

**MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 27 August 2014 at 10.00 am**

**Present:** Councillor PGH Cutter (Chairman)  
Councillor PA Andrews (Vice Chairman)

Councillors: AJM Blackshaw, AN Bridges, BA Durkin, PJ Edwards, DW Greenow, KS Guthrie, J Hardwick, JW Hope MBE, MAF Hubbard, MD Lloyd-Hayes, RI Matthews, PJ McCaull, NP Nenadich, FM Norman, J Norris and TL Widdows

**In attendance:** Councillor JG Jarvis

**46. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors EMK Chave, JG Lester, RL Mayo, and DB Wilcox.

**47. NAMED SUBSTITUTES**

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillor MD Lloyd-Hayes attended the meeting as a substitute member for Councillor EMK Chave and Councillor NP Nenadich substituted for Councillor DB Wilcox.

**48. DECLARATIONS OF INTEREST**

**Agenda item 7: P140953/F Homme Farm, Hom Green, Ross-on-Wye, HR9 7TF**

Councillors PGH Cutter, BA Durkin and J Hardwick declared non-pecuniary interests as members of the Wye Valley AONB Joint Advisory Committee. Councillor J Hardwick also declared that he knew the applicant.

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

**Agenda item 8: P140963/O Land at 144 Aylestone Hill, and land to the east of Aylestone Hill, Hereford**

Councillor DW Greenow declared a pecuniary interest because he had rented the land and had grazing dealings with Herefordshire Nature Trust. He left the meeting during consideration of this item.

Councillor NP Nenadich declared a non-pecuniary interest because he chaired the United in the Community Trust which had an interest in using Aylestone Park for a training and playing facility.

**Agenda item 11: P140164/F Truffles, 46 High Street, Ross-on-Wye, Herefordshire**

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

**49. MINUTES**

**RESOLVED: That the Minutes of the meeting held on 6 August be approved as a correct record and signed by the Chairman.**

**50. CHAIRMAN'S ANNOUNCEMENTS**

The Chairman welcomed Councillor PJ McCaull as a new member of the Committee.

**51. APPEALS**

It was noted that an application refused by the Committee had been allowed on appeal and costs awarded against the Council. It was requested that where this occurred more detail was provided to the Committee on the Planning Inspector's reasoning to inform future decision making.

The Development Manager commented that in the case of the application referred to the Planning Inspector had concluded that the grounds the Committee had advanced for refusal were not sustainable.

The Planning Committee noted the report.

**52. P140953/F HOMME FARM, HOM GREEN, ROSS-ON-WYE, HR9 7TF**

*(Variation of Conditions 1(A), 1(C), 1(D) and 2 of DCSE2008/0996/F)*

The Legal Officer informed the Committee that within the 24 hours prior to the meeting the Secretary of State for Communities and Local Government had issued an article 25 holding direction. This meant that the Committee could not take a final decision on the application before it. Any decision would be subject to the authorisation of the Secretary of State. However, the Committee could consider the matter and officers now recommended that authority be delegated to officers to approve the application in accordance with the Case Officer's recommendation, subject to the Secretary of State providing authorisation and removing the holding direction.

She added that no detailed reasons had been provided for why the holding direction had been issued. The letter had stated that the direction had been issued to enable the Department to have a further period in which to consider the proposal.

The Principal 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. She emphasised the proposal did not fall within the scope of the Environmental Impact Assessment Regulations. The application was for the modification of the extant permission. It did not require consideration of the entire scheme, only the variation itself. The principle of such development at this particular site, being within the Wye Valley Area of Outstanding Natural Beauty, was established.

In accordance with the criteria for public speaking, Mrs V Morgan (Campaign to Protect Rural England) spoke in objection to the application. Mr E Drummond, the applicant spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor JG Jarvis, the local ward member, spoke on the application indicating his support.

He commented on a number of issues including:

- Planning Permission had already been granted for the use of Polytunnels on the site, following a legal challenge. The Committee was therefore only being asked to consider the removal of certain conditions and the effect of their removal.
- The application proposed that a smaller, fixed, area should be allocated for cultivation. This would save both the Council and the applicant time and money.
- The business, which generated up to £20m for the economy of Ross-on-Wye and the surrounding area, needed significant investment and therefore the applicant required certainty, with removal of the current time limit on the development.
- Many organisations including the AONB Officer, Natural England and Walford Parish Council supported the application considering that there were benefits and the application represented an improvement on the current situation.
- The applicant had been an exemplar and been responsive to feedback from neighbours.

The debate opened and the following principal points were made:

- Concern was expressed about granting permanent permission for the polytunnels noting that the site was within the AONB. It was suggested that a Planning Inspector had recently allowed an appeal permitting the use of polytunnels on another site within the Wye Valley AONB on the basis that the permission was for a temporary period of ten years.
- Policies LA1 and LA2 and paragraphs 115 and 116 of the National Planning Policy Framework (NPPF) referred to the weight that should be given to conserving landscape and scenic beauty in the AONB and the need for major development in designated areas to be in the public interest. The ten year temporary permission, granted in 2008, should remain temporary and be reviewed in 10 years time (2018). The long term conservation of the landscape was important.
- It was proposed that condition 1 D (the ten year time limit on the current permission) should not be removed and that the permission should remain temporary until 2018 pending approval of the Core Strategy. To grant a permanent permission at this stage in advance of establishing an overarching policy ran the risk of creating an anomaly and a precedent.
- In response to questions the Legal Officer accepted that such planning decisions may be used in evidence at appeals. Once the Core Strategy was in place planning decisions would be determined on the basis of that Strategy. Decisions taken prior to the Strategy being approved would not be changed by the Strategy's adoption.
- The reduction in the area covered by polytunnels was to be welcomed.
- The safer working conditions the new production techniques entailed were to be welcomed.
- Agriculture and tourism were both important parts of the County's economy. The application would benefit the local economy and would not be detrimental to tourism.
- The AONB was an outstanding landscape but agriculture could be accommodated within it on appropriate sites.

- The applicant had a proven track record of complying with planning conditions. He had indicated that he would provide further screen planting and develop mature hedgerows which was to be welcomed.

The local ward member was given the opportunity to close the debate. He reiterated his support for the Scheme. He again highlighted the economic benefit of the Scheme which he did not consider had an adverse impact on tourism.

The Development Manager commented on the benefits of the Scheme in terms of a reduced area of cultivation in a static location. He noted that neither the Building Conservation Officer nor the Landscape Consultant had objected to the Scheme. The officers' conclusion as set out in the report was that it was reasonable in this instance to remove the condition that made the permission temporary until 2018. He considered that the level of financial investment required meant that retaining the temporary permission to 2018 could be challengeable. If the Committee wished to consider a temporary permission he suggested that a further temporary permission of ten years should be granted.

A motion that condition 1(D) (the year time limit on the current permission) be removed was lost.

**RESOLVED:** That the Planning Committee was minded to grant planning permission on removal of the Article 25 Direction of the Secretary of State and, subject to that removal, officers named in the scheme of delegation be authorised to grant planning permission subject to the following conditions and any other conditions considered necessary including any amendments thereto:

1. This permission effectively updates and supersedes the previous permission under reference DCSE2008/0996/F [081040/F], which approval however continues to subsist in principle. The development shall henceforth from the date of this permission take place only in accordance with that permission as it is updated by the proposals and recommendations in this variation. For the avoidance of doubt, the approved plans and details are now as follows, which supersede all other operational plans:
  - i. Fig 00 site plan 'Application Boundaries' (DLA Ltd March 2014);
  - ii. Fig. A – Site detail overview (DLA Ltd 2014);
  - iii. Fig 1 'Stable Field' detail;
  - iv. Fig 2 'Front Orchard Field' detail;
  - v. Fig 3 'Dillo Field' detail;
  - vi. Fig 4 'Barn Field' detail;
  - vii. Fig 5 'Balls, House and Punjab Fields' detail;
  - viii. Fig 6 'Callow Front Drive Field' detail (Figs 1-6 DLA Ltd all dated Nov 2013)
  - ix. Landscape mitigation proposals described in the Landscape and Visual Impact Assessment Statement [Reference DLA1419LVIA/rpt.1/Aug '12 (updated January 2014]
  - x. Biodiversity enhancement mitigation proposals described in the Ecology and Nature Conservation report [Reference DLA1419/Eco/Phase 1/rpt.1/June '12]

Items xi, xii, and xiii below formed part of the approved plans under DCSE2008/0996/F and shall continue to be adhered to:

- xi. Landscape and Visual Assessment received 14th April 2008
- xii. Surface Water Mitigation and Management Report prepared by JDIH Envireau and received by the Local Planning Authority, dated

June 2007, addendum dated 1 April 2008, and Supplementary Report dated 26 June 2008

- xiii. Ecological Appraisal Ref 1226/ecorpt-1 dated 27 July 2007 and Ref 1226/2ecorpt-2 dated June 2008 prepared by Davies Light Associates

The development shall be carried out in accordance with the above approved plans and details subject to the following stipulations:-

- a) Not more than 48.5 hectares of the land shall be covered with polytunnels, or any part or parts thereof excepting the legs, at any time, for which purposes any uncovered hoops in a row shall be measured from the first to the last to be included in this coverage.
- b) There shall be no polytunnels sited within the applicant's farm-holding other than within the areas of land identified and outlined in red on Fig 00 'Application Boundaries' (DLA Ltd March 2014) unless a specific planning permission has been granted.
- c) Notwithstanding the submitted application there shall be a limit of 10 hectares on the coverage in any single block of polytunnels.

Reason: For the avoidance of doubt; to ensure a satisfactory form of development in order to safeguard and maintain the visual amenity of the area; and to ensure that the development conforms with Policies DR1, LA2, LA5, LA6 and HBA4 and the requirements of the National Planning Policy Framework.

2. Within 6 months of the date of this permission a scheme for additional landscaping, biodiversity and silt/surface water management enhancement shall be submitted to and approved in writing by the local planning authority. The scheme shall supplement the schemes previously approved and relate to the change from rotational to static sites, shall contribute to a 'whole farm plan' approach, and shall include in particular:
  - a) A brief summary update of the measures implemented to date since 2008 and listing any outstanding items or works-in-progress;
  - b) A brief assessment of the existing planting/seeding scheme in terms of implementation and success, followed by further planting and screening improvement proposals, to include a proportion of standard and orchard fruit trees of appropriate native species, with an aim to consolidate and strengthen the existing scheme where necessary, in light of the permanent and static nature of polytunnel coverage hereby permitted;
  - c) A brief assessment of the existing biodiversity enhancement measures in terms of implementation and success, followed by proposals for further measures to support wildlife and create or enhance habitats with a reference to Biodiversity Action Plan priorities and the recommendations in the submitted 'Ecology and Nature Conservation' report (DLA Ltd June 2012).
  - d) A brief assessment of existing silt and run-off management measures in terms of implementation and success, followed by further measures where necessary, to improve diffuse pollution prevention, in light of the permanent and static nature of polytunnel coverage;
  - e) Method statement and Management Plan for implementation, maintenance and after-care of the revised scheme, including time-

scales, provision for periodic review, and the replacement of any failed planting or seeding.

The scheme shall be implemented as approved and maintained in conjunction with the previously approved schemes for the life of the development.

Reason: In order to secure further effective measures for landscaping, biodiversity enhancement and pollution prevention, to safeguard and maintain the visual amenity and heritage of the area and to ensure that the development conforms with Herefordshire Unitary Development Plan Policies S2, DR1, DR4, DR11, LA2, LA5, LA6, HBA4 4, NC1, NC6, NC7, NC8, NC8 and NC9, and the requirements of the National Planning Policy Framework in its entirety with particular reference to sections 10, 11 and 12.

3. No polytunnels shall be sited within 2 metres of the centre line of any public right of way.

Reason: To ensure that no public right of way is obstructed and to ensure that their enjoyment is safeguarded in accordance with policy T6 of the Herefordshire Unitary Development Plan 2007 and the requirements of the National Planning Policy Framework.

4. No polytunnel shall be sited within 30 metres of the boundary of any residential curtilage of any dwelling house unless otherwise agreed in writing with the Local Planning Authority.

Reason: To safeguard the amenities of the occupiers of dwelling houses in the immediate vicinity in accordance with policy DR1 of the Herefordshire Unitary Development Plan 2007 and the requirements of the National Planning Policy Framework.

5. None of the polytunnels hereby permitted shall be covered with polythene from 30th November until 31st December in any calendar year nor during the month of January in any calendar year, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the visual impact of the development hereby permitted is limited to the growing periods in accordance with policy LA1 of the Herefordshire Unitary Development Plan 2007 and the requirements of the National Planning Policy Framework.

6. The previously-approved Landscape Management Plan (including long term design objectives, management responsibilities and maintenance schedules for all landscape areas other than privately owned domestic gardens) shall continue to be implemented as approved, in conjunction with the additional measures require by condition 2 above.

Reason: In order to maintain the visual amenity of the area and to comply with Policy LA6 of Herefordshire Unitary Development Plan and the requirements of the National Planning Policy Framework.

7. All existing trees and hedgerows upon the land shall be retained unless otherwise agreed in writing by the Local Planning Authority.

**Reason: To ensure that the development hereby permitted is satisfactorily integrated into the landscape in accordance with policy LA2 of the Herefordshire Unitary Development Plan 2007.**

- 8. The previously-approved Habitat Enhancement and Management Scheme overseen by an appropriately qualified and experienced ecological clerk of works (based on the recommendations for habitats and protected species set out in the Ecological Appraisal received 3.04.2008 - Ref: 1226/ecorpt-1 and received 27th June 2008 - Ref: 1226/ecorpt-2 prepared by Davies Light Associates) shall continue to be implemented as approved in conjunction with the additional measures require by condition 2 above.**

**Reason: To ensure the protection of all species covered under the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats, & c.) Regulations 1994 (as amended), the Badger Act 1992 and policies NC1, NC5, NC6 and NC7 of the Herefordshire Unitary Development Plan 2007 and the requirements of the National Planning Policy Framework: To ensure that the law is not breached with regard to nesting birds which are protected under the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) and policies NC1, NC5, NC6 and NC7 of the Herefordshire Unitary Development Plan 2007: To comply with Herefordshire council's Unitary Development Plan policies NC8 and NC9 in relation to Nature Conservation and Biodiversity and Geological Conservation and the NERC Act 2006 and the requirements of the National Planning Policy Framework.**

- 9. There shall be no variation to the design or appearance of any polytunnel without the prior written approval of the Local Planning Authority.**

**Reason: In order to safeguard and maintain the visual amenity of the area and to ensure that the development conforms with Policies DR1, LA1, LA2, LA5, LA6 and HBA4 and the requirements of the National Planning Policy Framework.**

- 10. There shall be no polytunnels sited on land lower than 35.0m AOD, as indicated upon Figure 3 'Flood Elevations' The Homme Supplementary Report dated 26/06/08.**

**Reason: To maintain the conveyance of flood flows and to prevent the increased risk of flooding elsewhere to ensure that the development complies with Policy DR4 and the requirements of the National Planning Policy Framework.**

- 11. There shall be no new buildings, structures (including polytunnels, gates, walls and fences) or raised ground levels within 8 metres of the top of bank of the River Wye (Main River), inside or along the boundary of the site, unless agreed otherwise in writing by the Local Planning Authority.**

**Reason: To maintain access to the watercourse for maintenance or improvements in accordance with Policy DR4 and the requirements of the National Planning Policy Framework.**

- 12. Surface Water generated from the site shall be limited to the equivalent Greenfield run-off rate, and continue to be managed as approved, in conjunction with any additional measures submitted under condition 2 and in accordance with the following:**

- Drainage Appraisal [JDIH (Water & Environment) Ltd June 2007]; addendum dated 1 April 2008, Supplementary Report dated 26 June 2008;
- Updated Flood Risk Assessment October 2012, Water Resources Risk Assessment June 2012 and update letter dated 12<sup>th</sup> March 2014 [Envireau Water]
- The previously-approved Surface Water Regulation scheme, including the use of sustainable drainage systems (SuDS).

**Reason:** To minimise flood risk, optimise water resource use and to protect the River Wye SSSI/SAC, in accordance with Herefordshire Unitary Development Plan Policies S2, DR4, DR7, NC, NC3 and the requirements of the National Planning Policy Framework with particular reference to sections 10 and 11.

13. In the event of the polytunnels hereby permitted becoming redundant for the growing of soft fruit upon the application site, the polytunnels which including the supporting structures shall be permanently removed from application site within a period of twelve months.

**Reason:** To ensure that buildings / structures that are redundant for agricultural purposes do not remain in the landscape unnecessarily.

#### **INFORMATIVES:**

1. It is hereby confirmed that the requirements of conditions 6, 7, 9 and 14 of planning permission reference DCSE2008/0996/F have been met in full and formally discharged prior to the application for a variation under Section 73 of the Town and Country Planning Act 1990 (as amended). This new permission updates and varies the previous conditions. The 2008 permission continues to subsist and the various schemes approved under it shall continue to be implemented as approved except where altered or superseded by this variation. Where relevant and appropriate, these factors have been incorporated into the above new set of conditions, which takes account of instances where all requirements are complete and where additional terms are imposed in light of the variation.
2. The local planning authority has acted positively and proactively in determining this application by identifying technical matters of concern which might affect the determination process and likely outcome, by negotiating and discussing these with the applicant and appointed consultant, and reaching agreement as to correct procedure and any minor amendments found necessary. As a result, the local planning authority has been able to grant planning permission for an acceptable proposal in light of the terms of the previous permission granted in 2008 and in accordance with the presumption in favour of sustainable development as set out within the National Planning Policy Framework.

(The meeting adjourned between 11.15 am and 11.25 am.)

*(The order of the agenda was varied and agenda item 10 was taken next followed by agenda item 9 and then agenda item 8.)*



**53. P140963/O LAND AT 144 AYLESTONE HILL, AND LAND TO THE EAST OF AYLESTONE HILL, HEREFORD, HR1 1JJ**

*(Site for the development of up to 135 homes (including 46 affordable homes), public open space, new access (including demolition of 144 Aylestone Hill). Structural landscaping, sustainable drainage including balancing ponds and infrastructure and associated works.)*

*(Councillor DW Greenow left the meeting for the duration of this item.)*

The Principal 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 J O'Donnell, a resident, presented a statement on behalf of Herefordshire Nature Trust. Mr B Stephenson, the applicant's agent spoke in support of the application.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor N Nenadich, one of the two local ward members, spoke on the application. He commented on a number of issues including:

- He supported the application although his fellow ward member had reservations about it.
- The applicant had provided reports that addressed his initial concerns and with regard to some of the environmental issues the scheme could provide betterment.
- The scheme included much needed provision for 2 bed bungalows.
- The size of the development was significant but the developer proposed to provide green space and an acceptable distance between properties.
- The City needed additional housing to generate economic growth.
- The site had an historical value and the development would have some adverse impact but on balance he considered it had merit.

The debate opened and the following principal points were made:

- Attention was drawn to the detailed comments of the Conservation Manager (Landscape) and their view that planning permission should be refused. The Conservation Manager had expressed concern about the reliance placed on vegetation in the longer-term for screening in order to mitigate adverse visual (and landscape) effects.
- The site was a sensitive location on the City boundary. The City Council had sought to protect the open aspect to the Lugg meadows.
- The Scheme had no regard to the sustainable building code and the need to reduce energy bills.
- The size of the development was of concern. The area would be compromised by the development.

- One Member noted that the statutory consultees had no objection to the proposal. Another highlighted, in contrast, the reservations expressed by local bodies and the Conservation Manager (Landscape).
- It was requested that wildlife corridors be protected.
- Clarification was sought on the arrangements for the maintenance of the frontage to the Lugg Meadows. The Principal Planning Officer drew attention to the provisions in paragraph 6 of the draft heads of terms appended to the report. Some Members expressed concern about the robustness of these provisions. The Development Manager commented that it would be problematic to seek to go beyond standard statutory provisions.
- A development of the size proposed could not be wholly screened by landscaping works.
- The site would not have been considered for development if it had not been for the absence of a 5 year housing land supply.
- The Conservation Manager had stated in the section on internal council advice set out in the report that the proposal would be contrary to saved UDP policies LA2, LA3, S7 and DR1. The Campaign to Protect Rural England had also suggested grounds for refusal including policy E15.
- The negative impacts significantly outweighed the benefits in this case.
- The Development Manager commented that Members had been advised in a recent training session, that in the absence of a five year housing land supply they would need to take some difficult decisions. The Council would make no headway in providing the necessary housing development if it did not permit applications such as the one before it. Weight should be given to the representations submitted by national bodies. The development would not be wholly screened but there would be sensitive landscaping and protection of green corridors. Removing existing septic tanks, which currently ultimately overflowed into the Lugg Rea, would offer betterment. He supported the Case Officer's conclusion together with the S106 contributions.

The local ward member was given the opportunity to close the debate. He supported the need for housing development and infrastructure to provide growth.

Having regard to the issues raised in debate, the NPPF, and the significant landscape impact set out by the Conservation Manager in the report it was suggested that the following reasons would form a basis for refusal of the application: LA2, LA3, S7 and DR1.

**RESOLVED: That planning permission be refused on the grounds set out below and officers named in the scheme of delegation be authorised to finalise the drafting of the reasons for refusal for publication: LA2 - landscape character and areas least resilient to change, LA3 - setting of settlements, S7 – Natural and historic heritage and DR1 – Design.**

#### **Informative**

**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 and by identifying matters of concern with the proposal and clearly setting these out in the reasons for refusal. Furthermore, Members of the planning committee which took the decision to refuse planning permission have been asked to consider whether there are opportunities to amend the development to address this harm. Where a potential way forward has been identified, this has been communicated to the Applicant. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.**

**54. P140164/O LAND TO THE REAR OF PARADISE MEADOWS, MARDEN, HEREFORDSHIRE, HR1 3EN**

*(Site for the erection of 16 nos dwellings.)*

The Principal 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, Mr A Fraser of Marden Parish Council spoke in support/opposition to the Scheme. Mr R Collins, a resident, spoke in objection.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, the local ward member, Councillor KS Guthrie spoke on the application.

She commented on a number of issues including:

- In principle she supported development in the area in question. However, this should have regard to the wishes of the local community. The proposed development of 16 dwellings was inappropriate for the area. A currently undetermined application for the development of five bungalows on the site for older / disabled people would be more acceptable.
- There were concerns about the access to the site, the potential effect on an historic bridge and provision for parking. The access road was also susceptible to flooding.
- Surface water run-off from the development which might contribute to flooding within other villages in the locality needed to be properly managed.
- The indicative plan suggested that some existing properties would be overlooked.
- Consideration should be given to a more appropriate form of development with a better layout that would be more in keeping with the character of the village of Marden and had regard to the concerns raised by Marden Parish Council and others who had made representations.

The debate opened and the following principal points were made:

- The proposed development would be built over a public right of way. It was noted that a solution to this had not yet been provided. The Principal Planning Officer commented that the matter had been raised with the Public Rights of Way (PROW) team but an application for a footpath diversion could not be made until the layout of the site was finalised. The PROW team would have to address the matter in due course.
- The issue of safe pedestrian access to Marden village remained unresolved.

- The Development Manager commented that the application was for outline planning permission with all matters reserved. He noted that Welsh Water had made no objection regarding drainage. A suitable scheme regarding surface water drainage would need to be brought forward.
- It was requested that at the detailed design stage consideration should be given to ensuring suitable building code levels.
- The site had potential for development, however, good layout and design was essential.
- There was a concern that a number of matters remained to be clarified and that officers should progress their resolution in consultation with the Chairman.

The Development Manager considered that there was scope to improve the scheme considerably. He suggested that if permission were granted a note should be attached to the permission advising the applicants of the Committee's view that improvement was required at the detailed design stage.

The local ward member was given the opportunity to close the debate. She welcomed the assurance that consideration would be given to the concerns that had been raised.

**RESOLVED: That subject to the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement in accordance with the Heads of Terms stated in the report, 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 in consultation with the Chairman:**

1. **A02 Time limit for submission of reserved matters (outline permission)**
2. **A03 Time limit for commencement (outline permission)**
3. **A04 Approval of reserved matters**
4. **A05 Plans and particulars of reserved matters**
5. **C01 Samples of external materials**
6. **L01 Foul/surface water drainage**
7. **L02 No surface water to connect to public system**
8. **L03 No drainage run-off to public system**
9. **I20 Scheme of surface water drainage**
10. **The recommendations set out in Section 6 the ecologist's report from Focus Ecology dated December 2013 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a habitat protection and enhancement scheme should be submitted to, and be approved in writing by, the local planning authority, and the scheme shall be implemented as approved.**

**An appropriately qualified and experienced ecological clerk of works**

should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.

**Reasons:**

To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6 and NC7 of Herefordshire Unitary Development Plan.

To comply with Herefordshire Council's Policy NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of the NPPF and the NERC Act 2006

11. CAZ Parking for Site Operatives
12. CBK Restriction of hours during construction
13. C88 Retention of trees and hedgerows
14. C90 Protection of trees / hedgerows
15. C97 Landscaping Scheme – implementation
16. CAL Access, turning area and parking
17. CB1 – Public rights of way  
CB2 Covered and secure cycle parking provision

**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. I08 Section 278 Agreement
3. I07 Section 38 Agreement and Drainage Details
4. I06 Public rights of way affected
5. I45 Works within the highway
6. The indicative layout plan submitted with the application is not considered acceptable in relation to the surrounding built environment. In addition the subsequent submission of Reserved Matters should also include single storey dwellings which are considered to be a key feature of the character of the village.

**55. P140926/O LAND TO THE SOUTH OF A438, PARCEL NO. 0008 AND PART PARCEL NO. 2308, BARTESTREE, HEREFORDSHIRE**

*(Outline proposal for the erection of 60 dwellings (including 21 affordable houses) and a change of use of land to form community open space.)*

The Principal 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 W Soilleaux, Chair of Bartestree and Lugwardine Parish Council spoke in opposition to the Scheme. Mr J Snowdon, a resident, spoke in objection. Mr B Eacock, the Applicant's agent spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, the local ward member, Councillor DW Greenow, spoke on the application.

He commented on a number of issues including:

- In his presentation the Principal Planning Officer had indicated the number of current applications for housing development within Bartestree and Lugwardine. The amount of proposed development was unsustainable.
- Officers acknowledged in the update issued to the Committee that "the development would fundamentally alter the character of this part of the settlement."
- The proposed development was close to Grade 11 listed building and would remove an area of parkland in the heart of a rural village.
- The development would represent over half of the planned growth for Bartestree and Lugwardine within the lifetime of the emerging Hereford Local Plan to 2031.
- A substantial amount of mature hedgerow would be removed which it would take a considerable time to replace.
- The proposed footpath did not reach to the village shop discouraging pedestrians from using the store and raising concern about pedestrian safety. This was not sustainable development.
- The Parish Council was working hard to develop a Neighbourhood Plan. A number of sites had been identified where small pockets of development could be accommodated within the village and where the new residents would be able to participate in village life.
- The development would not be countenanced if it were not for the absence of a five year housing land supply.
- There were a number of grounds for refusing the application including: the impact on landscape character and heritage assets, and pedestrian safety.

The debate opened and the following principal points were made:

- It was important that local communities determined their future. The views of the Parish Council and the local ward member in opposing the scheme should be given weight.

- The absence of a five year supply of housing land was placing pressure on the Committee to grant permission for development where in other circumstances it would not approve development.
- Officers had acknowledged that the development would fundamentally alter the character of this rural village. There were alternative sites within the village where small developments that were in keeping with the village's character could be accommodated.
- The site had been identified for housing within the Strategic Housing Land Availability Assessment. However, the landscape value of the site was high and the effect on the setting and open space, including unregistered parkland, was significant.
- The scheme would have a substantial adverse impact on listed buildings and trees. If the scheme did proceed it was requested that action be taken to preserve the trees.
- It was also requested that the developer should provide a better quality of housing than was being proposed. This was particularly important in the context of the harm to the landscape and setting of nearby listed buildings.
- The proposed scheme was a large development.
- Concern was expressed about the cumulative effect on the village given the number of current applications for housing development in the area.
- The application for outline permission should be supported noting that work was available in the City and nearby Market Towns and that the applicant had offered to gift public open space. Consideration could be given to the detail at a later stage.
- In response to questions the Principal Planning Officer commented that the western parcel of land had been identified by the Parish Council for development as a playing field but the Council had been unable to purchase the land. The developer had agreed to gift two acres for community open space. Very little weight could be given to policy RST 4 – safeguarding existing recreational open space, as the planning permission for change of use of the land had expired. In terms of the density of the development, the Strategic Housing Land Availability Assessment had identified the site had the capacity for 110 homes rather than the up to 60 proposed. In terms of infrastructure there were no medical facilities in the village, but the NHS had not objected to the proposal. The primary school was full and the site did not permit expansion. However, it was to be noted that Planning Inspectors generally did not refuse applications on the grounds of school capacity. Negotiations were continuing on an S106 contribution. In terms of the cumulative impact of applications for development within the locality each application would have to be determined on its merits. The Hagley Court parkland was privately owned and not open to the public but it was crossed by Public Rights of Way. There was a footway from the development towards the local shop, the only gap in the footway being the 2metre strip fronting the entrance to the shop.
- The Conservation Manager (Landscape) had submitted detailed comments in objecting to the scheme to which the Committee should have regard.

Having regard to the issues raised in debate and the NPPF, the following reasons for refusing the application were advanced: policies S1, S2, DR1, LA2, LA3, LA4, and HBA4 with LA5 as potentially a further reason.

The Development Manager commented that the Committee would be faced with a number of similar applications for housing developments of a similar size across the County given the absence of a 5 year housing land supply. The evidence was that Planning Inspectors were allowing appeals where authorities could not demonstrate that there was a supply of housing land. Development had been permitted for this reason even where there was protected landscape including in Areas of Outstanding Natural Beauty. The officers' view as set out in the report was that the harm identified did not outweigh the benefits and was not significant enough to warrant a recommendation for refusal.

The Legal Officer commented that if the Committee was minded to refuse the application it needed to confirm its reasons. A number had been advanced relating in particular to the sustainability of the development and the harm to landscape character as reflected in the response by the Conservation Manager (Landscape) as set out in the report. The Committee needed to consider whether the harm significantly and demonstrably outweighed the benefits of the Scheme.

The local ward member was given the opportunity to close the debate. He commented that the harm done by the scheme did significantly and demonstrably outweigh the benefits and he supported the grounds for refusal that had been advanced.

**RESOLVED: That planning permission be refused on the grounds set out below and officers named in the scheme of delegation be authorised to finalise the drafting of the reasons for refusal for publication: S1 – Sustainable Development, S2 – development requirements, DR1 - design, LA2 - landscape character and areas least resilient to change, LA3 - setting of settlements, LA4 – protection of historic parks and gardens, and HBA4 – setting of listed buildings.**

#### **Informative**

**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 and by identifying matters of concern with the proposal and clearly setting these out in the reasons for refusal. Furthermore, Members of the planning committee which took the decision to refuse planning permission have been asked to consider whether there are opportunities to amend the development to address this harm. Where a potential way forward has been identified, this has been communicated to the Applicant. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.**

**56. P140164/F TRUFFLES, 46 HIGH STREET, ROSS-ON-WYE, HEREFORDSHIRE, HR9 5HG**

*(Proposed change of use from A1 use to mixed A1 & A3 use.)*

The Development Manager gave a presentation on the application.

**RESOLVED: That planning permission be granted subject to the following conditions:**

**1 A01 Time limit for commencement (full permission)**



- 2** The use hereby permitted shall not be open to customers outside the hours of 7am-11pm on any day.

**Reason:** To ensure that the occupiers of dwellings in this mixed residential and commercial area do not suffer an undue level of night-time noise, in accordance with Policies DR2 and DR13 of the Herefordshire Unitary Development Plan 2007.

**Informative:**

- 1** The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

**57. DATE OF NEXT MEETING**

The Planning Committee noted the date of the next meeting.

**Appendix 1 - Schedule of Updates**

The meeting ended at 2.10 pm

**CHAIRMAN**



# **PLANNING COMMITTEE**

**Date: 27 August 2014**

## **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

**P140953/F - VARIATION OF CONDITIONS 1(A), 1(C), 1(D) AND 2 OF DCSE2008/0996/F AT HOMME FARM, HOM GREEN, ROSS-ON-WYE, HR9 7TF**

**For: Mr Drummond per Mr Antony Aspbury, Unit 20, Park Lane Business Centre, Park Lane, Basford, Nottingham, NG6 0DW**

### ADDITIONAL REPRESENTATIONS

A letter from Ms V Morgan, Westfield House, Bulls Hill, Walford, Ross-on-Wye, HR9 5RH to Jesse Norman MP has been forwarded to the Council. The letter questions the Council's formal Screening Opinion as to whether or not this application should be subject to Environmental Impact Assessment (EIA). The letter is not addressed to the Council, and is not a formal challenge to the Screening Opinion. The letter quotes part of the published committee report and asks Mr Norman to take (unspecified) action.

### OFFICER COMMENTS

This topic is addressed in paragraphs 1.6 and 1.7 of the committee report, and takes account of legal advice from 2008, 2012, and 2014. Court of Appeal decisions have established that these polytunnels are not EIA development, and the Council's opinion was that the proposed variations do not fall within the scope of the Regulations in terms of the original application and the nature of the current proposal.

### NO CHANGE TO RECOMMENDATION

**P140963/O - SITE FOR THE DEVELOPMENT OF UP TO 135 HOMES (INCLUDING 46 AFFORDABLE HOMES), PUBLIC OPEN SPACE, NEW ACCESS (INCLUDING DEMOLITION OF 144 AYLESTONE HILL) STRUCTURAL LANDSCAPING, SUSTAINABLE DRAINAGE INCLUDING BALANCING PONDS AND INFRASTRUCTURE AND ASSOCIATED WORKS. AT LAND AT 144 AYLESTONE HILL, AND LAND TO THE EAST OF AYLESTONE HILL, HEREFORD, HR1 1JJ**

**For: Bovis Homes Limited per Mr Ben Stephenson, Greyfriars House, Greyfriars Road, Cardiff, CF10 3AL**

### ADDITIONAL REPRESENTATIONS

**Report paragraph 6.44:** The sustainable transport contribution is **£146,282** as per the draft Heads of Terms not the £256,280 as per the report. This reduction reflects the fact that the Aylestone Hill cycle lane is being delivered by central government 'Destination Hereford' funding and not via the Local Transport Plan.

**Report paragraph 6.44:** The request for an indoor sports facility contribution cannot be evidenced and the request, as per the heads of terms, is removed.

**Condition 25:** The Reason associated with condition 25 is omitted from the report. It should read as follows:

*Reason: To ensure that effective drainage facilities are provided for the proposed development, and that no adverse impact occurs to the environment or the existing public sewerage system so as to comply with Policy CF2 of Herefordshire Unitary Development Plan.*

#### **Planning History**

HC960231 - Erection of agricultural workers' dwelling: Refused 30.9.96

#### **NO CHANGE TO RECOMMENDATION**

**P140926/O - OUTLINE PROPOSAL FOR THE ERECTION OF 60 DWELLINGS (INCLUDING 21 AFFORDABLE HOUSES) AND A CHANGE OF USE OF LAND TO FORM COMMUNITY OPEN SPACE AT LAND TO THE SOUTH OF A438, PARCEL NO. 0008 AND PART PARCEL NO.2308, BARTESTREE, HEREFORDSHIRE,**

**For: INCA 2013 Ltd, per Mr Bernard Eacock, 1 Fine Street, Peterchurch, Herefordshire, HR2 0SN**

#### **ADDITIONAL REPRESENTATIONS**

**The Parish Council's comments in response to the amended layout, access and site frontage proposals are set out below:**

*"The Parish Council noted that the major change to the original application is to the footpaths and frontage. The implications for the natural environment and rural setting are serious and major.*

*In order to construct the footpath a large section of mature hedging would have to be removed. Whilst new hedging may be re-planted, this would not protect the natural environment nor add to the existing natural character and rural feel within the village. The Parish Council noted and agreed the Senior Conservation Officer's observation that the removal of the hedging will ruin the rural aspect of Hagley Court and Hagley House. It would take many years for any replacement hedging to establish. It is considered that the proposed footpath creates a more suburban setting rather than rural.*

*It is noted that the footpath does not have right of way across the drive of Hagley Court, whose owners have refused permission. It is unclear whether the footpath has right of way as far as the shop and pedestrian crossing.*

*The access point to the west is badly situated, as it is only 20m from Hagley Orchard and will cause great inconvenience to residents travelling from there and trying to turn right onto the busy A438.*

*The Parish Council also noted that when the applicants first presented their proposed application, they said that they wished to work with the community and present a full picture of their scheme. Since then the matter has drifted on and this is still an outline application dealing with the frontage and access of the proposed development. Therefore, whilst the applicants did engage in a consultation, they have to date taken no notice of the public's view. Their original commitment to retain the natural hedgerow has been abandoned, as has any detailed description of the intended development.*

*All of the Parish Council's previous objections stand and the application and amended application are not supported."*

### **Neighbourhood Plan Progress Update**

The Parish Council also confirm that a whole Group Parish questionnaire has been completed and subjected to data analysis. A draft plan is being prepared and will be completed by the end of November 2014.

**Three further letters of representation have been received.** These all refer to the indicative layout and proposed removal of the roadside hedgerow and the adverse impact on wildlife. Further comment is made in relation to the urbanising effect that the development will have on the village and the lack of infrastructure to support large-scale development.

### **Education Contribution**

The report identifies that the Education contribution has not been agreed on the basis that approximately half of pupils on the role at the Lugwardine Academy live outside the catchment area. Negotiations will continue in this respect.

### **OFFICER COMMENTS**

Officers acknowledge that the development would fundamentally alter the character of this part of the settlement, extending south of the A438 to the foreground of the listed buildings and the parkland to Hagley Court. As per the officer report to Committee, however, these impacts must be weighed against the benefits of the proposal in the context of a lack of housing land supply.

The recommendation that outline planning permission is granted is contingent on the completion of a S106 agreement. This will require further negotiation with the developer in relation to the education contribution. The recommendation gives officers delegated authority to undertake this negotiation on the basis that the Chairman and local ward member will be kept informed.

Although the draft Neighbourhood Plan is intended for completion by end of November 2014, it will then be subject to 6 weeks public consultation and a period of review in relation to representations received. Following this, the Council will then publish the final plan for a further 6 week consultation period. During this period, the 'final' plan becomes a material consideration for decision-taking purposes. In this case, therefore, the Neighbourhood Plan will not be a material consideration for the purposes of decision-taking until Spring 2015 at the earliest.

### **NO CHANGE TO RECOMMENDATION**