

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 22 August 2018 at 2.00 pm

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

Councillors: BA Baker, DW Greenow, KS Guthrie, EL Holton, JA Hyde, TM James, MD Lloyd-Hayes, FM Norman, AJW Powers, A Seldon, NE Shaw, WC Skelton and SD Williams

In attendance: Councillors BA Durkin, RJ Phillips and D Summers

37. APOLOGIES FOR ABSENCE

Apologies were received from Councillors CR Butler and PJ Edwards.

38. NAMED SUBSTITUTES

Councillor EL Holton substituted for Councillor PJ Edwards and Councillor JA Hyde for Councillor CR Butler.

39. DECLARATIONS OF INTEREST

Agenda item 5: 180889 – Land adjacent Church Terrace Almeley

Councillor Lloyd-Hayes declared a non-pecuniary interest because she knew one of the applicants.

Councillor Powers declared a non-pecuniary interest because he knew a resident of an adjoining property.

Agenda item 6: Land adjoining the Chalet Fawley Kings Caple

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

40. CHAIRPERSON'S ANNOUNCEMENTS

None.

41. 180889 - LAND ADJACENT CHURCH TERRACE, ALMELEY, HEREFORDSHIRE, HR3 6LB

(Proposed erection of 2 detached dwellings with detached garages.)

(Councillor Skelton as local ward member had no vote on this application.)

The Development Manager gave a presentation on the application, consideration of which had been deferred by the Committee on 25 July, and updates/additional

representations received following the publication of the agenda were provided in the update sheet, as appended to these Minutes.

He informed the Committee that two objections had been received in response to the consultation on the Neighbourhood Development Plan (NDP) which was at Regulation 16 stage. One of the objections related to the land that was the subject of the application before the Committee. Only limited weight could be given to the NDP.

In accordance with the criteria for public speaking, Mrs E Tucker, of Almeley Parish Council spoke in opposition to the Scheme. Mr S Rogers, a local resident, spoke in objection. Mr B Eacock, the applicant's agent, spoke in support.

In accordance with the Council's Constitution, Councillor RJ Phillips, spoke on the application on behalf of the local ward member having fulfilled that role during the processing of the application

He made the following principal comments:

- The site adjoined the settlement boundary and the Committee had been made aware of the site's history.
- It was the last day of consultation on the NDP and he was aware of the objections to the provisions relating to the application site.
- A judicial review had been lodged against the Committee's decision on 27 June 2018 to grant permission for application 173699 – land at Woonton, Almeley, contrary to the emerging NDP upon which at that time the Regulation 16 consultation had commenced. Following the Committee's decision in discussion with the local MP he had been in correspondence with the Minister for Housing. The Minister had replied that from the date of publication decision takers could give weight to relevant policies in the emerging plan that could include the stage of preparation unresolved objections and consistency with other national policies. Planning guidance also set out where circumstances may justify the refusal of planning permission on grounds that an application would be premature in relation to the emerging local or neighbourhood plan. Any weight a relevant policy could carry in determining applications remained a matter for the decision maker.
- He considered that the application should be refused. The applicant could appeal and it would then be a matter for the Planning Inspector to determine the legal aspects. Because of the site's history and this legal grey area he did not consider that this would put the authority at the risk of incurring costs.

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

- Paragraph 6.8 of the report stated that the main consideration was whether any adverse impacts associated with the development would significantly outweigh the public benefits. The Parish had not achieved its minimum housing target. The proposed development of 2 houses was modest, would contribute towards that target, was sustainable and would enhance the area. A larger infill development could have been proposed. There were few objections and none from statutory consultees.
- A contrary view was that the proposal would have an adverse effect on grade 1 and grade 2 listed buildings and was in a conservation area. The application did not preserve or enhance the area. Only a development of outstanding quality could even be considered in that location.
- It was important the Committee was consistent in its decision making noting that in its meeting that morning it had refused application 180157 at Sutton St Nicholas because of the impact on a grade 2 listed building and the conservation area.

- The advice that limited weight could be given to the NDP was questioned having regard to recent case law.
- The current neglected state of the site did not justify the development.
- The applicant had sought to address the reasons for previous refusals of applications on the site.

The Lead Development Manager confirmed that the five year housing land supply figure was to be updated in September 2018. The NDP would be submitted to an examiner to review the NDP and objections to it and this would take 3-4 months. It would not therefore be appropriate to defer consideration of the application again. If the Committee did refuse the application the applicant could await the examiner's decision and either submit a new application, or appeal, depending on whether or not the examiner upheld their objection to the NDP. He reiterated that the NDP could be afforded only limited weight.

The local ward member was given the opportunity to close the debate. He commented that the concerns about the quality of design expressed by several members provided policy grounds for refusing the application.

A motion that the application be approved was lost.

Councillor Powers proposed and Councillor Seldon seconded a motion that the application be refused on the grounds that it was contrary to policies LD2 and LD4 and paragraphs 135 and 193 of the National Planning Policy Framework (NPPF) and relevant policies in the emerging NDP. The motion was carried with 8 votes in favour, 6 against and no abstentions.

RESOLVED: That planning permission be refused on the grounds that the application was contrary to policies LD2 and LD4, paragraphs 135 and 193 of the NPPF and relevant policies in the emerging NDP, and officers named in the scheme of delegation to officers be authorised to detail the reasons put forward for refusal.

(The meeting adjourned between 2.55pm and 3.00pm)

42. 174517 - LAND ADJOINING THE CHALET, FAWLEY, KINGS CAPLE, NR ROSS-ON-WYE

(Proposed erection of replacement dwelling and garage.)

(Councillor Skelton had left the meeting and was not present during consideration of this application.)

The Principal Planning Officer (PPO) gave a presentation on the application.

In accordance with the criteria for public speaking, Mr A Harvey, of Kings Caple Parish Council spoke in opposition to the Scheme. Mr P Smith, the applicant's agent, spoke in support.

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

He made the following principal comments:

- He questioned the appropriateness of the proposed provision of a replacement dwelling on a different parcel of land to that on which the current chalet was situated.
- The site history recorded that a number of previous applications had been refused including one on appeal.
- The proposal was in the Wye Valley AONB requiring particular care to be exercised.
- Having regard to the provisions of policy RA3 (3) the proposed development was not of comparable size to the dwelling it was to replace and was not within the curtilage of the existing dwelling.
- The application was infill in the open countryside some distance from the settlement boundary and contrary to the NDP. It did not meet any of the exception criteria in policy RA3.
- The Parish Council objected to the proposal.

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

- In response to questions the Lead Development Manager commented that replacing a dwelling on a different site within the curtilage was not unusual and was in accordance with policy. This was to allow for the fact that a better location could often be achieved from a planning perspective by relocating within the curtilage. In the case of this application a wayside dwelling replacing the current dwelling, which was set back from the road, would be more in keeping with the settlement pattern. The proposed S106 agreement would extinguish the use of the existing property and planning permission for the replacement dwelling would not be granted until the S106 agreement had been signed. The S106 agreement would also limit the size of the replacement dwelling to a comparably sized replacement.
- Concern was expressed that the proposal did not comply with paragraph 4.8.25 of the Core Strategy. This provided detail on the interpretation of policy RA3 (3) which addressed the replacement of an existing dwelling. The current proposal did not provide for a replacement within the existing curtilage but involved a land swap. This departed from the policy requirements and risked setting a dangerous precedent.

The PPO commented that it was acknowledged, as the report stated, that the proposal was contrary to policy. However, it was considered to be justified on the grounds that it would be of benefit to the character and appearance of the AONB. The reduced curtilage shown on the plan excluded the backland area on which the current dwelling was located and would allow that area to be reinstated to open countryside with non-domestic use.

Officers confirmed that the existing building would be removed before the new one was built and occupied.

The local ward member was given the opportunity to close the debate. He indicated that he remained concerned about the proposal, noting the conflict with policy RA3.

Councillor Seldon proposed and Councillor Greenow seconded a motion that the application be approved in accordance with the printed recommendation, with an additional condition that permitted development rights be removed. The motion was carried with 10 votes in favour, none against and 3 abstentions.

RESOLVED: That subject to the completion of a Section 106 Town & Country Planning Act 1990 officers named in the Scheme of Delegation to Officers are authorised to grant outline planning permission, subject to the conditions below and any other further conditions considered necessary by officers:

1. **C02 – Time limit for submission of reserved matters (outline permission)**

2. C03 – Time limit for commencement (outline permission)
3. C04 – Approval of reserved matters
4. C05 – Plans and particulars of reserved matters
5. C07 – Development in accordance with approved plans and materials
6. H09 Driveway gradient
7. H13 Access, turning area and parking
8. H20 Road completion in 2 years
9. H27 Parking for site operatives
10. H29 Secure covered cycle parking provision
11. Within 3 months of completion of the building works evidence (such as photos/signed Ecological Clerk of Works completion statement) of the suitably placed installation of at least ONE bat roosting enhancements (habitat boxes, tubes, tiles, bat bricks, raised weatherboarding); TWO bird nesting boxes, ONE Hedgehog House and ONE pollinating insect habitat home built in to, or attached to the new property or on land or buildings under the applicant's control, should be supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the LPA.

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

12. The dwelling hereby approved shall be limited to a gross internal floor area of 100sq metres, including all internal spaces.

Reason: In order the dwelling, which is essentially a replacement residential use, is commensurate with the lawful residential use the development replaces, in order to comply with the requirements of Herefordshire Core Strategy policy RA3, and in order to safeguard the character and appearance of the locality and one which is within an Area of Outstanding Natural Beauty and to comply with Herefordshire Core Strategy policies SS1, SS2, RA1, LD1 and SD1, The Wye Valley AONB Management Plan and National Planning Policy Framework.

13. F14 Removal of Permitted Development Rights

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. HN01 Mud on highway
3. HN04 Private apparatus within highway
4. HN10 No drainage to discharge to highway
5. HN24 Drainage other than via highway system
6. HN28 Highways Design Guide and Specification

7. **It is suggested advice should be sought from an appropriately experience ecologist or bat worker. Habitat boxes should be suitably hard wearing and durable eg Schwegler woodcrete, Greenwood habitat's 'ecostyrocete' or similar. No external lighting should illuminate any of the enhancements, surrounding woodland habitat or other boundary features beyond any existing illumination levels and all lighting on the development should support the Dark Skies initiative (DEFRA/NPPF Guidance 2013).**

43. DATE OF NEXT MEETING

The Committee noted that the date of the next meeting had been changed to the afternoon of 27 September, with site inspections on 25 September if required.

Appendix - Schedule of Updates

The meeting ended at 3.37 pm

Chairman

PLANNING COMMITTEE

Date: 22 August 2018

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

180889:	PROPOSED ERECTION OF 2 DETACHED DWELLINGS WITH DETACHED GARAGES AT LAND ADJACENT CHURCH TERRACE, ALMELEY, HEREFORDSHIRE, HR3 6LB For: Mr Mokler per Mr Bernard Eacock, 1 Fine Street, Peterchurch, Hereford, Herefordshire HR2 0SN
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ADDITIONAL REPRESENTATIONS

4 letters of support and 1 letter suggesting 1 house would be sufficient have been received since the latest report was prepared.

OFFICER COMMENTS

There will be a verbal update on the status of the NDP during the presentation.

NO CHANGE TO RECOMMENDATION AT PRESENT