

Supplement to the agenda for

Planning and Regulatory Committee

Wednesday 16 August 2023

10.00 am

**Herefordshire Council Offices, Plough Lane, Hereford, HR4
OLE**

Schedule of updates

Public speakers

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PLANNING COMMITTEE

Date: 16 August 2023

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

181494 - PROPOSED LAND FOR RESIDENTIAL DEVELOPMENT AND ASSOCIATED WORK TOGETHER WITH PUBLIC OPEN SPACE AND LOCAL GREEN SPACE. AT LAND ADJACENT TO SPRING COTTAGE, HEADBROOK, KINGTON, HR5 3DY

For: Mr & Mrs Turner per Mr Peter Draper, Yew Tree Cottage, Byford, Hereford, Herefordshire HR4 7LB

ADDITIONAL REPRESENTATIONS

Comments from the applicant's agent were received on 14 August – these are appended to this update sheet.

The following representation was received on 1 August by a neighbour who has already made comment on the application previously; -

Dear Sirs,

I have attached 3 photographs taken showing how many cars park on Headbrook in Kington and can completely block one side of the carriage way. This is a busy route into and out of the town from the A44 and is used by many vehicles including both regular scheduled services and school buses. A large number of heavy goods vehicles use Headbrook to access the petrol station, not only for fuel but also to park up for a snack and a drink. Delivery vans into the town shops in addition to locals and visitors to the town all use this road. There is very limited free parking in Kington so people park in this area and catch the bus into Hereford or walk to the local shops and amenities.

I believe that the access road to the proposed new housing estate would further add to the congestion of this road which is already difficult to cross at certain times of the day and would warrant a pedestrian crossing area or at the very least survey the volume of traffic on this road to review what steps can be taken to reduce the speed of vehicles and control the amount parking by non-residents.

It is for the reasons above that I object to building on the meadow to the north of Headbrook.

*Yours sincerely,
Diane Ferriday.*



Further to the above late representation, the applicant has provided the following response (11 August); -

Good Morning,

Following the latest photographs to be added to the planning portal, please find attached photographs taken at 9.30 a.m. today, 11th August 2023.



OFFICER COMMENTS

- Officers consider that the matters highlighted in the above late representations / comments do not raise any new material planning considerations not already covered within the Officer's Report.
- It was confirmed on Friday 11 August by the Strategic and Neighbourhood Planning Manager we continue to have a five year housing land supply of 6.27 years. The formal Annual Position Statement and Report will follow in the coming weeks.

CHANGE TO RECOMMENDATION

- No change to recommendation as set out within the Officer's Report.

Appendix - Applicant's Comments on the Officer Report to Planning Committee of 16.08.23

PDA Planning

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181494 - Land adjacent to Spring Cottage, Headbrook, Kington

Applicant's Comments on the Officer Report to Planning Committee of 16.08.23

- Re 1.7: There was no mention of the 5 Year Housing Land Supply (5YHLS) or 'Tilted Balances' in the 2018 Planning Committee's debate nor is it mentioned as such in the debate recording, the subsequent Committee Minutes, or in the Approval Reasons.
- Re 1.8: No 'Tilted Balances' were mentioned in 2018 and therefore were not 'engaged'.
- Re 1.9: The present 5YHLS position does not alter the fundamental reasons for the 2018 Planning Committee approval; the 5YHLS was not fundamental in the reasons for the 2018 approval.
- Re 1.10: The 2018 approval was based on an up to date Local Plan/Core Strategy Policy i.e. Policy KG1 – Development in Kington, which seeks to accommodate around 200 new dwellings in the town (the LP/CS Inspector recommended a minimum of 200 dwellings); the originally approved proposal for Headbrook is for up to 35 dwellings and thus is entirely policy compliant.
- Hence, re 1.10 and 1.11, we cannot understand or agree that there has been a significant change to the planning policy context and certainly no reason for the application being referred to another Planning Committee some 4.5 years later for 'another go'.
- Re 6 and 6.1 and following to 6.15.1: This largely re-presents the original views and/or objections from Council and Statutory Consultees of 2018 and which were fully considered by the 2018 Committee and largely dismissed; there should be no difference now.
- However, the one major difference now concerns Natural England (NE) who had no objection originally in 2018, but then in July 2019 (when the scheme's S.106 Agreement was about to be signed off and a final permission issued) objected on the grounds of the 'Dutch Case' and created the subsequent embargo on all new Herefordshire development within the River Wye SAC area, resulting in nearly 4 years of development stagnation. The proposal has now passed the 'phosphates test' and the required credits have been purchased, such that nutrients neutrality has been secured and NE now has no objections whatsoever.
- Re 7 and 7.1 and following to 7.3.1: This largely re-presents the original views and/or representations/objections of other outside bodies and members of the public; all these were fully considered by the 2018 Committee and generally dismissed and again there should be no difference now.
- Re 7.1/7.1.1: In the Kington Town Council reconsultation views of 10 January 2023, there seems to be some confusion and the overall comment seems to reiterate their original objection of 2018, which was largely based on the now failed Kington Neighbourhood Plan (KNP); this seems at odds with the fact that in February 2020 the Town Council, in considering revision of KNP, now supported the Headbrook housing site under Policy KANP – Housing Delivery.
- Re 7.2/7.2.2/7.2.3: This covers the Public Consultation of May 2018 which was considered fully by the 2018 Committee and the reconsultation of December 2022/January 2023; the reconsultation resulted in very similar objections to those of 2018 which were previously fully considered by the Committee and not accepted. We provided strong rebuttal reasons, emphasising where there were errors of fact, in 2018 (Brief Statement: June 2018) and again in 2023 (Brief Statement No 3: May/June 2023), notwithstanding that there were actually 6 separate representations made in 2023 within the 'time limit' and a further 6 out of time of which 5 had already made earlier, in-time, representations.
- Re 8, Officers Appraisal and 8.1 and following to 8.12: This was all fully considered and debated by the 2018 Committee and they found that the proposal was fully sustainable and appropriate.
- Re 8.13 to 8.27: The Conservation Area at its nearest point is over 70 metres from the proposed housing and cannot be viewed against the existing mix of other commercial and residential building and the existing

landscape; this was fully considered by the 2018 Committee at a site visit and the later debate and it was found that there would be no impingement on the CA.

- Re 8.28 to 8.35: The effect of the proposal on the local landscape was fully considered by the Committee in 2018 both at the site visit and the later debate and the consensus was that there would be little harm to the local landscape and that the green space and landscape enhancement elements of the scheme would benefit the area greatly.
- Re 8.57 to 8.63: This emphasises the work that has gone on since December 2018 and July 2019 to create the nutrient neutrality required by NE and which the proposal now meets fully to the complete satisfaction of NE.
- Re 8.64: This is breathtakingly inaccurate. The S.106 Agreement was fully accepted and ready for signing off in July 2019 (despite the fact that the Council's dilatory inaction had taken since December 2018 to be ready for their signatures, while the applicants had already signed). Following the 2019 development moratorium, in November 2020 the applicants commissioned the necessary environmental work to prove the phosphates credits acceptance and in August 2022 they were invited to apply for the purchase of credits. In April 2023 the applicants paid the Council nearly £63,000 in purchase fees and the original S.106 was amended and agreed with the Council on 21 April to take account of the credits purchase; this was signed by the applicants on 27 April with a promise from the Council to complete the transactions within a few days and to issue the planning permission. By 10 May, the Council had changed the position and reneged on its promise and the applicants were informed that the Planning Application would be referred back to a new Planning Committee – hence the applicants have been waiting for a further four months until 16 August for a resolution with a current and amended S.106 ready for completion.
- Re 8.69: The refusal recommendations are nothing more than a 'cut and paste' job from the original December 2018 officer report, which was fully debated and considered by the Planning Committee, resulting in a clear-cut 11 to 1 vote to approve the planning application, subject to the completion of the S.106 Agreement.
- Re the 5YHLS debate: The 2023 assessment has yet to be published; in a Planning Appeal case at Winforton in 2022 (application 210131), the Council in their Case Statement said, regarding the Headbrook proposal:

"The application has been assessed and found to be acceptable in all respects, except the need to carry out a positive HRA. The application was placed 'on hold' and in priority queue to be offered phosphate credits. The LPA wrote to the Applicant on 5th August 2022 to invite them to purchase credits that were now available from the Council's Integrated Wetland scheme in Luston. A formal response is required by the 26th August, however the Applicant has informally advised officers that they intend to purchase credits to mitigate for the effects of the development. This would allow for a positive HRA to be carried out. There is therefore a high likelihood that the Council will be able to grant permission in near future and that the housing will subsequently come forward thereafter"

If the Headbrook proposal was good enough for the Council's appeal evidence in 2022 and the 5YHLS, then it should be good enough for August 2023 and should be approved by the Planning Committee as it was, overwhelmingly, in December 2018.

END

*P J Draper, DipTP (Nottm), FPCS
On behalf of Mr & Mrs M Turner
August 2023*

SCHEDULE OF COMMITTEE UPDATES

212518/RM - RESERVED MATTERS FOLLOWING OUTLINE APPROVAL 191541/O (OUTLINE FOR THREE OR FOUR BEDROOM DWELLING ON A PLOT OF LAND CURRENTLY PART OF HILLCREST'S GARDEN) AT LAND SOUTH OF YEW TREE FARM, RUCKHALL COMMON ROAD, EATON BISHOP, HEREFORD, HR2 9QX

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

ADDITIONAL REPRESENTATIONS

Officers have been made aware of advice provided to the neighbours at Yew Tree Farm by the Environment Agency (EA) in respect of concerns regarding their well. Whilst these comments have not been submitted as a representation on this application, it was felt appropriate to update Members.

"Thank you for taking the time yesterday to provide us with supplementary information regarding your query, about a proposed septic tank within 50m of your property. Colleagues within our Land & Water and Groundwater & Land Contamination Teams have considered the information available to us and have reached a conclusion for you. The proposed drainage field should be located 50 metres downgradient of the well situated on your property, to comply with the General Binding Rules. This development would therefore need to apply for a discharge permit, so that the discharge from this activity can be thoroughly assessed in greater detail. We feel that your local authority should be satisfied that this is a groundwater discharge activity that warrants further investigation, prior to the implementation of the plans for the proposed development."

OFFICER COMMENTS

With regard to the EA's correspondence, Officers are at a slight disadvantage in that we do not know the content of discussions leading to the response. In relation to Regulation 7 of the General Binding Rules, which govern whether or not an environmental permit is required, our position is as follows:

- Regulation 7 states that to prevent groundwater pollution you must check if the discharge point is in a groundwater source protection zone 1 (SPZ1). A groundwater SPZ1 can be the area around a commercial water supply used for drinking water or food production. A suggestion has been made by the Local Member (Cllr Hitchiner) that well water is being used to cultivate crops. However, the advice received from Land Drainage and confirmed via DEFRA's interactive mapping online is that the site does not lie within a groundwater SPZ1.
- Regulation 7 also says that a groundwater SPZ1 can also be any area within 50 metres of a private water supply for human consumption. It is therefore relevant to ask neighbours if they have one and, if so, how far their spring, well or borehole is from your drainage field. Our Private Water Team has confirmed that Yew Tree Farm is not registered as private supply for human consumption. We also know that this area is served by a mains water supply.

On this basis, even if a permit was deemed to be required, we do not envisage that there would be any likely grounds for refusal in the absence of registered use of the well for domestic drinking water. It is important to emphasise that the Council should not seek to duplicate controls that are the responsibility of another authority – in this case the EA and the consideration of a permit application.

CHANGE TO RECOMMENDATION

N/A

PLANNING and REGULATORY COMMITTEE

16 August 2023

PUBLIC SPEAKERS

APPLICATIONS RECEIVED

Ref No.	Applicant	Proposal and Site	Application No.	Page No.
6	Mr & Mrs Turner per Mr Peter Draper	Proposed land for residential development and associated work together with public open space and local green space at LAND ADJACENT TO SPRING COTTAGE, HEADBROOK, KINGTON, HR5 3DY	181494	89
TOWN COUNCIL		A REPRESENTATIVE OF KINGTON TOWN COUNCIL		
OBJECTOR		MS RUSH (local resident)		
SUPPORTER		MR TURNER (Applicant)		
7	Ms Foti per Mr Ian Kilby	Outline permission for proposed mixed use development to provide community hub with enhanced recreation facilities including a 3G pitch, car park and access roads, change of use of land from agricultural to allotments and productive gardens new buildings to provide changing facilities, classrooms, equipment storage, poly tunnels cafe and kitchen at LAND AT ASHLEY FARM, GRAFTON COURT CLOSE, GRAFTON, HEREFORD, HEREFORDSHIRE, HR2 8BL	223281	169
SUPPORTER		MR KILBY (Applicant's agent)		
8	Mrs James per Mr Russell Pryce	Reserved matters following outline approval 191541 (Outline for three or four bedroom dwelling on a plot of land currently part of Hillcrest's garden) at LAND SOUTH OF YEW TREE FARM, RUCKHALL, COMMON ROAD, EATON BISHOP, HEREFORD, HR2 9QX	212518	219
PARISH COUNCIL		MR CHATWIN (Eaton Bishop Parish Council)		
OBJECTOR		MS WALL (local resident)		
SUPPORTER		MR PRYCE (Applicant's agent)		

per

Mr Rhys Bennett

No registered speakers