

**Minutes of the meeting of Planning and regulatory committee
held at The Council Chamber - The Shire Hall, St. Peter's Square,
Hereford, HR1 2HX on Wednesday 14 June 2017 at 10.00 am**

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

Councillors: BA Baker, CR Butler, PJ Edwards, KS Guthrie, EL Holton,
TM James, FM Norman, AJW Powers, D Summers, EJ Swinglehurst, LC Tawn
and SD Williams

In attendance: Councillors EPJ Harvey, JLV Kenyon and NE Shaw

Fire at Grenfell Tower London

The Committee observed a minute's silence in memory of the victims of the Grenfell tower fire.

1. APOLOGIES FOR ABSENCE

Apologies were received from Councillors DW Greenow, A Seldon and WC Skelton.

2. NAMED SUBSTITUTES

Councillor D Summers substituted for Councillor A Seldon and Councillor SD Williams for WC Skelton.

3. DECLARATIONS OF INTEREST

Agenda item 7: 171040 – Wymm House, Sutton St Nicholas

Councillor BA Baker declared a non-pecuniary interest as a resident of the Parish.

Agenda item 8: 163673 – The Pavilion Tennis Club, Ledbury

Councillor EL Holton declared a non-pecuniary interest as a Council representative on the Malvern Hills AONB Joint Committee and because her mother lived in the vicinity.

4. MINUTES

RESOLVED: That the Minutes of the meeting held on 17 May 2017 be approved as a correct record and signed by the Chairman.

5. CHAIRMAN'S ANNOUNCEMENTS

There were none.

6. APPEALS

The Planning Committee noted the report.

7. 171040 - WYMM HOUSE, SUTTON ST NICHOLAS, HEREFORD, HR1 3BU

(Proposed erection of one 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.

She highlighted that, for the reasons explained in the update, only the first two grounds for refusal set out in the recommendation in the report remained valid.

In accordance with the criteria for public speaking, Mrs C Snead, the applicant spoke in support of the application.

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

She made the following principal comments:

- She outlined the family history and connection to the area and family circumstances. The proposal was for a single storey dwelling on land owned by the applicant to enable her to support her parents.
- It was a redevelopment of the existing site.
- The location was sustainable being 1.4 miles from Sutton St Nicholas Primary School, the village and public house, 1.5 miles from Marden village, public house and shops and 0.3 miles from the nearest public house with a bus stop five minutes walk away. The site was amongst a cluster of dwellings, on a bus route, close to both villages and not isolated.
- She referred to Marden Parish Council's support for the application as set out at paragraph 5.1 of the report.
- She noted that the policy was in conflict with the Marden Neighbourhood Development Plan. However, the report did acknowledge that in exceptional cases personal circumstances could be afforded some weight as a material planning consideration. She elaborated on the family circumstances stating that in her view this was an exceptional case and the application should be approved permitting the family to remain in their local community.

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

- It was remarked that the Committee had recently received a number of such applications where it was asked to give weight to personal circumstances even though the application was contrary to policy. It was important that the Committee applied policy consistently and did not give weight to personal circumstances, which were not a material consideration, to avoid an increasing number of such applications.
- The Acting Development Manager clarified that the proposal was for a new dwelling, not a conversion of an existing dwelling, and did not therefore qualify as an exception under policy RA3 criterion 4.

- Although the Policy did not comply with the Neighbourhood Development Plan the Parish Council supported the proposal. There was also support in the local community.
- The legal adviser commented that planning applications related to the current and future use of land. The Committee was required to determine the application having regard to the Core Strategy, Neighbourhood Development Plan and any other material consideration including the public interest. Personal circumstances were very rarely a material consideration. Incorrectly giving weight to personal circumstances rendered a decision open to challenge.
- It was asked whether the application would be worthy of support if the design and materials used were more in keeping with the nearest dwellings.
- It was also asked if there was a way in which it could be secured that the dwelling was retained in perpetuity as an affordable dwelling.
- A sympathetic redesign of the existing property would be a more acceptable approach.

The Acting Development Manager commented that the council supported ancillary development to meet needs where it related to the host dwelling and environment. That was not the case with this application. He reiterated that ill health needs were not in themselves a material consideration. An applicant had to justify any such case. A proposal for an affordable dwelling retained in perpetuity as such would best be progressed via a specific application. He noted that no Member had indicated that the principle or design of the proposal was considered acceptable.

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

RESOLVED: That planning permission be refused for the following reasons:

- 1. The proposal is considered to represent an unsustainable form of development where residential development of this type is not supported unless it meets exceptional criteria. As such, the application is found to be contrary to Policies M1 and M2 of the Marden Neighbourhood Development Plan and Policies RA2 and RA3 of the Herefordshire Local Plan – Core Strategy.**
- 2. The design of the proposal does not reflect the local context of the dwellings within the vicinity and intrinsically has a detrimental impact on the open countryside. As such, the proposal does not accord with Policies SD1 or LD1 of the Herefordshire Local Plan – Core Strategy.**

8. 163673 - THE PAVILION TENNIS CLUB, LEDBURY, HEREFORDSHIRE, HR8 2JE

(Proposed erection of 15m monopole to support 2no. Antennas and 1no. Dish, floodlights, together with the installation of 5no. Equipment cabinets and erection of 1no, 10m floodlight structure with 2no. New floodlights.)

The Principal Planning Officer gave a presentation on the application. He clarified that the reason the application required planning permission was because the site was just within the Malvern Hills AONB.

In accordance with the criteria for public speaking, Mr R Hadley, a local resident, spoke in objection to the application. Mr R Morison, the applicant's agent, spoke in support.

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

She made the following principal comments:

- The present and future technological needs of Ledbury needed to be met.
- Local residents had a number of legitimate concerns as reflected in the report..
- Ledbury Town Council had objected to the proposal.
- Paragraphs 42 and 46 of the National Planning Policy Framework supported the need for a high quality communications infrastructure.
- Conditions would govern the use of floodlighting.
- Radiation emissions were controlled by law.

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

- It was surprising that the application was a combined one for floodlighting and a monopole.
- It appeared that the current conditions governing the floodlighting were being breached. Future enforcement of conditions would be important. It was asked if the relevant condition could be amended to require the floodlights to be turned off earlier than proposed. The Acting Development Manager replied that the Committee did not have the evidence to support such a change and the council had previously approved an extension to the shut off time of the existing lights to the time proposed in the report for the new lights.
- It was questioned whether any alternative sites for the monopole had been considered and if so on what grounds they had been discounted noting that the application site was within the AONB.
- It was important that the colouring of the mast was sympathetic.
- The proposals to protect trees at the site were important.

The Principal Planning Officer reported that the Planning Statement accompanying the application explained the consideration the applicant had given to alternative sites and outlined the sites that had been considered. He added that there would be no reduction to the crown of the existing trees. The importance of the colour of the monopole was recognised. He also confirmed the distance from the monopole to the nearest dwellings. The proposed floodlighting would be of good standard and light spillage would be controlled.

The Acting Development Manager commented that in accordance with NPPF guidance, Members were not entitled to take impacts on public health into account provided the relevant ICNIRP certification had been received. He also highlighted the comments of the AONB officer at paragraph 4.1 of the report that the visual effect of the development would not be major and the response of the Conservation Manager (Historic Buildings) set out at paragraph 4.5 of the report that the proposal would cause less than substantial harm to the setting of Underdown.

The local ward member was given the opportunity to close the debate. She had no additional comment.

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

1. A01- Time limit for commencement

2 B01- Development in accordance with the approved plans

3. The finish to the monopole shall be the subject of the prior written approval of the local planning authority. The finish shall be applied in accordance with the approved details and maintained thereafter as such.

Reason: To minimise the impact of the development in this part of the AONB and Conservation Area so as to accord with Policies LD1 and LD4 of the Herefordshire Local Plan-Core Strategy.

4. Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following documents and plans: 'Seventy-Two' Arboricultural Development Report (Ref:SA107AIA) dated 11.02.2017, Response to tree officers comments (Ledbury LTC – SA107) dated 14.03.17 and 'Vodafone/Shared Access' Proposed Overall Site Plan (Ref:BPLTA00492) revised 21.03.17

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority so as to comply with Policies LD1 and LD2 of the Herefordshire Local Plan-Core Strategy

5. Prior to the commencement of the development hereby approved, a suitably qualified and competent arboricultural 'clerk of works' should be appointed. The clerk of works will ensure that all construction works in the proximity of trees, are carried out as per the approved documents and plans. The clerk of works shall monitor these works and inform the Local planning Authority following each relevant stage of the project.

Reason – Compliance with approved documents/plans and the continued good health of the retained trees ensuring that they are not adversely impacted by the construction works so as to comply with Policies LD1 and LD2 of the Herefordshire Local Plan-Core Strategy

6. The floodlights shall be turned off no later than 10.00 pm.

Reason: To minimise the impact of the floodlights and to protect the residential amenity of nearby dwellings so as to comply with Policy SD1 of Herefordshire Local Plan-Core Strategy.

7. H27- Parking for site operatives

8. I16- Restriction of hours during construction

INFORMATIVES:

1. Positive and pro-active working

9. 162753 - ROSEMORE GRANGE, LADYWOOD, WHITBOURNE, HEREFORDSHIRE, WR6 5RZ

(Change of use of Rosemore Grange, from a residential dwelling with holiday accommodation, to exclusive private hire for holiday accommodation, private celebrations and events.)

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 N Knight of Whitbourne Parish Council spoke in opposition to the Scheme. Dr N Brookes, a local resident, spoke in objection. Mr J Spreckley, the applicant's agent, spoke in support.

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

He made the following principal comments:

- Applications had to be determined having regard to planning policies. The key issues were residential amenity and privacy. Whitbourne Neighbourhood Development Plan Policy LU4 stated: housing or development proposals should seek to respect the amenity and privacy of any adjoining properties. Core Strategy policy RA6 also stated that planning applications which are submitted in order to diversify the rural economy will be permitted where they do not cause unacceptable adverse impacts to the amenity of nearby residents by virtue of design and mass, noise and dust, lighting and smell. Policy SD1 stated that development proposals should safeguard residential amenity for existing and proposed residents.
- Rosemore Grange was in an isolated rural location in the open countryside. There were two listed properties nearby.
- In considering the impact of a development on amenity regard could be had to the context, so what might not be viewed as having an impact on amenity in a town might well be thought to have an impact on amenity in a hamlet in the open countryside.
- There had been protracted debate as to whether planning permission was required for the way in which Rosemore Grange was being used. This had led, finally, to the retrospective application being brought forward.
- Neighbours had suffered considerable nuisance from the use of Rosemore Grange. He was concerned that conditions to protect amenity would be difficult to enforce given the property's location. There were examples of legal action being taken to protect amenity and he drew attention to the provisions in the Human Rights Act 1998.

The Committee began to discuss the application but a Member suggested that the proposed recommendation and conditions did not appear to address appropriately all the aspects that the application requested and sought clarification. Officers agreed that there was an anomaly and suggested that a further report to the Committee would be the best way to proceed.

RESOLVED: That consideration of the application be deferred.

Appendix - Schedule of Updates

The meeting ended at 12.15 pm

Chairman

PLANNING COMMITTEE

Date: 14 June 2017

(Morning)

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

**171040 - PROPOSED ERECTION OF ONE DWELLING. AT
WYMM HOUSE, SUTTON ST NICHOLAS, HEREFORD, HR1
3BU**

**For: Mrs Snead per Mr Paul Smith, 1a Mill Street, Hereford,
Herefordshire, HR1 2NX**

ADDITIONAL REPRESENTATIONS

On receipt of an amended access plan, the Council's Area Engineer has no objections to the proposal and recommends standard conditions.

Comments have been received from the Council's Tree Officer for additional detail. These could be conditioned on any approval and the relocation of the access is also found to be beneficial.

OFFICER COMMENTS

Paragraph 6.27 of the officer report comments upon the increase in size between the existing building and proposed dwelling. For ease of reference a comparison is set out below.

Existing building

Approximately 15.2m in length when viewing from the west and 16.9m when viewing from the south with a height of 2m to the eaves and 4.4m to the ridge.

Proposed dwelling

Approximately 21.6m in length when viewing from the west and 17.8m when viewing from the south with a height of 2.5m to the eaves and 6.5m to the ridge.

CHANGE TO RECOMMENDATION

Given the amended plan that has been received, refusal reason 3 – relating to tree issues - is now deleted. Officers are content that a planning condition is capable of mitigating any impacts on trees.

Reasons for Refusal 1 and 2 stand.

162753 - CHANGE OF USE OF ROSEMORE GRANGE, FROM A RESIDENTIAL DWELLING WITH HOLIDAY ACCOMMODATION, TO EXCLUSIVE PRIVATE HIRE FOR HOLIDAY ACCOMMODATION, PRIVATE CELEBRATIONS AND EVENTS AT ROSEMORE GRANGE, LADYWOOD, WHITBOURNE, HEREFORDSHIRE, WR6 5RZ

ADDITIONAL REPRESENTATIONS

The Council's Environmental Health & Trading Standards Officer has responded as follows:

This is a retrospective application for a change of use from residential with holiday accommodation to exclusive private hire for holiday accommodation, private celebrations and events. Representations have been made by local residents regarding periodic noise and other behaviours from the site although it is acknowledged that many groups hiring the premises do not pose a problem. Our department has received one complaint regarding noise nuisance.

To protect the amenity of neighbouring residents we recommend a condition which prohibits the playing of amplified music outside.

We also recommend consideration that the site be granted temporary planning permission so that in the event of complaints this summer, this can be reviewed. Our department has an out of hours noise service at weekends in the months of July and August. Fundamentally we are also able to investigate and address complaints of Statutory Nuisance under the Environmental Protection Act 1990 should circumstances warrant this

OFFICER COMMENTS

The condition recommended prohibiting amplified music outside of the buildings has already been attached in the recommendation

The second recommendation is for a temporary permission. Section 72 of the Town Country Planning Act 1990 confers the ability to grant planning permission for a temporary period. However, Government guidance confirms that a condition limiting use to a temporary period only where the development complies with the development plan, or where material considerations indicate otherwise that planning permission should be granted, will rarely pass the test of necessity.

It is considered that a temporary approval for a use that has been carried out for a number years and which will be conditioned, if supported by Committee, cannot reasonably be substantiated.

NO CHANGE TO RECOMMENDATION

