

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 11 March 2020 at 10.00 am

Present: Councillor John Hardwick (chairperson)
Councillor Alan Seldon (vice-chairperson)

Councillors: Graham Andrews, Polly Andrews, Toni Fagan, Elizabeth Foxton, Bernard Hunt, Terry James, Mark Millmore, Jeremy Milln, Paul Rone, John Stone, Yolande Watson and William Wilding

In attendance: Councillor Elissa Swinglehurst

94. APOLOGIES FOR ABSENCE

Apologies were received from Councillors Paul Andrews and Johnson.

95. NAMED SUBSTITUTES

Councillor Wilding substituted for Councillor Paul Andrews.

96. DECLARATIONS OF INTEREST

Agenda item 7: 193391 – Homeleigh, Welsh Newton

Councillor Swinglehurst declared an other declarable interest because she knew one of the objectors.

Agenda item 8: Banbh Farm, Breinton

Councillor Milln declared an other declarable interest because he knew the author of the objection on behalf of the National Trust who was a former colleague.

97. MINUTES

RESOLVED: That the Minutes of the meeting held on 11 February 2020 be approved as a correct record and signed by the Chairperson.

98. CHAIRPERSON'S ANNOUNCEMENTS

The Chairperson reported that Emily Reed, Senior Planning Officer, was leaving the authority to take up a post elsewhere. He thanked her for work and wished her well for the future.

99. 193230 - LAND ADJACENT TO TREJENNA, LLANGARRON, ROSS-ON-WYE

(Proposed development of two residential dwellings including new vehicular access off the highway.)

(Councillor James was not present during the whole consideration of this application and therefore did not vote on it.)

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 S Matthews of Llangarron Parish Council, spoke in opposition to the scheme. Mr M Harding, a local resident, spoke in objection. Mr J White, the applicant's agent, spoke in support.

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

She made the following principal comments:

- The application had received representations from 30 objectors and 44 supporters. Most of the supporters did not live in Llangarron village; the objectors did.
- Llangarron was not a nucleated village. This had a bearing on the interpretation of policy RA2 as to whether proposed development was 'within or adjacent to the main built up settlement'.
- The draft NDP, whilst carrying limited weight, had not included the site within the settlement boundaries. The AECOM report which would inform the NDP had not included the site. Llangarron village was surrounded by clumps of sporadic growth. Defining these as part of the main built up settlement would destroy the character of the settlement.
- Those opposing the application considered that the site did not fall within a reasonable interpretation of 'within and adjacent to the main built up area'.
- She questioned the report at paragraph 1 which stated that the site had a degree of residential use due to the growing of fruit and vegetables, remarking on the potential conflict with policies designed to limit development in open countryside.
- The parish council objected to the application. They considered the site to be outside the main built up area and therefore policy RA3, to which the proposal was contrary, should apply. The Parish Council also argued that if it was considered the proposal was compliant with policy RA2 in principle it did not meet the requirements of that policy.
- As a parish Llangarron has met its minimum housing target, and had a 20% margin on top.
- Objectors considered the application did not contribute to, and was not essential to, the social wellbeing of the village. It was not a high quality sustainable scheme and failed to make a positive contribution to the landscape setting. It was also considered contrary to policies LD1 and SS6 by failing to conserve and enhance those environmental assets that contribute to the county's distinctiveness in particular its settlement pattern, and the design did not reflect the local character.
- The dwellings were specifically not designed as starter homes or homes for young families and therefore did not add to the housing mix locally in a way that would reflect housing need.
- The applicant had responded to some of the concerns by reducing some of the massing of the building and incorporating stone. Supporters of the application considered it represented sustainable and well designed growth for the village.

- The site was in an elevated position visible from the other side of the village. Supporters said that it would be screened when the trees were in leaf, objectors believed that there would be a significant landscape impact contrary to policy LD1.
- Initial concerns raised by the ecologist due to the proximity of the outfall fields to the Garron Brook had been mitigated by redesigning the drainage fields to achieve the required 50m buffer. However, concerns of local residents about the flooding of the Garron were well founded and it was appropriate to pay close attention to this element of the design to ensure that it was beyond a reasonable doubt that the site would not contribute to phosphate levels in the Garron and the Lower Wye SAC. It was also important to be satisfied that any properties on the site were not going to be subject to flooding from either the brook or from surface water. The Garron had flooded already this year and on occasions last year making the road impassable at the bridge. Building new dwellings where there is a risk of flooding, or where it might result in an increase of risk elsewhere would be contrary to SD3 of the core strategy.
- The site was not in the flood plain and it was stated that there was no danger of any pollution from the personal treatment packages proposed. Members could form a judgement about the landfall and proximity of the brook.
- The parish council had raised policy MT1 as a reason for refusal given the narrowness of the lane and the lack of passing places. Supporters did not feel that the cumulative impact would be severe as also maintained by the Transportation Manager. There was no realistic alternative means of travel. The roads were narrow and dangerous to cycle, there was no pedestrian refuge and the absence of a convenient bus service meant reliance on the car which was arguably not sustainable.
- There was a strong difference of opinion about the value of the hedgerow that was to be removed and whether or not the hedgerow regulations should apply. It was noted that there was a proposed scheme for planting to offset the loss. It was questioned if this was a net environmental gain. It was argued that the loss of this feature would impact on the character of the area and represent a loss of ecology contrary to policy LD2.
- In conclusion the application raised the question of the interpretation of the phrase within policy RA2 'within or adjacent to the main built up settlement', invited consideration of the risk of both fluvial and pluvial flooding, the landscape impact and impact on the local road network and balanced against that the delivery of new houses to meet the housing land supply.

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

- There appeared to be several grounds of concern. The proposal appeared to be contrary to many policies.
- Concern was expressed about the possibility of flooding.
- Established hedgerows were effective in reducing water flow. The removal of 45m of hedgerow was therefore of concern, notwithstanding the claim that there would be an ecological net gain. There should be greater emphasis on protecting the County's ecological heritage.
- There was a question as to whether the proposal complied with policy RA2 or was really development in the open countryside.
- There had been no objections from the statutory consultees.
- Settlements across the county accommodated a range of housing styles within them.

- Access to many properties in the county was via narrow lanes.
- The settlement completely lacked facilities. It was car dependent and did not represent sustainable development.
- The topography of the site meant that works would have an adverse impact on the River Wye catchment discharging materials into it.
- The Parish Council objected to the proposal.

The Development Manager commented that there were aspects of the application that were matters of judgement. Llangarron was designated as a settlement suitable for development within the Core Strategy. He was therefore cautious about advancing an argument that development in the village was inherently unsustainable. In addition there was no technical objection to the application on the grounds of flooding and surface water drainage.

The local ward member was given the opportunity to close the debate. She again highlighted the question as to whether the application site, although not an isolated dwelling, could be considered to be within and adjacent to the main built up settlement of Llangarron.

In further discussion the Development Manager acknowledged that Llangarron Parish had exceeded its minimum housing target and, although he did not consider it a strong argument, it might therefore be contended that in the context of that growth further development might have a greater adverse impact that might be unsustainable and contrary to promoting reduced car use.

Councillor Fagan proposed and Councillor Watson seconded a motion that the application be refused on the grounds that it was contrary to policies RA2, RA3, LD1, LD2, LD3, SS4, SS6 and SS7. The motion was carried with 9 votes in favour, 3 against and 1 abstention.

RESOLVED: That planning permission be refused and officers named in the Scheme of Delegation to officers be authorised to detail the conditions and reasons put forward for refusal by the committee on the grounds that the proposal was contrary to Core Strategy policies RA2, RA3, LD1, LD2, LD3, SS4, SS6 and SS7.

(The meeting adjourned between 11.02 and 11.15.)

100. 193391 - HOMELEIGH, WELSH NEWTON, MONMOUTHSHIRE, NP25 5RR

(Proposed replacement dwelling and garage.)

The Senior Planning Officer (SPO) 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 J Ward, a local resident, spoke in objection. Mrs Hawkins, the applicant, spoke in support.

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

She made the following principal comments:

- Local residents were unanimous in their objection to the proposal. The Parish Council had objected to both the original and the revised application.

- Prior to making a full application the applicant levelled the site. Hedgerows had been removed and a mature beech tree felled. She condemned this as ecological destruction in an environmentally sensitive area.
- There was no objection in principle to a replacement dwelling. However, Policy RA3 provided that replacement dwellings needed to be 'comparable in size and scale with, and located in the lawful domestic curtilage of, the existing dwelling'. The proposal was for a 'significantly larger' dwelling than the original building and located elsewhere on the plot. There had been no attempt to establish whether or not the land was lawful domestic curtilage or agricultural.
- NDP policy WNL5 provided that new housing should be accessed directly from a made up road. The stone track to the site was a footpath. The design and access statement was misleading.
- Local people accepted the principle of replacing the dilapidated, post war bungalow. They had raised a number of concerns about its removal ranging from asbestos in the structure, effluent and contamination in the surrounding soils, drainage. These had not been addressed until the publication of the schedule of updates.
- If the proposal were more suitably located within the plot it probably would not have been redirected to the Committee.
- Objectors considered the proposal was contrary to the character of the settlement. It did not respond to the local environment. It sat awkwardly on a narrow plot – shoe-horned in between two existing dwellings, almost filling the width of the plot completely. It would be possible to fit a three bedroom dwelling into the plot without it being so cramped in a manner not characteristic of the common, as outlined in paragraph 5.2.11 of the NDP. It was therefore unclear how the proposal complied with policy RA2. The walls of the proposed dwelling and garage were about 1m and 2m away from the boundaries with The Willows and Hazeldene respectively and only about 7m away from Hazeldene itself. Housing on the common tended to be offset, with a low degree of intervisibility. The location of the proposed dwelling was in a line, with a high degree of intervisibility and more urban in nature.
- The NDP also contained clear policies on building design principles: WNL4: 'all new development proposals will be required to demonstrate how they...enhance and reinforce local distinctiveness in terms of scale and mass of development;'. And 'do not disrupt the amenity of neighbouring properties or environment'... The proposal included a 2.5m high (8ft) grey brick wall along the boundary with Hazeldene. Along with the timber cladding this did little to enhance local distinctiveness.
- The crowding of Hazeldene and The Willows raised the issue of residential amenity. The report acknowledged that there was harm to the amenity of Hazeldene but did not consider it to be of sufficient weight to lead to refusal.–Loss of light, loss of privacy, overlooking and overshadowing were all material considerations. The applicant had not made a calculation of the loss of light having regard to the 25 degree rule. It was a marginal judgement as to whether the 25 degree angle necessary at a minimum for light amenity to Hazeldene could be attained. There appeared to be no calculations to show the severity of the impact or what attempts, if any, have been made to mitigate this significant and demonstrable harm.
- Good practice required that account be taken of what other light was available to the affected property. Hazeldene was surrounded by trees on three sides and the only open aspect was towards the proposed development. Any margin of error should therefore be in favour of the existing residence. On Welsh Newton Common mitigation/avoidance could easily be achieved. A large part of this section of the building was to house a car.

- The proposal represented a significant and demonstrable harm to the amenity of the neighbouring Hazeldene and the Willow contrary to one of the core principles the NPPF (paragraph 17), policy WNL4 of the NDP and policy SD1 of the core strategy.
- Impact on the residential amenity of Hazeldene was compounded by the specific circumstances of the residents. The report assumed that residents of Hazeldene could enjoy all of their property equally and this was not the case. There were two registered disabled residents in Hazeldene with varying degrees of mobility. The side garden was the only outside space that was wheelchair accessible. When unable to go out the view from inside the property would now be dominated by an 8ft high grey brick wall and a 6m high building. Whilst loss of a view was not a material consideration the loss of amenity was.
- Paragraph 64 of the NPPF stated permission should be refused for development of poor design that failed to take the opportunities available for improving the character and quality of the area and the way it functions'. The applicant had not taken that opportunity. The proposal maximised the negative impact on the neighbouring properties and was out of character for the settlement.
- Ecologically Protected Species had been recorded in close proximity to the site. It was essential that further surveys and some sort of protection was put in place. Other recent applications on the common had been required to submit full ecology, tree and dormouse surveys prior to determination.
- The comments of the Council's Tree Officer had not been addressed until the schedule of updates. The use of limestone paving slabs would also impact on the hedge roots to the north east as an impermeable surface and the close proximity of the build lines with the boundary raised concern about the root protection of what is left of the hedge. The lack of thought given to root protection zones was an omission.
- There was also tension between the proposal and the following NDP policies: WNL1 (6) Local habitats and wildlife should be preserved and enhanced by providing species rich hedgerows and tree cover; WNL1 (8) Mature and established trees should be protected and incorporated into landscaping schemes; WNL1 (12) New development must take account of known surface and sub-surface archaeology; NDP paragraph 4.3.12 Opportunities will be sought ...to create new species rich hedgerows...plant broadleaf trees... all new developments will be required to provide space for bats, owls, swift, swallow and house martin nests.
- The proposal did not fulfil the environmental dimension of sustainability described at paragraph 7 of the NPPF There were no net gains to compensate for the loss of diversity, habitat and amenity that the proposal represented Given the lack of services on Welsh Newton Common there would be a high level of car use. There would be increased use of electric light in Hazeldene. The proposal had no firm commitment to renewables.
- Contrary to paragraph 9 of the NPPF the proposal did not improve the living conditions of the neighbours in Hazeldene and the Willows.
- In conclusion, even if the presumption in favour of sustainable development was engaged there was significant and demonstrable harm in the application contrary to the NPPF local plan and NDP. It was not compliant with LD1, LD2, LD3, RA2 (1 and 3), SD1, SS6, as well as WNL1, WNL4 and WNL5 of the NDP and paragraphs 9, and 66 of the NPPF. She requested that the application be refused.

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

- The proposal could not be considered to be a replacement dwelling. It was significantly larger and not on the same footprint. It had been relocated close to the neighbouring property.
- The proposal was contrary to NDP policy WNL5 which stated that developments should be small in scale and accessed by a made up road.
- The application would also involve the removal of a very old hedgerow. It was therefore inconsistent with the Council's biodiversity action plan.
- In response to questions the SPO commented that the proposed condition prompted by the Council's Contaminated Land Officer, as set out in the schedule of updates, involving a desk top study as a first step, was a standard condition. The Tree Officer had also proposed a condition, as set out in the schedule of updates, that would address concerns about the protection of the roots of existing trees on the site.

The Development Manager added that the applicant had not carried out an assessment of the 25 degree rule in relation to the daylight enjoyed by the neighbouring property. The officer assessment was that the impact on amenity was not unacceptable. This matter could not be dealt with by a condition. If the Committee required such an assessment to be carried out consideration of the application would need to be deferred to allow that assessment to take place.

In response to concern about the proposed boundary treatment involving an 8ft high wall, the Development Manager commented that this was addressed by a landscaping condition. A condition also provided that no further hedgerow removal should take place. The landscaping condition together with the proposed tree protection plan provided control over the development.

Councillor Polly Andrews proposed and Councillor Seldon seconded a motion that the consideration of the application be deferred for further information. The motion was carried with 12 votes in favour, 1 against and 1 abstention.

RESOLVED: That consideration of the application be deferred pending receipt of further information on the need for a boundary wall as proposed, the location of the dwelling within the site, a reassessment of the impact on the amenity of the neighbouring property and the submission of a daylight/sunlight analysis be sought to consider the impacts in relation to light.

(The meeting adjourned between 12.07 pm to 12.15 pm)

101. 193578 - BANBH FARM, BREINTON, HEREFORD, HR4 7PP

(Erection of an agricultural barn together with appropriate landscaping and planting.)

The Senior Planning Officer (SPO) 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 A Powers of Breinton Parish Council spoke in opposition to the scheme. Dr J Hanks, a local resident, spoke in objection. Mr G Owen, the applicant, spoke in support.

The Chairperson reported that a letter from Councillor Hitchiner, the adjoining ward member, who had been unable to attend the meeting, had been included in the schedule

of updates. He informed the Committee that the final paragraph of that letter should be disregarded as it was not a material consideration.

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

He made the following principal comments:

- He shared the concerns of Eaton Bishop Parish Council as to the building's true purpose.
- The site did not slope gently, as described in the report, but fell away quite sharply towards the River Wye. This meant there was a risk of run-off and pollution.
- Historic England had commented that the development could have a negative impact on the setting of Eaton Camp, a scheduled ancient monument.
- The access was via narrow lanes. The proposed use would generate considerable heavy traffic destroying verges and wildlife and create risks for walkers and horse riders who currently used the lanes.
- He believed there had been more previous applications on the site than recorded in the report, including one for a home for a disabled person.
- All the previous applications listed in the report had been refused. He referred to the grounds for refusal of the applicant's most recent application, and the conclusion that it was contrary to Core Strategy policies SS1, SD1, LD1 and NDP policies B6, B7, B14 and B15.

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

- In response to a question, the SPO commented that the building would offer some ventilation and would be able to house livestock. The Development Manager added that animal welfare was subject to a control mechanism that was separate from planning considerations.
- The legal adviser reminded the Committee that it needed to consider each application on its planning merits. If any animal health concerns were to emerge that would be a matter for the relevant body to deal with under the relevant, separate, legislation.
- Weight should be given to the concerns expressed by Breinton Parish Council.
- No viable business case had been presented. One view was that the land would be overgrazed. Sheep had been lost during recent flooding. The site did not appear suitable for grazing given the likelihood of increasingly frequent flooding. A contrary view was that the building was not large. A barn could have enabled the sheep that had been lost during the flooding to be secured safely. It was grassland suitable for grazing. There were many fields in the county on the floodplain that were grazed.
- The phosphate levels in the River Wye were of concern and the proposal would contribute to those problems.
- The proposal was not sustainable. It would entail the loss of green infrastructure with large vehicles using roads that could not sustain them.
- Historic England and the National Trust had expressed concerns about the impact on the historic landscape. Great weight should be given to their comments.

The Development Manager commented that if the Committee was minded to refuse the application it would be consistent to cite the reasons for refusing the most recent

application. The impact on Eaton Camp had not previously formed a ground for refusal. Landscaping impact had.

The local ward member was given the opportunity to close the debate. He requested that if the Committee was minded to approve the application it considered a condition restricting the use of the building to a barn for cattle and sheep with associated food storage.

Councillor Milln proposed and Councillor Fagan seconded a motion that the application be refused on the grounds that the proposal was contrary to Core Strategy policies SS1, SS6, SD1, LD1, LD4 and NDP policies B6, B7, B14 and B15.

The motion was carried with 10 votes in favour, 1 against and 3 abstentions.

RESOLVED: That planning permission be refused and officers named in the Scheme of Delegation to officers be authorised to detail the conditions and reasons put forward for refusal by the committee on the grounds that the proposal was contrary to Core Strategy policies SS1, SS6, SD1, LD1, LD4 and NDP policies B6, B7, B14 and B15.

102. 194064 - LARCH HOUSE, LYDE CROSS, MUNSTONE, HEREFORD, HR1 3AD

(Proposed change of use of agricultural land to domestic use, moving the 'native species hedgerow, to the northern boundary.)

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

The Senior Planning Officer gave a presentation on the application.

In accordance with the Council's Constitution, the local ward member, Councillor Millmore, spoke on the application. He reported that there had been no objection from the Parish Council or others and there were no material objections.

Councillor Hunt proposed and Councillor Stone seconded a motion that the application be approved in accordance with the printed recommendation. The motion was carried unanimously with 13 votes in favour, none against and no abstentions.

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

1. Time limit for commencement (full permission)
2. C06 Development in accordance with the approved plans
3. Removal of permitted development rights – Class E and H only
4. No works in relation to the northern boundary treatments required by this condition shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the position, type, design and materials of any boundary treatment to be erected. The boundary treatment shall be completed before the enlarged part of the curtilage is brought into first use.

Reason: In the interests of visual amenity, to ensure the development has an acceptable standard of privacy and to conform to Policy SD1 and LD1 of the Herefordshire Local Plan – Core Strategy, Policy HS5 of the Holmer and Shelwick Neighbourhood Development Plan and the National Planning Policy Framework.

INFORMATIVE:

1. IP1

103. DATE OF NEXT MEETING

The Committee noted the date of the next meeting.

Appendix - Schedule of Updates

The meeting ended at 1.18 pm

Chairperson

PLANNING AND REGULATORY COMMITTEE

Date: 11 March 2020

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

193230 - PROPOSED DEVELOPMENT OF TWO RESIDENTIAL DWELLINGS INCLUDING NEW VEHICULAR ACCESS OFF THE HIGHWAY AT LAND ADJACENT TO TREJENNA, LLANGARRON, ROSS-ON-WYE

For: Mr Marshall per Mr Jon White, Oak House, Stockwell Lane, Aylburton Business Park, Aylburton, Lyd, GL15 6ST

ADDITIONAL REPRESENTATIONS

Since the report was published, two additional representations have been received – one objecting to and one supporting the application. The objecting representation was sent directly to Councillors. No new issues are raised with previous concerns including flooding, design, hedgerow removal and the application being assessed fairly being reiterated.

OFFICER COMMENTS

The concerns raised have been covered within the Committee report and do not require further comment

NO CHANGE TO RECOMMENDATION

193391 - PROPOSED REPLACEMENT DWELLING AND GARAGE AT HOMELEIGH, WELSH NEWTON, MONMOUTHSHIRE, NP25 5RR

For: Mr Hawkins per Mr Charles James, Clyde House, Church Walk, Viney Hill, Lydney, Gloucestershire GL15 4NY

ADDITIONAL REPRESENTATIONS

Since the report was published, one additional representation from the public has been sent to Councillors. This comments on the clearance of the site by the applicant.

Additional discussions with the Council's Contaminated Land Officer have also taken place in relation to potential contamination of the land and the storage of scrap vehicles. A precautionary condition is recommended and considered to be appropriate in this instance and this will also be able to consider other risks identified – although any evidence of asbestos in the property would be covered by other regulations and would be required to be removed in a controlled manner prior to development.

Following additional discussions with the Council's Tree Officer, a tree protection plan is recommended to protect the remaining trees along the western boundary. Those to the rear are included within a TPO relating to the common.

OFFICER COMMENTS

As stated within the Committee report at paragraph 6.32, it is noted that the site was cleared prior to the application being submitted. However, no protected trees or hedgerows were removed. While it is recognised that this action has not been received positively, no prior

approval or consent from the Local Authority was required for this work. There has been no breach of legislation in this regard.

The conditions recommended by the Contaminated Land Officer and Tree Officer will be added to the recommendation.

CHANGE TO RECOMMENDATION

On the basis of the comments received from the Council's Contaminated Land Officer and Tree Officer the following conditions are recommended in addition to those within the report:

1. 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.

2. 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 and agreed in writing 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.

3. 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.

4. Prior to the commencement of the development a tree protection plan in accordance with BS5837:2012 shall be submitted and approved in writing by the local planning

authority and thereafter implemented in accordance with the approved details for the duration of the construction phase.

Reason: To safeguard all retained trees during development works and to ensure that the development conforms with Policies LD1 and LD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

193578 - ERECTION OF AN AGRICULTURAL BARN TOGETHER WITH APPROPRIATE LANDSCAPING AND PLANTING AT BANBH FARM, BREINTON, HEREFORD, HR4 7PP

For: Mr Owen per Mr Leigh Martin, Procuero, St Owens Cross, Hereford, Herefordshire HR2 8LG

ADDITIONAL REPRESENTATIONS

The following representation was received on 8 March 2020;

“My brother and I own the land which adjoins this site on the eastern side and naturally we are interested in the outcome of this planning application. We are anxious that this field remains in agricultural use and if the applicant does what he says he will do there should be no problem for us. I would just like to point out one or two things which are stated in your report.

Firstly, there have been no cattle on this site for at least 20 years and not as stated in your paragraph 1.2.

The applicant does not own any other land close by other than this approx. 10 acres.

Visual mitigation trees.

The barn will not be visible from the south east because of the small coppice on our land. Should this read “south west”?

The eastern boundary of the site consists of an ancient hedgerow. The stock fence to the east of the hedgerow is NOT the boundary line. There is no adequate fencing on the applicant’s side of the hedge and whilst sheep have been grazing there from time to time recently, they have been able to penetrate the hedge and the only reason that they have not strayed further is because of our fence. This has resulted in the deterioration of the hedge. Strictly speaking, the ancient oak which stands in the north eastern corner is not actually on the applicant’s site as it is part of the hedgerow.

Although these comments may not be relevant to the application as a whole, it would be reassuring to know that if planning permission is granted then it would be on condition that adequate stock fencing is erected BEFORE stock is placed on the field.

Is this possible?”

In addition, the following letter has been received from Councillor David Hitchiner, the adjoining ward member.

“I regret that I will not be able to attend the planning committee on 11 March 2020 and would be grateful if you could draw the attention of the planning committee to this letter. I write as ward Councillor for Stoney Street which includes Eaton Bishop Parish Council who have objected to this planning application.

In particular, I support Eaton Bishop Parish Council's objections which are set out in their email dated 14th November 2019, those of Breinton Parish Council dated 20th November 2019 and the comments made on behalf of the Eaton Camp Historical Society dated 19th November 2019.

The application is described as for an agricultural barn to be used for the purpose of storing tools, equipment, machinery and feed supplies to support the grazing of up to 12 cattle and a small flock of sheep. The barn is stated as also to be used during the winter months to house cattle.

One has to be a little sceptical about what is really intended behind the application. Especially given the past history. Is it genuinely for the purpose of storing equipment etc and, in winter, to house cattle, and if it is, is it suitable for those purposes?"

OFFICER COMMENTS

As set out in the officer's report, the application proposes an agricultural building and therefore no change of use of the land is proposed with this application. Whilst the comment pertaining to the absence of any cattle on the site over the past 20 years is noted, it is clear that sheep have been grazing the land and that it is used for agricultural purposes. It has not been used for any other purpose and in this regard its lawful use is considered to be for agriculture

It has been clarified with the agent that the applicant owns 11.5 acres in Breinton, with the family owning a further 35 acres in Gloucestershire.

With regard to the comments made by the Landscape Officer, it is confirmed that when referencing 'visual mitigation trees' at Paragraph 4.6 of the officer's report, this should indeed be read as 'south-west' as opposed to 'south-east' as stated.

Whilst the comment with regard to the eastern boundary of the site are noted, this does not raise any new material planning considerations and it would not be relevant to planning to impose a condition requiring a stock proof fence. In any case, a landscaping condition is recommended which would address details of existing and proposed trees and hedgerow.

Noting the comments made by Councillor Hitchiner, members are advised that the application has been assessed on its own merits. The application seeks planning permission for the erection of an agricultural building on a site which is in agricultural use. Paragraph 6.10 makes reference to concerns with regards to the speculative use of the building. Any concerns about previous uses and/or future intentions are not material to the determination of the application.

NO CHANGE TO RECOMMENDATION

