

Minutes of the meeting of Planning and regulatory committee held at online meeting on Wednesday 7 April 2021 at 10.00 am

Present: Councillor John Hardwick (chairperson)
Councillor Alan Seldon (vice-chairperson)

Councillors: Polly Andrews, Sebastian Bowen, Toni Fagan, Elizabeth Foxton,
Terry James, Tony Johnson, Graham Jones, Mark Millmore, Jeremy Milln,
Paul Rone, John Stone and William Wilding

In attendance: Councillor Mike Jones

98. APOLOGIES FOR ABSENCE

Apologies were received from Councillors Graham Andrews and Paul Andrews.

99. NAMED SUBSTITUTES

Councillor Bowen substituted for Councillor Graham Andrews.

100. DECLARATIONS OF INTEREST

Agenda item 6: 202265 - Land South West Of Orchard Close, Dilwyn

Councillor Hardwick declared an other declarable interest as he knew the applicant's agent.

Agenda item 8: 210437 - 22 Lady Somerset Drive, Ledbury

It was noted that many members of the Committee knew the applicant as an officer of the Council.

Agenda item 9: 204252 - Herefordshire Football Association, Widemarsh Common, Hereford

Mr K Bishop, Lead Development Manager, declared a schedule 2 interest as a Director of the Association and left the meeting for the duration of this item.

101. MINUTES

RESOLVED: That the minutes of the meeting held on 17 March 2021 be approved as a correct record and signed by the Chairman.

102. CHAIRPERSON'S ANNOUNCEMENTS

None.

103. 202265 - LAND SOUTH WEST OF ORCHARD CLOSE, DILWYN, HEREFORDSHIRE, HR4 8HQ

(Proposed outline application with all matters, save access, reserved for the residential development of 20 open market homes and 10 affordable homes.)

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, as appended to these minutes.

In accordance with the criteria for public speaking for virtual meetings the following spoke at the meeting as virtual attendees: Mr P Kyles of Dilwyn Parish Council, who spoke in support of the scheme, Mr N Jones, a local resident, speaking in objection; and Mr J Spreckley, the applicant's agent, speaking in support of the application.

In accordance with the Council's Constitution, the local ward member, Councillor Mike Jones, spoke on the application. In summary, he emphasised the Parish Council's support for the scheme and the potential benefits for the local community. These included additional customers for local services, affordable housing and enhanced conservation. Heritage England had considered the harm to the castle mound to be less than substantial and the application proposed to develop the tourist potential of the site. Concerns had been expressed about flooding but he did not consider these to be justified. The applicant had submitted a planning application for the development of a wetland which would mitigate any phosphate discharge. The Parish Council had worked with the developer to provide a positive development for Dilwyn.

The Committee discussed the application.

The Lead Development Manager re-emphasised the proposed grounds for refusal highlighting the objection by Welsh Water. He acknowledged the potential benefits to the village of a larger housing scheme as proposed as this would deliver affordable housing. However, the current application before the Committee was not suitable.

The local ward member was given the opportunity to close the debate. He reiterated the Parish Council's support for the application and the benefits of the development for Dilwyn.

RESOLVED: That planning permission be refused for the following reasons:

- 1. The site lies within the catchment of the River Lugg Special Area of Conservation (SAC), which comprises part of the River Wye SAC, and triggers the requirement for a Habitat Regulations Assessment. Under the Conservation of Habitats and Species Regulations 2017 (as amended) there is a requirement to establish beyond all reasonable scientific doubt that there will not be an adverse effect on the integrity of the River Wye SAC (Lugg sub catchment) which is currently failing its water quality targets. The proposal therefore fails to meet the requirements of policies LD2, SD3 and SD4 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework (paragraph 170e)), together with the provisions set out in The Conservation and Habitats and Species Regulations 2017 (as amended). This provides a clear reason to refuse planning permission under paragraph 11 d) i of the National Planning Policy Framework.**
- 2. Development of the site would result in less than substantial harm (quantified as being at a high degree within this category) to the significance of designated heritage assets; namely a Scheduled Monument (Castle Mound) and the setting of the Dilwyn Conservation Area. This is**

contrary to policies SS6 and LD4 of the Herefordshire Local Plan - Core Strategy. Furthermore, the harm is considered sufficient to outweigh the public benefits, taking into account the weight to be afforded to the assets' conservation as set out in Chapter 16 – Conserving and enhancing the historic environment of the National Planning Policy Framework. Consequently, this provides a clear reason to refuse planning permission under paragraph 11 d) i and also when having regard to all other considerations (as required by section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2)(a) of the Town and Country Planning Act 1990 (as amended)), the adverse impacts outweigh the benefits such that permission should be refused under paragraph 11 d) ii as well.

3. On the basis of the information submitted it has not been demonstrated that the proposed development would not unacceptably sterilise mineral reserves. This is contrary to policy M5 of the Herefordshire Unitary Development Plan and the requirements of the National Planning Policy Framework.
4. The proposal does not include necessary improvements to facilitate pedestrian connectivity to local services and public transport. As such the proposal would fail to meet the requirements of policies SS4 and MT1 of the Herefordshire Local Plan – Core Strategy and the requirements of the National Planning Policy Framework.
5. A legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) has not been completed. As such, there is no legal mechanism by which the Local Planning Authority can properly secure the delivery, construction and occupation of the proposed affordable dwellings and secure financial contributions towards required community infrastructure. These measures are necessary to make the development acceptable. The absence of an agreement is in conflict with policies SC1, H1 and ID1 Herefordshire Local Plan Core Strategy 2011-2031, the Council's Planning Obligations Supplementary Planning Document (April 2008) and the provisions of the National Planning Policy Framework.

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 and identifying matters of concern with the proposal and discussing those with the applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which have been clearly identified within the reasons for the refusal, approval has not been possible.

104. **210086 - CHASEWOOD, 42 EASTFIELD ROAD, ROSS-ON-WYE, HEREFORDSHIRE, HR9 5JZ**

(Proposed first floor extension and alterations.)

(Councillor James fulfilled the role of local ward member and accordingly had no vote on this application.)

The Planning Officer gave a presentation on the application.

Councillor James had fulfilled the role of ward member for this application. In accordance with the Council's Constitution he commented upon it. He supported the application.

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

1. **Time limit for commencement (full permission)**
2. **C07 Development in accordance with approved plans**
3. **Prior to the first use of the extension hereby permitted, and at all times thereafter, the proposed first floor windows on the south elevation shall be glazed with obscure glass only. The obscured glazing shall be retained in perpetuity.**

Reason: In order to protect the residential amenity of adjacent properties and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy 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, 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.**

105. 210437 - 22 LADY SOMERSET DRIVE, LEDBURY, HEREFORDSHIRE, HR8 2FF

(Proposed erection of a shed.)

The Planning Officer gave a presentation on the application.

In accordance with the Council's Constitution, the local ward member, Councillor Howells, had made a written submission. This was read to the meeting. He supported the application.

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

1. **CO1 - Time limit for commencement (full permission)**
2. **CO7 – The development hereby approved shall be carried out strictly in accordance with drawings: 02-2021-01, Layout Plan; Block Plan; Location Plan, and the Application Form.**

INFORMATIVES:

1. **IP1 Application Approved Without Amendment**

106. **204252 - HEREFORDSHIRE FOOTBALL ASSOCIATION, WIDEMARSH COMMON, HEREFORD, HEREFORDSHIRE, HR4 9NA**

(Proposed extension to existing car park to create additional capacity.)

(Mr K Bishop, Lead Development Manager, declared a schedule 2 interest as a Director of the Association and left the meeting for the duration of this item.)

(Councillor Polly Andrews fulfilled the role of local ward member and accordingly had no vote on this application.)

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 for virtual meetings, Mr A Darfi, the applicant, spoke in support of the application as a virtual attendee.

In accordance with the Council's Constitution, the local ward member, Councillor Polly Andrews, spoke on the application. In summary, she commented that the proposal would address a shortage of car parking spaces. The Association served the whole County meaning provision had to be made for travel by car and minibus even if users within the City could access the site by foot or bicycle. The current lack of parking space was causing inconvenience to nearby residents.

The Committee discussed the application. A number of amended/additional conditions were proposed.

The local ward member was given the opportunity to close the debate. She reiterated that there was county-wide use of the facility and the need for additional parking. She supported the additional/amended conditions.

A motion in support of the application with the following amended/additional conditions was carried: requirement to consider the type of surface for the car park with a preference for loose weave tarmacadam, consideration given to the layout off Moor Walk to facilitate pedestrian/cycle use, restriction of the emergency access at Moor Walk to pedestrian/cycle use and emergency vehicles only, an increase in the number of electric vehicle charging points to 4, and a requirement to provide an updated travel plan.

RESOLVED: That planning permission be granted subject to the following conditions and the following amended/additional conditions: requirement to consider the type of surface for the car park with a preference for loose weave tarmacadam, consideration given to the layout off Moor Walk to facilitate pedestrian/cycle use, restriction of the emergency access at Moor Walk to pedestrian/cycle use and emergency vehicles only, an increase in the number of electric vehicle charging points to 4, and a requirement to provide an updated travel plan and any other further conditions considered necessary by officers named in the scheme of delegation to officers:

1. **C01 (Time limit for commencement (full permission))**
2. **C06 (Development in accordance with approved plans)**
3. **CBK (Restriction of hours during construction)**
4. **CAT (Construction Management Plan)**

5. **CBO (Scheme of surface water drainage including strategy)**
6. **CNS (Non-standard condition: Details of car park layout including parking spaces and implementation)**
7. **CNS (Non-standard condition: Details of 2 no. electric vehicle charging points and implementation)**
8. **CK3 (Landscape Scheme and Implementation)**
9. **CDL (Car park drainage)**
10. **CNS (Use of site in accordance with Community Use Agreement approved under Condition 4 of P182950/F)**
11. **CC1 (Details of floodlighting/external lighting)**

INFORMATIVES:

1. **IP1 – Application Approved Without Amendment**
2. **I05 – No drainage to discharge to highway**
3. **I11 – Mud on highway**
4. **I35 – Highways Design Guide and Specification**
5. **I33 – Ecology (General)**
6. **I10 – Access via public right of way**

107. DATE OF NEXT MEETING

Noted.

Appendix - schedule of updates

The meeting ended at 12.27 pm

Chairperson

PLANNING AND REGULATORY COMMITTEE

Date: 7 April 2021

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

**202265 - PROPOSED OUTLINE APPLICATION WITH ALL MATTERS, SAVE ACCESS, RESERVED FOR THE RESIDENTIAL DEVELOPMENT OF 20 OPEN MARKET HOMES AND 10 AFFORDABLE HOMES AT LAND SOUTH WEST OF ORCHARD CLOSE, DILWYN, HEREFORDSHIRE, HR4 8HQ
For: Garnstone Estate Ltd per Mr James Spreckley MRICS, Brinsop House, Brinsop, Hereford, Herefordshire HR4 7AS**

ADDITIONAL REPRESENTATIONS

Further comments have been received and in summary they raise the following additional comments:

Objection (Mr P Stilwell)

- The watercourse ditches, to which the proposed attenuation pond would discharge into, are unsuitable due to:
 - being in third party ownership they cannot be maintained by the developer
 - their narrow nature, which leads to debris built up and flooding
- flooding of the site would discharge the excess water into the historic areas of village
- the site floods and is very boggy even in warm water
- photographs provided of the site 'under water'

Support - Dilwyn Neighbourhood Development Plan Committee (Peter Kyles – secretary & Bill Bloxsome – NDP Consultant)

- we have been tasked with meeting CS housing requirements and have tackled this positively
- we have looked at all available site options (contrary to the report) and came to the conclusion that this is the only suitable one – Officers have pointed us in the direction of this site
- other than Historic England's intervention what has changed since earlier assessment of the site
- Conservation Area review did not suggest the site to have significant heritage value, such as to prevent development or provide greater protection
- At NDP consultation heritage officers did not highlight issues
- At NDP preparation stage Historic England requested more detailed studies be carried out before the site could be considered – this was not possible through the NDP, so it was withdrawn from examination to allow the Parish to work with the landowner to undertake the work
- Landowner was prepared to carry out necessary preliminary works and this shows that area where any archaeology is likely to be present can be left undeveloped
- Effect on the setting of the Scheduled Monument would not be less than substantial harm to its significance
- Mound is already obscured by housing and copse
- No reason that a sensitive scheme could not preserve the conservation area
- Welsh Water indicates (Water Cycle Study Addendum) that Dilwyn falls within its category where the growth target can be achieved, but requires monitoring. No reason that this cannot be achieved
- Requirement for more minerals information appears unnecessary – cannot seriously and realistically expect mineral extraction adjacent to the village
- Benefits of development should be weighed against the less than substantial harm
- The community has fought hard to retain the village school, public house and promotes measures for health and wellbeing of all its residents

- All pertinent matters are set out in the NDP Basic Condition and Consultation Statements and should be taken into account
- HRA must show a 'significant' effect not just one that might be 'de minimis'. A relatively small site served through a public waste water treatment works where the landowner is seeking to address the wider problem and is some miles from the start of the SAC cannot be a significant effect
- We hope you support the application

Applicant (Agent, Mr James Spreckley)

- The Scheduled Monument is barely visible from the site or road into the village - It can be seen from the east and this is why parcels of land to the east and southeast were excluded from the draft DNDP
- The less than substantial harm should be outweighed by the public benefits
- In response to the five reasons for refusal:
 - 1) Foul drainage/phosphates
This can be addressed by condition relating to the delivery of the wetland (application reference 203468/F), which offers a deliverable solution to the issue of phosphates and surplus capacity to unlock housing proposals elsewhere in the catchment
 - 2) Harm to heritage assets
Harm is less than substantial and is not a substantive reason for refusal. Submitted Masterplan has been designed to take a very sympathetic approach to the setting of the Mound, keeping housing away from the closest areas and providing views towards it
 - 3) Mineral Reserves
This can be dealt with by condition requiring an assessment. Our consultants have been asked to address this issue. Question suitability of quarrying for minerals (sand and gravel) adjacent to the village
 - 4) Lack of improvements to pedestrian connectivity
This is not an 'in principle' reason for refusal. Pedestrian connectivity improvements can be dealt with by condition
 - 5) Lack of a completed section 106 agreement
This is a technical reason for refusal. It would be dealt with by completing a s106 agreement once there is a resolution to grant permission
- Site is included in the dDNDP and has strong support from the Parish Council to deliver much needed housing
- There are no substantive reasons to refuse

OFFICER COMMENTS

These further comments do not raise any issues that are not already appraised in the Report.

It has been noted that the position of the proposed vehicular access shown on the illustrative 'Site Masterplan' differs to that on the 'Proposed Site Access and Visibility Splays'. As the application is in outline form, with only access (of the reserved matters) for consideration at this time the application should be determined on the basis of the access position shown on the 'Proposed Site Access and Visibility Splays'. The application has been assessed on this basis.

NO CHANGE TO RECOMMENDATION

**204252 - PROPOSED EXTENSION TO EXISTING CAR PARK TO
CREATE ADDITIONAL CAPACITY AT HEREFORDSHIRE
FOOTBALL ASSOCIATION, WIDEMARSH COMMON,
HEREFORD, HEREFORDSHIRE, HR4 9NA**

**For: Mr Alan Darfi per Mr Keith Edwards, 10 Canterbury
Avenue, Hereford, Herefordshire, HR1 1QQ**

ADDITIONAL REPRESENTATION

Following publication of the report, Hereford City Council have made the following representation:

“The Planning Committee had no objection to this application.”

OFFICER COMMENTS

In response to a question raised during the site visit, a Travel Plan was approved as part of a previous planning permission for the construction of the artificial turf pitch (condition 7 attached to planning permission P182950/F) to the south-east of the application site.

NO CHANGE TO RECOMMENDATION