

MINUTES of the meeting of Planning Committee held at Council Chamber, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Wednesday 18 January 2017 at 10.00 am

Present: Councillor PGH Cutter (Chairman)
Councillor J Hardwick (Vice Chairman)

Councillors: BA Baker, CR Butler, PJ Edwards, DW Greenow, KS Guthrie, EL Holton, JA Hyde, TM James, FM Norman, AJW Powers, A Seldon, WC Skelton, D Summers, EJ Swinglehurst and LC Tawn

In attendance: Councillors WLS Bowen, DG Harlow and EPJ Harvey

92. APOLOGIES FOR ABSENCE

There were none.

93. NAMED SUBSTITUTES

There were none.

94. DECLARATIONS OF INTEREST

Agenda item 7: 162166 – Land to the South of Martindale, Kingsland

Councillor LC Tawn declared a non-pecuniary interest because he lived close to the application site.

Agenda item 9: 160238 – Land at Oak Tree View, Beggars Ash Lane, Wellington Heath

Councillor EL Holton declared a non-pecuniary interest as one of the Council's representatives on the Malvern Hills AONB Joint Advisory Committee.

95. MINUTES

RESOLVED: That the Minutes of the meeting held on 7 December 2016 be approved as a correct record and signed by the Chairman.

96. CHAIRMAN'S ANNOUNCEMENTS

There were none.

97. APPEALS

The Planning Committee noted the report.

98. 162166 - LAND TO THE SOUTH OF MARTINDALE, KINGSLAND, HEREFORDSHIRE.

(Outline planning application for residential development of 10 dwellings and associated works.)

The Principal Planning Officer gave a presentation on the application. Whilst not referenced in the title of the report he reported that the application documentation stated that the application was for 10 dwellings. He proposed that for clarification a condition be added to the recommendation limiting the development to up to 10 dwellings.

In accordance with the criteria for public speaking, Mrs C Sawyers, of Kingsland Parish Council spoke in opposition to the Scheme. Mr B Davies, the applicant's agent, spoke in support.

In accordance with the Council's Constitution, the local ward member, Councillor WLS Bowen, spoke on the application.

He made the following principal comments:

- The site access was opposite the entrance to Luctonians Rugby Club. There was a considerable amount of traffic on the A4110 including large lorries from quarries and from chicken farms. Traffic exceeded the 40mph speed limit. The report recorded accident data but did not include a further recent accident. The combination of the access to the rugby club and two nearby road junctions created a problem.
- Even with the proposed visibility splays the access would still be dangerous.
- The Neighbourhood Development Plan (NDP) was at Regulation 16 stage and it was important that it was given weight. The proposed site was outside the settlement boundary which had a definitive end point at the monument to the battle of Mortimer's cross. Development should not be permitted to dribble out without limitation into the countryside.
- The NDP provided for the housing target within the Core Strategy to be met over the life of the Strategy which was up until 2031.
- The monument to the battle was important as was the site of the battle which was attracting increasing interest. The site was important historically and as an attraction to tourists. It was thought that the development site potentially formed part of the battlefield. The Conservation Manager (historic buildings) had objected to the application.
- The development comprised 3 and 4 bed houses with no smaller houses or affordable element.
- The sewerage system, contrary to Welsh Water's claims, was inadequate.
- The principal grounds for objection were highway safety, the site was outside the settlement boundary and contrary to the NDP, and there was no support for it within the village.

In the Committee's discussion of the application the following principal points were made:

- The principal concern was the volume and speed of traffic and pedestrian and highway safety.
- The site was suitable for development if a 30 mph speed limit was imposed.
- Consideration should also be given to a village gateway.
- A pedestrian crossing should be provided.
- Kingsland was a linear development and the site would be an extension of the village.
- A development of 10 homes was not problematic.

- The site was opposed by the Parish Council and was not identified for development within the NDP.
- The Conservation Manager (historic buildings) had expressed his concerns about the application.
- The setting of the village was important and there was currently a natural end to the village. The site was situated beyond that natural boundary.
- The NDP was not adopted and could only be afforded limited weight.
- The timing of the application was unfortunate. By the time a detailed application came forward the NDP would have been adopted. It was to be hoped that the Parish Council would be fully consulted on that application and its views taken into account.
- The impact on the conservation area was considered low to moderate. At the reserved matters stage it would be important to ensure that the design of the development was in keeping with the character of the village.
- The entry to the village would be adversely affected.
- Two applications on adjoining land had been refused.

In response to concerns about archaeology the Principal Planning Officer (PPO) commented that a condition would require a watching brief to be kept.

In relation to highway safety the PPO referred to the speed survey at paragraph 6.37 of the report. This had found that average speeds were below 50mph. The accidents referred to in the report were a result of driver error.

The Lead Development Manager added that a traffic regulation order could not be imposed as a condition. The proposed visibility splays were greater than required by manual for streets 2 and the technical data indicated the proposed access was satisfactory. There were objections to the NDP which was not considered to conform to Core Strategy policies RA1 and RA2 and only limited weight could be given to it.

The Transportation Manager commented that the provision of the proposed visibility splays and a footpath would achieve a suitable access.

It was advised that a motion that the application be approved, subject to the imposition of a 30mph speed limit on the relevant part of the A4110 could not be implemented. It was suggested instead that officers could be authorised to grant permission subject to a legal agreement to provide traffic calming measures being secured.

The local ward member was given the opportunity to close the debate. He reiterated his concerns about highway safety and the need for a 30mph speed limit, his view that the NDP was compliant with the Core Strategy, and that the site was outside the natural boundary to the village. If permission were granted he requested that consideration be given to the provision of some affordable housing.

RESOLVED: That officers named in the scheme of delegation to officers be authorised to grant outline planning permission, subject to the following conditions and any other conditions considered necessary by officers, subject to a legal agreement in relation to the provision of traffic calming measures and consultation with the Chairman and local ward member:

1. **C02 - A02 Time limit for submission of reserved matters (outline permission)**
2. **C03 - A03 Time limit for commencement (outline permission)**

3. **C04 - A04 Approval of reserved matters**
4. **C49 - Site observation – archaeology**
5. **CD3 - Foul/surface water drainage**
6. **CAB – Visibility splays**
7. **CAC – Visibility over frontage**
8. **CAE – Vehicular access construction**
9. **CAJ – Parking (estate development)**
10. **CAL – Access, turning area and parking**
11. **CAP – Junction improvements / off site works**
12. **CAQ – On site roads – submission of details**
13. **CAS – Road completion in 2 years**
14. **Prior to the first occupation of any of the dwellings hereby approved a scheme for the provision of covered and secure cycle parking within the curtilage of each dwelling shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details. The cycle parking shall be installed and made available for use prior to occupation of the dwelling to which it relates and shall be retained for the purpose of cycle parking in perpetuity.**

Reason: To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy and to conform to the requirements of Policy MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

15. **No development shall commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The plan shall include the following details:**
 - a. **Wheel cleaning apparatus which shall be operated and maintained during construction of the development hereby approved.**
 - b. **Parking for site operatives and visitors which shall be retained and kept available during construction of the development.**
 - c. **A noise management plan including a scheme for the monitoring of construction noise.**
 - d. **Details of working hours and hours for deliveries**
 - e. **A scheme for the control of dust arising from building and site works**
 - f. **A scheme for the management of all waste arising from the site**
 - g. **A travel plan for employees.**

The agreed details of the CMP shall be implemented throughout the construction period.

Reason: In the interests of the residential amenity of properties within the locality and of highway safety in accordance with Policies SD1 and MT1 of

the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 16. No new development shall commence on site until a detailed habitat & biodiversity enhancement scheme, including type and location of bat roosting and bird nesting mitigation/enhancements, a lighting plan, landscape & planting proposal and an associated 5 year maintenance and replacement plan has been submitted to, and approved in writing by, the local planning authority. The scheme shall have particular regard to the sites former use as an orchard and the planting scheme should include the use of traditional heritage fruit varieties The scheme shall be implemented as approved.**

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 17. CA1 – Landscape management plan**
- 18. CBK – Restriction of hours during construction**
- 19. CCD - No burning of materials/substances during construction phase**
- 20. CE6 - Efficient use of water**
- 21 Development will be limited to no more than 10 dwellings.**

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. I11 – Mud on the highway**
- 3. I09 – Private apparatus within the highway**
- 4. I45 – Works within the highway**
- 5. I05 – No drainage to discharge to highway**

(The meeting adjourned between 11.10 and 11.20 am.)

99. 130945 - LAND AT, TUMP LANE, MUCH BIRCH, HEREFORD, HR2 8HW

(Residential development comprising up to 20 dwellings, including up to 10 affordable dwellings with associated new access (via Tump Lane) and car parking arrangements for both existing and proposed and community facility.)

The Principal Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mrs A Cook, of Much Birch Parish Council spoke in opposition to the Scheme. Mr K James and Miss R Rigby, local residents, spoke in objection. Ms A Shaw, the applicant's agent, spoke in support.

In accordance with the Council's Constitution, the local ward member, Councillor DG Harlow, spoke on the application.

He made the following principal comments:

- The settlement along Tump Lane was one of the largest groupings of houses in the rural area of his ward.
- Whilst he supported the provision of additional affordable housing the proposed site was not suitable.
- A development of 20 homes was significant in the context of a settlement of some 60 dwellings.
- Tump Lane was a country road linking the A49 and A466.
- Local amenities needed to be accessed at both Much Birch to the north and Wormelow to the south. The settlement was equidistant between them.
- Both the primary school and the GP surgery were very good.
- The proposal would provide a footpath, but not continuous to the north providing safe passage to Much Birch, but not to the south. It should be noted that the steiner academy to which many local parents sent their children was situated to the south. Pedestrian access was essential.
- A request for a reduction in the 40mph speed limit to 30 mph at the junction with the A466 was under consideration.
- He noted the findings of a 2016 traffic survey, adding that when school children were being dropped off or collected Tump Lane was extremely busy. There was a risk of traffic on the A49 being backed up.
- The level of concern about Tump Lane was such that a community group had been set up to liaise with Highways England.
- Residents of the pilgrim hotel exited onto Tump Lane. This distorted the traffic speed figures.
- The new footpath proposed had some appeal to residents. However, the proposed width was quite shallow and the road safety audit suggested that vegetation bordering the path may make pedestrians walk on the road creating a hazard.
- The Committee had refused a previous application for 12 dwellings in March 2014 on the grounds of poor connectivity and landscape impact.
- Parking was an issue. Eleven vehicles currently parked in the garage area. No replacement parking area had been identified.
- Much Birch was on target to provide the homes required in the Core Strategy and was not resistant to development. The local community considered that the proposal was in the wrong location.
- The proposal to provide a play area for children was welcome but the proposed site was crossed by telephone lines and was unsuitable.

In the Committee's discussion of the application the following principal points were made:

- There was considerable concern about the access. It was noted that Tump Lane was particularly narrow at the end where it joined the A49. The appeal decision in 2014 had concluded that development would present a harm to highway safety.
- It was noted that the scheme would provide additional footpath that would benefit existing residents as well as new ones.
- The development was backland development uncharacteristic of the settlement.
- There were many positive aspects to the development. However, it appeared that the question of highway safety outweighed the potential benefits.
- It was noted that a 7.5 tonne weight restriction could be imposed.
- Some concern was expressed about the capacity of the school and GP surgery to cope with additional demand.

The Transportation Manager commented that it was not an easy situation and there were constraints. However, whilst further detailed work was required he considered that a good scheme could be delivered that would benefit existing residents as well as new residents.

The Lead Development Manager commented that further work would be undertaken prior to any development. The decision was a finely balanced one. The concept was excellent providing more affordable housing as a percentage of the development than policy required. The proposal would achieve connectivity to the A49. The provision of the footpath and passing bays would be an improvement on the current situation and therefore represent a significant benefit. The section 106 agreement would also enable a contribution to be made to school capacity if required. The access to the A49 via Tump Lane had been a significant aspect of the appeal decision in March 2014 rejecting development. The application before the Committee this time did offer improvements.

The local ward member was given the opportunity to close the debate. He commented that there were benefits associated with the type of development proposed. However, the access was not suitable.

It was proposed that the application should be refused on the grounds of highway safety and poor connectivity and that it was therefore contrary to policies MT1 and SS4.

RESOLVED: That planning permission be refused and officers named in the Scheme of Delegation to Officers be authorised to finalise the drafting of the reasons for refusal for publication based on the Committee's view that the proposal was detrimental to highway safety, there was poor connectivity and it was therefore contrary to policies MT1 and SS4.

(The meeting adjourned between 12:30 to 12:40.)

100. 160238 - LAND AT OAK TREE VIEW, BEGGARS ASH LANE, WELLINGTON HEATH, HEREFORDSHIRE, HR8 1LN

(Change of use of land from agricultural to a one family traveller site including stationing of two mobile homes, 2 touring caravans, treatment plant, sheds and associated parking/turning/hardstanding and new access.)

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.

He reported that a further representation had been received outlining a number of points in the report that required correction. He confirmed that the reference to the river leadon

at paragraph 1.2 of the report was incorrect and that a stream ran along the western side of the site; that the site was within Wellington Heath Parish not within Ledbury Town and that the land was settled farmland on river terrace not timbered farmland plateau as it was described at paragraph 1.5. He added that the Wellington Heath Neighbourhood Development Plan was not at Regulation 15 stage and that no material weight could therefore be given to it. The corrections did not change the assessment of the application and the recommendation.

In accordance with the criteria for public speaking, Mr F Rozelaar, of Wellington Heath Parish Council spoke in opposition to the Scheme. Mr C Davis, a local resident, spoke in objection. Mr P Baines spoke in support on behalf of the applicant.

In accordance with the Council's Constitution, the local ward member, Councillor EPJ Harvey, spoke on the application.

She made the following principal comments:

- The applicant's family were Romany Gypsies. That was not at issue. Her concerns about the application related to lifestyle, landscape impact and sustainability.
- Paragraph 6.8 of the report set out the criteria for policy H4 – traveller sites. She noted that paragraph 6.12 of the report referred to the definition of “gypsies and travellers” for the purposes of planning policy and the report stated that the applicant's supporting statement “in principle” addressed the points to be considered in determining whether a person was a “gypsy or traveller”. She asserted that the applicant needed to satisfy the requirements of the policy in practice not merely in principle. She detailed the family circumstances and questioned the sustainability of the proposed site, having regard to those circumstances, and whether, also given those circumstances, it was credible that the applicant would return to and sustain a travelling lifestyle and the criteria for policy H4 would be met.
- She questioned whether the proposal complied with the Department for Communities and Local Government guidance issued in May 2008: designing gypsy and traveller sites – good practice guide.
- The proposed access while better than the existing access would need considerable work to address changes in ground level.
- There were many pitches available on gypsy sites in the locality. The Planning Appeal decision dismissing an appeal against the Committee's refusal of application 141687 - land at Oakley Cottage, mid summer orchard, Ridgehill had confirmed this position.
- The site was adjacent to the Malvern Hills AONB and in open countryside.
- Whilst no weight could be given to the Neighbourhood Development Plan it was clear that the site was not appropriate. The land was a green buffer between Wellington Heath and Ledbury and maintained the village's separation from the Town.
- The proposal, at the entrance to Wellington Heath, was detrimental to the setting of the village.

In conclusion, she considered that the proposal was contrary to policies LD1, SD1, and SS6 and that the applicants failed to meet the criteria of policy H4.

In the Committee's discussion several members expressed support for the views advanced by the local ward member with a number highlighting the practicalities of creating the access given the difference in ground levels.

The Lead Development Manager (LDM) commented that the question of whether the applicant had a need for the development was not a material consideration. The legal

adviser added that each application should be considered equally in the same way regardless of who had made the application. There was no requirement to have need for the Council to be able to consider the matter.

The LDM added that DCLG publication was guidance. However, Members had highlighted material reservations about the application, including the amount of fill needed to create the access, and the landscape impact, noting also that the site adjoined the AONB, and identified relevant policies supporting those reservations.

The local ward member was given the opportunity to close the debate. She had no additional comments.

RESOLVED: That planning permission be refused and officers named in the Scheme of Delegation to Officers be authorised to finalise the drafting of the reasons for refusal for publication based on the Committee's view that the proposal was contrary to policies LD1, SD1, SS6 and that the applicants failed to meet the criteria of policy H4.

101. DATE OF NEXT MEETING

The Planning Committee noted the date of the next meeting.

Appendix - Schedule of Updates

The meeting ended at 1.30 pm

CHAIRMAN

PLANNING COMMITTEE

Date: 18 January 2017

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

160238 - CHANGE OF USE OF LAND FROM AGRICULTURAL TO A ONE FAMILY TRAVELLER SITE INCLUDING STATIONING OF TWO MOBILE HOMES, 2 TOURING CARAVANS, TREATMENT PLANT, SHEDS AND ASSOCIATED PARKING/TURNING/HARDSTANDING AND NEW ACCESS AT LAND AT OAK TREE VIEW, BEGGARS ASH LANE, WELLINGTON HEATH, HEREFORDSHIRE, HR8 1LN

For: Mr Tony Holland, 21 Hardinge Close, Holme Lacy, Hereford, Herefordshire HR2 6JY

ADDITIONAL REPRESENTATIONS

The applicant has provided the following statement:

My own and my family's work is set out briefly in paragraph [25/4](#) of the Design and Access statement in response to the Core Strategy Policy H4.

My business is basically landscape gardening and related activities. Because of the problems we had with storing caravans at the house where we are living and my family responsibilities, most of my work has of necessity been within the local area. However I am aware that there is a demand for this sort of work all over the country, and I have had offers of work away from Herefordshire, in London for example. I have had to turn these down as the costs of accommodation would have made the work uneconomic. Now, if the Planning Application is successful, I will be able to take up these opportunities and simply move to where the work is with my caravan. This is also made easier now that our daughter has finished school which she did in 2015 (which is the main reason we gave up Travelling in the first place). Obviously I am not able at this point to know how much travelling this will involve.

We will emphatically not be running an onsite business with customers coming to the site as some Objectors seem to have supposed.

Clearly my parents are unlikely to be Travelling much if at all due to their advanced age."

A separate letter of objection from Mr Kirk with opinion from Colin Davis contains the following concluding statement:

"The applicant family no longer meet the PPTS definition of a gypsy or traveller by virtue of not travelling for an economic purpose as established in case law. They have been housed for over 13 years and the parents of Mr Holland are accommodated on an authorised traveller site managed by Herefordshire Council. The planning application should not therefore be considered under the provisions of Core Strategy Policies H4 or RA3.

Any such application, if valid, must be judged against factors other than simple need for traveller pitches within Herefordshire. Important issues of landscape character and adverse impact, effect on local distinctiveness and sustainability must be considered alongside the usual planning considerations of access, drainage/sewerage, waste, biodiversity and habitat impact.

On balance the harmful impact of the proposed development outweighs any benefit to the applicant, even if the applicant was considered to be eligible under the PPTS definition. It is my opinion that the application should be refused, which would be consistent with refusal in the markedly similar case in Ridgehill.”

OFFICER COMMENTS

The further information from Mr Holland (applicant) shows that a break from travelling took place due to the need in planning terms to provide an education for their daughter (amongst other matters). This is considered to be an acceptable reason for not actively travelling for a period of 12 years or so.

The further representations received have been considered together with the additional information submitted by the applicant. The site is considered acceptable as a travellers site and therefore no change to the recommendation is proposed.

NO CHANGE TO RECOMMENDATION (ONE ADDITIONAL PLANNING CONDITION)

Proposed Additional Planning Condition 12:

Access, turning area and parking

12. The development hereby permitted shall not be brought into use until the access, turning area and parking facilities shown on the approved plan have been properly consolidated, surfaced, drained and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority and these areas shall thereafter be retained and kept available for those uses at all times.

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 MT1 of Herefordshire Local Plan – Core Strategy [and the National Planning Policy Framework].

