

MINUTES of the meeting of Central Area Planning Sub-Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 1 April 2009 at 2.00 pm

Present: Councillor JE Pemberton (Chairman)
Councillor GA Powell (Vice-Chairman)

Councillors: PA Andrews, WU Attfield, DJ Benjamin, AJM Blackshaw, ACR Chappell, H Davies, GFM Dawe, PJ Edwards, DW Greenow, MAF Hubbard, MD Lloyd-Hayes, AT Oliver, SJ Robertson, AP Taylor, AM Toon, NL Vaughan, DB Wilcox and JD Woodward

In attendance: Councillors TW Hunt (ex-officio) and RV Stockton (ex-officio)

126. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor SPA Daniels, KS Guthrie, RI Matthews and WJ Walling.

127. DECLARATIONS OF INTEREST

130. DCCW2008/2781/F - Public Convenience, The Oval, Belmont Road, Hereford, Herefordshire, HR2 7HG [Agenda Item 5]

Councillor WU Attfield; Personal; Reason: Member of Herefordshire Housing.

Councillor AM Toon; Personal; Reason: Member of Herefordshire Housing.

Councillor PJ Edwards; Personal; Reason: Member of Parish Council.

131. [A] DCCE2008/2898/F and [B] DCCE2008/2902/C - Church Villa, Church Lane, Hampton Bishop, Hereford, Herefordshire, HR1 4JY [Agenda Item 6]

Councillor GA Powell; Personal; Reason: Applicant worked at business used by the Councillor.

132. DCCW2008/2775/F - 29 Whitefriars Road, Hereford, HR2 7XE [Agenda Item 7]

Councillor PJ Edwards; Personal; Reason: Member of Parish Council.

134. DCCW2009/0382/F – Land to Rear of 103 Kings Acre Road, Hereford, Herefordshire, HR4 0RQ [Agenda Item 9]

Councillor SJ Robertson; Prejudicial; Left the meeting for the duration of the item; Reason: Applicant's agent was known to the member through parish council and due to architectural work undertaken on behalf of charity and parents.

Councillor PA Andrews; Personal; Member of City Council.

128. MINUTES

Referring to Minute 123 - DCCE2009/0062/O [Orchard End, 9 Broadlands Lane, Hereford, Herefordshire, HR1 1HZ], Councillor NL Vaughan asked that his

comments be amended to read:

'He welcomed low density development *and supported the application* but drew attention to local residents' comments about potential overlooking ~~and the need to mitigate this concern.~~'

RESOLVED:

That, subject to the above amendment, the minutes of the meeting held on 4 March 2009 be approved as a correct record.

129. ITEM FOR INFORMATION - APPEALS

The Sub-Committee received an information report.

130. DCCW2008/2781/F - PUBLIC CONVENIENCE, THE OVAL, BELMONT ROAD, HEREFORD, HEREFORDSHIRE, HR2 7HG [AGENDA ITEM 5]

Demolish existing public convenience and replace with three storey building, hot food takeaway on ground floor, storage on first floor, staff living accommodation on second floor.

The Principal Planning Officer provided details of updates / additional representations received following the publication of the agenda as follows:

- *The footway to the rear is an adopted highway therefore a Stopping Up Order would be required for its closure. It is believed that ownership is vested in Herefordshire Housing.*
- *The agent has confirmed opening times of 1200-1400 hours and 1700-2300.*

The Principal Planning Officer also provided the following officer comments:

- *The applicants have offered to light the path, which falls, outside of the application site.*
- *The opening times will be controlled by condition 5.*

Councillor H Davies, a Local Ward Member, commented on the value of the site inspection that had been held and said that this proposal provided an opportunity for much needed redevelopment, particularly given the history of anti-social behaviour issues at this site.

Councillor GA Powell, also a Local Ward Member, outlined the background to the application and said that, although a smaller building with two rather than three bedrooms would be preferred, she considered the application to be acceptable on balance subject to conditions, particularly in respect of CCTV and traffic calming.

Councillor PJ Edwards, the other Local Ward Member, said that he could not support the application in its current state as he considered the proposal to be a serious over intensification of the site. He felt that the scale of the development would have an overbearing impact and questioned whether such an increase in cubic capacity would be permitted elsewhere. He said that refusal would provide an opportunity for the applicant to reassess the scheme and undertake discussions with Hereford Housing to address the problems with the alleyway to the rear; he added that, as well as anti-social behaviour, there were litter and fire risk issues associated with such pathways. Councillor Edwards also said that there were no suitable areas of parking for this use.

Councillor MD Lloyd-Hayes noted that the Sub-Committee had been minded to refuse a proposal for a chip shop at the last meeting [DCCW2008/2887/F refers] and that there were similar concerns with this application. Councillor Lloyd-Hayes commented that some matters, such as litter and emanating fumes and odours, could be controlled through conditions but relevant reasons for refusal for this application included: harm to the residential amenity of the residents in the area particularly those above and adjacent to the premises; harm to the character of the area in terms of social activities outside normal business hours; and fear of crime.

Councillor AM Toon reported that Herefordshire Housing was considering options for the regeneration of this area and this application might be out of character with the emerging design approach.

Councillor MAF Hubbard questioned whether the applicant could be required to meet the legal costs of a Stopping Up Order, if agreement was reached with Herefordshire Housing. The Legal Practice Manager advised Members that they had to consider the application before them, that the alleyway was not owned or controlled by the applicant, and that planning conditions had to be enforceable, certain and reasonable. It was noted that elements within the applicant's control, namely the lighting of the footpath and a contribution towards CCTV, would be required through the conditions.

Councillor ACR Chappell commented on concerns about traffic and parking, over intensification, and the number of takeaway food outlets in the locality. He said that the area would benefit from regeneration and this site could be redeveloped as open space.

Councillor WU Attfield acknowledged the need for redevelopment but considered that the proposed building was too large and the additional noise and commotion that would result from another takeaway would have detrimental impact on the area.

Councillor JD Woodward felt that the proposal would have an impact on residential amenity and questioned whether the Herefordshire Local Area Agreement, particularly the commitment to reduce levels of obesity, was a planning consideration in this instance.

Councillor SJ Robertson noted that the alleyway was a key concern for Members and suggested that consideration of the application be deferred to enable further time to discuss the options with the relevant parties.

In response to a question from Councillor AJM Blackshaw, the Legal Practice Manager said that it would be unreasonable to require a Stopping Up Order at the applicant's expense as they were not the landowner. He added that the applicant could find themselves in breach of the condition through no fault of their own and this could potentially make the condition unenforceable. Councillor Blackshaw maintained that the issue of the alleyway was material to the determination.

In response to questions and comments, the Central Team Leader advised that: officers were satisfied that the development would fit in with the adjoining buildings; the Traffic Manager had no objections and it was considered that there was adequate parking in the vicinity; there was no existing policy basis to limit the number of fast food outlets; and the Sub-Committee needed to consider whether this proposal would have a significant additional impact on the existing alleyway, adding that the application provided an opportunity to improve lighting and CCTV coverage.

Councillor NL Vaughan commented on the limitations of CCTV, particularly if not monitored properly, and questioned the level of contribution identified. The Principal

Planning Officer advised that the £5,000 contribution had been negotiated between the CCTV Officer and the applicant; this was higher than initially proposed. He explained that the contribution would be used as part of a wider scheme for the shopping parade.

Councillor Toon commented on the expense of operating adequate CCTV provision and, referring to existing anti-social behaviour issues, felt that input should be sought from West Mercia Constabulary.

In view of the issues raised, a number of Members felt that consideration of the application should be deferred for further negotiations. The Central Team Leader reminded the Sub-Committee that the applicant did not own the footpath land and, therefore, he questioned the extent of progress that could be made on some of the issues identified.

Councillor Edwards suggested that further reasons for refusal included inadequate arrangements for stock deliveries and business waste management. He also reiterated concerns about the scale of the proposed development and the detrimental impact on residential amenity.

The Principal Planning Officer noted that a number of Members had strong concerns about a hot food takeaway in this location and, if the principle of the proposed development was not supported, he questioned the usefulness of deferring the application for further detailed negotiations.

RESOLVED:

That

- (i) **The Central Area Planning Sub-Committee is minded to refuse the application subject to the reasons for refusal set out below (and any further reasons for refusal felt to be necessary by the Head of Planning and Transportation) provided that the Head of Planning and Transportation does not refer the application to the Planning Committee:**
- 1. Overintensification of the site.**
 - 2. Harm to the residential amenity of the residents in the area particularly those above and adjacent to the premises.**
 - 3. Harm the character of the area in terms of social activities outside normal business hours.**
 - 4. Fear of crime.**
 - 5. Inadequate arrangements for stock deliveries and business waste management.**
- (ii) **If the Head of Planning and Transportation does not refer the application to the Planning Committee, officers named in the Scheme of Delegation to Officers be instructed to refuse the application, subject to such reasons for refusal referred to above.**

[*Note:*

Following the vote on this application, the Central Team Leader advised that, although the resolution was contrary to the officers' recommendation, he was not minded to refer the matter to the Head of Planning and Transportation.]

131. [A] DCCE2008/2898/F AND [B] DCCE2008/2902/C - CHURCH VILLA, CHURCH LANE, HAMPTON BISHOP, HEREFORD, HEREFORDSHIRE, HR1 4JY [AGENDA ITEM 6]

Demolition of existing two storey dwelling and ancillary buildings and replacement with new two storey oak framed dwelling.

The Planning Officer provided details of updates / additional representations received following the publication of the agenda as follows:

- *I regret that there is an error in the report. This has not been updated to include the comment from the Council's Housing Inspector and further comment from the Conservation Manager. [Both comments were summarised in the schedule of updates circulated at the meeting]*

- Further correspondence has been received from the agent, as follows:

We believe that the report (from Private Sector Housing) in itself is not relevant to our application on this site. As agent, we have submitted numerous applications for replacement dwellings in accordance with Policy H7 of the UDP. It does not appear to state nor have we ever been asked to implement this type of survey as a condition when seeking approval for the demolition of an existing dwelling and its replacement. We therefore feel that the conclusion of the report is of no relevance in determining our application on this site.

The Principal Planning Officer also provided the following officer comments:

- *The policy and conservation issues are already outlined in the report. The other issue raised above is with regard to the condition of the building. PPG 15 emphasises that consent should not be given for the demolition of such a building without clear and convincing evidence that all reasonable efforts have been made to sustain the existing use or find a viable new use. The application was not accompanied by any evidence relating to the condition of the dwelling, and consequently the advice of the Housing Officer was sought and the Conservation Manager also adds to this point. It does not appear, purely with respect to its condition, that there is any necessity for the building to be removed.*

The Chairman, speaking in her capacity as the Local Ward Member, commented on a number of issues, the principal points included:

- Hampton Bishop residents considered the existing building to be an eyesore, there were a number of buildings of different periods and styles in the area, and the replacement would not be prominent when approaching the church.
- Although the building might have an interesting core, the site was in an unfortunate state and the quality of the building was poor.
- She considered that demolition of the existing dwelling and the erection of a replacement was acceptable, particularly given the need to elevate floor levels to minimise flood risk.
- As Hampton Bishop was the only parish with a flood evacuation plan for the entire area, appropriate weight needed to be given to the comments of the Environment Agency. The Chairman noted that only a summary of Environment Agency correspondence had been included in the report and a longer extract was read out which indicated that there would be a reduction in flood risk through the replacement of the existing building.
- It was noted that officers considered that the proposal would have a detrimental impact on the character and appearance of the area but local residents did not share this view and the parish council fully supported the applications.

- It was noted that the Conservation Manager – Building Conservation had commented that the proposed design was a '*...banal mishmash of various elements...*' but the Chairman felt that this comment was more suited to the existing building.
- The Chairman considered the scheme to be an improvement which would complement the area and enhance the general impression of visitors to Hampton Bishop. She added that residents disputed officer comments that the existing building was '*...of local importance...*' and '*...the loss of such an important building would have a negative impact on the character and appearance of the Conservation Area...*'.
- The views of the Parish Council were considered particularly important and the Chairman felt that the applications were acceptable.

Councillor SJ Robertson wished her thanks to be recorded to the Planning Officer for his assistance at a recent site inspection. Councillor Robertson said that, after significant thought, she felt unable to support the application and commented on the need to retain older buildings in rural villages.

Councillor PA Andrews recognised the need to retain a broad mixture of architectural styles but said that the building in question was in a poor state and might be beyond economic repair. However, reservations were expressed about the proposed replacement and she felt that design elements of the existing building could be incorporated into the new design where appropriate.

Councillor DB Wilcox said that he was concerned that the contents of the six letters of support from local residents were not summarised in the report, unlike the two letters of objection, making it appear unbalanced. He said that he supported the conservation of buildings which made a positive contribution but considered the existing dwelling to be a patchwork of different styles and quality of construction. Councillor Wilcox clarified that he, rather than officers, had requested input from the Council's Housing Inspector given issues raised in the original report. He noted the importance of Policy H7 (Housing in the Countryside Outside Settlements) and felt that the enlargement in volume compared to the original dwelling should not be more than 50%. He proposed that officers be authorised to approve the applications subject to conditions considered necessary, in consultation with the Chairman/Local Ward Member, particularly in respect of materials, appearance and height.

Councillor NL Vaughan supported the views of local residents and felt that some of the officer comments in the report were subjective.

Councillor MAF Hubbard said that buildings such as this gave character and a sense of place to villages. He felt that there was a case for retention and supported the recommendation of refusal; he added that repair works combined with a suitable and sympathetic extension might provide an opportunity to enhance living standards.

Councillor PJ Edwards recognised the views of the Local Ward Member and the community but noted the need for consistent application of planning policies, particularly Policy H7, and he felt that there was merit in retaining buildings such as Church Villa.

Councillor MD Lloyd-Hayes noted that the existing building was unlisted, adding that the community would have pursued this actively if the building was considered to be of particular local importance, and this application provided an opportunity to reduce flood risk. It was also noted that Hampton Bishop was not a defined settlement in the UDP and a replacement dwelling needed to be comparable in size but Councillor Lloyd-Hayes felt that on balance the scheme could be supported.

Councillor GFM Dawe said that Church Villa was a vernacular building of great character and commented on the need to retain smaller dwellings. He also said that the replacement was not compatible with Policy H7, the scale of the new building would diminish the character of the area and he queried the impact on flood risk. Other Members also spoke in favour of the retention of the existing building.

Councillor DW Greenow said that he was disappointed with report and disagreed that the existing building was of local importance. He felt that, although the design of the replacement building could be improved, the application was acceptable.

In response to comments by Members, the Central Team Leader noted the importance of parish council comments but reminded Members that the authority had to take a wider strategic view. He acknowledged that the letters of support could have been summarised more fully and that some Members disagreed with some of the officer comments and terminology used. However, officers considered the planning policy implications to be clear-cut and he re-iterated the main issues in the determination of the applications and the sequential tests that needed to be applied.

The Chairman read out further extracts from Environment Agency correspondence and emphasised the need to mitigate flood risk. She said that the house might have provided adequate accommodation in the past but it could not be considered to be suitable by modern standards.

RESOLVED:

In respect of DCCE2008/2898/F

That planning permission be refused for the following reasons:

- 1. The proposal would involve the demolition of a building which is considered to be of local importance. The local planning authority is not satisfied that the building is in such a condition that would require demolition. Having regard to the sensitivity of the location, the loss of such an important building would have a negative impact on the character and appearance of the Conservation Area. The proposal therefore conflicts with Policies HBA6, HBA7 and HBA8 of the Herefordshire Unitary Development Plan 2007 and advice contained within Planning Policy Guidance 15: Planning and the Historic Environment.**
- 2. The replacement dwelling is not comparable in size and scale with the existing building and the development is therefore contrary to Policy H7 of the Herefordshire Unitary Development Plan 2007 and advice contained in Planning Policy Statement 7: Sustainable Development in Rural Areas.**
- 3. The replacement dwelling by virtue of its design, scale and mass would be out of keeping with the character and appearance of both the site and the Conservation Area. The proposal is therefore contrary to Policies DR1 and HBA6 of the Herefordshire Unitary Development Plan 2007.**

In respect of DCCE2008/2902/C

That Conservation Area Consent be refused for the following reason:

- 1. The proposal would involve the demolition of a building which is**

considered to be of local importance. The local planning authority is not satisfied that the building is in such a condition that would require demolition. Having regard to the sensitivity of the location, the loss of such an important building would have a negative impact on the character and appearance of the Conservation Area. The proposal therefore conflicts with Policies HBA6, HBA7 and HBA8 of the Herefordshire Unitary Development Plan 2007 and advice contained within Planning Policy Guidance: Planning and the Historic Environment.

132. DCCW2008/2775/F - 29 WHITEFRIARS ROAD, HEREFORD, HR2 7XE [AGENDA ITEM 7]

Demolish existing garage and replace with single storey extension and minor alterations to off road parking area.

In accordance with the criteria for public speaking, Mr. Pritchard had registered to speak at the meeting but decided not to speak.

The Principal Planning Officer reported that, following deferral at the January 2009 meeting, further investigations into the visibility splay had resulted in the parking space and extension being set back from the front of the property.

Councillor HD Davies, a Local Ward Member, commented that this property had one of the larger garden plots in the vicinity, that there were issues with parking but this was not uncommon on the estate, that an existing tree could be removed at any time, and that there did not appear to be any material planning considerations that would warrant refusal of planning permission in this instance.

Councillor PJ Edwards, also a Local Ward Member, considered that the application should be refused due to the detrimental impact of the development on the character of the area. Councillor Edwards drew attention to the comments of Belmont Rural Parish Council, particularly that the access point was too close to a junction and that the proposal would exacerbate existing parking and passing problems.

Councillor GA Powell, the other Local Ward Member, said that the curve of Whitefriars Road and inconsiderate parking meant that visibility at the junction was restricted and this development could further compromise highway safety.

A number of Members noted that there was adequate space for an extension and that the Traffic Manager had no objections.

In response to a question, the Principal Planning Officer outlined the reasons for refusal on a previous application [DCCW2008/1394/F refers].

A motion to refuse the application was defeated and the resolution below was then agreed.

RESOLVED:

That planning permission be granted subject to the following conditions:

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

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

- 2. C02 (Matching external materials (extension)).**

Reason: To ensure the external materials harmonise with the existing building so as to ensure that the development complies with the requirements of Policy DR1 of Herefordshire Unitary Development Plan.

3. H10 (Parking - single house) (Porous material for new parking area).

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway and to conform with the requirements of Policy T11 of Herefordshire Unitary Development Plan.

Informatives:

1. N19 - Avoidance of doubt - Approved Plans.

2. N15 - Reason(s) for the Grant of PP/LBC/CAC.

133. DCCW2009/0131/F - LAND ADJACENT TO BRICK HOUSE, BUSH BANK, CANON PYON, HEREFORD, HEREFORDSHIRE, HR4 8PH [AGENDA ITEM 8]

Permanent retention of fixed (not rotated) Spanish polytunnels for use in soft fruit growing (table top method) as previously approved DCCW2003/2321/F & DCW2004/4212/F.

The application was withdrawn on 30 March 2009.

134. DCCW2009/0382/F - LAND TO REAR OF 103 KINGS ACRE ROAD, HEREFORD, HEREFORDSHIRE, HR4 0RQ [AGENDA ITEM 9]

Proposed house.

In accordance with the criteria for public speaking, Mr. Ellis spoke in objection to the application.

Councillor JD Woodward, a Local Ward Member, proposed that the application be refused as she did not consider the design to be in keeping with adjoining properties. Councillor Woodward noted that the Traffic Manager had not raised any objections but she felt that the proposal could have an impact on highway safety, particularly given parking problems on Kings Acre Road. The concerns of neighbours regarding overlooking and loss of light were noted.

Councillor DJ Benjamin, the other Local Ward Member, felt that the architectural approach was acceptable given the constraints of the plot and he did not consider that a single dwelling would have a significant additional impact on existing traffic problems. Therefore, he supported the officer recommendation of approval.

The Principal Planning Officer reported that, in the absence of any objection from the Traffic Manager and given the comments of a Planning Inspector on a previous application [CW2004/4033/O refers], it was not considered that refusal on highway safety grounds could be sustained on appeal. It was also reported that officers had worked with the agent to identify a suitable design and the asymmetric roof should minimise loss of light and the potential for overlooking.

In response to a question, the Principal Planning Officer advised there was no issue of 'garden grabbing' as this proposal related to a single dwelling and the principle of residential development in this location was acceptable.

Members debated the merits of the design approach.

In response to a question, Councillor PA Andrews advised that Hereford City Council had recommended refusal of planning permission on this application.

Councillor AM Toon drew attention to paragraphs 6.10 and 6.11 of the report which referred to '*...the decision of the Cabinet Member for Environment and Strategic Housing to suspend the requirement for residential schemes for 5 dwellings or less which came into effect on the 1 April 2009*'. Councillor Toon said that she was not aware that this decision had been communicated to Members, she questioned the course of action taken given the extensive consultation on the Herefordshire UDP and the Planning Obligations SPD, and commented on the importance of developer contributions to provide enhanced infrastructure to mitigate the impact of developments, particularly in urban wards. The Central Team Leader outlined the background to the issue and the terms of the temporary suspension of Section 106 payments; it was noted that the situation would be assessed at the end of September 2009. Councillor AJM Blackshaw commented that the decision had been taken in response to the deepening of the recession and decreasing development activity.

A motion to refuse the application was defeated and the resolution below was then agreed.

RESOLVED:

That planning permission be granted subject to the following conditions:

1. **A01 (Time limit for commencement (full permission)) (12 months).**

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

2. **B02 (Development in accordance with approved plans and materials).**

Reason: To ensure adherence to the approved plans and to protect the general character and amenities of the area in accordance with the requirements of Policy DR1 of Herefordshire Unitary Development Plan

3. **F14 (Removal of permitted development rights).**

Reason: In order to protect the character and amenity of the locality, to maintain the amenities of adjoining property and to comply with Policy H13 of Herefordshire Unitary Development Plan.

4. **F16 (No new windows in specified elevation).**

Reason: In order to protect the residential amenity of adjacent properties and to comply with Policy H18 of Herefordshire Unitary Development Plan.

5. **G09 (Details of boundary treatments).**

Reason: In the interests of visual amenity, to ensure the development has an acceptable standard of privacy and to conform to Policy DR1 of Herefordshire Unitary Development Plan.

6. **H10 (Parking - single house).**

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway and to conform with the requirements of Policy T11 of Herefordshire Unitary Development Plan.

7. I16 (Restriction of hours during construction).

Reason: To protect the amenity of local residents and to comply with Policy DR13 of Herefordshire Unitary Development Plan.

Informatives:

- 1. N01 - Access for all.**
- 2. N15 - Reason(s) for the Grant of PP/LBC/CAC.**
- 3. N19 - Avoidance of doubt - Approved Plans.**

135. DATE OF FUTURE MEETINGS

29 April 2009
27 May 2009
24 June 2009

The meeting ended at 4.15 pm

CHAIRMAN