

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 25 July 2018 at 2.00 pm

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

Councillors: BA Baker, PJ Edwards, DW Greenow, JA Hyde, AW Johnson, FM Norman, AJW Powers, A Seldon and J Stone

20. APOLOGIES FOR ABSENCE

Apologies were received from Councillors CR Butler, KS Guthrie, TM James, MD Lloyd-Hayes, NE Shaw and WC Skelton.

21. NAMED SUBSTITUTES

Councillor JA Hyde substituted for Councillor CR Butler, Councillor J Stone for Councillor KS Guthrie and Councillor AW Johnson for Councillor WC Skelton.

22. DECLARATIONS OF INTEREST

Agenda item 5: 180403 – 21 The Maltings, Dormington

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

Agenda item 6 - Tump Farm Fownhope

Councillor Hardwick declared a pecuniary interest as landlord of the applicant and a close neighbour and left the meeting for the duration of this item.

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

23. CHAIRPERSON'S ANNOUNCEMENTS

The Chairperson reminded Members that following the publication of the revised National Planning Policy Framework on 24 July officers would need to update references in reports and may need to be given delegated authority to determine the granting or otherwise of planning permission at the meeting as directed by the Committee so that it could be established that any decision would not conflict with the new National Planning Policy Framework. If any conflict were discovered the relevant application would be brought back to the Committee.

24. 180403 - 21 THE MALTINGS, DORMINGTON, HEREFORD, HR1 4FA

(Retention of residential use of former converted carport for ancillary accommodation and retention of the non-material conversion works required to be reversed by enforcement notice EN2017/002562/ZZ.)

(Councillor Hardwick fulfilled the role of local ward member and accordingly had no vote on this application.)

The Planning Enforcement Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mr D Lloyd, of Dormington and Mordiford Parish Council spoke in opposition to the proposal. Mr V Heeley, a local resident, spoke in objection. Mr E Wilson, the applicant, spoke in support.

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

He made the following principal comments:

- The application was retrospective. He noted that the only planning application on the council website relating to the property was for the provision of 3 new roadside windows to the partially converted barns. The application had been refused. However, the windows had still been subsequently put in. Later the roadside barn had been converted into an annex to provide accommodation for a housekeeper. No planning application had been made but the development had subsequently been allowed by default. The local community had been sympathetic because of the applicant's personal circumstances. However, the current additional development, again without planning permission, was not welcome.
- The unauthorised development was before the Committee following the submission of a planning application made after an enforcement notice had been issued. That notice was currently held in abeyance.
- Evidence recorded over the past two years showed the obstruction and inconvenience neighbours had suffered as a result of the overdevelopment. If the development were permitted he considered the suggested parking arrangements would be almost impossible to enforce.
- He considered that the Committee could decide that the arrangement was contrary to policy SD1 because the proposed parking arrangements would be likely to mean vehicles manoeuvring across the shared driveway with a frequency that would be out of keeping and detrimental to the amenity of the existing occupiers. However, given the history of non-compliance with planning requirements another option was to decline to determine the application under section 70 c of the Town and Country Planning Act 1990 and allow enforcement action to take its course.

The legal adviser to the Committee commented that the Committee could approve the application, refuse it or decline to determine it under 70 c of the Town and Country Planning Act 1990 (as amended). If the Committee chose to determine the application and refused it, the applicant would have a right to appeal to the Secretary of State. If the Committee declined to determine the application there would be no right of appeal and the existing enforcement would have to be complied with. The only way to challenge that decision would be through a judicial review. On the available information she did not consider that there were grounds for a judicial review using section 70c of the Town and Country Planning Act (as amended).

The Lead Development Manager confirmed that if the Committee declined to determine the application enforcement action would then be taken in compliance with the current enforcement notice, the contents of which he outlined. There were no permitted development rights. It was clear that the Committee wanted enforcement action to proceed swiftly. To provide reassurance on this point, the Chairperson and local ward member would be kept informed of progress. In response to a question he commented that a recommendation for approval had been made on the basis that a parking scheme had been submitted that was acceptable to the Transportation Manager.

An observation was made that the situation involved a number of civil issues that were not material planning considerations. To determine the application would have a bearing on those non-material issues.

Councillor Edwards proposed and Councillor Greenow seconded a motion that the Committee should decline to determine the application. The motion was carried with 9 votes in favour, 1 against and 1 abstention.

RESOLVED: That the Committee decline to determine the application.

25. 174625 - TUMP FARM, FOWNHOPE, HEREFORD, HR1 4PJ

(Proposed retention of an existing caravan to be used as accommodation for a farm worker (retrospective).)

(Councillor Hardwick had declared a pecuniary interest and left the meeting for the duration of this item.)

The Enforcement Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Dr T Jones, a local resident, spoke in objection to the application.

In accordance with the Council's Constitution, Councillor WLS Bowen fulfilled the role of local ward member on this application on behalf of Councillor Hardwick.

He made the following principal comments:

- The large caravan, in reality a large mobile home, was brightly painted and in a prominent location visible across the valley, detracting from the Wye Valley Area of Outstanding Natural Beauty (WVAONB). The response from the WVAONB stated that the caravan was conspicuous from certain perspectives and should be better screened to fit into the landscape and to comply with the Fownhope Neighbourhood Development Plan (FNDP).
- Even though Fownhope Parish Council had supported the application it was contrary to the FNDP.
- The WVAONB and the FNDP both stressed the importance of effective screening a neutral paint scheme and mature trees. However, the location on the edge of a steep bank would make it difficult to screen with trees.
- The caravan could easily be resited so that it had little impact on the AONB.
- There was an empty caravan nearby in one of the barns that could be used instead when needed.
- The caravan was in effect a dwelling in the open countryside.
- The application should be refused.

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

- It was noted that the WVAONB officer had commented that the application was unlikely to have a significant detrimental impact. However, the caravan should be better screened. The Lead Development Manager clarified screening could take many forms. A member suggested a fence and planting behind it would be better than trees given the location on a bank. Another member commented on the importance of planting being carried out properly and maintained.
- The bank had an abundance of flora and fauna and should not be disturbed.
- Painting the caravan a neutral colour would be of benefit.
- There were other sites where the caravan could be located.
- There were differing views as to whether a stock man was needed on site providing justification for the application in accordance with policy RA3. Reference was made to the County Land Agent's response as set out at paragraph 4.7 of the report in support of the application.
- The caravan was highly visible.
- A number of complaints had been received.

The Lead Development Manager commented that the County Land Agent had advised that there was a need for a dwelling for a stock man. The WVAONB officer had commented that the application was unlikely to have a significant detrimental impact but the need for screening had been identified. The conditions, which he outlined, provided for screening and painting and the intention was that these would be implemented as quickly as possible. Mindful of the comments about landscaping, advice would be sought from the landscaping officer on a landscaping scheme, bearing in mind that the permission would be for three years. The proposal was an exception in accordance with paragraph 79 of the NPPF and policy RA3.

Referring to the request from the public speaker made when addressing the Committee the Chairman requested that if the application was approved mitigating action be expedited.

Councillor Bowen was given the opportunity to close the debate. He reiterated concerns about the ability to screen the caravan on the edge of the bank and whether there was a permanent need for a stock man. He remained of the view that there were better alternative locations that would avoid the need for complex screening arrangements.

Councillor Greenow proposed and Councillor Seldon seconded a motion that the application be approved in accordance with the printed recommendation. The motion was carried with 7 votes in favour, 4 against and no abstentions.

RESOLVED: That planning permission be granted subject to the following condition below and any other conditions considered necessary by officers named in the scheme of delegation to officers:

1. **F27 Agricultural occupancy**
2. **F22 Temporary permission & reinstatement of land (mobile home/caravan)**
3. **C96 Landscape scheme**
4. **C97 Landscape implementation scheme**

5. **C86 Colour of caravan**

INFORMATIVE:

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, 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.**

26. **162261 - LAND OFF ASHFIELD WAY, BROMYARD, HEREFORDSHIRE, HR7 4BF**

(Proposed site for up to 80 dwellings, garages, parking, open space and indicative road layout.)

(Councillor Seldon fulfilled the role of local ward member and accordingly had no vote on this application.)

The Lead Development Manager presented the report which did not relate to the principle of development but sought to resolve omissions in the draft heads of terms presented to the Committee when it had determined the application on 13 September 2017 and in the minutes of that meeting.

In accordance with the Council's Constitution, the local ward member, Councillor A Seldon, spoke on the application. He commented that it was unfortunate that the impression had been given to some in the local community that the principle of the development was to be reconsidered. He welcomed the proposed health contribution which he hoped would be the first of many in S106 agreements. He remarked that in part because of the development Welsh Water were now disputing the strategic housing sites it had been proposed to bring forward.

Councillor Greenow proposed and Councillor Johnson seconded a motion that the application be approved in accordance with the printed recommendation. The motion was carried with 11 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 in accordance with the amended Heads of Terms attached to the report, officers named in the Scheme of Delegation to Officers be authorised to grant outline planning permission, subject to the conditions below and any other further conditions considered necessary:

1. **A02 Time limit for submission of reserved matters (outline permission)**
2. **A03 Time limit for commencement (outline permission)**
3. **A04 Approval of reserved matters**
4. **B01 Development in accordance with the approved plans**
5. **No development shall commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The plan shall include the following details:**
 - a. **Wheel cleaning apparatus which shall be operated and maintained during construction of the development hereby approved.**
 - b. **Parking for site operatives and visitors which shall be retained and kept available during construction of the development.**

- c. A noise management plan including a scheme for the monitoring of construction noise.
- d. Details of working hours and hours for deliveries
- e. A scheme for the control of dust arising from building and site works
- f. A scheme for the management of all waste arising from the site
- g. A travel plan for employees.
- h. The agreed details of the CMP shall be implemented throughout the construction period.

Reason: In the interests of the residential amenity of properties within the locality and of highway safety in accordance with Policies SD1 and MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

6. Prior to the first occupation of any of the dwellings hereby approved a Travel Plan which contains measures and targets to promote alternative sustainable means of transport for residents and visitors with respect to the development hereby permitted shall be submitted to and be approved in writing by the Local Planning Authority. The Travel Plan shall be implemented, in accordance with the approved details, on the first occupation of the development. A detailed written record shall be kept of the measures undertaken to promote sustainable transport initiatives and a review of the Travel Plan shall be undertaken annually. All relevant documentation shall be made available for inspection by the Local Planning Authority upon reasonable request.

Reason: In order to ensure that the development is carried out in combination with a scheme aimed at promoting the use of a range of sustainable transport initiatives and to conform to the requirements of Policy MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

7. 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.

8. The proposed development site is crossed by a public sewer 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 and no operational development shall be carried out within 3 metres either side of the centreline of the public sewer.

Reason: To protect the integrity of the public sewer and avoid damage thereto protect the health and safety of existing residents and ensure no pollution of or detriment to the environment

9. The recommendations for species mitigation and habitat enhancements set out in the ecologist's reports for this application from Shropshire Wildlife Surveys be followed unless otherwise agreed in writing by the local planning authority and the scheme shall be carried out as approved. Prior to commencement of the development, an appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to inspect the site and ensure there is no impact upon protected species by clearance of the area. A species mitigation and ecological enhancement plan should be submitted to the local authority for approval and the scheme implemented as approved.

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (with amendments and as supplemented by the Countryside and Rights of Way Act 2000), the Natural Environment and Rural Communities Act 2006 and the Conservation of Habitats and Species Regulations 2010 (and 2012 amendment).

To comply Herefordshire Council's Policies LD2 Biodiversity and Geodiversity, LD3 Green Infrastructure of the Herefordshire Local Plan Core Strategy 2013 – 2031 and to meet the requirements of the National Planning Policy Framework (NPPF).

10. G03 Retention of existing trees/hedgerows
11. G10 Landscaping scheme
12. G11 Landscaping scheme - implementation
13. H06 Vehicular access construction
14. I44 No burning of materials/substances during construction phase
15. I55 Site Waste Management
16. M17 Water Efficiency - Residential
17. Prior to the commencement of development the developer shall agree in writing with the local planning authority a scheme for the delivery of the open market housing hereby approved. This scheme shall comprise a schedule outlining the number of 2, 3 and 4 (+) bed dwellings proposed at the Reserved Matters stage; the overall mix being in general accord with the Council's Local Housing Market Assessment (or any successor document, adopted for these purposes by the local planning authority).

Reason: To define the terms of the permission and to comply with Policy H3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

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. This planning permission is pursuant to a planning obligation under Section 106 of the Town and Country Planning Act 1990.
3. HN04 Private apparatus within highway
4. HN01 Mud on highway

5. **HN28 Highways Design Guide and Specification**
6. **HN25 Travel Plans**
7. **HN05 Works within the highway**
8. **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**
9. **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. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.**

27. DATE OF NEXT MEETING

The Planning Committee noted the date of the next meeting and the intention to move to a four weekly cycle of meetings.

The meeting ended at 3.50 pm

Chairman