

## **Minutes of the meeting of Planning and Regulatory Committee held at Herefordshire Council Offices, Plough Lane, Hereford, HR4 0LE on Wednesday 5 June 2024 at 10.00 am**

**Present:** Councillor Terry James (chairperson)  
Councillor Clare Davies (vice-chairperson)

**Councillors:** Polly Andrews, Dave Boulter, Simeon Cole, Dave Davies, Elizabeth Foxton, Catherine Gennard, Peter Hamblin, Robert Highfield, Stef Simmons, Richard Thomas, Allan Williams and Mark Woodall

**In attendance:** Councillor Barry Durkin

**Officers:** Team Leader Area Engineer, Senior Lawyer and Development Manager Hereford and South Team

### **1. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors Bruce Baker, Jacqui Carwardine and John Stone.

### **2. NAMED SUBSTITUTES (IF ANY)**

Councillor Robert Highfield acted as a substitute for Councillor Baker.

Councillor Allan Williams acted as a substitute for Councillor Stone.

### **3. DECLARATIONS OF INTEREST**

### **4. MINUTES**

**RESOLVED:** That the minutes of the meeting held on 1 May 2024 be approved.

### **5. 233688 - LAND AT UPPER HOUSE, LYNE DOWN, HEREFORDSHIRE (Pages 9 - 10)**

The Senior Planning Officer provided a presentation on the application and the updates/representations received following the publication of the agenda, as provided in the update sheet and appended to these minutes.

In accordance with the criteria for public speaking Mr Botfield, local resident, spoke in objection to the application and Ms Dray, applicant, spoke in support.

In accordance with the council's constitution the local ward member spoke on the application. In summary, he explained that the application would result in a significant increase in car movements along a very narrow, private lane. The increase in vehicle movements would have an adverse impact upon residential amenity and highway safety and was contrary to core strategy police MT1. The vehicle movements associated with the site militated against the principle of sustainable development, contrary to the local neighbourhood development plan and core strategy police SD1. The application represented over intensification and was inappropriate within the location. The shepherds huts were out of character and were detrimental to the landscape. There was concern that the choice of willow as a screening hedge would take a long time to become established. The application would also result in

neighbouring properties being overlooked. There was considerable local concern regarding the application and there was objection to the proposal due to the inappropriate location in which it was set.

The committee debated the application, the following principal points were raised:

- The proximity of neighbours to the application site was acknowledged and concern was expressed regarding the impact of the site on local residents. As an addition to the conditions for the application it was felt that a site management plan be included to regulate the operation of the holiday lets. The plan should include: conditions relating to noise, including a prohibition on all amplified music; hours of check-in to prevent late arrival on the site; and the exclusion of hot tubs and ancillary structures from the application site.
- The effectiveness of the screening of the shepherds huts was raised and it was felt that the landscaping scheme, required by the proposed condition, should ensure the planting of substantial shrubs. The planting of larger, substantial shrubs would provide effective screening that would promptly become established.

The local ward member was given the opportunity to close the debate.

Councillor Richard Thomas proposed and Councillor Dave Davies seconded the approval of the application subject to the changes to conditions as outlined below:

- The inclusion of a condition to require the completion of a site management plan to regulate: noise, including a prohibition on all amplified music; hours of check-in to prevent late arrival on the site; and the exclusion of hot tubs and ancillary structures from the application site; and
- The inclusion in the landscaping scheme of a requirement for larger, substantial shrubs to be planted to provide screening of the shepherds huts.

The motion was put to the vote and was carried by a simple majority.

**RESOLVED: That planning permission be granted subject to: the following conditions; a condition to require the completion of a site management plan (to regulate noise, including a prohibition on all amplified music, hours of check-in, to prevent late arrival on the site and the exclusion of hot tubs and ancillary structures from the application site); the inclusion in the landscaping scheme of a requirement for larger, substantial shrubs to be planted to provide screening of the shepherds huts: 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. **The development hereby approved shall be carried out strictly in accordance with the approved plans (23\_515/sk01D; 23\_515/SK02 A; 23\_515/SK03 C; 23\_515/01 C; 23\_515/02 A; 23\_515/03 A; 23\_515/04; and the schedule of materials indicated thereon.**

**Reason: To ensure adherence to the approved plans and to protect the general character and amenities of the area in accordance with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy, Policy SD1 of the Much Marcle Neighbourhood Development Plan, and the National Planning Policy Framework**

3. **No development shall commence, including site clearance and ground works, until a**

landscape scheme, is submitted and approved in writing by the local planning authority. The scheme shall include a scaled plan identifying:

- A. All proposed planting, accompanied by a written specification setting out; species, size, quantity, density with cultivation details.
- B. All existing and proposed hardstanding and boundary treatment.

**Reason: To safeguard and enhance the character and amenity of the area in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework**

4. The shepherds huts shall be used for holiday accommodation and for no other purpose (including any other purpose in Class 3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

**Reason: The local planning authority wish to control the specific use of the land/premises, in the interest of local amenity and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework**

5. As detailed in supplied plans and reports all foul water shall discharge to new One 2 Graf Treatment Plant discharging to a drainage field and all surface water shall be managed by appropriate onsite infiltration-soakaway systems; unless otherwise agreed in writing by the Local Planning Authority.

**Reason: In order to comply with Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife & Countryside Act (1981 amended) National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, SD3, SD4 and LD2**

6. No external lighting shall be provided other than the maximum of one external LED down-lighter above or beside each external door (and below eaves height) with a Corrected Colour Temperature not exceeding 2700K and brightness under 500 lumens. Every such light shall be directed downwards with a 0 degree tilt angle and 0% upward light ratio and shall be controlled by means of a PIR sensor with a maximum over-run time of 1 minute. The Lighting shall be maintained thereafter in accordance with these details.

**Reason: To ensure that all species and local intrinsically dark landscape are protected having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the**

**Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife & Countryside Act (1981 amended); National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1-3; ; and the council's declared Climate Change and Ecological Emergency**

- 7. No amplified or other music shall be played outside the following times 10:30pm and 08:00am. There shall be no fireworks nor open fires within the application site.**

**Reason: In order to protect the amenity of occupiers of nearby properties and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

- 8. Prior to first occupation of the shepherds huts hereby approved, evidence of the suitably placed installation on the approved building, or on other land under the applicant's control, of a minimum total of FOUR bird nesting boxes and TWO Bat roosting features/boxes should be supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority. No habitat boxes should be located in Ash trees due to future effects of Ash Dieback Disease and likely loss of these trees.**

**Reason: To ensure Biodiversity Net Gain as well as species and habitats enhancement having regard to the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife and Countryside Act 1981, National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies LD1, LD2 and LD3.**

- 9. All planting, seeding or turf laying in the approved landscaping scheme shall be carried out in the first planting season following the occupation of the building or the completion of the development, whichever is the sooner. Any trees or plants which die, are removed or become severely damaged or diseased within 5 years of planting will be replaced in accordance with the approved plans.**

**Reason: To ensure implementation of the landscape scheme approved by local planning authority in order to conform with policies SS6, LD1 and LD3 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, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the**

## National Planning Policy Framework.

2. The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended), with enhanced protection for special “protected species” such as Great Crested Newts, all Bat species, Otters, Dormice, Crayfish and reptile species that are present and widespread across the County. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it advised that advice from a local professional ecology consultant is obtained.
3. Herefordshire Council would remind the operators of the units that they will need to make provision for commercial waste arrangements and should not dispose of any waste associated with the use of the shepherds huts the by using the service provided for households. Further advice can be sought from Herefordshire Council.  
<https://www.herefordshire.gov.uk/rubbish-recycling/business-waste>

*There was an adjournment at 10:45 a.m.: the meeting reconvened at 10:57 a.m.*

6. **240780 - WYESIDE PLAYING FIELDS, BELVEDERE LANE, HEREFORD, HEREFORDSHIRE, HR4 0LJ** (Pages 11 - 14)

The Senior Planning Officer gave a presentation on the application and the updates/representations received following the publication of the agenda, as provided in the update sheet and appended to these minutes.

The committee debated the application. The committee raised the need to address the potential impacts of demolition and building works in the event of heavy rainfall be included in the Construction Environmental Management Plan (CEMP) to ensure the risk of contaminated run-off from the construction site was appropriately managed.

Councillor Dave Boulter proposed and Councillor Polly Andrews seconded the approval of the application in accordance with the case officer’s recommendation. The motion was put to the vote and was carried unanimously.

**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. **The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

**Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.**

2. **Development in accordance with approved plans and materials**

**The development hereby approved shall be carried out strictly in accordance with the approved plans (drawing nos. 407.P30, 407.P31, 407.P35, 407.P02) and the schedule of materials indicated thereon.**

**Reason: To ensure adherence to the approved plans and to protect the general character and amenities of the area in accordance with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

- 3. No demolition or construction shall commence on site until a detailed Construction Environmental Management Plan – including but not limited to an ecological working method statement; and details of the person responsible for the implementation of the CEMP – has been supplied to the LPA for written approval. The measures of the approved CEMP shall be implemented prior to any development commencing on site and all construction works shall thereafter be carried out in accordance with the approved details.**

**Reason: To ensure that all species are protected and habitats enhanced having regard to the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019’ (the ‘Habitats Regulations’), Wildlife and Countryside Act 1981, National Planning Policy Framework (2021), NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1, LD2 and LD3 and the council’s declared Climate Change & Ecological Emergency.**

- 4. No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.**

**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**

#### **INFORMATIVES:**

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
- 2. The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended) and the Habitats and Species Regulations (2019 as amended), with enhanced protection for special “high status protected species” such as all Bat species, Great Crested Newts, Otters, Dormice, Crayfish and reptile species that are present and widespread across the County. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it advised that advice from a local professional ecology consultant is obtained. If any protected species or other wildlife is found or disturbed during works then all works should stop and the site made safe until professional ecology advice and any required ‘licences’ have been obtained. Any additional lighting should**

**fully respect locally dark landscapes and associated public amenity and nature conservation interests.**

**7. 240602 - BRICK HOUSE, BOSBURY, LEDBURY, HEREFORDSHIRE, HR8 1QW**

The Senior Planning Officer provided a presentation on the application.

The committee debated the application.

Councillor Stef Simmons proposed and Councillor Dave Boulter seconded the approval of the application in accordance with the case officer's recommendation. The motion was carried unanimously.

**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 C01 – Time limit for commencement (full permission)**
- 2 C06 – Development in accordance with the approved plans**

**INFORMATIVES:**

**1. Application Approved Without Amendment**

**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.**

The meeting ended at 11.09 am

**Chairperson**





**233688 - CHANGE OF USE OF AGRICULTURAL LAND TO USE FOR HOLIDAY HUTS. 2 SHEPHERD HUTS AND CREATION OF CAR PARKING AREA. AT LAND AT UPPER HOUSE, LYNE DOWN, HEREFORDSHIRE,**

**For: Mr & Ms Judd & Dray per Mr Derrick Whittaker, 1 Farjeon Close, Ledbury, Herefordshire, HR8 2FU**

### **ADDITIONAL REPRESENTATIONS**

Two further representations have been received:

1. I wish to express my serious concerns in your report and information contained within. Your submissions are riddled with inaccuracies, errors and poor processes. The Highways submissions are lacking in detail and professionalism it comes across that no one has done their job properly or consistently. I am so concerned with you and your colleagues submitted reports I feel you should stop the planned committee meeting and write to them expressing that your information is flawed, if you do and it goes ahead with planning granted I will demand a Judicial Review.”- **Mr T Newbrook 03 June 2024 [Email]**
2. We raised concerns over the application with the Parish Council and made representations in objection. At the Parish council meeting this application was discussed at length and the applicants were advised that permission would be required for use of the access. The Parish Council expressed their apologies that they were limited in the support they could provide but would recommend that the access be properly considered. Subsequently the representation from the Parish Council was made conditional on the access being properly considered. When it became clear to the applicants that ourselves and our neighbours at the White House would not support the application and that the Parish Councils support was conditional on proper consideration of the access, the applicants amended the application by changing the outline plan so it no longer included the access. This was supported by a statement from the agent claiming that the access was ‘an unadopted public road’. It is clear from the area definitive map that the access is not a public road and has no public rights.

The evidence and timeline of the alteration to the application would strongly suggest that removing the access from the application against an obviously false statement which cannot be supported by public record is a deliberate attempt to manipulate the planning process and mislead the planning officer. The application site is an Island surrounded by private property, the ownership of which is not disputed by anyone including the applicants. No public right of way crosses this private property, and no permission has been given for its use in conjunction with this application.

It would appear that the planning officer has been duped into proceeding with an application that has not been properly presented and does not respect the rights of the landowners.

I would also bring to your attention a serious error in the planning officer’s report which states the access to be ‘some 4 meters wide’. The access is 1.8 meters wide at its narrowest point and little more than 2.4 meters wide at its widest. You need only view it on google street view to confirm this point which will also become clear during the site visit on the 4<sup>th</sup> June. The determination regarding visibility splays at the exit of our driveway onto

the public road has also not been properly considered. This will become very much apparent to those who visit the site.”- **Mr M Botfield 02 June 2024 [Email]**

## **OFFICER COMMENTS**

For the avoidance of doubt the reference to a gravity fed system was in connection with the existing arrangement for the Septic Tank. The proposal would be to replace this with a pumped system discharging into a drainage field through a Package Treatment Plant.

In response to further concerns expressed following the publishing of the report, it is confirmed that the proposed access road has been measured on site. At its widest it is 4.2 metres and at its narrowest it is 2.8 metres

## **CHANGE TO RECOMMENDATION**

### Additional Informative

Herefordshire Council would remind the operators of the units that they will need to make provision for commercial waste arrangements and should not dispose of any waste associated with the use of the shepherds huts the by using the service provided for households. Further advice can be sought from Herefordshire Council. <https://www.herefordshire.gov.uk/rubbish-recycling/business-waste>

**240780 - PROPOSED REPLACEMENT CHANGING ROOMS AND ASSOCIATED FACILITIES. AT WYESIDE PLAYING FIELDS, BELVEDERE LANE, HEREFORD, HEREFORDSHIRE, HR4 0LJ**

**For: Mr Saer per Mr Russell Pryce, Unit 5, Westwood Industrial Estate, Ewyas Harold, Hereford, Herefordshire HR2 0EL**

## **ADDITIONAL REPRESENTATIONS**

2 further representations have been received which are set out below

### **Principal Building Conservation Officer:**

#### ***'Policy and Documents***

*The Planning (Listed Buildings and Conservation Areas) Act 1990*

*Historic England – Historic Environment Good Practise Advice in Planning – Note 3 The setting of Heritage Assets.*

*Historic England – Historic Environment Good Practise Advice in Planning – Note 2 Managing Significance in Decision-Taking in the Historic Environment.*

*National Planning Policy Framework*

*Herefordshire Local Plan Core Strategy 2011 – 2031 – Policies LD1, LD4*

*The site lies within the Central Conservation Area, with the proposal being for the proposed replacement of changing rooms and associated facilities.*

*The building to be demolished is relatively modern, and representative of its function and as such there is no objection to its demolition.*

*In terms of the replacement building the design echoes the existing building to be retained maintaining the roof height and pitch and materials.*

*The proposal would need to be assessed against Section 72 of The Planning ( Listed Buildings and Conservation Areas) Act 1990, which places a duty on Local Planning Authorities in the exercise of their duties to preserve or enhance the character or appearance of a conservation area. This statutory duty is repeated in Herefordshire Local Plan Core Strategy 2011 – 2031 including; policies SS6, LD1 and LD4.*

*Given that there is an existing building of relatively modern construction which is to be replaced, it is considered that the proposal would preserve the character or appearance of a conservation area. The change of materials from white upvc cladding to box profile composite sheet is welcomed, however I would request a condition in term of the colour*

*With that condition in terms of materials I would therefore raise no objections to the proposal on built heritage terms.'*

### **Natural England Comments:**

#### **NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED**

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of River Wye Catchment SAC <https://designatedsites.naturalengland.org.uk/>.

- damage or destroy the interest features for which River Wye Catchment SSSI (including schemes impacting on the linked River Lugg SSSI) Site of Special Scientific Interest have been notified.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required:

- An Ecological Protection and Construction Environmental Management Plan We advise therefore that an appropriate planning condition or obligation is attached to any planning permission to secure these measures. Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

### **Internationally and nationally designated sites**

The application site is within the catchment of the River Wye Special Area of Conservation (SAC) which is a European designated site, and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended), the 'Habitats Regulations'. The SAC is notified at a national level as the River Wye Site of Scientific Interest (SSSI) Please see the subsequent sections of this letter for our advice relating to SSSI features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have<sup>1</sup>. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given.

### **Further advice on mitigation**

The proposed development is within 50m of the boundary of the River Wye SAC (SSSI). The works include demolition of an existing sports pavilion/changing rooms and the erection of upgraded replacement facilities. As no significant new or additional nutrient pathways are identified this effect has been 'screened out' by your authority from requiring any further detailed consideration.

Due to the proximity to the River Wye the demolition and construction processes have the potential to affect the Habitats and Species associated with the River Wye SAC. These effects can be ecological (eg directly on species) or through wider environmental effects such as noise, vibration, dust and general run-off of pollutant and contaminants in to local surface water flows that connect to the River Wye.

With an Ecological Protection and Construction Environmental Management Plan secured by condition no unmitigated effects on the River Wye SAC (SSSI) are identified from the proposed development.

No demolition or construction shall commence on site until a detailed Construction Environmental Management Plan, including but not limited to an ecological working method

statement; and details of the person responsible for the implementation of the CEMP has been supplied to the LPA for written approval. The measures of the approved CEMP shall be implemented prior to any development commencing on site and all construction works shall thereafter be carried out in accordance with the approved details.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

**Other advice**

Natural England's advice on this planning application is limited to the Habitats Regulations Assessment. The Local Authority should satisfy itself that there are no other impacts on the natural environment, and reconsult Natural England if necessary. Further general advice on consideration of protected species and other natural environment issues is provided at Annex A.

Should the proposal change, please consult us again.

For any further consultations on your plan, please contact: [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk)

**CHANGE TO RECOMMENDATION**

Having received the No Objection comment from Natural England, the recommendation can now be changed to one of Conditional Approval

