

**Minutes of the meeting of Planning and regulatory committee held at The Conference Room, Herefordshire Council Offices, Plough Lane, Hereford, HR4 0LE on Wednesday 10 August 2022 at 10.00 am**

**Present:** Councillor Terry James (chairperson)  
Councillor Paul Rone (vice-chairperson)

**Councillors:** Paul Andrews, Polly Andrews, Dave Boulter, Clare Davies, Elizabeth Foxton, John Hardwick, Jeremy Milln, Councillor F Norman, John Stone and Yolande Watson

**In attendance:** Councillor William Wilding

**Officers:** Senior Lawyer, Lead development manager and Katy Jones Development Control

**18. APOLOGIES FOR ABSENCE**

*(The meeting started at 10:15 a.m.; the delay to the start time had been caused by technical issues. The Chairman announced a change to the order of items; application 204443 – land adjacent to Old Kilns would be the last applications to be considered.)*

Apologies for absence were received from Councillor Ann-Marie Probert.

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

Councillor John Stone acted as a substitute for Councillor Probert.

**20. DECLARATIONS OF INTEREST**

Councillor Polly Andrew declared an other interest in application 220369 – Hereford Leisure Centre (cycle track) as a member of Hereford City Council.

Councillor Jeremy Milln declared an other interest in application 220369 – Hereford Leisure Centre (cycle track) as a member of Hereford City Council.

Councillor Elizabeth Foxton declared an other interest in application 220369 – Hereford Leisure Centre (cycle track) as a member of Hereford City Council.

**21. MINUTES**

**RESOLVED:** That the minutes of the meeting held on 29 June 2022 be approved.

*(There was an adjournment at 10:22 a.m.; the meeting reconvened at 10:27 a.m.)*

**22. 220369 - HEREFORD LEISURE CENTRE, 37-39 HOLMER ROAD, HEREFORD, HEREFORDSHIRE, HR4 9UD**

*(Councillor Polly Andrew left the committee to act as local Ward member for the next application.)*

The principal planning officer gave a presentation on the application.

In accordance with the criteria for public speaking Mr Kerry, spoke on behalf of Hereford City Council and Mr Haines spoke on behalf of the applicant in support of the application.

In accordance with the council's constitution the local ward member spoke on the application. In summary she expressed support for the application.

The committee debated the application.

The local ward member was given the opportunity to close the debate. In summary she emphasised the importance of the landscaping plan in the application.

A motion to approve the application, consistent with the case officer's recommendation, was proposed by Councillor John Hardwick and seconded by Councillor Paul Andrews. The motion was put to the vote and carried unanimously.

**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)**

**The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

**Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.**

**2. Development in accordance with the approved plans**

**The development shall be carried out strictly in accordance with the approved plans, drawing no's:**

- 15671-DB3-S01-XX-DR-A-90013 received 24.06.22
- 15671-DB3-S01-XX-DR-A-90006 received 24.06.22
- 15671-DB3-S01-XX-DR-A-90005 received 24.06.22
- 15671-DB3-B01-XX-DR-A-90003 received 24.06.22
- 15671-DB3-B01-XX-DR-A-90002 received 24.06.22
- 15671-DB3-S01-XX-DR-A-90001 received 24.06.22
- 15671-DB3-B01-00-DR-E-63001 received 13.04.22
- 15671-DB3-B01-00-DR-E-63002 received 13.04.22
- 15671-DB3-S01-XX-DR-A-90007 received 11.4.22
- 15671-DB3-S01-XX-DR-A-90004 received 11.4.22
- 15671-DB3-S01-XX-DR-A-90000 received 11.4.22
- 15671-DB3-S01-XX-DR-A-20301 received 11.4.22
- 15671-DB3-S01-XX-DR-A-20202 received 11.4.22
- 15671-DB3-S01-XX-DR-A-20201 received 11.4.22
- 15671-DB3-S01-XX-DR-A-20200 received 11.4.22
- 15671-DB3-S01-XX-DR-A-20000 received 11.4.22
- 15671-DB3-S01-00-DR-A-20100 received 11.4.22

except where otherwise stipulated by conditions attached to this permission.

**Reason.** To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

### **3. Landscaping Plan**

With the exception of site clearance and groundworks, no further development shall commence until a landscape scheme is submitted to and approved in writing by the local planning authority. The scheme shall include a scaled plan identifying:

- a) Trees and hedgerow to be retained, setting out measures for their protection during construction, in accordance with BS5837:2012.
- b) Trees and hedgerow to be removed.
- c) All proposed planting, accompanied by a written specification setting out; species, size, quantity, density with cultivation details.
- d) All proposed hardstanding and boundary treatment.

**Reason:** To safeguard and enhance the character and amenity of the area in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework 2021.

### **4. Landscaping Implementation**

The hard and soft landscape works shall be carried out in accordance with the approved details (insert drawing no if appropriate) before any part of the development is first occupied / brought into use in accordance with the agreed implementation programme.

The completed scheme shall be managed and /or maintained in accordance with an approved scheme of management and/ or maintenance.

**Reason:** To ensure implementation according to the hard and soft landscape works plan agreed with local planning authority and in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.

### **5. Landscape Maintenance Plan**

Before the development is brought into use, a schedule of landscape maintenance for a period of 10 years shall be submitted to and approved in writing by the local planning authority. Maintenance shall be carried out in accordance with this approved schedule.

**Reason: To ensure the future establishment of the approved scheme, in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan Core Strategy and the National Planning Policy Framework 2021.**

**6. Surface Water Drainage Works**

**No development approved by this permission shall be commenced/occupied until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the first use of the development hereby approved. The scheme shall detail infiltration testing results in order to correctly size the infiltration SuDS features.**

**Reason: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal and to comply with Policy SD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

**7. Community Use Statement**

**The use of the cycle track and its associated facilities shall not commence until a community use statement, prepared in consultation with Sport England, has been submitted to and approved in writing by the Local Planning Authority. The community use statement shall be based on the document titled 'Hereford Cycling Circuit' received by the Local Planning Authority on 24.06.22 which provides a commitment to providing a community use statement for this facility. The community use statement shall address the items listed and shall include details of pricing policy, hours of availability, timetable and programme of use for access by community clubs/other community users, management responsibilities and a mechanism for review. Once agreed, the development shall not be used otherwise than in strict compliance with the approved statement.**

**Reason: to secure well managed safe community access to the sports facility, to ensure sufficient benefit to the development of sport to outweigh the loss of playing field and to accord with Policy SC1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework 2021.**

**8. External Lighting Hours**

**The external lighting hereby permitted shall be restricted to use only during the operation and maintenance periods of the cycle facility. No external lighting, except for security lighting, shall operate out of business/maintenance hours.**

**Reason: To ensure that all species and Dark Skies are protected having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan - Core Strategy policies SS6, LD1, LD2 and LD3 and the Dark Skies initiative (DEFRA-NPPF 2013/18).**

**9. Construction Management Plan**

Development shall not begin until details and location of the following have been submitted to and approved in writing by the local planning authority, and which shall be operated and maintained during construction of the development hereby approved:

- A method for ensuring mud is not deposited onto the Public Highway
- Construction traffic access location
- Parking for site operatives
- Construction Traffic Management Plan
- Incorporation of the undated draft Method Statement received 18.07.22.

The development shall be carried out in accordance with the approved details for the duration of the construction of the development.

Reason: In the interests of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework 2021.

**10. Contamination**

No development shall take place until the following has been submitted to and approved in writing by the local planning authority:

- a) a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice
- b) if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors
- c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed shall be submitted in writing. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

Reason: In the interests of human health and to comply with policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

**11. Contamination Remediation Scheme**

The Remediation Scheme, as approved pursuant to condition 10 above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted and agreed in writing

before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.

Reason: In the interests of human health and to comply with policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

**12. Unexpected Contamination**

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, an amendment to the Method Statement detailing how this unsuspected contamination shall be dealt with.

Reason: In the interests of human health and to comply with policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

**13. Surface Water**

No surface water from any increase in the roof area of the building /or impermeable surfaces within its curtilage shall be allowed to drain directly or indirectly to the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

**INFORMATIVES:**

- 1. The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended) and the Habitats and Species Regulations (2019 as amended), with enhanced protection for special “protected species” such as all Bat species, Great Crested Newts, Otters, Dormice, Crayfish and reptile species that are present and widespread across the County. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it is advised that advice from a local professional ecology consultant is obtained. If any protected species or other wildlife is found or disturbed during works then all works should stop and the site made safe until professional ecology advice and any required ‘licences’ have been obtained. Any additional lighting should fully respect locally dark landscapes and associated public amenity and nature conservation interests.**
- 2. 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.**

*(Councillor Polly Andrews resumed her seat on the committee.)*

**23. 221777 - RHYSTONE COTTAGE, LUGWARDINE, HEREFORD, HR1 4AP**

*(Councillor Paul Andrews left the committee to act as local ward member for the next application.)*

The senior planning officer gave a presentation on the application.

In accordance with the criteria for public speaking Ms Hoppe, spoke on behalf of Bartestree and Lugwardine Group Parish Council.

In accordance with the council's constitution the local ward member spoke on the application. In summary he explained that the application was a well-conceived design with positive elements such as rain water harvesting.

The committee debated the application. The committee sought the inclusion of the requirement for rainwater harvesting in condition 6. The committee sought the enhancement of condition 5 to strengthen arrangements for the storage and disposal of manure; in particular the location to be used for the storage of manure.

The lead development manager confirmed that the alterations to the conditions would be implemented through the delegation to offices contained in the recommendation.

The local ward member was given the opportunity to close the debate.

A motion to approve the application consistent with the case officer's recommendation and the alterations to the conditions, as listed above, was proposed by Councillor Boulter and seconded by Councillor John Stone. The motion was put to the vote and carried unanimously.

**RESOLVED – That planning permission be granted subject to the following conditions, altered conditions 5 and 6, and any other further conditions considered necessary by officers named in the scheme of delegation to officers:**

- 1. C01 (Time Limit for Commencement)**
- 2. C07 (Development in accordance with approved plans and schedule of materials)**
- 3. CNS – The stable block hereby approved shall be for private use only for the benefit of the occupiers of land adjacent to Rhystone Cottage, Lugwardine, Hereford, Herefordshire, HR1 4AP and shall not be used for any commercial riding, training, breeding or any other form of equestrian enterprise at any time.**

**Reason: In order to safeguard the character and amenity of the area and the local highways network and to comply with policy SD1, RA6 and MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework 2021.**

- 4. CNS – At no time shall any external lighting except in relation to the immediate safe use of the approved development be installed or operated in association with the approved development and no permanently illuminated external lighting shall be operated at any time, unless otherwise agreed in writing with the Local Planning Authority. All lighting installed**

shall demonstrate compliance with latest best practice guidance relating to lighting and protected species-wildlife available from the Institution of Lighting Professionals.

Reason: To ensure that all species and local intrinsically dark landscape are protected having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife & Countryside Act (1981 amended); National Planning Policy Framework, NERC Act (2006) and policy SS6, LD1 and LD3 of the Herefordshire Local Plan – Core Strategy.

5. **CNS – Unless otherwise approved in writing by the planning authority, all manure created by the equine use permitted under this permission shall be retained, stored and utilised within land owned by the applicant at the development site.**

Reason: In order to comply with The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD2, SD3 and SD4.

6. **CNS – All surface water generated under the approved development shall discharge to appropriate soakaway systems, on land under the applicant's control.**

Reason: In order to comply with The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD2 and SD3.

7. **CBK – Restriction on hours during construction**

#### **Informatives**

1. **IP2 (Application Approved Following Amendments/Additional Information)**
2. **The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended), with enhanced protection for special "protected species" such as all Bat species, Great Crested Newts, Badgers and other wildlife that are present and widespread across the County. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it advised that further advice from a local professional ecology consultant is obtained.**
3. **I12 – Adjoining Property Rights**
4. **I18 – Rights of Way**

*(Councillor Yolande Watson left the meeting at 11:15 a.m.)*



*(There was an adjournment at 11:15 a.m.; the meeting reconvened at 11:32 a.m.)*

*(Councillor Paul Andrews resumed his seat on the committee.)*

**24. 204443 - LAND ADJACENT TO THE OLD KILNS, CHURCH LANE, HOWLE HILL, ROSS-ON-WYE, HR9 5SP** (Pages 11 - 12)

The senior planning officer gave a presentation on the application and the updates/representations received following the publication of the agenda as provided in the update sheet and appended to these minutes.

In accordance with the criteria for public speaking Ms Akers, spoke on behalf Walford Parish Council, and Mr Kendrick, spoke on behalf of local residents, an objection to the application.

In accordance with the council's constitution the proxy for the local ward member spoke on the application. In summary he commented that the application was not sustainable as there were very limited facilities locally. The local road network was not suitable for construction traffic. The local housing land supply had been achieved therefore there was not a pressing need for additional development in this location. The development was contrary to the National Planning Policy Framework which sought to restrict development in isolated locations. The application would have adverse effects upon the local wildlife. The water run-off from the site and surrounding hill was a significant problem which would be exacerbated by the proposed development. The proposed development was contrary to SS1 as it was unsustainable and SS4 due to the impact on the local traffic network. Furthermore the application was contrary to: SS7 as it increased the need to travel by private car; SS6 due to its impact on the local environment; and RA1 as the proposed number of houses was disproportionate to the size of Howle Hill. The neighbourhood development plan (NDP) was at an advanced stage and should be given more weight. The application would have an adverse effect upon the climate and ecological emergency which the council was committed to tackling.

The committee debated the application.

The proxy for the local ward member was given the opportunity to close the debate and explained that government regulations regarding the climate and ecological emergency were not sufficient therefore local decision-making needed to seek to address the emergency. The local housing target had been achieved. The local area was not suitable for this form of development. The planning appeal concerning another development site locally was not considered relevant due to the significance difference with the current application.

The Lead Development Manager advised that Howle Hill was identified in the Core Strategy as an area for housing growth and was therefore considered a sustainable location. Developments of this nature was not dissimilar to a site nearby which was allowed on appeal and was the form of 'organic growth' that members had requested for such areas. The NDP could only be afforded limited weight in the planning balance due to objections to the settlement boundary which the examiner would have to consider.

A motion that the application be refused as it represented unsustainable development and was located in open countryside was proposed by Councillor Polly Andrews and seconded by Councillor Felicity Norman. The unsustainable nature of the application was contrary to policies WALF4 and WALF20 of the Walford NDP. The location of the development in open countryside was contrary to policies RA2 and LD1 of the Herefordshire Local Plan Core Strategy. The motion was put to the vote and was carried by a simple majority.

**RESOLVED – that planning permission is refused; the application represents unsustainable development and is located in open countryside. The unsustainable nature of the application is contrary to policies WALF4 and WALF20 of the Walford NDP. The location of the development in open countryside is contrary to policies RA2 and LD1 of the Herefordshire Local Plan Core Strategy.**

**25. DATE OF NEXT MEETING**

Noted.

The meeting ended at 12.43 pm

**Chairperson**

## **SCHEDULE OF COMMITTEE UPDATES**

**204443 - OUTLINE APPLICATION WITH ALL MATTERS RESERVED FOR THE RESIDENTIAL DEVELOPMENT OF 3 DWELLINGS AT LAND ADJACENT TO THE OLD KILNS, CHURCH LANE, HOWLE HILL, ROSS-ON-WYE,**

**For: Mr Jordan per Mr J Griffin, Zesta Planning Ltd, Basepoint Business Centre, Tewkesbury Business Park, Oakfield Close, Tewkesbury, GL20 8SD**

### **ADDITIONAL REPRESENTATIONS**

Further representation was received on 29 July from M Corbett reiterating objections raised in previous objections submitted. Further representation was received on 1 August from S Curtis echoing concerns raised in preceding representations submitted.

### **OFFICER COMMENTS**

The additional representations have been reviewed and are not considered to raise any new planning considerations which are not otherwise considered in the report.

### **NO CHANGE TO RECOMMENDATION**

