

MINUTES of the meeting of Planning Committee held at Council Chamber, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Wednesday 3 February 2016 at 10.00 am

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

Councillors: BA Baker, CR Butler, PJ Edwards, DW Greenow, KS Guthrie, EL Holton, JA Hyde, TM James, JLV Kenyon, FM Norman, AJW Powers, WC Skelton, D Summers, EJ Swinglehurst and LC Tawn

In attendance: Councillors H Bramer, DG Harlow and J Stone

137. APOLOGIES FOR ABSENCE

Apologies were received from Councillor A Seldon.

138. NAMED SUBSTITUTES

Councillor D Summers substituted for Councillor A Seldon.

139. DECLARATIONS OF INTEREST

There were no declarations of interest.

140. MINUTES

RESOLVED: That the Minutes of the meeting held on 13 January 2016 be approved as a correct record and signed by the Chairman.

141. CHAIRMAN'S ANNOUNCEMENTS

There were no announcements.

142. APPEALS

The Planning Committee noted the report.

143. 153511 - LAND ADJACENT TO THE B4222, LEA, ROSS-ON -WYE, HEREFORDSHIRE,

(Proposed outline consent (including details of access) for the erection of up to 38 dwellings.)

The Principal Planning Officer gave a presentation on the application. He noted that the Committee had previously refused two applications for the same proposal. The applicant, having lodged an appeal against the original refusal of the application, had now made a further resubmission of the same proposal. Since the consideration of the original application the Council had adopted the Core Strategy and the resubmission of the application had to be considered in that new context.

In accordance with the criteria for public speaking, Mr P Fountain, of Lea Parish Council spoke on the application. He commented that the Parish Council did not support the application. However, on the basis of officer advice that an appeal could not be successfully defended and the Council would incur costs, the Parish Council would reluctantly recommend approval subject to a number of conditions as set out in its response at paragraph 5.1 of the report. Mr S Banner, Chairman of Lea Action Group, spoke in objection. Mr M Askew, the applicant's agent, spoke in support.

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

He made the following principal comments:

- Officers had advised him that the grounds advanced by the Committee for refusing the previous applications could not be defended at appeal.
- The Parish Council reluctantly accepted the proposal, subject to conditions set out at paragraph 5.1 of the report.
- If the Parish Council's requests were met this would help to mitigate the impact of the proposal.

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

- The officer advice that the grounds for refusing the previous applications could not be defended at appeal was acknowledged.
- There was support for the conditions advanced by the Parish Council.
- It was regrettable that the Committee appeared to be unable to respond to the Parish Council's clear reservations about the proposal and the concerns that it would represent overdevelopment.
- Concern was expressed that the issue of ensuring financial support was in place for the ongoing maintenance of public open space in the case of this and other applications remained unresolved.
- Tree planting as part of the landscaping proposals would be helpful in reducing flooding.
- It would also be helpful if works provided for in an S106 agreement were undertaken prior to the completion of a development and its occupation.
- This was another example of a situation where the wishes of the Parish Council were being overridden, in part because of the delay in advancing neighbourhood plans. One year into the life of the Core Strategy the minimum housing allocations for a number of areas were already being exceeded. The implication of this was that other areas would be able to accept less development than had been planned because the overall target for the Parish would have been met by overdevelopment elsewhere.

The local ward member was given the opportunity to close the debate. He reiterated the importance of the Parish Council's conditions being met. He also requested that consideration be given at the reserved matters stage to the provision of bungalows to meet local housing need.

The Development Manager commented that the S106 agreement would provide a number of benefits including highway improvements. Surveys to address the flooding issues were being progressed and approval of the application would assist in ensuring that the necessary finance to support measures to address the flooding was secured. The scheme would still provide six affordable dwellings. The request that single storey

dwellings be considered would be added to the grant of permission as an informative together with the Parish Council's requirement for community consultation prior to the submission of reserved matters.

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:

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. B01 Development in accordance with approved plans
5. C01 Samples of external materials
6. The development shall include no more than 38 dwellings and no dwelling shall be more than two storeys high.

Reason: To define the terms of the permission and to conform to Herefordshire Unitary Development Plan Policies S1, DR1, H13 and the National Planning Policy Framework.

7. H03 Visibility splays
8. H06 Vehicular access construction
9. H09 Driveway gradient
10. H11 Parking - estate development (more than one house)
11. H17 Junction improvement/off site works
12. H18 On site roads - submission of details
13. H19 On site roads - phasing
14. H20 Road completion in 2 years
15. H21 Wheel washing
16. H27 Parking for site operatives
17. H29 Secure covered cycle parking provision
18. H30 Travel plans
19. L01 Foul/surface water drainage
20. L02 No surface water to connect to public system
21. L04 Comprehensive & Integrated draining of site
22. G04 Protection of trees/hedgerows that are to be retained
23. G10 Landscaping scheme
24. G11 Landscaping scheme - implementation
25. K4 Nature Conservation - Implementation
26. 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. 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 ensure that the proposed development will not cause pollution to controlled waters or the wider environment.

27. The Remediation Scheme, as approved pursuant to condition no. (26) 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 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 ensure that the proposed development will not cause pollution to controlled waters or the wider environment.

28. 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 ensure that the proposed development will not cause pollution to controlled waters or the wider 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. HN10 No drainage to discharge to highway
3. HN08 Section 38 Agreement & Drainage details
4. HN07 Section 278 Agreement
5. HN04 Private apparatus within highway
6. HN28 Highways Design Guide and Specification

7. **HN27 Annual travel Plan Reviews**
8. **HN25 Travel Plans**
9. **N11A Wildlife and Countryside Act 1981 (as amended) - Birds**
10. **The assessment required by condition 26 of this permission is required to be undertaken in accordance with good practice guidance should be carried out by a suitably competent person as defined within the National Planning Policy Framework 2012. All investigations of potentially contaminated sites to undertake asbestos sampling and analysis as a matter of routine and this should be included with any submission.**
- 11 **Some of the development should be single storey.**
- 12 **Community consultation should be undertaken prior to the submission of a reserved matters application.**

144. 153240 - LAND AT OLD HOLLOWAY, LITTLE BIRCH, HEREFORDSHIRE

(Proposed detached passivhaus design, self-build, single-storey dwelling.)

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

In accordance with the criteria for public speaking, Mr M Leigh, a local resident, spoke in objection. Mr G Mikurkic, the applicant, spoke in support.

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

He made the following principal comments:

- A large proportion of the village had expressed strong opinions about the application. There were 9 letters in support with 15 letters of objection. He therefore thought that the application warranted consideration by the Committee.
- Whilst building was needed in rural areas, noting in particular the shortage of affordable housing, there was a question as to whether Aconbury was a suitable location for development given the lack of facilities.
- He acknowledged that the Core Strategy did list Aconbury as a settlement. Aconbury would have to accept some development even though there was a dislike of change. However, there was concern that approval of the application would set a precedent for further development.
- The access was difficult, some 50m down a Byway Open to All Traffic (BOAT) on a steep gradient with modest visibility to the east.

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

- The proposed development was modest, not obtrusive and would fit in with the local area. It would provide accommodation for a family that lived and worked in the area. It was in accordance with policy RA2.
- Regarding the access, anyone could use the BOAT. It had also previously served as an access to a rifle club. It would, however, be important for the Council to be mindful of the need to ensure that the BOAT was maintained to cope with the increased use.

- The development was sustainable and as a Passivhaus development it had regard to environmental considerations including energy efficiency and low running costs.

The local ward member was given the opportunity to close the debate. He expressed the hope that the fact that the matter had been debated in public by the Committee would enable the various opinions within the community to be reconciled.

The Development Manager commented that whilst officers would not previously have supported development in this type of location, the Core Strategy identified a number of small settlements where applications of this type would now be supported. The development represented organic growth.

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

1. **A01 - Time limit for commencement (full permission)**
2. **B02 - Development in accordance with approved plans and materials**
3. **F08 - No conversion of garage to habitable accommodation**
4. **F14 - Removal of permitted development rights**
5. **C01 - Samples of external materials**
6. **G01 - Earthworks**
7. **G02 - Retention of trees and hedgerows**
8. **G11 - Landscaping scheme – implementation**
9. **C14 - Landscape management plan**
10. **Within six months of the first occupation of the dwellinghouse hereby permitted, evidence of Passivhaus certification received from the Passivhaus Institute in Darmstadt shall be submitted to the Local Planning authority by an accredited Passivhaus assessor.**

Reason: The sustainability credentials of the dwellinghouse were given considerable weight in the decision of the Local Planning Authority to grant planning permission for the development and to accord with Policy SD1 and SS6 of the Herefordshire Local Plan – Core Strategy.

11. **CE6 - Water use**
12. **I33 - External lighting**
13. **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 Policy LD2 of Herefordshire Local Plan – Core Strategy and the NPPF.

To comply with Policy LD2 of the Herefordshire Local Plan – Core Strategy in relation to Nature Conservation and Biodiversity and to meet the requirements of the NPPF and the NERC Act 2006

14. **H03 - Visibility splays**
15. **H09 - Driveway gradient**
16. **H05 - Access gates**
17. **H13 - Access, turning area and parking**
18. **H29 - Covered and secure cycle parking provision**
19. **H27 - Parking for site operatives**
20. **I16 - Restriction of hours of construction**

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. I11 - HN01 Mud on highway
3. 109 - HN04 Private apparatus within highway
4. I45 - HN05 Works within the highway
5. I05 - HN10 No drainage to discharge to highway
6. I47 - HN24 Drainage other than via highway system
7. I35 - HN28 Highways Design Guide and Specification

145. 152559 - LAND TO THE SOUTH EAST OF STANLEY BANK FARM, KIMBOLTON, LEOMINSTER, HEREFORDSHIRE

(Proposed conversion of a dutch barn to provide a dwelling with annexed holiday accommodation.)

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. He reported that one additional letter of support had been received.

In accordance with the criteria for public speaking, Mr W Mears, of Kimbolton Parish Council spoke in support of the Scheme. Mr M Duggan, the applicant's son, spoke in support.

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

He made the following principal comments:

- The application was a modest and well designed proposal. It would contribute to the housing growth expected in the Parish in accordance with the Core Strategy and to tourism in accordance with policy E4.
- The Parish Council supported the proposal. There were 26 letters of support and no letters of objection.
- There were no objections from the internal consultees with the exception of the Conservation Manager (Historic Buildings). The local ward member cited a publication by the Leominster Historical Society which suggested, contrary to that officer's view, that there was historic merit in the barn in question. The proposed conversion of the barn was sympathetic.
- The proposal was sustainable in accordance with policy RA2, being less than 10 minutes walk from the centre of the village.
- The applicant's family had resided in Kimbolton for generations and was part of the local community. In addition to providing accommodation for the family, the proposal would increase the security of the current farming enterprise.

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

- The Parish Council supported the proposal and there were also letters of support from local residents.
- The application met a local need and preserved the barn.

- The officer's recommendation that the application should be refused might be a strictly correct interpretation of the letter of the relevant policies but it was not pragmatic.
- Some Members considered the proposal complied with policies RA2 and RA4. Others questioned whether the proposal was in fact a conversion of a building and whether it was therefore in accordance with policy RA5, and also expressed doubt as to whether it was intended to provide key workers' accommodation and was therefore in accordance with policy RA4.

The local ward member was given the opportunity to close the debate. He reiterated his support for the application.

The legal representative confirmed the legal definition of a building and that the barn fell within that description.

The Development Manager commented that the proposal created structures outside the fabric of the building and was not a conversion. It was not adjacent to the main settlement of Kimbolton and therefore did not comply with policy RA2. Policies RA3 and RA5 were relevant. No case had been made in the application to there being an agricultural need for the proposed dwelling. The proposal had to be considered as an application for development in the open countryside of one holiday unit and one dwelling for family use only.

RESOLVED: That officers named in the Scheme of Delegation to officers be authorised to grant planning permission subject to conditions considered necessary.

146. 153174 - THE THREE HORSESHOES INN, LITTLE COWARNE, HEREFORD, HR7 4RQ

(Proposed new single storey dwelling and detached garage.)

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 Whittall, the applicant, spoke in support of the application.

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

He made the following principal comments:

- The purpose of the proposal was to allow the applicants' son to move into the public house and run the business with the applicants moving to the new dwelling but continuing to assist with the management of the premises supporting the existing service provision. The alternative was for the applicants to sell the business.
- The public house was a focal point for residents and local community groups. There was local support for the application and concern about any threat to the viability of the public house.
- He considered the proposal did comply with policy RA2 which listed Pencombe as a settlement. This could be considered to encompass Little Cowarne which was not specifically mentioned.
- The site was not in open countryside but was close to the church and formed the centre of the settlement.

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

- Little Cowarne was not listed as a settlement under policy RA2 and the application was therefore not in accordance with that policy.
- The proposal benefitted the family and the local community.
- Whilst not in accordance with policy it could be argued that the business was fulfilling an essential need for the public.
- It was suggested that a condition should be imposed tying the proposed new dwelling to the public house.

The Development Manager commented that the applicants had made a case for the application. Policy RA2 did not apply. However, it could be argued that policies RA3 and RA4 could be considered relevant. However, there was already sufficient living accommodation at the premises for a live-in manager meaning policy RA3 was not applicable. Policy RA4 provided approval for such proposals might be considered acceptable where the proposal sustained an existing functional need. A condition could be imposed tying the proposed new dwelling to the public house.

The local ward member was given the opportunity to close the debate. He reiterated his view that there was justification for the development.

RESOLVED: That officers named in the Scheme of Delegation to officers be authorised to grant planning permission subject to a condition tying the proposed new dwelling to the public house and any other conditions considered necessary.

147. 153000 - UNIT 3, 109-111 BELMONT ROAD, HEREFORD, HEREFORDSHIRE, HR2 7JR

(Variation of condition 7 of planning permission cw2002/3803/f and condition 1 of planning permission cw2003/3853/f)

The Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mr M Jones, a local resident, spoke in objection to the application. Mr A Salariya, the applicant's agent, spoke in support.

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

He commented that the local residents already had to endure considerable late night noise emanating from the premises car park. The proposal would cause additional detriment to the residential amenity of the area. He did not believe that the conditions being proposed to mitigate the nuisance would be enforceable.

In the Committee's discussion of the application there was support for the views of the local ward member that the application should be refused on the grounds that it would be detrimental to the residential amenity of adjoining residential property.

The Development Manager commented that Environmental Health and Licensing Officers had assessed the noise level and did not consider that it was a statutory nuisance. It was therefore a planning matter. However, residential amenity was a slightly lesser test and a material consideration. He considered that the proposed conditions could be enforced provided the right mechanisms were put in place. A 12ft wall was already in place and it would be inappropriate and detrimental to the neighbouring properties to increase the height with a further attenuation fence.

The local ward member was given the opportunity to close the debate. He had no additional comments.

RESOLVED: That planning permission be refused and that officers named in the Scheme of Delegation to Officers be authorised to finalise the drafting of the reasons for refusal for publication, based on the Committee's view that the application should be refused because it was detrimental to the residential amenity of adjoining residential property.

148. DATE OF NEXT MEETING

The Planning Committee noted the date of the next meeting.

Appendix 1 - Schedule of Updates

The meeting ended at 1.07 pm

CHAIRMAN

PLANNING COMMITTEE

Date: 3 February 2016

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

153240 - PROPOSED DETACHED PASSIVHAUS DESIGN, SELF-BUILD, SINGLE-STOREY DWELLING ON LAND AT OLD HOLLOWAY, LITTLE BIRCH, HEREFORDSHIRE.

For: Mrs Freeman per Mr George Mikurcik, Upper Twyford, Twyford, Hereford, Herefordshire HR2 8AD

ADDITIONAL REPRESENTATIONS

Aconbury Parish Clerk has written to clarify that the comments are made for Aconbury Parish MEETING and not Aconbury Parish COUNCIL. Further, whilst the comments were submitted by the Clerk, they have not been agreed at a Parish meeting.

OFFICER COMMENTS

None

NO CHANGE TO RECOMMENDATION

152559 - PROPOSED CONVERSION OF A DUTCH BARN TO PROVIDE A DWELLING WITH ANNEXED HOLIDAY ACCOMMODATION AT LAND TO THE SOUTH EAST OF STANLEY BANK FARM, KIMBOLTON, LEOMINSTER, HEREFORDSHIRE

For: Mr & Mrs Duggan per RRA Architects, Watershed, Wye Street, Hereford, Herefordshire, HR2 7RB

ADDITIONAL REPRESENTATIONS

The Transportation Manager Recommends conditions be attached, in the event that planning approval is granted.

One further letter of support raises issues already set out in the Committee report.

The applicant's agent has submitted a rebuttal to the report the conclusions of which are as follows:-

The planning report is wrong to conclude that the proposal is 'unsustainable development in a prominent location in open countryside' as Kimbolton is a sustainable location, and is listed within table 4.20 of Core Strategy Policy RA2; and, whilst the Neighbourhood Plan is silent on the settlement boundary, the proposal represents an ideal opportunity to bring about

sustainable development to meet the Local Authority's 5-year housing annual delivery supply target.

Given 22 letters of support, which encourage the design merits of the proposal, and encourage conversion of the Dutch Barn, to provide a home for Mr & Mrs Duggan, and provide a local tourism facility; and, given the fact that no objections have been received and the Parish Council has offered support, the proposal complies with Core Strategy Policy SS1, SS6, SD1, RA2, RA3, RA4, and RA5.

OFFICER COMMENTS

The site lies outside the built up area of Kimbolton and therefore the report is correct that the location is in open countryside.

NO CHANGE TO RECOMMENDATION

153174 - PROPOSED NEW SINGLE STOREY DWELLING AND DETACHED GARAGE AT THE THREE HORSESHOES INN, LITTLE COWARNE, HEREFORD, HR7 4RQ

For: Mr Whittall per Lett & Sweetland Architects, 58 London Road, Worcester, Worcestershire, WR5 2DS

ADDITIONAL REPRESENTATIONS

The Transportation Manager recommends conditions if planning approval is granted.

One letter of support states that the public house is one of four remaining in the locality. The Public House is a centre of activity in area. The proposal will allow applicants to retire and employ a manager to look after the public house

OFFICER COMMENTS

The matters raised are covered in the report to Committee.

NO CHANGE TO RECOMMENDATION

