

**Supplement to the agenda for**

# **Planning and regulatory committee**

**Wednesday 21 February 2018**

**10.00 am**

**Council Chamber, The Shire Hall, St Peter's Square, Hereford,  
HR1 2HX**

**Supplement 2 – Schedule of Updates/Public Speakers**

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# **PLANNING COMMITTEE**

**Date: 21 February 2018**

## **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

**173765/F and 173766/L - (RETROSPECTIVE) CONSTRUCTION OF WALL APPROX 2' 9" X 15' IN LOCAL STONE LOCATED ADJACENT TO STABLE BLOCK IN Paddock. SITED WHERE HISTORICAL DOCUMENTS INDICATE A WALL EXISTED PREVIOUSLY, AT LAND ASSOCIATED WITH PEMBRIDGE HOUSE, WELSH NEWTON, HEREFORDSHIRE,**

**For: Miss Swinglehurst, Pembridge House, Welsh Newton, Monmouth, Herefordshire NP25 5RN**

### ADDITIONAL REPRESENTATIONS

A further representation has been received in relation to application from Ms Patti Fender. It has been submitted in the form of a Formal Complaint to the Chief Executive but contains the following abridged comments:

Planning Officers told me that I would be directly informed of the date that the above Planning Application, from an elected Councillor a member of the Planning Committee, would come before the Planning Regulatory Committee.

I was not informed, but it is now my understanding that the meeting is to take place on 21 February 2018 to decide upon this issue.

It is stated that, "You're legally entitled to look at the planning officer's report to the Councillors' planning committee at LEAST FIVE DAYS before they meet to make a decision. It's important to take this opportunity."

I have unlawfully been denied that opportunity.

In her Planning Application the Applicant states: "this is a reinstatement -- sited where historical documents indicate a wall existed previously -- reinstatement of wall that formed part of the curtilage at listing." But she did not provide a copy of the historical documents in evidence.

However, the Planning Officer has referred to the historical documents in his letters for the various consultations, as being of specific importance and central to this Application. I asked for a copy of these documents, but they weren't provided.

Consequently, on 14 February I made a Freedom of Information Request for a copy of these historical documents.

Immediately following my request, this Planning Application was unlawfully included in a Planning Regulatory Meeting. I was not informed. My legal entitlement to see the Planner's report at least five days prior to the meeting has been unlawfully denied to me.

The reply from the Building Conservation Manager to the case officer refers to, "the abutment of a new wall" which fails to relate to the Application. This states clearly that, "a

reinstatement--- sited where historical documents indicate a wall previously existed --- reinstatement of wall that formed part of the curtilage at listing".

The Manager made no reference whatsoever to evidence provided in my objections giving precisely the position of the listed curtilage historical wall. This was researched by a highly qualified expert for evidence on behalf of the Court. The wall is not in the position claimed by the Applicant as referred to in "historical documents". It is evident that the Manager's reply is lacking in integrity and clarity.

The numerous untruths by the Applicant in the Application were questioned in my Objection to the Application, but neither mentioned nor addressed by Planners.

It is claimed that there is no Planning history on this site. It is known that there is a current Section 106 legally binding Planning Obligation on that specific land made by Herefordshire Council, and that it should only be planted with trees, with no other use.

Pembridge House has been severely flooded on numerous occasions, but these never affected my neighbouring property.

A land owner is not permitted to divert (the owner stated purpose of the newly built walls) the downhill flow of water particularly onto another property. There are other land owner responsibilities with which Mr. Hodges, responsible Officer for the Flood Risk Strategy, is apparently doing his very best to override, necessitating in yet another Freedom of Information Request.

This flooding issue was brought to the attention of Herefordshire Council in 2015. It is a simple matter, the Applicant has agreed in legal documents that she built the walls to divert surface/flood water away from her property and onto my property, I provided much written and photographic factual evidence.

The remaining elements of the Formal Complaint refer to a previous Court case involving the applicant, criticism of failing to have regard to Made Neighbourhood Plans an a series of questions relating to the processing of the applications.

## **OFFICER COMMENTS**

The comments above are not material planning considerations and will be considered under the Council's Formal Complaints procedure.

The Council does not undertake to notify interested parties when an application is to be considered by the Planning and Regulatory Committee.

Agenda papers are published 5 clear days in advance of a meeting in accordance with the statutory requirement.

Under the public speaking procedure, on publication of the agenda papers, those who have made representations on an application are notified that the application is to be considered by the Committee and invited to register to speak in accordance with the scheme. A review has indicated that a Public Speaking letter to Ms Fender was generated and sent. However, it has transpired that unfortunately there was an error in the e-mail address. Ms Fender has taken up the opportunity to speak at the meeting as an objector.

## **NO CHANGE TO RECOMMENDATION**

**173082 - PROPOSED ERECTION OF AN AGRICULTURAL WORKERS' DWELLING (PART RETROSPECTIVE) AT LAND AT PARKGATE, IVINGTON, LEOMINSTER, HEREFORDSHIRE, HR6 0JX**

**For: Mr Hanson per Ms Sarah Hanson, The Old Watermill, Kingsland, Leominster, Herefordshire HR6 9SW**

**ADDITIONAL REPRESENTATIONS**

9 letters of support have been received.

The agent has submitted a further letter which is understood to have been sent to all members of the committee.

In the event that not everyone received it it is copied here.

173082 – Proposed erection of an agricultural worker’s dwelling (part retrospective) at land at Parkgate, Ivington, Leominster, HR6 0JX

With reference to the officer report for this application, which is on the agenda for 21<sup>st</sup> February, I would like to raise some points which are pertinent to this case and I am most grateful that you will take the time to read the following submission.

What is not made clear in the committee report is that refusal of this application means that the house should be demolished.

This would mean the loss of a viable house, which because of its size and small plot, would offer low cost accommodation, whether it is for an agricultural worker or not.

The officer report cites the enforcement appeal at some length as evidence that the site is not in a sustainable location - although the inspector did not say this, only that neither side had put forward evidence about the sustainability or otherwise of the location.

What has changed since the planning appeal is that it has been demonstrated that Herefordshire Council cannot show a five-year housing land supply. This means that its policies for the supply of housing are not up to date.

This was not the case at the time of the appeal and so the inspector gave full weight to the policies cited by the Council in its reasons for the enforcement notice (but as noted below, did not consider other relevant policies).

Because this is an application for an agricultural worker’s dwelling, I did not provide evidence about the sustainability of the location, but since this has been cited as a ground for refusal, I would like to point out that the house is well related to existing built development near the site. It is within walking distance of the local school and the church and that stop on request bus services to Hereford and Leominster pass the site several times daily. The site is exactly 2.6 miles from the centre of Leominster where there is an abundance of facilities and services, together with transport links to elsewhere. The road to Ivington is not particularly busy and consequently it would not be unattractive to use either on foot or on a bike. If a car was relied on, the closeness of the site to Leominster means that many of the journeys would be likely to be short, and therefore would result in only limited environmental harm.

The report refers (at 6.7) to the prospect of selling or letting three of the existing four dwellings on the farm to non-farm workers. Although it is a fact that as there are three dwellings not tied to the farm, they could in theory be disposed of, Mr Hanson has no intention of doing this.

- Lower Wintercott – farmhouse located on the farm and occupied by Mr John Hanson and his wife Shirley along with their foster children.
- Hop Kiln Cottage – located on the farm and occupied by one son and his family – *agricultural occupancy condition attached to this property*
- Parkgate Cottage – located adjacent to the site and occupied by other son and his family
- White House – located adjacent to the site and occupied by daughter and her family – no connection with the farming business

The report also refers (at 6.12) to imposing an agricultural occupancy condition not only on this dwelling, but on the three other dwellings not already tied, should the councillors be minded to approve this application.

It is possible to impose planning conditions on matters which are off site (Grampian), however, it's quite a stretch to impose an occupancy condition on a dwelling that is not part of the planning unit or used in conjunction with it, especially if that dwelling is currently occupied by someone not functionally linked to the business. It is likely such a condition would not withstand the normal tests of being reasonable and appropriate as a condition must be expedient for the purposes of, or in connection with, the development authorised by a permission.

The farmhouse will be lost from the farming business because Mr Hanson is retiring and it does not meet the affordability/size etc definitions of an agricultural worker's dwelling. In addition, Mr Hanson's daughter's house is not available for an agricultural worker. The only house that might pass the acceptability test is the one occupied by Mr Hanson's son, Jonathan (to the north of the application site) but there is no likelihood that this house would be lost to the use of an agricultural worker, which is the only acceptable ground for imposing such a condition.

The report refers (at 6.8) to my point about a delay in recognising the breach and taking action. Action was not taken swiftly. The first visit by a council enforcement officer was 24<sup>th</sup> November 2014 and the requisition for information was served in early May ahead of the serving of a temporary stop notice (TSN) on 15<sup>th</sup> May 2015. During this period of 5 months, work had continued as Mr Hanson had not been advised by the council enforcement officer that what he was doing was unauthorised.

All building work ceased upon the receipt of the TSN.

The enforcement notice followed 'swiftly' on 27<sup>th</sup> May 2015.

Mr Hanson contacted the council and asked them to explain the enforcement action, given his understanding from the council's enforcement officer's first visit in November that he was not in breach of planning control in restoring the house.

The written response from the council of 29<sup>th</sup> May 2015 advises: "*nobody from the Local Planning Authority will be visiting you at the site to discuss the matter as it is not required.*"

The council had taken the view that the only course of action was for the cottage to be demolished.

As highlighted previously in my letter to Councillors, in response to the first committee report, there were clearly alternative solutions that should have been offered.

The building had been used for storing agricultural implements prior to the renovation works. A building in agricultural use would qualify for conversion to residential use under Class Q of the **Town and Country Planning (General Permitted Development) Order 2015**.

Additionally, the National Planning Policy Framework (NPPF, adopted March 2012) at paragraph 55 *promotes sustainable development in rural areas and states that housing should be located where it will enhance or maintain the vitality of rural communities* – with one of the criteria being *where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting*.

The Core Strategy, which was adopted in October 2015, carried sufficient weight at the time of the enforcement action (especially where its policies complied with the NPPF). Policy RA5 adopts this national guidance at a local level and encourages the *sustainable re-use of individual and groups of redundant or disused buildings, including farmsteads in rural areas, which will make a positive contribution to rural businesses and enterprise and support the local*

economy (including live work units) or which otherwise contributes to residential development, or is essential to the social well-being of the countryside, will be permitted where:

1. design proposals respect the character and significance of any redundant or disused building and demonstrate that it represents the most viable option for the long term conservation and enhancement of any heritage asset affected, together with its setting;
2. design proposals make adequate provision for protected and priority species and associated habitats;
3. the proposal is compatible with neighbouring uses, including any continued agricultural operations and does not cause undue environmental impacts and;
4. the buildings are of permanent and substantial construction capable of conversion without major or complete reconstruction; and
5. the building is capable of accommodating the proposed new use without the need for substantial alteration or extension, ancillary buildings, areas of hard standing or development which individually or taken together would adversely affect the character or appearance of the building or have a detrimental impact on its surroundings and landscape setting.

The building could also have been utilized by the cottages either side in the form of ancillary accommodation, or for domestic or agricultural storage. It is also possible the building could have been used for holiday accommodation which would have provided an income for the farm – this being an appropriate form of diversification. However, none of the options above were presented to Mr Hanson as a possible solution.

The report refers (at 6.8) to the council not being responsible for advice that was given by Mr Hanson's former agents, which is accepted. But it is responsible for the advice given by its own officers and it is maintained that this advice was wholly inappropriate and is why building work continued at the site until the TSN was served.

The council's enforcement policy promotes '*negotiating with transgressors, giving them the opportunity to resolve breaches before formal action is taken, unless the breach is so serious it warrants immediate formal action or negotiation becomes protracted and / or is deemed unlikely to yield an acceptable outcome.*'

Clearly the breach was deemed serious and that is why, following the submission of an application for building regulations in March 2015, the enforcement team issued the TSN on 15<sup>th</sup> May 2015. But why was the 'seriousness' of the breach not followed up so swiftly by the enforcement team after the officer's initial visit in November 2014. Mr Hanson had no further contact from the enforcement team following the November 2014 visit until the requisition for information was received in May 2015 = 5 Months.

There appears internal inconsistency in the council's approach to Mr Hanson as para 6.8 of your officer's report says that when enforcement first looked at the case it was decided that an application to regularize the development was inappropriate. However, during court proceedings, the council put an offer on the table for Mr Hanson to submit an application for an agricultural worker's dwelling. It was the Council's insistence that the application took this form, to enable it to tie the dwelling to the farm and so prevent the applicant from profiting from the redevelopment of the cottage.

It should not be forgotten that the council had also offered to withdraw the requirement for the building to be demolished if Mr Hanson were to plead guilty and receive a criminal record (as recorded in the email from Dean Hulse, council's barrister – copy attached to previous letter to Cllrs). Mr Hanson rightly declined this offer.

## **OFFICER COMMENTS**

The Inspector did consider the sustainability of the development at paras 17- 20 before concluding at 21 that it was not sustainable.

The Council cannot demonstrate a 5 year housing land supply but RA3 and RA4 are not 'out of date' furthermore the council can demonstrate a 3 year supply so weight can be attributed to NDP's (depending on their individual progress). At the time of the appeal now weight could be attributed to the Leominster NDP, hence why it was not a reason for refusal at that time.



Reference is made to existing dwellings not meeting affordability/size or acceptability tests, but there is no reference to where this criterion exists.

There is again reference to matters of advice which were to be tested at court since the advice offered is contested.

By the time the notice was issued the rebuild was substantially complete to the extent that a conversion proposal would have not have complied with Policy RA5.

**NO CHANGE TO RECOMMENDATION**



# PLANNING COMMITTEE - 21 February 2018

## Public Speakers

### APPLICATIONS RECEIVED

Ref no	Applicant	Proposal and site	Application no	Page no
7	Mr Stephens Per Mr David Brown	Hybrid planning application proposed for the development of employment uses including B1, B2 and B8, including full details of the access, internal road infrastructure and circulation routes, and landscaping within a landscape buffer zone providing surface water attenuation and planting at <b>Model Farm Cottage, Hildersley, Ross-on-Wye,</b>	73600	11
8	Miss Swinglehurst	(Retrospective) construction of wall approx 2' 9" x 15' in local stone located adjacent to stable block in paddock. Sited where historical documents indicate a wall existed previously at <b>land associated with Pembridge House, Welsh Newton, Herefordshire</b>	173765 & 173766	37
		<b>OBJECTOR</b>	<b>MS P FENDER (local resident)</b>	
9	Ballimark Ltd	Reserved matters application (layout, scale, appearance and landscaping) following outline approval 150888 - for the erection of 35 dwellings at <b>Land to the West of A40, Weston Under Penyard, Herefordshire</b>	163324	45
		<b>PARISH COUNCIL SUPPORTER</b>	<b>MRS L DUNN (Weston Under Penyard Parish Council) MR D MOORE (Applicant's agent)</b>	

10	Mr Hanson Per Ms Sarah Hanson	Proposed erection of an agricultural workers' dwelling (part retrospective) at <b>Land at Parkgate, Ivington, Leominster, Herefordshire, HR6 0JX</b>	173082	<b>61</b>
<b>PARISH COUNCIL SUPPORTER MR R PENDLETON (Leominster Town Council)</b> <b>MR J HANSON (Applicant)</b>				

11	Mr Ponnambalam Per Mr Tom Margrett	Proposed extension and enlargement of existing sun room at <b>1 Arrowsmith Avenue, Bartestree, Hereford, HR1 4DW</b>	174332	
<b>PARISH COUNCIL OBJECTOR MRS S SOILLEUX (Bartestree and Lugwardine Group Parish Council)</b> <b>MR P DAVIES (Local Resident)</b>				