

Minutes of the meeting of Planning and regulatory committee held as an online only meeting on Tuesday 12 May 2020 at 10.30 am

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

Councillors: Graham Andrews, Paul Andrews, Toni Fagan, Elizabeth Foxton, Mark Millmore, Jeremy Milln, Paul Rone and Yolande Watson

In attendance: Councillor Elissa Swinglehurst

104. APOLOGIES FOR ABSENCE

Apologies were received from Councillors Hunt, Johnson and Stone.

105. NAMED SUBSTITUTES

None.

106. DECLARATIONS OF INTEREST

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

107. MINUTES

RESOLVED: That the minutes of the meeting held on 11 March 2020 be approved as a correct record and signed by the Chairman.

108. CHAIRPERSON'S ANNOUNCEMENTS

The Chairperson confirmed that application 194408 Crumplebury Farm Whitbourne had been withdrawn from the agenda.

109. 194408 - CRUMPLEBURY FARM, WHITBOURNE, WORCESTER, WR6 5SG

This item was withdrawn from the agenda.

110. 193391 - HOMELEIGH, WELSH NEWTON, MONMOUTHSHIRE, NP25 5RR

(Proposed replacement dwelling and garage.)

The Development Manager gave a presentation on the application.

The Committee had deferred consideration of this application at its meeting on 11 March 2020.

In accordance with the criteria for public speaking for virtual meetings, Mr C Bligh, of Welsh Newton and Llanrothal Parish Council spoke in opposition to the scheme, as a virtual attendee. Mr A Hawkins, the applicant, submitted a written submission in support of the application that was read to the meeting by the legal adviser to the Committee.

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

She made the following principal comments:

- The following concerns had been raised by the Committee when it had deferred consideration of the application in March: whether or not the proposal was for a replacement dwelling or a new build, conflict with Neighbourhood Development Plan (NDP) policy WNL5, the environmental impact – particularly on hedgerows and the need to consider the impact on the residential amenity of the neighbouring properties.
- The current application did not satisfactorily address the concern about the impact on residential amenity. It was fundamentally the same building only moved so that the highest point of the building was now directly in line with the outlook from Hazeldene. The 6m high ridge line was only a few meters distant from the boundary of the neighbouring property and would be a significant change.
- There is no right to a private view and consequently it is not a material planning consideration. However, there was recent guidance and precedent supporting the right to visual amenity as part of residential amenity as a material consideration.
- The Burnthouse Farm windfarm inquiry was cited. This stated in essence that where the impact on amenity was judged to be sufficiently severe by virtue of the size, scale and proximity of a development this could be a ground for refusal.
- According to the current guidance, factors that contribute to this judgement include whether a development is 'inescapably dominant' or 'unpleasantly encroaching'.
- The part of Hazeldene that would be most severely affected is a disabled person's dwelling, and the side garden is the only outside amenity space that is wheelchair accessible from this part of the house.
- Due to the scale and proximity of the proposed development on a particularly sensitive receptor the current application failed to address the problem of residential amenity and was therefore contrary to Core Strategy policies SD1, NDP WNL4 and the core principle of the NPPF in paragraph 17.
- The revised application provided the 25 degree light calculation requested and showed that the proposed dwelling in its new location met this benchmark. However, she questioned whether relocating the building so that the highest point was now directly in line with the adjacent property was a positive response.
- She considered the revised application had made matters worse. All that was needed was the removal of the garage portion, or for it be built as a car port with a flat roof, or disaggregated and placed elsewhere on the site, or for the whole build to be moved a couple of meters to the south. Instead the build was being moved to the north. It had increased the impact on Hazeldene, emphasised the linear nature of the relationship between the three buildings and increased the conflict with the NDP.
- In assessing the impact on residential amenity consideration needed to be given to the natural light available to the affected property. Hazeldene was surrounded by trees and partially cut into the slope of the land. The French windows were the only

ones that received good natural light and therefore this elevation of the house was more sensitive to change.

- It was welcome that the high boundary wall originally proposed had been removed. However, there was now no provision for any boundary treatment at this point. She requested that removal of permitted development rights be considered both to ensure that any subsequent boundary structure was acceptable and that the building could not be extended without the need for planning permission.
- There should be more positive proposals for sustainability beyond 'aims' to be sustainable and 'perhaps' installing a heat recovery system. It was important that a firm commitment was given to the use of renewables to provide that confidence.
- She noted the pre commencement condition for a full ecology survey and emphasised the importance of this. She questioned why other recent applications on the common had been required to do a full dormouse and full ecological survey before applying for planning permission. She highlighted provisions of policy LD2.
- There was still conflict with the NDP in a number of areas: WNL1 (2) - to preserve the darkness and tranquillity of the area at night. 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, WNL4 – new development should enhance and reinforce the local distinctiveness of the area (the reason for the parish council's continued objection). The proposal was also contrary to Core Strategy policies LD1 and RA2 (1) - character and setting of the site or RA2 (3) make a positive contribution to the surrounding environment and its landscape setting.
- In the absence of a percolation test – which had been required prior to the application for the other proposal on the common – there remained a degree of concern about the ability of the site to drain effectively. She requested a pre commencement condition as to agreed drainage solutions if the site failed a percolation test.
- The application would make a modest contribution to the housing land supply (although the parish has exceeded its target) but there were costs that needed to be weighed in the planning balance.
- The parish council had objected to the application. Local people did not support it, although the principle of a development on the site was acknowledged by everyone.
- The application was overbearing, with significant and demonstrable harm to the visual amenity of Hazeldene in particular and thus in conflict with policies SD1, WNL4 and the NPPF. It had an adverse effect on the character of the settlement as described in the NDP and was in conflict with policies LD1, RA2, WNL4 and the NPPF. She requested the application be refused.

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

- It was acknowledged and welcomed that the applicant had tried to make amendments to address the concerns expressed by the Committee.
- The site was narrow and the dwelling had quite a large footprint. It was, however, compliant with the NDP policy that house sizes should be limited to a maximum of 2/3 bedrooms.
- Given the presence of an existing dwelling and permitted development rights it was questioned whether not granting permission would have a more adverse effect than approving the application.

In response to questions the Development Manager commented as follows:

- He outlined the extension to the existing dwelling that the applicant would have been allowed to make under permitted development rights. He also observed that the applicant would be permitted to build quite a large outbuilding on the site without seeking planning permission. In considering the application for the replacement dwelling the Committee could decide to remove permitted development rights to control any additional extensions or alterations.
- In terms of requiring a drainage test regard had been had to the fact that there was an existing dwelling. The applicant could improve the drainage of that dwelling under permitted development rights. The requirements that would have been applied in the case of a new dwelling had therefore not been considered appropriate. However, there was a condition requiring a pre-commencement agreement for foul and surface water drainage.
- In response to an observation that the current dwelling was called Homelea and the application referred to the proposed new dwelling as Homeleigh, he confirmed that there would only be a single dwelling on the site if the application were approved. A condition required demolition of the existing dwelling. The name given to the property was a matter for the owner.
- In relation to requiring a full ecological survey to be undertaken he referred to condition 10. Clarification could be sought from the Conservation Manager (Ecology) to ensure that this condition met the desire for such a survey to be undertaken and the condition could be amended as appropriate to ensure that was the case. The Lead Development Manager commented that the relevant councillor, the proposer of a motion to approve the application, would be consulted to ensure they were content with the proposed condition.

In conclusion, the Lead Development Manager highlighted that the Parish Council had agreed that the revised application satisfactorily addressed all issues to which it had previously raised objection except that relating to the character of the settlement and had registered an objection on that basis. He requested that the Committee take this into account. He also suggested with regard to the removal of permitted development rights that conditions should be amended as necessary to encompass control of boundary treatments.

The local ward member was given the opportunity to close the debate. She remained concerned about the impact on residential amenity of neighbouring properties, and the impact on the character of the settlement. She welcomed the proposed removal of permitted development rights.

Councillor Fagan proposed and Councillor Paul Andrews seconded a motion that the application be approved in accordance with the printed recommendation with additional conditions to remove permitted development rights and to address boundary treatments.

The motion was carried unanimously with 10 votes in favour, none against and no abstentions.

RESOLVED: that planning permission be granted subject to the following conditions, the removal of permitted development rights, and provision for control of boundary treatments:

1. **C01 Time limit for commencement (full permission)**
2. **C07 Development in accordance with approved plans and materials**

3. **C13 Samples of external materials**
4. **CE6 Efficient use of water**
5. **CBK Restriction of hours during construction**
6. **All foul water shall discharge through connection to new private foul water treatment system with final outfall to suitable soakaway drainage field on land under the applicant's control; and all surface water shall discharge to appropriate SuDS or soakaway system; unless otherwise agreed in writing by the Local Planning Authority.**

Reason: In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2019), NERC Act (2006), and Herefordshire Core Strategy (2015) policies LD2, SD3 and SD4.

7. **The detailed Bat protection, mitigation, compensation and working methods scheme, as recommended in the ecology report by europaeus land management services dated August 2019 shall be implemented and hereafter maintained in full as stated unless otherwise approved in writing by the local planning authority. No external lighting should illuminate any boundary feature, adjacent habitat or area around the approved features.**

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Habitats & Species Regulations 2017 (as amended), Policy LD2 of the Herefordshire Core Strategy, National Planning Policy Framework (2019) and NERC Act 2006.

8. **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.

9. **No boundary hedgerow shall be cut down to under 1m high, uprooted or otherwise removed in any manner during the construction phase and thereafter for 10 years from the date of first use of any element of the completed development; unless otherwise agreed in writing by the planning authority.**

Reason: To ensure that all trees, hedgerows and biodiversity features are protected having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2018)), National Planning Policy Framework (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies LD1-3.

10. **Prior to commencement of any site clearance, preparation or development, a fully detailed and specified Ecological Working Method Statement (EWMS) based on all relevant ecological surveys and including details of appointed Ecological Clerk of Works, shall be provided to the local planning authority. The EWMS should consider all relevant species, but in particular Dormice, Reptiles and Amphibians. The approved EWMS and**

Biodiversity Net Gain features shown on Plan 39-2101-F3 (September 2019) shall be implemented in full and hereafter maintained unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that all species and habitats are protected and conserved having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan - Core Strategy policies SS6, LD1, LD2 and LD3.

11. a) At no time shall any external lighting be installed on the site without the written approval of this local planning authority.
- b) No external lighting should illuminate any boundary feature, adjacent habitat or area around the approved mitigation and biodiversity enhancement features.
- c) No external lighting should illuminate any biodiversity enhancement or boundary feature.

Reason: To ensure that all species and Dark Skies are protected having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan - Core Strategy policies SS6, LD1, LD2 and LD3 and the Dark Skies initiative (DEFRA-NPPF 2013/18).

12. CAH - Driveway gradient
13. CAI -- Parking – single/shared private drives
14. CAT - Construction Management Plan
15. CB2 - Secure covered cycle parking provision
16. CBK - Restriction of hours during construction
17. CBM - Scheme of foul and surface drainage disposal
18. CA1 – Landscaping scheme
19. CA2 – Landscape maintenance plan
20. Removal of existing dwelling on the site
21. CBM – Foul and surface water strategy
22. No development shall take place until the following has been submitted to and approved in writing by the local planning authority:
 - a) a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice
 - b) if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors

c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed shall be submitted in writing. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

Reason: In the interests of human health and to accord with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

23. The Remediation Scheme, as approved pursuant to condition 20 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 and to accord with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

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

Reason: In the interests of human health and to accord with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

25. Notwithstanding the provisions of article 3(1) and Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015,(or any order revoking or re-enacting that Order with or without modification), no development which would otherwise be permitted under Classes A, B, C, D and E of Part 1 or Class A of Part 2 of Schedule 2, shall be carried out.

Reason: In order to protect the character and amenity of the locality, to maintain the amenities of adjoining property and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy, Policy WNL4 of the Welsh Newton and Llanrothal Neighbourhood Development Plan 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. The proposed development is near to a former quarry which is later described in our records as an area of unknown filled ground. Because of this the applicant may wish to consider the installation of precautionary gas protection measures/membranes.
3. I11 – Mud on highway
4. I09 – Private apparatus within the 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
9. The proposed development is near to a former quarry which is later described in our records as an area of unknown filled ground. Because of this the applicant may wish to consider the installation of precautionary gas protection measures/membranes.

111. DATE OF NEXT MEETING

Noted.

The meeting ended at 11.45 am

Chairperson