

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 14 June 2017 at 2.00 pm

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

Councillors: BA Baker, CR Butler, PJ Edwards, KS Guthrie, EL Holton, TM James, FM Norman, AJW Powers, D Summers, EJ Swinglehurst, LC Tawn and SD Williams

In attendance: Councillor H Bramer

11. APOLOGIES FOR ABSENCE

Apologies were received from Councillors DW Greenow, A Seldon and WC Skelton.

12. NAMED SUBSTITUTES

Councillor D Summers substituted for Councillor A Seldon and Councillor SD Williams for Councillor WC Skelton.

13. DECLARATIONS OF INTEREST

Agenda item 4: 160852 – Caldicott Farm, Broad Oak, Hereford

Councillor EJ Swinglehurst declared a non-pecuniary interest because she knew the applicant.

Agenda item 6: 170677 – Land at Castle End, Lea, Ross-on-Wye

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

14. 160852 - CALDICOTT FARM, BROAD OAK, HEREFORD, HR2 8QZ

(Retrospective engineering works to provide extension to slurry lagoon.)

The Senior Planning Officer gave a presentation on the application,

He provided additional information on the proximity and status of adjacent listed buildings, and the legislative framework and statutory obligations and case law relating to considering whether to grant planning permission for development which affected a listed building or its setting. Officers had concluded by the nature of the proposal, a hole in the ground, and its location, away from and separated from the listed buildings by existing modern agricultural development, that this context and lack of any interrelationship resulted in there being no material harm or impact on the setting of these listed buildings.

He also reported that there were no recorded boreholes within close proximity of the site. There was a borehole over 800m to the west of the site. He added that the lagoon would not have an artificial liner. Test results including soil analysis carried out on behalf of the applicants identified that the site was capable of construction without the need for one. The Environment Agency had been consulted as part of the process and had advised that they were satisfied with the test results.

In accordance with the criteria for public speaking, Mrs K Greenow, Clerk to Garway Parish Council spoke in opposition to the Scheme. Mr H Cripwell, a local resident, spoke in objection. Mr E Partridge, the applicant, spoke in support.

The Chairman read out a statement on behalf of the local ward member, Councillor DG Harlow, who had been unable to attend the meeting.

The principal points in the statement were as follows:

- The application had raised strong feelings locally. At a recent meeting of Garway parish council many of the Broad Oak community had attended and expressed their opposition. Balancing this, the applicants must be allowed to run their business as they had successfully been doing for many years.
- On a site visit he had found no evidence of the slurry lagoons having overflowed. The farm seemed to be well managed and the slurry lagoons were a fair distance from the road.
- He had the following concerns:
- The retrospective nature of the application. The Council needed to consider how it could dissuade such behaviour.
- If permission was granted, landscaping must be of the highest standard to mitigate the concerns of the local residents.
- The issue of whether the lagoon was to be covered needed addressing
- The long journey by road from the dairy farm in Buckholt to the lagoon in Broad Oak.
- The Parish Council had made some sound observations and highlighted the concern that water quality may be affected in the immediate area. He noted that the applicants themselves obtained their own drinking water from a borehole on site. He was advised that officers not identified any concerns on this point.
- The report addressed his concerns about landscaping and he was satisfied that this should negate many of the local concerns once fully grown out.
- Recommendation 10 in the report if adhered to in its entirety should ensure that overflow would not be an issue.
- He questioned the Transportation Manager's comment at paragraph 4.3 of the report that "the site 'gains the benefit of accessing the land from the farm, therefore reducing the needs to access the highways network". The Buckholt site was at least 3 or 4 miles from Broad Oak and the transportation involved moving the slurry along country roads.
- In summary the core strategy seemed quite clear about favouring economic development on such farms. The council must however ensure mitigation for residents, that there were appropriate conditions to protect residents and that these were enforced.

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

- It was requested that it be ensured that the lagoon would go no nearer to residential properties.
- In reply to a question about the landscaping proposals the Acting Development Manager highlighted paragraph 6.28 of the report and conditions 4,5,6,7 and 8 in the recommendation.
- Having regard to criteria in policy RA6 it was observed that there was local concern about the adverse impact to the amenity of nearby residents but the report concluded this could be mitigated, farm vehicles already used the highway network and the Environment Agency was the responsible authority for water quality and had no objection to the application.
- A concern was expressed that the lagoon would not be lined and that this created a risk of seepage. Whilst noting the conditions in the recommendation some members had reservations about the Environment Agency's ability to discharge its responsibilities in this matter.
- It was questioned why waste had to be transported from the Buckholt farm site rather than being contained at that site.
- There was some disappointment at the retrospective nature of the application.
- It was proposed that there should be an additional condition to regulate the noise of any pumping equipment.

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

1. **C01 Time limit for commencement (full permission)**
2. **C07 Development in accordance with approved plans and materials**
3. **C95 Details of Boundary treatments**
4. **C96 Landscaping scheme**
5. **C97 Landscaping scheme – implementation**
6. **CA1 Landscape management plan**
7. **CA2 Landscape maintenance arrangements**
8. **CA3 Landscape monitoring**
9. **On an annual basis for the first three years from the date of this Decision Notice, a Monitoring of seepage report shall be submitted to the Local Planning Authority. The report shall include methodology and results regarding water quality and in the event of issues being identified how they are to be resolved.**
Reason: To protect adjoining land uses, the local and downstream groundwater and surface water and in the interests of human safety and the environment and to comply with Herefordshire Core Strategy policies SS1, SD3 and SD4.
10. **Written demonstrable evidence of the appropriate management of surface water during extreme events that could overwhelm the surface water drainage system and/or occur as a result of blockage shall be provided to the Local Planning Authority for written approval within 3 month from date of this Decision Notice. The measures shall thereafter be maintained and used as such.**
Reason: To protect adjoining land uses, the local and downstream groundwater and surface water and in the interests of human safety and the environment and to comply with Herefordshire Core Strategy policies SS1, SD3 and SD4.

11. **Written demonstrable evidence that appropriate pollution control measures are in place for discharge from the development hereby permitted shall be provided to the Local Planning Authority for written approval within 3 month from date of this Decision Notice. The pollution control measures shall thereafter be maintained and used as such.**

Reason: To protect local and downstream groundwater and surface water and in the interests of human safety and the environment and to comply with Herefordshire Core Strategy policies SS1, SD3 and SD4.

- 12 **Prior to installation, full written details and appropriate scaled plans of any pumping equipment required to service the development hereby permitted shall be submitted to the Local Planning Authority for written approval. The details should include details of any necessary noise attenuation measures, which shall be implemented as approved prior to first use of the pumping equipment. The pumping equipment shall thereafter be used and maintained in strict accordance with the approved details.**

Reasons: To protect the residential amenity of adjoining properties and to comply with Herefordshire Core Strategy policies SS1, SS6 and RA6.

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. **Reference to requirement to follow submitted manure plan listed under Condition 2**

3. **Further guidance on ‘Slurry reception pits and in-situ or above-ground slurry stores or tanks’ (amended February 2011) is available at:**

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/290135/LIT_7783_9e2698.pdf

4. **Further advice is contained within the DEFRA Code of Good Agricultural Practice (CoGAP) for farmers, growers and land managers.**

<http://www.defra.gov.uk/publications/files/pb13558-cogap-090202.pdf>

15. 163879 - LAND ADJACENT BROADFIELDS, ASTON INGHAM, ROSS-ON-WYE

(Demolition of existing outbuildings and erection of new dwelling within landscaped setting.)

The Senior Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Ms L Tucker, the applicant, spoke in support of her application.

In accordance with the Council’s Constitution, the local ward member, Councillor H Bramer, spoke on the application. He noted that although the proposal was a departure from policy the Parish Council had no objection to the application. He considered that the proposal would represent betterment to the site and should be approved.

The applicant had outlined her personal circumstances in her speech to the Committee and Members reflected on a number of recent applications they had considered where it had been asserted that weight should be given to personal circumstances. It was noted,

however, that in this instance the report made no reference to the applicant's personal circumstances.

The quality of design of the proposal and the example it set was stressed. It was considered that the proposal would enhance the area.

The Acting Development Manager emphasised that the application was not founded on the applicant's personal circumstances. The application had environmental benefits and paragraph 6.19 of the report summarised the reasons why officers supported approval of the application as a departure from policy.

The local ward member was given the opportunity to close the debate. He reiterated his view that the proposal would represent a betterment of the site.

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

1. **C01 – Time limit for commencement (full permission)**
2. **C07 – Development in accordance with approved plan and details**
3. **CAD – Access Gates, 5m**
4. **CAE – Vehicular access construction**
5. **CAH – Driveway gradient**
6. **CAK – Parking and turning**
7. **CE6 – Water efficiency**
8. **The recommendations (mitigation, protection and working methods) as identified in the ecological report by Clarke Webb Ecology dated June 2016 shall be fully implemented as stated, unless otherwise required to obtain a European Protected Species Mitigation Licence, and agreed in writing by the planning authority.**

Reason: To ensure that all species are protected 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 Act 2006.

9. **Prior to commencement of the development, and based on the ecological report by Clarke Webb Ecology dated June 2016 and the outline landscape plan ref 15/768.27, a detailed habitat enhancement scheme integrated with a detailed landscape scheme and accompanied by a 10 year establishment and maintenance plan should be submitted to and be approved in writing by the local planning authority. 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

10. Prior to the commencement of the development hereby permitted, the following details shall be submitted to the Local Planning Authority for written approval –

- Provision of a detailed drainage strategy that demonstrates that opportunities for the use of SUDS features have been maximised, where possible, including use of infiltration techniques and on-ground conveyance and storage features;
- A detailed surface water drainage strategy with supporting calculations that demonstrates there will be no surface water flooding up to the 1 in 30 year event and allowing for the potential effects of climate change;
- Details of proposed outfall structures. Any discharge of surface water or foul water to an ordinary watercourse will require Ordinary Watercourse Consent from Herefordshire Council prior to construction.
- Results of infiltration testing undertaken in accordance with BRE365;
- Confirmation of groundwater levels to demonstrate that the invert level of any soakaways or unlined attenuation features can be located a minimum of 1m above groundwater levels in accordance with Standing Advice;
- A detailed foul water drainage strategy showing how foul water from the development will be disposed of.
- Demonstration of the management of surface water during extreme events that overwhelm the surface water drainage system and/or occur as a result of blockage

The development shall thereafter be carried out in accordance with the approved details and thereafter be maintained as such.

Reason: To protect water quality hereabouts, in the interests of the environment and public safety, minimise the impact of development on water quality and surface water flooding and to comply with Herefordshire Core Strategy policies SS1, LD2, SD3 and SD4.

11. C65 – Removal of Permitted Development Rights
12. C95 – Landscaping details
13. C96 – Landscaping and planting implementation
14. CA1 – Landscape Management Plan
15. CC2 – External lighting details
16. C13 – External materials and details

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. 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 building as well as consideration for amphibian/reptile refugia; and 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. The detailed landscaping scheme should include full details of planting and protection methods as well as a 5 year establishment & replacement scheme and a subsequent 5 year management plan.
3. I11 - Mud on highway
4. I09 - Private apparatus within highway
5. I45 - Works within the highway
6. I05 - No drainage to discharge to highway
7. I47 - Drainage other than via highway system
8. I35 - Highways Design Guide and Specification

16. 170677 - LAND AT CASTLE END, LEA, ROSS-ON-WYE

(Application for up to 10 new residential properties, vehicle turning, manoeuvring and landscaping.)

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.

He clarified that it had been decided on 12 June that an appeal against non-determination was valid and would be heard by written representations. The Committee could not determine the application but was being asked to express a view that would inform the Council's approach at that appeal.

In accordance with the criteria for public speaking, Mrs A Banner, of Lea Parish Council spoke in opposition to the Scheme. Mr S Banner, Chairman of Lea Action Group, spoke in objection.

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

He made the following principal comments:

- An appeal against the Committee's refusal of an application for 14 dwellings had been dismissed by the Inspector on the basis of a lack of a unilateral undertaking or

Section 106 agreement. The current proposal for 10 homes required no S106 agreement.

- There were no letters in support of the application.
- Lea had already exceeded by far the minimum number of homes required to be built under the Core Strategy.
- The site was on the fringe of the settlement and on the opposite side of the A40 to the primary school. He considered it to be the most dangerous site in his ward.
- It had been suggested that the applicant had not sent out the required certificate B notifications to adjoining landowners. He questioned whether the application was therefore invalid.
- Welsh Water had indicated that the site could not be brought into use before 31 March 2020. There was therefore no urgency to consider the application.
- Paragraph 6.14 of the report referred to the Council's duty of care to assess the highway safety impact. He had himself been afraid when alongside the road during a site visit. It was on the opposite side of the road from the Primary School and he was concerned at the risk of a child running home unaccompanied crossing the road.

In the Committee's discussion of the application points were made that the proposal represented over-development of Lea, that an appeal in 2013 for a single dwelling had been dismissed because of the effect the development would have on the character and appearance of the locality, and that there was a potential conflict with policy RA2 in that the proposal was not driven by housing need.

However, the principal concern related to highway safety. It was noted that paragraph 6.13 of the report stated that in considering the earlier appeal the Inspector had concluded that the proposed development would not create unacceptable risk of harm to highway safety on the A40.

Members disputed the Inspector's opinion and commented that since that decision a substantial number of homes had been approved in the area. It was questioned what weight could therefore be given to the Inspector's conclusion relating to highway safety. A Member expressed the view that it would be irresponsible not to refuse the application.

The Senior Planning Officer commented that the appeal for 14 dwellings in 2015 had been dismissed solely on the ground that there had been no S106 agreement. The Inspector had found in favour of the applicant in relation to all the other grounds advanced for refusal by the Council at appeal including highway safety. He referred to two recent appeals in one of which, at Gorsley, the Inspector had found in the Council's favour that the development was unsustainable even given the absence of a five year housing land supply, and another in which, at Lea, the Inspector had found in the Council's favour that the development would have an adverse impact on the setting of Lea.

The legal adviser reminded the Committee that it needed to have evidence to support any reasons for refusal that it wished to advance and that the council was at the risk of costs if had not got adequate evidence to support any such reasons.

The Acting Development Manager re-emphasised that the appeal for 14 dwellings in 2015 had been dismissed on what amounted to a technicality. The Inspector had found in favour of the applicant in relation to all the other grounds advanced for refusal by the Council at appeal including highway safety and the setting of Castle End. He was concerned as to whether there was sufficient evidence to support a view that the application should be refused. He also advised Members as to the risk of exposure to

costs on the basis that the Council would not be able to substantiate its position in defending the appeal.

The local ward member emphasised the cumulative effect of development that had both taken place and had been approved.

The legal adviser advised that the Committee needed to consider the matter in the light of the absence of a five year housing land supply. If the application was sustainable then there had to be significant and demonstrable harm before it could refuse the application.

The Area Engineer Development Control commented that using the recorded speeds associated with the road the location of a crossing could be achieved providing safe pedestrian access to the school. Concerns about the impact of approved background housing growth on the A40 had been considered but the assessment at the time of the appeal had not taken account of the granting of permission for the strategic housing site at Hildersley on which no decision on planning permission had been made at that time.

RESOLVED: That in the event that there had been no appeal against non-determination the Committee would have been minded to refuse planning permission on account of the impact on the safety of the highway network from the proposed scheme and the background growth from other schemes in the locality.

17. DATE OF NEXT MEETING

The Planning Committee noted the date of the next meeting.

Appendix - Schedule of Updates

The meeting ended at 4.25 pm

Chairman

PLANNING COMMITTEE

Date: 14 June 2017

Afternoon

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

170677 - APPLICATION FOR UP TO 10 NEW RESIDENTIAL PROPERTIES, VEHICLE TURNING, MANOEUVRING AND LANDSCAPING AT LAND AT CASTLE END, LEA, ROSS-ON-WYE

For: Mr Grindon per Mr John Kendrick, Procuro, St Owens Cross, Hereford, Herefordshire HR2 8LG

ADDITIONAL REPRESENTATIONS

A further letter of objection has been received from Steve Bolton of Long Orchard House, Lea.

This raises the following matters:

- Query concerning whether new expiry date following the re-consultation on the application will affect the applicants right of appeal
- The objection in respect of the highway safety implications of the development is maintained citing concern that the position of the pedestrian crossing has not been formalised despite its critical importance
- The personal injury accident reported in November 2015 should be taken as a warning as to the dangerous nature of this stretch of road
- Concern that extent of third party land incorporated into the site is fully understood and this should be clarified before permission granted
- Concern that landscaping drawings referred to in appraisal not available and that the proximity of dwellings to the hedgerow, particularly that along the A40, will mean that long-term retention is questionable

The letter concludes that the application could be refused on this basis.

NO CHANGE TO RECOMMENDATION