

**MINUTES of the meeting of Planning Committee held at The Shire Hall, St Peter's Square Hereford HR1 2HX on Wednesday 10 December 2014 at 2.00 pm**

**Present:** Councillor PGH Cutter (Chairman)

**Councillors:** AJM Blackshaw, AN Bridges, EMK Chave, PJ Edwards, DW Greenow, KS Guthrie, J Hardwick, JW Hope MBE, JA Hyde, JG Lester, FM Norman, J Norris, Roger and TL Widdows

**In attendance:** Councillor P Sinclair-Knipe

**121. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors PA Andrews, BA Durkin, MAF Hubbard, RI Mathews, RL Mayo, PJ McCaull, and DB Wilcox.

**122. NAMED SUBSTITUTES**

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillor JA Hyde attended the meeting as a substitute member for Councillor RL Mayo and Councillor RJ Phillips for Councillor DB Wilcox.

**123. DECLARATIONS OF INTEREST**

**Agenda item 4: P141408/F Barley Close, Woodseaves Road, Eardisley**

Councillor JW Hope declared a non-pecuniary interest because he know residents as the local ward member.

Councillor RJ Phillips declared a non-pecuniary interest as a School Governor at Lady Hawkins' School.

**Agenda item 5: P141687/F Mid-Summer Orchard, (Land at Oakley Cottage) Ridge Hill**

Councillor PJ Edwards declared a non-pecuniary interest because he had at one time been Cabinet Member with responsibility for the provision of Travellers sites.

Councillor DW Greenow declared a non-pecuniary interest because he knew the Clerk to the Parish Council, one of the public speakers.

*(The Committee considered agenda item 5 first followed by agenda item 4.)*

**124. P141408/F BARLEY CLOSE, WOODSEAVES ROAD, EARDISLEY, HEREFORDSHIRE**

*(Proposed residential development comprising 16 open market houses and 9 affordable homes.)*

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.

In accordance with the criteria for public speaking, Mr C Skelton, of Eardisley Parish Council spoke in opposition to the Scheme. Ms N James, a resident, spoke in objection. Mr J Spreckley, the Applicant's agent, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, the local ward member, Councillor JW Hope MBE spoke on the application.

He commented that whilst 55 letters of objection had been received these had come from 30 homes. There were 270 residences in Eardisley. This implied that the majority had no objection to the proposal. The proposed development was in the centre of the village which had plentiful amenities.

In discussion the following principal points were made on the application:

- The proposal seemed to be acceptable, appearing to fit in well, being of modest size and containing a range of properties.
- It was unfortunate that the Parish Council remained opposed to the development. It seemed that a good level of consultation had occurred.
- It was requested that further consideration be given to bridging the Folly Brook area to ensure access to the site. It was also suggested that S106 monies could be used to improve the gully opening in Woodseaves Road to help address concerns about flash flooding. The Highway Manager commented that drainage issues would be considered as part of the detailed design.
- Clarification was sought on the means of escape in the event of a flood. The Senior Planning Officer referred to the comments of the Emergency Planning Officer which had been included in the update to the Committee.
- In relation to the S106 agreement which referred to a payment to Kington Youth Services it was requested that consideration be given to supporting local community providers.
- It was questioned why the access to the development could not be directly off the A4111. The Highways Manager commented that the necessary visibility splays could not be provided.
- Buildings needed to be sustainable. Construction to a level above Code Level 3 of the Code for Sustainable Homes would be preferable.
- It was requested that consideration be given to the public open space provision to maximise the public benefit.

The Development Manager clarified in relation to the S106 agreement that the level of contribution to St Mary's Roman Catholic School was in accordance with a policy agreed in 2008. Discussion of the S106 provisions could be held with the Chairman and local ward member. The design of the Scheme including drainage would be governed by the proposed conditions,

The local ward member had no additional comments.

**RESOLVED: That subject to the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement in accordance with the Heads of Terms stated in the report, officers named in the Scheme of Delegation to Officers are authorised to grant full planning permission, subject to the conditions below and any other further conditions considered necessary.**

1. **A01 Time limit for commencement (full permission)**
2. **B01 Development in accordance with the approved plans**
  - Amended site plan - drawing number 1541.00E.
  - Elevations and floor plans - House type A - drawing number 1541.01C
  - Elevations and floor plans - House type B - drawing number 1541.02B
  - Elevations and floor plans - House type C - drawing number 1541.04A
  - Elevations and floor plans - House type D and E - drawing number 1541.05B
  - Elevations and floor plans - House type F - drawing number 1541.07.
  - Landscape master plan date stamped Herefordshire Council 7 May 2014 on landscaping issues unless subject to conditions as attached below and amended footpath gradient detail submitted in support of the application.
3. **H13 Access, turning area and parking**
4. **H17 Junction improvements/off site works**
5. **H18 On site roads - submission of details**
6. **H20 Road completion in 2 years**
7. **H29 Secure covered cycle parking provision**
8. **F14 Removal of permitted development rights**
9. **C01 Sample of external materials (to include colour and sample of external render).**
10. **D04 Details of window sections, eaves, verges and barge boards.**
11. **D05 Details of external joinery finishes**
12. **D10 Specification of guttering and downpipes**
13. **All external doors and windows will be of timber construction in perpetuity.**

**Reason: In consideration of the location of the development and to comply with Policies HBA4 and HBA6 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.**
14. **G09 Details of boundary treatments (Detail will also be included with regards to boundary treatments between individual dwellings which will not be of close boarded fencing.**
15. **G10 Landscaping scheme**
16. **G11 Landscaping scheme implementation**

17. **Prior to commencement of the development, a species and habitat enhancement scheme must be submitted to, and be approved in writing by, the local planning authority, and the scheme shall be implemented as approved. An appropriately qualified and experienced ecological clerk of works must be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.**

**Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NCI, NC6, NC7, NC8 and NC9 of the Herefordshire Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006**

18. **L01 Foul/surface water drainage**
19. **L02 No surface water to connect to public system**
20. **L03 No drainage run-off to public system**
21. **I16 Restriction of hours during construction**
22. **I51 Details of slab levels**
23. **Before construction works commence on site, a hydraulic modelling assessment shall be undertaken by the developer in liaison with Dwr Cymru Welsh Water, in order to assess the effect the proposed development will have on the existing water supply network, together with any necessary associated infrastructure works.**

**Reason: To protect the integrity of the existing water supply system.**

24. **There shall be no beneficial use or occupation of any of the buildings hereby approved until such time that any necessary water infrastructure works required by the hydraulic modelling assessment referred to in the above condition have been completed and approved by Dwr Cymru Welsh Water and the Local Planning Authority has been informed in writing of its completion.**

**Reason: To ensure that the proposed development does not adversely affect the integrity of the existing water supply system.**

25. **L04 Comprehensive & Integrated drainage of site**
26. **I55 Site Waste Management**
27. **I52 Finished floor levels.**
28. **Flood Risk Management Plan**

#### **INFORMATIVES:**

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning**

policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

2. Management Plan for Residential Parking.
3. Road layout as amendments to the turning head
4. N11A
5. N11C
6. HN10 No drainage to discharge to highway
7. HN08 Section 38 Agreement & Drainage details
8. HN04 Private apparatus within highway
9. HN28 Highways Design Guide and Specification
10. HN13 Protection of visibility splays on private land
11. HN05 Works within the highway

**125. P141687/F MID SUMMER ORCHARD, (LAND AT OAKLEY COTTAGE), RIDGE HILL, HEREFORDSHIRE, HR2 8AG**

*(Change of use of land from agriculture to a one family traveller site, with stationing of one mobile home, one touring caravan, parking and turning area, re-designed access and septic tank.)*

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.

In accordance with the criteria for public speaking, Mrs K Greenow Clerk to Lower Bullingham Parish Council, spoke in opposition to the Scheme. Mrs S Glover, a resident, spoke in objection.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, the local ward member, Councillor P Sinclair-Knipe spoke on the application.

He commented on a number of issues including:

- He acknowledged that applications of this type were often contentious. However, there was a distinction to be drawn between a recent application at Bosbury determined by the Committee (*application P141538 – Bosbury – 8 October 2014*) which the Committee had approved. In contrast to that application, the applicant had no local connection. In addition that application had had only 4 letters of objection. In this case there were 54 letters of objection – virtually the entire local community.
- The Parish Council and the objector who had spoken at the meeting had asserted that the report contained a flawed interpretation of the legislation and he supported that view.

- An application for a bungalow on that site by the former owner of the land had been refused.
- He did not support the application.

In discussion the following principal points were made on the application:

- Reference was made to the application at Bosbury determined by the Committee on 8 October 2014 (*application P141538*) which the Committee had approved. It was suggested that in contrast to that application there was no local connection with the area and no justifiable need. In addition the site was not in a sustainable location there being no local facilities, no employment opportunities and an infrequent bus service. The report stated that the lane to the site “is a rather hostile environment for pedestrians”. Account should be taken of a recent appeal against refusal of permission for a dwelling in the locality near to the application site which had been rejected.
- Account needed to be taken of the view of the local community and the draft Neighbourhood Plan.
- In response to a comment that there were two authorised travellers’ sites in the vicinity the Head of Development Management and Environmental Health commented that there were rarely vacancies at the Watery Lane site and occasionally 1-2 pitches were vacant at the Grafton site. However, the issue was that the County as a whole had a shortfall of gypsy/traveller sites.
- The name of the site’s location, Ridge Hill, and of a neighbouring property, Three Counties View, gave an indication as to the nature of the site. The development would be visible and have a negative impact on neighbours and be dominant in the landscape. It would have an adverse effect on the countryside.
- The proposal to have closed board fencing would be out of keeping with the area.
- It was suggested that the site was not suitable being in an isolated location and difficult to access.
- Travelling families were welcome and such sites should be accommodated where possible. However, there was a strong belief that this would not be a sustainable location and that there was insufficient access to local facilities.

The Development Manager commented that the site was sustainable. Legislation provided that such applications should be treated differently, and national policy was that account had to be taken of the absence of a five-year supply of deliverable gypsy/traveller sites. He cautioned that if permission were refused, in his view, taking into account previous appeal decisions, the Council would lose an appeal.

The Planning Lawyer supported the comments of the Development Manager. She referred to paragraphs 6.3 of the report onwards highlighting paragraphs 6.7 and 6.8. She advised that a local connection should not be a focal point in the decision. She emphasised that reasons for refusal based on policy would be required. In her view the impact on the setting would be very difficult to argue as a ground for refusal and the view that the site was isolated and not sustainable would be difficult to support. A shortfall in the provision of traveller sites would be highlighted at appeal.

The local ward member was given the opportunity to close the debate. He considered that the possibility of an appeal was not a good ground for supporting the application and the view of the local Community should prevail.

The following grounds for refusal were advanced: H7, H12, S1, DR2, DR3, LA2 and Paragraph 55 of the NPPF and sections 4 and 11 were also relevant. Particular note was

made of the effect on setting, and the unsustainable location, including the isolation of the site, the lack of amenities and the lack of transport links.

**RESOLVED: That planning permission be refused on the grounds set out below and officers named in the scheme of delegation be authorised to finalise the drafting of the reasons for refusal for publication: H7 – Housing in the Countryside outside settlements, H12 – Gypsies and other travellers, S1 – Sustainable development, DR2 – Land use and activity, DR3 - Movement, LA2 – Landscape Character and Areas Least resilient to change and Paragraph 55 of the NPPF and sections 4 and 11.**

#### **Informative**

**The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. However, due to the harms which have been clearly identified within the reasons for the refusal and which are so fundamental to the proposal it is not possible to negotiate a satisfactory way forward, and approval has not been possible in this instance.**

#### **126. DATE OF NEXT MEETING**

The Planning Committee noted the date of the next meeting.

#### **Appendix 1 - Schedule of Committee Updates**

The meeting ended at 3.45 pm

**CHAIRMAN**





# **PLANNING COMMITTEE**

**Date: 10 December 2014 (pm)**

## **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.**

**P141408/F - PROPOSED RESIDENTIAL DEVELOPMENT  
COMPRISING 16 OPEN MARKET HOUSES AND 9  
AFFORDABLE HOMES AT BARLEY CLOSE, WOODSEAVES  
ROAD, EARDISLEY, HEREFORDSHIRE,**

**For: R S Preece & Son per Mr James Spreckley, Brinsop  
House, Brinsop, Hereford, Herefordshire HR4 7AS**

**OFFICER COMMENTS**

The Section 106 agreement Draft Heads of Terms attached to the Committee report in Section 3 refers to a total contribution towards off-site play area as being £65,121 This should read as £29135 and therefore the total Section 106 is £160090.

**OFFICER COMMENTS**

Paragraph 1.7 of the Committee report refers to the site being subject to the SHLAA as a site with low/minor constraints. This refers to the south east part of the site subject to the SHLAA report, the site forms part of a larger area subject to the SHLAA report, to which it is considered the site as a whole does have significant constraints. However although considered appropriate for development, it is acknowledged that the south east corner is prominent at one of the main road junctions in the village and is located within the Conservation Area.

**ADDITIONAL REPRESENTATIONS**

The Emergency Planning Officer has responded to the application indicating:

The EA complex surface water mapping indicates that the proposed access & egress point could be flooded to a 'Significant' hazard level, dangerous for most people for a 1 in 100 event (1% AEP). On the EA Risk of Flooding from Surface Water map this same point is designated with a High risk zone. As safe access at the proposed access & egress point may not be able to be maintained during a flood event the FRA proposes alternative pedestrian access via a route leading out east of the development. The site map indicates that this route will direct residents around or near to an attenuation pond, an open body of water which, during a flood event, could become flooded in excess of 0.39m (the permanent pond level is not clearly marked). As this pond is potentially an additional hazard some thought should be given to having appropriate control measures in place. This could be in the form of landscaping, signage or buoyancy aids; these control measures will have to be maintained and reviewed.

As the site is not for use by vulnerable persons, and is clearly above any expected flood levels, there should be minimal impact on resourcing arrangements in regards to evacuation of the site. One concern could be the rescue of residents vehicles if they choose to enter deep flood waters and so this risk should be communicated to them, especially to those unfamiliar with the area.

If the application is successful I would recommend that a flood risk management plan is put in place to ensure that residents are fully aware that vehicular access & egress to this site could be denied; the potential that due to climate change the frequency of the denial may

increase in the future; and that the proposed alternative pedestrian access can be managed and maintained in an appropriate and safe way.

### **OFFICER COMMENTS**

The comments as made by the Emergency Planning Officer are noted and it is recommended that an additional condition is attached to any approval notice with regards to the requirement for details of a flood risk management plan.

### **ADDITIONAL REPRESENTATIONS**

A letter has been from a member of the Eardisley Steering Group for the Eardisley group neighbourhood plan raising concerns about the applicants community engagement with the public prior to submission of the application for planning consideration and how this has been commented upon in the report to Committee.

### **OFFICER COMMENTS**

Information as indicated in the report to Committee is based on information submitted by the applicant in support of the application with regards to community consultation. It is clear that the applicants did engage with the Community prior to submission of the application as advised in the National Planning Policy Framework on consultation with local communities.

### **ADDITIONAL REPRESENTATIONS**

A further letter of objection from a member of the public has been received issues raised can be summarised as follows:

Concerns about changes to the 'attenuation pond' and its impacts on the site. Comment is also made about drainage and ditch design and who will be responsible for their upkeep. Concerns about a suggested footpath along the A4111 and adjoining hedgerow and proposed new planting of trees which is not considered desirable for the outlook from the Grade II\* listed Upper House and its setting. Issues are also raised about internal footpaths and plantings to the north, outside of the application site and loss of on site amenity space. Concerns are also raised about the principle of development on site in relationship to the Eardisley Neighbourhood Plan.

### **OFFICER COMMENTS**

The amended plan does refer to changes to the on site attenuation pond, however the changes are considered minor and the applicant proposes a pond with biodiversity interest, this is welcomed on ecological grounds and amenity space can still be included in the overall layout of the site. The Draft Heads of Terms attached to the Committee report indicates a payment to off-site play area facilities/improvements. The Management company will be responsible for its management/maintenance.

Concerns have also been raised about the impact of the development on the setting of the nearby Grade II\* listed house known as Upper House Farm.

Impacts on the setting of this listed building as well as the other listed buildings in the vicinity and Conservation Area are a material consideration in the determination of this application.

Paragraph 132 of the NPPF indicates in relationship to the historic environment:

*'when considering the impact of a proposed development on the significance of a designated heritage asset great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through*

*alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.'*

Paragraph 134 of the NPPF states:

*'where a development proposal will lead to less than substantial harm to the significance of a designated asset, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use'.*

It is acknowledged that the Grade II\* Upper House faces into the site and that views into the site do form part of its setting. However the dwelling forms part of the village built environment and no longer forms part of a farmstead that it once did. Barns to the north of the house have been converted to residential use and beyond these are new build dwellings. It is not a principal elevation of the dwelling that faces towards the site.

The site is separated from the dwelling by the A4111 public highway and the site plan indicates the attenuation pond and landscaping planting on opposite side of this roadway to the dwelling. It is considered that this will integrate the development into the setting of the dwelling as well as be of benefit to the wider Conservation Area and setting of other listed buildings.

It is noted that English Heritage raises no objections and the response from the Conservation Manager, has indicated that the listed buildings to the south-east of the development site form a tight knit cluster and that the significance of these dwellings and the other listed buildings on the southern side does not rely on their association with the surrounding countryside and therefore it is considered that the alteration in setting does not constitute harm. In relationship to the grade II\* listed dwelling and its associated listed barns, the Conservation Manager has concluded that the development will not be severely detrimental to their setting. This complex is located on the edge of the village and has a setting that incorporates both village and countryside and the proposal will not have a detrimental effect on the setting of the barns or farmhouse.

In conclusion it is therefore considered that the scheme will not be detrimental to the settings of the various listed buildings in the vicinity of the site or Conservation Area although it is acknowledged that there will be change. The scheme is considered to comply with Policies HBA4 and HBA6 of the UDP and advice as set out in the NPPF.

Also of material consideration is the requirement for more houses and the situation the Council presently faces with a lack of a demonstrated five year land supply. The village of Eardisley is mostly surrounded by land that is designated as prone to flooding in accordance with the EA flood risk data maps. The site of this development is not within the flood plain other than a small section on its frontage alongside the access into the site from the adjacent public highway. The applicant has demonstrated a safe means of pedestrian access in the event of a flood in a northerly direction from the site, with a condition attached to any approval notice issued as recommended by the Emergency Planning Officer this is considered acceptable. Therefore the development is also considered to be in accordance with advice as set out in paragraph 134 of the NPPF.

Concerns raised about the application in relationship to the Eardisley Neighbourhood Plan are covered in the report.

## **CHANGE TO RECOMMENDATION**

Add condition regarding the need for a flood risk management plan.

**P141687/F - CHANGE OF USE OF LAND FROM AGRICULTURE TO A ONE FAMILY TRAVELLER SITE, WITH STATIONING OF ONE MOBILE HOME, ONE TOURING CARAVAN, PARKING AND TURNING AREA, RE-DESIGNED ACCESS AND SEPTIC TANK AT MID SUMMER ORCHARD, (LAND AT OAKLEY COTTAGE), RIDGE HILL, HEREFORDSHIRE, HR2 8AG**

**For: Miss Janes, Hillrise Bungalow, Upper Raice, Pontypool, NP4 5XE**

**ADDITIONAL REPRESENTATIONS**

A further letter has been received from Jill and John Moulton of Kingscote, Ridgehill.

**OFFICER COMMENTS**

The letter raises no additional issues.

**NO CHANGE TO RECOMMENDATION**

