultry housing needs not to be considered as being potentially problematic. Whilst the Government has made a commitment as regards the reduction of fine particulate levels ( PM<sub>2.5</sub>) setting a specific objective for 2020, there is no explicit advice for poultry units. I would refer you to the consultation response dated 8/9/17 which also advises of Public Health England and the Council’s Public Health Consultants advice. Public Health England confirmed in June this year that this was still their position on this matter. You may wish to confirm that our consultant is still of the same opinion.

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

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

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

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

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

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

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

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

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

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

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

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

Landscape maintenance post Practical Completion shall be for five years.

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

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

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

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

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

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

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

## **CHANGE TO RECOMMENDATION**

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

Add the following conditions:-

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

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

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

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

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

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

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

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

Add an informative:-

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

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

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

## **OFFICER COMMENTS**

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

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

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

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

### *Previous land use and Contamination*

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

## **CHANGE TO RECOMMENDATION**

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



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

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

## **ADDITIONAL REPRESENTATIONS**

Two additional representations have been received namely:-

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

## **OFFICER COMMENTS**

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

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

## **NO CHANGE TO RECOMMENDATION**

