

**MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 11 January 2012 at 10.00 am**

**Present:** Councillor PGH Cutter (Chairman)  
Councillor BA Durkin (Vice Chairman)

Councillors: PA Andrews, AN Bridges, PJ Edwards, DW Greenow, KS Guthrie, JW Hope MBE, RC Hunt, JA Hyde, Brig P Jones CBE, JLV Kenyon, JG Lester, MD Lloyd-Hayes, RI Matthews, FM Norman, GR Swinford and PJ Watts

**In attendance:** Councillors AJM Blackshaw, ACR Chappell and SJ Robertson

**111. APOLOGIES FOR ABSENCE**

Apologies were received from Councillor G Lucas.

**112. NAMED SUBSTITUTES (IF ANY)**

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillor JA Hyde attended the meeting as a substitute member for Councillor G Lucas.

**113. DECLARATIONS OF INTEREST**

7. DMN/111770/F - LAND ADJACENT TO 4 VALENTINE COURT, CANON PYON, HEREFORD, HR4 8NZ.

Councillor DW Greenow, Personal, The Councillor knows the farmer who farms the land [*amended at Planning Committee 1 February 2012*].

8. DMS/111711/F - LAND AT LOWER LYDE (PARCEL 7209), SUTTON ST NICHOLAS, HEREFORD, HR1 3AS.

Councillor JLV Kenyon, Personal, The Councillor knows the applicant.

9. DMS/112643/F - WESTHOLME, FOWNHOPE, HEREFORDSHIRE, HR1 4NN.

Councillor J Hardwick, Personal, The Councillor is a Member of the Wye Valley AONB Board; owns land adjacent to the site; and knows the applicant..

9. DMS/112643/F - WESTHOLME, FOWNHOPE, HEREFORDSHIRE, HR1 4NN.

Councillor JA Hyde, Personal, The Councillor is a Member of the Wye Valley AONB Board.

9. DMS/112643/F - WESTHOLME, FOWNHOPE, HEREFORDSHIRE, HR1 4NN.

Councillor PGH Cutter, Personal, The Councillor is a Member of the Wye Valley AONB Board.

10. DMS/112675/F - THE HEREFORD ACADEMY, MARLBROOK ROAD, HEREFORD, HEREFORDSHIRE, HR2 7NG.

Councillor ACR Chappell, Personal, Council Representative on the Academy Board.

**114. MINUTES**

**RESOLVED:** That the Minutes of the meeting held on 14 December 2011 be approved as a correct record and signed by the Chairman.

**115. CHAIRMAN'S ANNOUNCEMENTS**

The Chairman advised the Committee that the Council were undertaking a trial webcast of the forthcoming Planning Committee scheduled to take place on 1 February 2012.

**116. APPEALS**

The Development Manager (Enforcement) advised the Committee that the appeal at Losito Stud was an appeal based on non-determination and not refusal of planning permission as stated in the report.

The Planning Committee noted the report.

**117. DMN/111770/F - LAND ADJACENT TO 4 VALENTINE COURT, CANON PYON, HEREFORD, HR4 8NZ**

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.

In accordance with the criteria for public speaking, Mr Drew, representing Pyons Group Parish Council, and Mrs McLeod, a neighbouring resident, spoke in objection to the application and Miss Wright, the applicant, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor AJM Blackshaw, the local ward member, commented on a number of issues, including:

- That for the first time since he had been elected he was not in agreement with the case officer's recommendation for an application in his ward.
- The concept of affordable housing in Canon Pyon was supported.
- The Parish Council were against the application, emerging legislation outlined in the Localism Act gave considerably more weight to the views of Parish Councils.
- There was an alternative site which was deemed more acceptable.
- The application was contrary to Unitary Development Plan Policy DR1 as there was an alternative site available.
- Members should undertake a site inspection prior to making a decision in respect of the application.

The Committee felt that there was a need for affordable housing throughout Herefordshire but noted the concerns expressed by the Parish Council, the local residents and CPRE. A site inspection was proposed on all three grounds as set out in the Council's Constitution.

**RESOLVED:**

**THAT the determination of the application be deferred pending a site inspection on the following grounds:**

1. **The character or appearance of the development itself is a fundamental planning consideration.**
2. **A judgement is required on visual impact.**

3. **The setting and surroundings are fundamental to the determination or to the conditions being considered, and cannot reasonably be made without visiting the site in question.**

**118. DMS/111711/F - LAND AT LOWER LYDE (PARCEL 7209), SUTTON ST NICHOLAS, HEREFORD, HR1 3AS**

The Development Manager (Enforcement) gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor SJ Robertson, the local ward member, commented on a number of issues, including:

- The site visit, undertaken the previous day, had proved extremely beneficial.
- Sutton St Nicholas Parish Council had now expressed similar concerns to Pype and Lyde, and Holmer and Shelwick Parish Councils.
- More weight was being given to Parish Councils as part of the Localism Act, their concerns should be taken seriously.
- The Planning Inspector had upheld previous refusals of planning permission on the site.
- The application was contrary to Policy H7 and H8 of the Council's Unitary Development Plan.
- There was no need for the applicant to reside on the site.
- There was concern in respect of the visibility splay proposed.
- If the large shed on the site is being used for incubation purposes would a change of use be required?

The debate was opened with members voicing concern in respect of a number of aspects of the application. It was felt that the business case had not been sufficiently met and that the application could also be viewed as contrary to Unitary Development Plan Policy E11. Concern was also expressed in respect of the site location, the site access and the size of the proposed dwelling. Members also discussed certain areas of the site including the incubation shed and the man-made pools and requested clarification as to whether planning permission had been obtained, or was required, for these.

Other Members of the Committee however were in support of the application and noted that the site was well screened from the public highway. It was also felt that the need issue had been addressed at paragraph 6.5 of the Development Manager's report. Members discussed the previous refused applications on the site and noted that the Planning Inspector had upheld the Council's decision as the functional need tests had not been met, however it was felt that this issue had been addressed in the current application. Members also noted that the application was temporary and would give the applicant an opportunity to establish his business.

Further concern was expressed in respect of the access and egress to the site with full details of the visibility splay requirement requested from the Development Manager (Enforcement). Further clarification in respect of the requirements of PPS7 was also requested. Members also requested clarification in respect of the usage of the site and asked for confirmation that the usage was not deemed as commercial.

In response to a number of questions raised by the Committee, The Development Manager (Enforcement) provided the following information:

- If the shed was to be used for intensive livestock purposes it could require the benefit of separate approval
- The 400m rule was not an exclusion zone. Any development for the use of a building for livestock inside 400m of a protected building would require planning permission.
- The use of the site was agricultural. Even if it was not deemed as agricultural the temporary accommodation policy was broad enough to cover it.
- The previous application was refused and the appeal was upheld as no agricultural assessment had been submitted, this had been submitted for this application.
- The assessment had been submitted by the applicant and not by the county land agent.
- The temporary permission enabled the applicant to establish a successful business.
- PPS7 required one out of the previous 3 years to be profitable.
- Deliveries out of the site were approximately once every 8 days and utilized the applicants vehicle with a trailer.
- Lorry deliveries into the site were less than once a month.
- The transport manager found the access acceptable.

A number of Members were of the opinion that small rural businesses should be encouraged and supported however they felt that this had to be balanced with an acceptable application site. Further concern in respect of the access and egress was expressed.

The Committee also noted that the application sought a temporary planning permission for an agricultural worker, it was felt that approving the application would give the applicant an opportunity to establish a successful business. It was also noted that the Council was often quoted as having a 'can do' attitude and that this should be demonstrated through the support of small business.

In response to the points raised by the Committee, the Head of Neighbourhood Planning reminded them that the use of the site was not open to debate and that they were solely determining a temporary dwelling. He added that the agricultural usage of the site was likely to continue with or without the temporary dwelling.

In response to further questions from the Committee, the Development Manager (Enforcement) advised that:

- the proposed dwelling had a ridge height of six metres, although the applicant was happy to reduce this if required,
- the required visibility splay was 2.4 x 75 metres to the north and 2.4 x 100 metres to the south,
- the required visibility splay could be achieved via appropriate hedge trimming.

Councillor SJ Robertson was given the opportunity to close the debate. She reiterated her opening remarks and made additional comments, including:

- The title of the application referred to a farm worker and made no mention of his family.
- The three neighbouring Parish Councils were all concerned in respect of the application.

A motion to approve the application in accordance with the case officer's recommendation failed.

Members discussed the reasons that had been suggested for refusing the application and felt that any refusal should be based on Unitary Development Plan Policies H7 and E11.

The Head of Neighbourhood Planning advised that Policy E11 was based solely on employment and as the application was not for the actual business and just for the dwelling it would not be appropriate. The Committee therefore based their reason for refusal solely on Policy H7 of the UDP as in their opinion the functional and financial need for the dwelling had not been sufficiently met.

Prior to the vote the Chairman had a brief discussion with the Head of Neighbourhood Planning in respect of any need for a further information report in accordance with the Council's Constitution. He felt that a further information report would not be required. It was also noted that the Deputy Monitoring Officer had advised the Democratic Services Officer that he would not request a further information report so the Committee were able to proceed to the vote. The resolution as set out below was agreed.

## **RESOLVED**

**THAT planning permission be refused for the following reason:**

- 1. It is not considered that sufficient justification has been provided to substantiate a full-time residential presence on the site and in the absence of a functional need, the proposal is contrary to Policies H7 and H8 of the Herefordshire Unitary Development Plan and Annex A of PPS7: Sustainable Development in Rural Areas.**

### **119. DMS/112643/F - WESTHOLME, FOWNHOPE, HEREFORDSHIRE, HR1 4NN**

The Development Manager (Hereford and Southern Localities) gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

In accordance with the criteria for public speaking, Mrs Rowles, representing Fownhope Parish Council, and Mr Jolley, a neighbouring resident, spoke in objection to the application and Mr Jamieson, the applicant's agent, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor J Hardwick, the local ward member, commented on a number of issues, including:

- That the planning history on the site, and in particular the existing Section 106 agreement needed to be considered.
- The site was at the gateway to the village and was therefore an important site to the people of Fownhope.
- The application was contrary to UDP Policies HBA6 and HBA9 as it failed to improve or enhance the conservation area.
- The trees on the site needed to be protected, the encroachment on the root zone of one of the trees on plot 1 was a concern.
- Members should undertake a site inspection prior to making a decision in respect of the application.

The Committee discussed the benefits of undertaking a site inspection and decided that it would be beneficial and was in accordance with the criteria for site inspections as set out in the Council's Constitution.

Members requested that further information in respect of the root protection areas of protected trees and the existing Section 106 agreement on the site be provided when the application was brought back to the Committee at a later date.

**RESOLVED**

**THAT the determination of the application be deferred pending a site inspection on the following grounds:**

- 1. A judgement is required on visual impact.**
- 2. The setting and surroundings are fundamental to the determination or to the conditions being considered, and cannot reasonably be made without visiting the site in question.**

**120. DMS/112675/F - THE HEREFORD ACADEMY, MARLBROOK ROAD, HEREFORD, HEREFORDSHIRE, HR2 7NG**

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.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor ACR Chappell, the local ward member, commented on a number of issues, including:

- The all-weather pitches would give the local community the opportunity to use the academy's new facilities.
- The local community currently has the opportunity to use the academy's sports hall outside of school times.
- The lighting is needed to enable the pitches to be hired into the evening.
- The Academy's directors were happy with the application.

Members discussed the application and had concerns in respect of the condition allowing the floodlights to be used until 2000 on Sunday evenings. Some members were of the opinion that 1600 or 1800 would be a more acceptable terminal hour. Concern was expressed regarding the possibility of antisocial behaviour occurring as a result of groups of youths congregating in the vicinity. It was felt that floodlighting could exacerbate this issue.

Councillor ACR Chappell was given the opportunity to close the debate. He reiterated her opening remarks and made additional comments, including:

- The hours requested were reasonable and should be supported.
- In the Olympic year the possibility of encouraging people to partake in outside sports should be supported.
- Groups of youths would be welcomed to the site to take part in sporting activities.

**RESOLVED:**

**That condition 21 of the planning permission DCCW0009/0958/F be varied as follows :**

1. The permission hereby granted is an amendment to planning permission DCCW0009/0958/F dated 18 August 2011 and, otherwise than is altered by this permission, the development shall be carried out in accordance with that planning permission and the conditions attached thereto.

Reason: For the avoidance of doubt and to comply with the requirements of Policy DR1 of the Herefordshire Unitary Development Plan.

2. The floodlighting hereby permitted for the MUGA shall not be switched on outside of the following times: - 0900 - 2200 Mondays to Fridays nor at any time on Saturdays, Sundays, Bank or Public Holidays

Reason: To minimise the impact of the floodlights and to protect the residential amenity of nearby dwellings so as to comply with Policy DR14 of Herefordshire Unitary Development Plan.

3. The floodlighting hereby permitted for the All Weather Pitch shall not be switched on outside of the following times: - 0900 – 2200 Mondays to Fridays and 9.00 and 20.00 on Saturdays, Sundays nor at any time on Bank or Public Holidays.

Reason: To minimise the impact of the floodlights and to protect the residential amenity of nearby dwellings so as to comply with Policy DR14 of Herefordshire Unitary Development Plan.

4. This permission shall expires on 11 January 2014, after which time, the use of the MUGA and all weather pitches shall refer back to the restrictions imposed by Condition 21 of Planning Permission DCCW0009/0958/F unless otherwise agreed in writing (planning permission) by the local planning authority.

Reason: To enable the planning authority to give further consideration to the acceptability of the proposed use on Saturdays and Sundays after the temporary period has expired and to comply with Policy DR2 of the Herefordshire Unitary Development Plan.

**Informative:**

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

**121. DATE OF NEXT MEETING**

The Planning Committee noted the date of the next meeting.

**APPENDIX 1 - SCHEDULE OF COMMITTEE UPDATES**

The meeting ended at 12.25 pm

**CHAIRMAN**





# PLANNING COMMITTEE

11 January 2012

## 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.

**DMN/111770/F – Erection of 14 no. affordable homes on Greenfield site including required access and services on land adjacent to 4 Valentine Court, Canon Pyon, Hereford, HR4 8NZ**

**For: Two Rivers Housing per Mr Colm Coyle, Imperial Chambers, Longsmith Street, Gloucester, GL1 2HT**

### ADDITIONAL REPRESENTATIONS

The following comments from the Senior Ecologist (Planning) have been received:

Unimproved pastures are becoming increasingly rare across the County; whilst this field does not appear to have rare species present, as semi-improved grassland it does have some ecological value. If this application were to be approved, an appropriate compensation scheme for loss of grassland would be to secure the retention of the southern half of the field as a wildflower meadow.

If you are minded to approve this application, further outline information regarding an appropriate mitigation and compensation scheme should be provided in order to comply with UDP Policy NC7. The finer details of this could be subject to a planning condition.

### OFFICER COMMENTS

The southern part of the meadow does not form part of the application site and is not within the applicant's control. As such it would be unreasonable to impose a condition to require its retention as a semi-improved meadow. The recommendation does include a landscaping condition and some habitat compensation may be achieved through this mechanism.

### NO CHANGE TO RECOMMENDATION

**DMS/111711/F - Siting of temporary living accommodation for agricultural worker at land at Lower Lyde (Parcel 7209), Sutton St Nicholas, Hereford, HR1 3AS**

**For: Mr I Joseph per Mr Paul Smith, 12 Castle Street, Hereford, HR1 2NL**

### ADDITIONAL REPRESENTATIONS

Sutton St Nicholas Parish Council

Regarding the above the Parish Council considered the matter at its meeting last night and objected on the following grounds

- That the current use did not constitute agricultural use;
- Further expansion would have a detrimental environmental impact;
- There is no action plan to prevent and control disease;
- There is no identifiable procedure to ensure that the pens would be kept clean;
- There is no impact assessment on the likely impact on the water course that any further expansion will bring;
- Bearing in mind the current level of business and the untidiness of the site what will be the impact of further expansion; and
- There seems to be a lack of enforcement in relation to the failed planning application for the caravan.

Transportation Manager – in terms of how far back the hedge would need trimming advises that it would not require a hard cut just the equivalent of an annual trim.

#### **OFFICER COMMENTS**

In response to the parish council comments-

The use of the site is considered to fall within the definition of agricultural and its use and/or expansion for this purpose would therefore not constitute development requiring planning permission.

Further expansion may need to be subject of further planning applications.

Disease and pollution control concerns in relation to the agricultural use of the land are not matters regulated through Planning legislation.

The caravan subject of enforcement action is not being used for residential purposes, but is now part of the rearing process.

#### **NO CHANGE TO RECOMMENDATION**

**DMS/112643/F – Proposed erection of two dwellings at Westholme, Fownhope, Hereford, HR1 4NN**

**For: Messrs Paton per Mr Paul Lodge, Jamieson Associates Architects, 30 Eign Gate, Hereford, HR4 0AB**

#### **ADDITIONAL REPRESENTATIONS**

The Conservation Manager has confirmed the extent of the Tree Preservation Order that relates to the site and this will be clarified in the officers' presentation

A petition (90 signatories) and 30 additional letters of objection have been received in respect of the application to lift the requirements of the Section 106 Agreement restricting further development of the site. This application remains undetermined.

#### **OFFICER COMMENTS**

There is a correction needed to the history section at paragraph 3.1. Application No. SH861190PF does not relate to this site

#### **NO CHANGE TO RECOMMENDATION**