

Minutes of the meeting of Planning and regulatory committee held at Council Chamber, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Wednesday 13 March 2019 at 10.00 am

Present: Councillor PGH Cutter (chairperson)
Councillor J Hardwick (vice-chairperson)

Councillors: PA Andrews, BA Baker, CR Butler, PJ Edwards, DW Greenow, KS Guthrie, EL Holton, FM Norman, AJW Powers, NE Shaw and SD Williams

In attendance: Councillor D Summers

124. APOLOGIES FOR ABSENCE

Apologies were received from Councillors TM James, MD Lloyd-Hayes and WC Skelton.

125. NAMED SUBSTITUTES

Councillor PA Andrews substituted for Councillor TM James.

126. DECLARATIONS OF INTEREST

None.

127. MINUTES

RESOLVED: That the minutes of the meeting held on 27 February 2019 be approved as a correct record and signed by the Chairman, subject to typographical corrections and publication with the minutes of the answer to the question raised at that meeting under chairperson's announcements.

128. CHAIRPERSON'S ANNOUNCEMENTS

None.

129. 174681 - LAND SOUTH OF COBHALL COMMON LANE, COBHALL COMMON, HEREFORDSHIRE

(Proposed residential development for seven dwellings and accesses.)

The Principal Planning Officer (PPO) 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 T Cramp, of Allensmore Parish Council spoke in opposition to the Scheme. Mr J Slough, a local resident, spoke in objection. Mrs C Rawlings, the applicant's agent, spoke in support.

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

He stated that he had requested that the Committee consider the matter given the number of objections and strength of local feeling. The officer report was comprehensive. The application and amendments to it had been under discussion since December 2017. The principal objections had been outlined by the Parish Council and the local resident who had spoken to the meeting.

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

- The amount of garden and amenity space proposed was to be welcomed. The design was good. The development was of low density.
- Paragraph 6.46 of the report stated that the application complied with policy.
- With regard to drainage concerns a comment was made that there was no indication that the application would lead to increased flooding. The advice to the Committee was that drainage work would be accommodated on land within the applicant's ownership.

It was also commented that the responses from the drainage engineer included in the report indicated that there had clearly been concerns about drainage with the proposals at one time having been considered unacceptable. The final response from the drainage engineer recommending approval was dated 3 November 2018. Reference had been made in the meeting to a more recent visit to the site by a drainage engineer and it was asked if there was any further information on this point. The PPO stated that she was aware of that visit, had confirmed its purpose and that the drainage engineer did not intend to make any further representation.

- It was requested that condition 15 be expanded to include a requirement to collect rain water.
- The proposed passing bay would be a benefit. A Member suggested that a second passing bay was required.
- The development was close to the A465.
- The Parish Council did not object to the principle of development on the site, but did object to the scale and density.
- The PPO confirmed that Cobhall Lane should have been described in the report as an unclassified road rather than an unadopted one.
- The social objective set out at paragraph 8 of the National Planning Policy Framework referred to fostering a well-designed and safe built environment with accessible services. Clarification was sought as to what services were accessible from the settlement.

The PPO commented that Cobhall Common was identified in policy RA2 at table 4.15 as a settlement appropriate for sustainable growth. There was good access to the A465 and villages at Allensmore, and Winnal also an RA2 settlement, where there was a public house, garage and shop. There were various bus stops in the area. There were primary schools nearby at Clehonger, and at Kingstone where there was also a secondary school. There was school bus provision.

- It was questioned whether the nearest bus stop on the A465 could be considered safely accessible given the nature of Cobhall Lane and the additional traffic the development would generate.
- It was also questioned whether in the absence of a settlement boundary the development could be considered to adjoin the main settlement.

The local ward member was given the opportunity to close the debate. He commented that there had been drainage issues in the area as a result of existing old drainage systems and this underlay local concerns about the prospect of further development. Cobhall Lane did flood in the winter so there was a question about accessibility of services. He had been advised that the question over ownership of the land where the drainage would cross Cobhall Common was a civil matter. The Parish Council was drafting a Neighbourhood Development Plan (NDP) but it currently had no weight. The indication was that the application site might not be allocated for development and that the Parish Council had identified other sites that it considered preferable. The housing mix was welcome. Part of the consultation on the NDP had identified a need for smaller properties. The development contained a good allocation of garden and amenity land.

The Development Manager commented that there was some subjectivity around the scale of the development, although there was not necessarily an objection to some development in principle. There was also some subjectivity as to the relationship of the site to the built up part of Cobhall Common. In relation to an expansion of condition 15 to refer specifically to rain water collection he suggested that an informative might be preferable. However, specific wording could be included if the committee so wished, although there was a potential implication in that if the condition were made specific and the applicant could demonstrate that the site could be properly drained without rain water collection this would result in a condition that could not be adhered to.

The Committee's view was that the condition should be made specific as a sustainable measure and such conditions had been used previously.

Councillor Greenow proposed and Councillor Edwards seconded a motion that the application be approved in accordance with the printed recommendation with an additional condition as set out in the update sheet and an amendment to condition 15 to refer to rain water collection. The motion was carried with 11 votes in favour, none against and 2 abstentions.

RESOLVED: That planning permission be granted subject to the conditions below and any other conditions considered necessary by officers named in the scheme of delegation to officers:

1. **A01 - Time limit for commencement (full permission)**
2. **B01 - Development in accordance with the approved plans**
3. **C01 - Samples of external materials**
4. **G11 – Landscape Implementation**
5. **H06 – Vehicular Access Construction**
6. **H13 – Access, turning area and parking**
7. **H27 – Parking site operatives and Construction Environmental Management Plan**
8. **I16 – Hours of working during construction**
9. **H09- Driveway Gradient**
10. **HO3 – Visibility splays**
11. **The development hereby permitted shall not be occupied until the proposed passing place has been constructed and made available for use, in accordance with technical specification and details (including evidence of an agreement under the Section 278 of the Highways Act 1980 S278**

agreement) to be submitted to and approved in writing by the Local planning Authority.

Reason: To ensure the safe and free flow of traffic on the highway and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy Plan and the National Planning Policy Framework.

12. G02 – Retention of trees and hedgerows

13. Nature Conservation – Ecology Protection and Mitigation and Biodiversity Enhancements:

The ecological protection, mitigation and working methods scheme as recommended in the Ecological Report by Star Ecology dated July 2017 and biodiversity enhancements on plan LB001 dated September 2017 shall be implemented in full as stated unless otherwise approved in writing by the local planning authority.

Reason: To ensure that all species are protected and habitats enhanced 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, NERC 2006

14. All foul water from the dwellings approved under this Decision Notice shall discharge into individual package treatment plants as outlined in the drainage strategy and drawings submitted to the Council on the 8th November 2018 by Paul Sloan from Tumu Consulting unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to comply with Habitat Regulations (2017), National Planning Policy Framework, NERC Act (2006) and Herefordshire Council Core Strategy (2015) policies LD2 and SD4 and the National Planning Policy Framework.

15. Surface water will be managed through an appropriate Sustainable Drainage System (SuDS) and soakaway system within the development site on land under the applicant's control. The surface water management system shall include the collection of rain water from roofs and shall be implemented and hereafter maintained as approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to comply with Habitat Regulations (2017), National Planning Policy Framework, NERC Act (2006) and Herefordshire Council Core Strategy (2015) policies LD2 and SD3.

16. No development shall commence until a drainage construction and management plan, including management responsibilities and maintenance schedules for both foul and surface water arrangements have been submitted and approved in writing by the local planning authority. The management plan will set out the responsibilities for the various elements of the drainage systems. The plan shall be implemented as approved.

Reason: In order to ensure effective drainage facilities are provided in accordance with the requirements of Policy SD3 and SD4 of the Herefordshire Local Plan – Core Strategy Plan and the National Planning Policy Framework.

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. **HN19 Disabled needs**
3. **HN28 Highways Design Guide and Specification**
4. **HN01 Mud on highway**
5. **HN04 Private apparatus within the highway**
6. **HN05 Works within the highway**

130. **182822 - COURT COTTAGE, GARWAY, HEREFORDSHIRE, HR2 8RQ**

(Erection of 2 dwellings and associated garaging and revised vehicular access for planning approval 180075/F.)

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.

It was noted that, as reported in the update, Garway Parish Council had confirmed that they no longer objected to the proposal.

In accordance with the criteria for public speaking, Mrs J Joseph, the applicant's agent, spoke in support of the application.

The local ward member, Councillor DG Harlow, was unable to attend the meeting. The Chairperson read out a statement he had submitted.

The statement contained the following principal comments:

- The only way for rural villages such as Garway to survive was to allow some development. Garway was identified as a settlement in the Core strategy. It had a popular primary school, a public house and a garage. In many ways it was an excellent place for development.
- His principal concern related to the type of house being proposed. Garway needed affordable homes, for young families looking for their first property. Whilst the application was for two semi-detached properties they were unlikely to be "affordable". The five dwellings adjoining were larger and better described as 'executive'.
- The proposed development was outside the settlement boundary in the emerging Neighbourhood Development Plan. The site was on the very edge of what might be considered Garway village.
- In relation to landscaping he requested that conditions be applied to safeguard the stunning views particularly from the adjacent public right of way.

- If the application had been for affordable houses he would not have requested that it be considered by the Committee. He was concerned the proposal would encourage an increasingly aged population to move to the county's rural villages. That demographic was unlikely to support the local services that it was hoped to retain.

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

- It was asked whether a footpath proposed on the site could be designated as a public right of way as recommended by the Ramblers Association at the end of their representations set out at paragraph 5.2 of the report.

The Development Manager commented that a public right of way existed and was not materially affected by the development. However, whilst a condition would not be appropriate, the proposal in paragraph 5.2 could be explored with the applicant.

- It was asked whether a mature sycamore tree referenced in the Conservation Manager (Arboriculturist's) comments at paragraph 4.5 of the report could be protected with a tree preservation order. Clarification was also sought on the future management of that area.

The Development Manager commented that granting planning permission would ensure some protection for the tree. The possibility of a tree preservation order could be explored.

- The proposal adjoined a previously approved scheme for five dwellings.
- It was unfortunate that the developments did not include affordable housing as some of the representations requested.
- The report stated that limited weight could be given to the Neighbourhood Development Plan. The site was outside the settlement boundary and it was asked why the application site did not therefore fall to be considered against policy RA3 rather than RA2.
- It was also asked whether a local housing needs survey had been undertaken and what that indicated.

The Development Manager commented that it was recommended that greater, significant, weight should be given to policy RA2 rather than to the NDP and the settlement boundary contained within it which attracted limited weight.

In terms of housing need, in the absence of an NDP regard had to be had to the Ross on Wye Housing Market Assessment. That had identified an overriding requirement for 3 bedroom dwellings.

Councillor Edwards proposed and Councillor Holton seconded a motion that the application be approved in accordance with the printed recommendation. The motion was carried with 11 votes in favour, 1 against and 1 abstention.

RESOLVED: That planning permission be granted subject to the following conditions and any other conditions considered necessary by officers named in the scheme of delegation to officers:

1. **C01 Time limit for commencement (full permission)**
2. **C07 Development in accordance with approved plans and materials**
3. **C13 Samples of external materials**
4. **C96 Landscaping scheme**

5. **C97 Landscaping scheme implementation**
6. **C90 Protection of trees/hedgerows that are to be retained**
7. **CCK Slab level details**
8. **CC2 External lighting**
9. **CBO Scheme for surface water disposal**
10. **All foul water shall discharge through connection to new private foul water treatment system with final outfall to suitable soakaway drainage fields on land under the applicant's control; and all surface water shall discharge to appropriate SuDS or Soakaway features.**

Reason: In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), NPPF (2018) and Herefordshire Council Core Strategy (2015) policies LD2, SD3 and SD4.

11. **CE6 Efficient use of water**
12. **C65 Removal of permitted development rights**
13. **CAB Visibility splays**
14. **CAH Driveway gradient**
15. **CAP Junction improvement/off site works**
16. **CAJ Parking - estate development (more than one house)**
17. **CAK Parking and turning**
18. **CAS Road completion in 2 years**
19. **CAT Wheel washing**
20. **CAZ Parking for site operatives**
21. **The ecological protection, mitigation, compensation and working methods scheme including the Habitat Enhancement Strategy and Management Plan, as recommended in the reports by Janet Lomas dated November 2017 shall be implemented in full as stated unless otherwise approved in writing by the local planning authority. The Biodiversity enhancements shall be maintained hereafter as approved unless otherwise agreed in writing by the LPA.**

Reason: To ensure that all species are protected and habitats enhanced 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, NERC 2006.

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, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
- 2. I11 Mud on highway**
- 3. I09 Private apparatus within highway**
- 4. I45 Works within the highway**
- 5. I05 No drainage to discharge to highway**
- 6. I43 Protection of visibility splays on private land**
- 7. I47 Drainage other than highway system**
- 8. I35 Highways design guide and specification**
- 9. I18 Rights of way**

131. DATE OF NEXT MEETING

The Committee noted the date of the next meeting.

Appendix - Schedule of Updates

The meeting ended at 11.35 am

Chairperson

PLANNING COMMITTEE

Date: 13 March 2019

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

174681 - PROPOSED RESIDENTIAL DEVELOPMENT FOR SEVEN DWELLINGS AND ACCESSES. AT LAND SOUTH OF COBHALL COMMON LANE, COBHALL COMMON, HEREFORDSHIRE,

For: Mr Lawrence per Mrs Claire Rawlings, 10 The Maltings, Dormington, Hereford, Herefordshire HR1 4FA

ADDITIONAL REPRESENTATIONS

A further letter of representation has been received from the Owner of *Armstrong House* which is located opposite the application site and adjoins the agricultural land on the opposite site of Cobhall Lane where the drainage will be directed to.

The representation concerns that of land ownership.

No plan or map has been submitted with the representation to identify the land referred to, only a copy of a hand written letter dated the 12-9-1950 from an *A.W.Laurence*.

The applicant claims that the land known as the 'Cattle track/road' was sold to the man who built his house by the applicant's father (*A.W.Laurence*) in 1950. It is stated that the proposed route of the drainage system runs under Cobhall Lane and crosses his property in order to reach the field, for which his permission has not been sought.

The representation states that on the basis that the drainage system can't be delivered within the applicants land, it is flawed as the occupiers of the proposed dwellings 'will not be capable of rectifying the problems which will result in their effluent ending up in the road and in neighbour's gardens.'

OFFICER COMMENTS

The plan below shows the drainage scheme overlaid on top of a plan which identifies the extent of the highway (coloured blue). The application site is outlined in red, with the applicants land edged blue. It appears from all the evidence which we have in front of us that the drainage scheme, as designed and set out on the submitted drawing, is within land owned by the applicant.

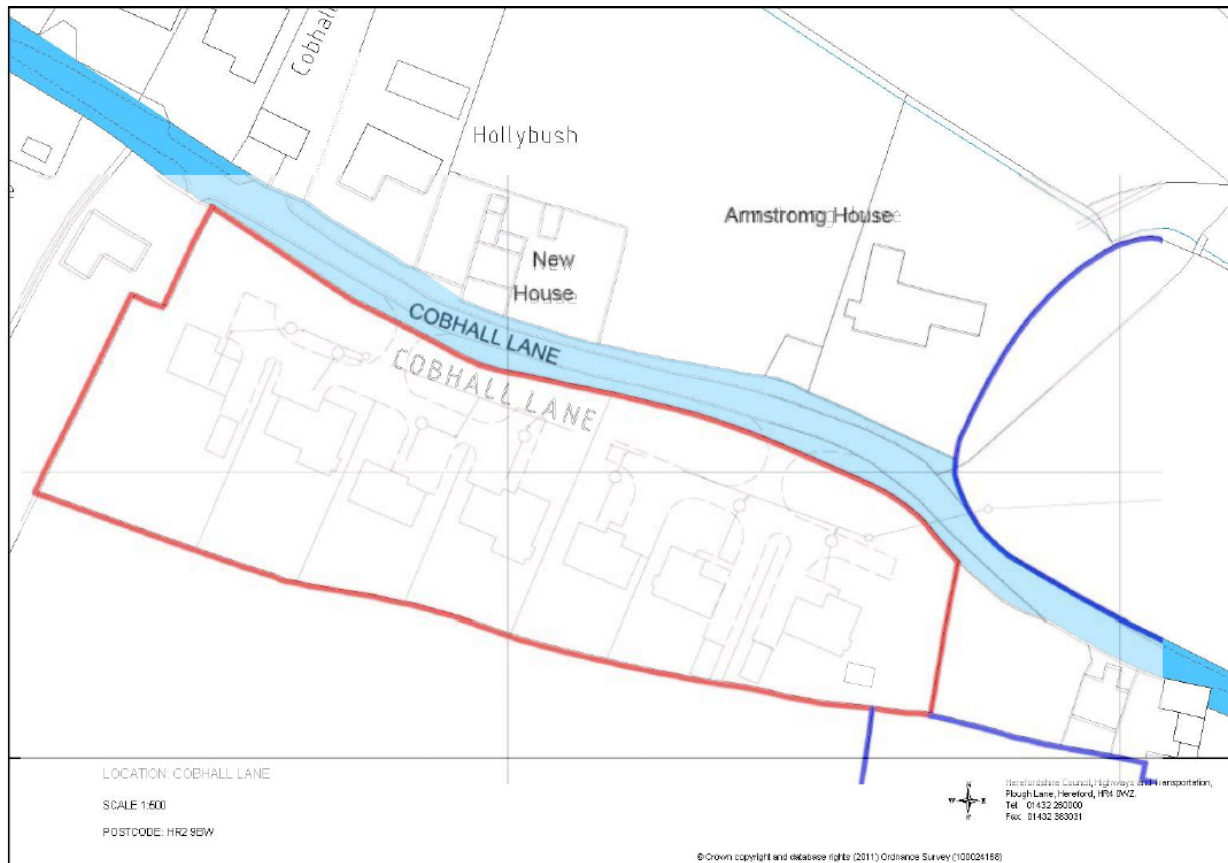
If further incontrovertible evidence were to be presented in due course contesting this conclusion, then this would be a civil matter. For the purpose of determining this application, however, it is the officer advice to Members that they may do so safely on the evidence that has been presented hitherto. All parties are aware of the application and therefore no prejudice arising.

The Council's Land Drainage Consultant, although initially seeking further clarification and raising initial concerns, is now satisfied that sufficient information has been submitted to demonstrate that the drainage scheme can be delivered as laid out on the submitted plans and has raised no further objection.

In a recent appeal decision at Land East of Newcastle Farm in Orcop Hill (Ref: APP/W1850/W/18/3207671) the Inspector identifies that Paragraph 183 of the Framework states that 'the focus of planning policies and decisions should be on whether proposed

development is an acceptable use of land, rather than the control of processes or emissions’.

In the case of this application the proposal is to install individual package treatment plants which are the preferred option of the treatment of foul drainage when a connection to the mains isn’t possible. It is an offence under the 1936 Public Health Act to allow a package treatment plant to cause pollution to the environment and it would be in the occupiers own interest to maintain the system. From all the evidence which has been submitted, Officers are of the opinion that providing the system is installed and maintained correctly then it would not result in a failure or subsequent impact on the surrounding area.



To ensure on-going maintenance and as a precautionary measure, an additional condition is recommended below which relates to a drainage management plan which will not only protect the living conditions of the occupiers of nearby properties but ensure effective drainage facilities are provided.

CHANGE TO RECOMMENDATION

The following additional condition is recommended:

16. No development shall commence until a drainage construction and management plan, including management responsibilities and maintenance schedules for both foul and surface water arrangements have been submitted and approved in writing by the local planning authority. The management plan will set out the responsibilities for the various elements of the drainage systems. The plan shall be implemented as approved.

Reason: In order to ensure effective drainage facilities are provided in accordance with the requirements of Policy SD3 and SD4 of the Herefordshire Local Plan – Core Strategy Plan and the National Planning Policy Framework.

182822 - ERECTION OF 2 DWELLINGS AND ASSOCIATED GARAGING AND REVISED VEHICULAR ACCESS FOR PLANNING APPROVAL 180075/F AT COURT COTTAGE, GARWAY, HEREFORDSHIRE, HR2 8RQ

For: Mr Frances per Ms Julie Joseph, Trecorras Farm, Llangarron, Ross On Wye, HR9 6PG

ADDITIONAL REPRESENTATIONS

Garway Parish Council confirmed by email dated 12 March 2019 that they no longer objected to the proposal.

The Council's Neighbourhood Planning Manager provides the additional comments on the proposal:

- a) The Garway Neighbourhood Plan (NDP) has reached draft plan stage under Regulation 14. The consultation was undertaken on 23 January to 6 March 2019
- b) At this stage Herefordshire Council has not had sight of the representations received during the draft plan consultation undertaken by the parish council. Therefore the decision makers are unable to evaluate the extent of any unresolved objections
- c) The Strategic Planning team, as part of the Regulation 14 consultation have confirmed that the plan as currently drafted is in general conformity with the adopted Herefordshire Core Strategy and the National Planning Policy Framework.

At this stage, with regards to paragraph 48 of the NPPF, only limited weight can be attributed to the Garway Neighbourhood Plan.

OFFICER COMMENTS

The NDP was afforded limited weight through the assessment contained within the officer report and therefore there is no change the recommendation.

NO CHANGE TO RECOMMENDATION