

## **Minutes of the meeting of Planning and Regulatory Committee held at The Kindle Centre, Belmont Road, Hereford, HR2 7JE on Tuesday 18 April 2023 at 10.00 am**

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

**Councillors:** Paul Andrews, Polly Andrews, Sebastian Bowen, Elizabeth Foxton, John Hardwick, Mark Millmore, Jeremy Milln, Felicity Norman, Nigel Shaw, John Stone and Yolande Watson

**In attendance:** Councillors John Harrington and David Hitchiner

**Officers:** Development Manager North Team and Legal Representative

### **78. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Dave Boulter, Clare Davies, Tony Johnson and Ann-Marie Probert.

### **79. NAMED SUBSTITUTES (IF ANY)**

Councillor Nigel Shaw acted as a substitute for Councillor Johnson.

Councillor John Stone acted as a substitute for Councillor Probert.

### **80. DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **81. MINUTES**

**RESOLVED:** That the minutes of the meeting held on 15 March 2023 be approved.

### **82. CHAIRPERSON'S ANNOUNCEMENTS**

The Chairman explained that due to the receipt of additional information the application under agenda item no. 9, application 220783 – Little Bush Pitch, Bush Pitch, Ledbury, Herefordshire, HR8 2PX had been deferred from consideration at the current meeting.

### **83. 181943 - LAND TO THE NORTH OF SCHOOL ROAD (U66207), TARRINGTON, HEREFORDSHIRE (Pages 13 - 16)**

*Councillor John Hardwick left the committee to act as the local Ward member for the following application.*

The principal 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 Mr Watkins, local resident, spoke in objection to the application and Mr Foley, the applicant, spoke in support of the application.

In accordance with the council's constitution the local ward member spoke on the application. In summary, he explained that the site visit had been useful in order to see the site in context and in particular its relationship to local heritage buildings and the church. The site had been allocated for development in the neighbourhood development plan (NDP). The Landscape report produced for the NDP had recommended that development was restricted to a maximum of six houses in the Southeast of the site; the application sought outline permission for the development but it was felt that the proposed dwellings were further to the North than had been intended. The reserved matters application should return to the committee to determine and should include detail of how the application responds to concerns about the impact on heritage assets and contain more detail of the housing mix as required by the NDP.

The committee debated the application. There was concern regarding the impact of the proposed tarmac footpath which connected the development to the A438 and its impact on the rural character of the area. It was understood that the local highways authority would not adopt the path unless it was constructed of tarmac but it was felt that the surface of the path should be sympathetic to the local environment. In a change to the conditions the committee requested that a management agreement should be undertaken with the applicant to maintain the footpath which should be constructed in a material other than tarmac.

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

The Development Manager North Team explained that a change was required to condition 7 to make reference to a management agreement with the landowner for the footpath from the site to the A438.

A motion that the application be approved in accordance with the case officer's recommendation and a change to condition 7, to include a requirement for a management agreement to be undertaken with the landowner for the maintenance of the footpath from the development to the A438, was proposed by Councillor Polly Andrews and seconded by Councillor Paul Andrews. The motion was put to the vote and was carried by a simple majority.

**RESOLVED - That:**

**Subject to the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement to secure the purchase of the requisite Phosphate Credits to mitigate for the effects of the development upon the River Lugg / River Wye Special Area of Conservation and a change to condition 7, to include a requirement for a management agreement to be undertaken with the landowner for the maintenance of the footpath from the development to the A438, that outline planning permission be granted subject to the conditions below.**

**Standard**

- 1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.**

**Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.**

2. **The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of the approval of the last reserved matters to be approved, whichever is the later.**

**Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990**

3. **Approval of the details of the layout, scale, appearance and landscaping (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.**

**Reason: To enable the local planning authority to exercise proper control over these aspects of the development and to ensure accordance with Policy RA2, SD1, LD1 of the Herefordshire Local Plan Core Strategy, Policy TAR1, TAR2, TAR3, TAR4, TAR7 and TAR8 of the Tarrington Neighbourhood Development Plan and the National Planning Policy Framework (2021).**

4. **The development shall be carried out strictly in accordance with the approved plans and documents 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 ensure accordance with Policy RA2, SD1, LD1 of the Herefordshire Local Plan Core Strategy, Policy TAR1, TAR2, TAR3, TAR4, TAR7 and TAR8 of the Tarrington Neighbourhood Development Plan and the National Planning Policy Framework (2021).**

5. **The reserved matters submission pursuant to Condition 1 shall include a scheme setting out the number, size and type of open market dwellings to be provided. The scheme shall include a schedule outlining the number of 2, 3 and 4(+) bedroom dwellings to be delivered, with the overall mix being in general accord with the Herefordshire Housing Market Needs Assessment 2021 (or any successor document adopted by the LPA).**

**Reason: To define the terms of the permission and to ensure accordance with Policy H3 of the Herefordshire Local Plan – Core Strategy, Policy TA7 and TAR8 of the Tarrington Neighbourhood Development Plan and the National Planning Policy Framework (2021).**

#### **Pre-commencement**

6. **The reserved matters submission relating to layout submitted pursuant to Condition 3 shall be accompanied by a full foul and surface water drainage strategy which shall include, but not be limited to the following; -**

- i) **Submission of infiltration testing to support the proposed surface water drainage arrangements.**
- ii) **Confirmation that an attenuated, offsite surface water discharge could be achieved to Tarrington Brook should infiltration tests fail.**

- iii) Submission of detailed surface water and foul water drainage design drawings with construction plans, supported by calculations where necessary
- iv) Confirmation that the adoption and maintenance of the drainage systems has been agreed with the relevant authority
- v) Demonstration that appropriate access is available to maintain drainage features, including pumping stations should they be required;
- vi) Operation and maintenance manual for all proposed drainage features that are to be adopted and maintained by a third party management company

The approved scheme shall be implemented before the first occupation of the development hereby approved.

Reason: To ensure the proposed drainage arrangements conform with Policies SD3 and SD4 of the Herefordshire Local Plan - Core Strategy, as well as Policy TAR4 and TAR8 of the Tarrington Neighbourhood Development Plan and the National Planning Policy Framework.

7. Development shall not begin in relation to any of the specified highways works until details have been submitted to and approved by the local planning authority in writing following the completion of the technical approval process by the local highway authority. This shall include the following
- Improvement works to PRow TR3
  - Uncontrolled A438 pedestrian crossing
  - Extended footway link from PRow TR3 to Tarrington Arms bus stop (westbound)

The development shall not be occupied until the scheme has been constructed in accordance with the approved details.

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, Policy TAR4 and TAR8 of the Tarrington Neighbourhood Development Plan and the National Planning Policy Framework.

8. 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 - setting up of access routes away from sensitive receptors.
  - Site compound / office locations
  - Areas for soil storage
  - the methods and materials to be used to ensure that the generation of noise is minimised,
  - the choice of plant and equipment to be used,

- regarding optimum site layout, noise generating activities to be located away from sensitive receptors; and good housekeeping and management, to include review of plant and activities to ensure noise minimisation measures are in place and operating,
- public relations, e.g. provision of telephone numbers for complaints, pre-warning of noisy activities including activities that might generate perceptible vibration, sensitive working hours,
- provision of noise monitoring during activities likely to affect sensitive receptors, and
- dust minimisation

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 residential amenity and to conform to the requirements of Policy MT1 and SD1 of Herefordshire Local Plan – Core Strategy, Policy TAR4 and TAR8 of the Tarrington Development Plan and the National Planning Policy Framework.

9. Prior to the commencement of the development, a scheme of measures for the protection of retained trees and hedgerows (in accordance with BS5837:2012) shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented prior to the commencement of development and remain in place for the duration of the construction phase.

**Reason:** To safeguard all retained trees during development works and to ensure that the development accords with Policy LD1 and LD3 of the Herefordshire Local Plan – Core Strategy, Policy TAR2 and TAR4 of the Tarrington Neighbourhood Development Plan and the National Planning Policy Framework (2021).

#### **Pre-occupancy or other stage**

10. With the expectation of site clearance and groundworks, no development shall take place until a specification of the construction of the vehicular access is submitted to and approved in writing by the local planning authority, at a gradient not steeper than 1 in 12.

The construction of the vehicular access shall be carried out in accordance with the approved details and shall be completed prior to the first occupation of any of the dwellings hereby approved.

**Reason:** In the interests of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy, Policy TAR4 and Policy TAR8 of the Tarrington Neighbourhood Development Plan and the National Planning Policy Framework.

11. Prior to the first occupation of the development hereby permitted full details of a scheme for the provision of covered and secure cycle parking facilities within the curtilage of each dwelling shall be submitted to the Local Planning Authority for their written approval.. The covered and secure cycle parking facilities shall be carried out in strict accordance with the approved details and available for use prior to the first use of the development hereby permitted. Thereafter these facilities shall be maintained;

**Reason: To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative modes of transport in accordance the requirements of Policy SD1 and MT1 of Herefordshire Local Plan – Core Strategy, Policy TAR4 and TAR8 of the Tarrington Neighbourhood Development Plan and the National Planning Policy Framework.**

- 12. Prior to any construction work above damp proof course a specification and annotated location plan for proposed biodiversity net gain enhancement features including significant and meaningful provision of ‘fixed’ habitat features including a range of bird nesting boxes, bat boxes (or similar roosting features), Hedgehog homes and hedgehog highways through all impermeable boundary features must be supplied to and approved in writing by the local authority. The approved scheme shall be implemented in full and hereafter maintained as approved unless otherwise agreed in writing by the local planning authority.**

**Reason: To ensure that biodiversity net gain is secured and habitats enhanced 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 and Countryside Act 1981, National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy (2015) policies SS1, SS6 LD1, LD2 and LD3; and the council’s declared Climate Change and Ecological Emergency**

- 13. Prior to the first occupation of the development a scheme demonstrating measures for the efficient use of water as per the optional technical standards contained within Policy SD3 of the Herefordshire Local Plan Core Strategy shall be submitted to and approved in writing by the local planning authority and implemented as approved.**

**Reason: To ensure accordance with Policy SD3 and SD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework (2021).**

- 14. Prior to the first occupation of any dwelling hereby approved, a scheme to enable the charging of plug in and other ultra-low emission vehicles (e.g. provision of cabling and outside sockets) to serve the occupants of the dwellings hereby approved shall be submitted to and approved in writing by the Local Planning Authority**

**Reason: To address the requirements policies in relation to climate change SS7, MT1 and SD1 of the Herefordshire Local Plan Core Strategy, to assist in redressing the Climate Emergency declared by Herefordshire Council and to accord with the provisions at Paragraph 108 and 110 of the National Planning Policy Framework (2021).**

#### **Post occupancy monitoring and management / Compliance Conditions**

- 15. Before any other works hereby approved are commenced, visibility splays, and any associated set back splays at 45 degree angles shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4-metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a**

distance of 43-metres in each direction along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.

Reason: In the interests of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy, Policy TAR4 and TAR8 of the Tarrington Neighbourhood Development Plan and the National Planning Policy Framework.

16. During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times: Monday-Friday 7.00 am-6.00 pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.

Reason: To protect the amenity of local residents and to comply with Policy SD1 of Herefordshire Local Plan – Core Strategy, Policy TAR4 and TAR8 of the Tarrington Neighbourhood Development Plan and the National Planning Policy Framework (2021).

17. No external lighting shall be provided other than the maximum of one external LED down-lighter above or beside each external door (and below eaves height) with a Corrected Colour Temperature not exceeding 2700K and brightness under 500 lumens. Every such light shall be directed downwards with a 0 degree tilt angle and 0% upward light ratio and shall be controlled by means of a PIR sensor with a maximum over-run time of 1 minute. The Lighting shall be maintained thereafter in accordance with these details.

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 Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1-3; ; and the council's declared Climate Change and Ecological Emergency

18. The ecological protection and working methods scheme as detailed in the preliminary ecological appraisal (August 2022) and Reptile Survey Report (October 2022) by Focus Ecology shall be implemented in full and hereafter maintained as approved unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife and Countryside Act 1981, National Planning Policy Framework (2021), NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1, LD2 and LD3 and the council's declared Climate Change & Ecological Emergency.

19. All planting, seeding or turf laying in the approved landscaping scheme shall be carried out in the first planting season following the occupation of the building or the completion of the development, whichever is the sooner.

**Any trees or plants which die, are removed or become severely damaged or diseased within 5 years of planting will be replaced in accordance with the approved plans.**

**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, Policy TAR2, TAR4 and TAR8 of the Tarrington Neighbourhood Development Plan and the National Planning Policy Framework (2021).**

#### **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), with enhanced protection for special “protected species” such as Great Crested Newts, all Bat species, 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.**
- 2. It is an offence under Section 148 of the Highways Act 1980 to allow mud or other debris to be transmitted onto the public highway. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site or any works pertaining thereto.**
- 3. A public right of way crosses the site of this permission. The permission does not authorise the stopping up or diversion of the right of way. The right of way may be stopped up or diverted by Order under Section 257 of the Town and Country Planning Act 1990 provided that the Order is made before the development is carried out. If the right of way is obstructed before the Order is made, the Order cannot proceed until the obstruction is removed.**
- 4. This permission does not authorise the laying of private apparatus within the confines of the public highway. The applicant should apply to Balfour Beatty (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford HR2 6JT, (Tel: 01432 261800), for consent under the New Roads and Streetworks Act 1991 to install private apparatus within the confines of the public highway. Precise details of all works within the public highway must be agreed on site with the Highway Authority. A minimum of 4 weeks notification will be required (or 3 months if a road closure is involved).**
- 5. Under the Traffic Management Act 2004, Herefordshire Council operate a notice scheme to coordinate Streetworks. Early discussions with the Highways Services Team are advised as a minimum of 4 weeks to 3 months notification is required (dictated by type of works and the impact that it may have on the travelling public). Please note that the timescale between notification and you being able to commence your works may be longer depending on other planned works in the area and the traffic sensitivity of the site. The Highway Service can be contacted on Tel: 01432 261800.**



6. No work on the site should commence until engineering details of the improvements to the public highway have been approved by the Highway Authority and an agreement under Section 278 of the Highways Act 1980 entered into. Please contact the Senior Engineer, PO Box 236, Plough Lane, Hereford HR4 0WZ to progress the agreement.
7. The developer is required to submit details of the layout and alignment, widths and levels of the proposed roadworks, which shall comply with any plans approved under this planning consent unless otherwise agreed in writing, together with all necessary drainage arrangements and run off calculations. It is not known if the proposed roadworks can be satisfactorily drained to an adequate outfall. Adequate storm water disposal arrangements must be provided to enable Herefordshire Council, as Highway Authority, to adopt the proposed roadworks as public highways. The applicant is, therefore, advised to submit the engineering and drainage details referred to in this conditional approval at an early date to the Senior Engineer, PO Box 236, Plough Lane, Hereford HR4 0WZ for assessment and technical approval. No works on the site of the development shall be commenced until these details have been approved and an Agreement under Section 38 of the Highways Act 1980 entered into.
8. Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.
9. The applicant's attention is drawn to the need to ensure that the provision of the visibility splay(s) required by this consent is safeguarded in any sale of the application site or part(s) thereof.
10. Any work involving the removal or disturbance of ground or structures supporting or abutting the publicly maintained highway should be carried out in accordance with details to be submitted to and approved in writing by the Highway Authority or their agent. Please contact Balfour Beatty (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford, HR2 6JT (Tel: 01432 261800).
11. The applicant's attention is drawn to the requirement for design to conform to Herefordshire Council's 'Highways Design Guide for New Developments' and 'Highways Specification for New Developments'.

*There was an adjournment at 11:21 a.m.; the meeting reconvened at 11:31 a.m.*

*Councillor John Hardwick resumed his seat as a member of the committee.*

**84. 212518 - LAND SOUTH OF YEW TREE FARM, RUCKHALL, COMMON ROAD, EATON BISHOP, HEREFORD, HR2 9QX (Pages 17 - 18)**

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 Mr Chatwin spoke on behalf of Eaton Bishop Parish Council, Ms Wall, local resident, spoke in objection to the application and Mr Pryce, the applicant's agent, spoke in support of the application.

In accordance with the council's constitution the local ward member spoke on the application. In summary, he explained that there were two significant matters to be

resolved after the outline permission had been granted; drainage and access. There had been 10 local objections to the application which was significant given the size of the community in Ruckhall. The report referred to a solution by the drainage engineer which included a drainage channel and soakaway however neither of these elements appeared on the plans. The report also did not explain where the drainage channel would be connected to the local drainage network. During construction there would be very limited parking for site operatives, access to the site along narrow lanes would be problematic and mud on the road would cause a problem to local residents.

The committee debated the application. There was significant concern regarding drainage and the impact of construction on the local community.

The local Ward member was given the opportunity to close the debate. He explained that clarification was required concerning the drainage channel.

A motion that the application be deferred in order that further detail regarding: drainage and flood mitigation; and the construction management plan, including parking for site operatives and access for vehicles delivering construction material; be submitted was proposed by Councillor Yolande Watson and seconded by Councillor Felicity Norman. The motion was put to the vote and was carried by a simple majority.

**RESOLVED – that:**

**Consideration of the application is deferred and further detail regarding: drainage and flood mitigation; and the construction management plan, including parking for site operatives and access for vehicles delivering construction material; be submitted.**

**85. 204230 - PRIORY FARM, STOKE PRIOR, LEOMINSTER, HEREFORDSHIRE, HR6 0ND (Pages 19 - 22)**

The principal 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 Mr Thomas, the applicant's agent, spoke in support of the application.

In accordance with the council's constitution the local ward member spoke on the application. In summary, he explained that the occupational need for the development had been established but concern persisted about the potential impact of phosphates from horse manure upon the local river catchment. It was noted that the phosphate content of horse manure was relatively low compared to chicken manure. The proposed section 106 agreement would provide certainty around the management of manure and the application would establish development control on the operation of the equine facility. The application was supported.

The committee debated the application.

A motion that the application be deferred to allow the applicant more time to develop and agree the proposed section 106 agreement was proposed by Councillor Sebastian Bowen and seconded by Councillor Nigel Shaw. The motion was put to the vote and was lost by a simple majority.

The local ward member was given the opportunity to close the debate. He explained that the proposed section 106 agreement would achieve efficient manure management for the benefit of the catchment.

A motion that the application be refused in accordance with the case officer's recommendation was proposed by Councillor Yolande Watson and seconded by Councillor Jeremy Milln. The motion was put to the vote and was carried by a simple majority.

**RESOLVED – that:**

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

- 1. The application site lies within the River Lugg sub-catchment of the River Wye Special Area of Conservation (SAC) and the nature of the proposal triggers the requirement for a Habitat Regulations Assessment to be undertaken. Under the Regulations there is a requirement to establish with certainty, and beyond all reasonable scientific doubt, that there will not be any adverse effect on the integrity of the River Wye SAC. The River Lugg sub-catchment however suffers from the effects of point source and diffuse water pollution and phosphate levels in the river have already exceeded conservation objectives. The proposal in this case would add to this through the generation of additional phosphates through an intensification of the equine enterprise (increased amounts of manure) and it is not possible to demonstrate, for the lifetime of the development, how and where generated manure would be managed and, that it would not have any detrimental effects on other designated sites outside of the River Lugg hydrological catchment. As such, the Local Planning Authority is unable to conclude that the development would not have an adverse effect on the integrity of the River Lugg / River Wye SAC. As a result, the proposal cannot be positively progressed through the Habitat Regulations Assessment process as required by The Conservation of Species and Habitats Regulations 2017 and is hence contrary to policies LD2 and SD4 of the Herefordshire Local Plan Core Strategy, policy HFSP14 of the Humber, Ford and Stoke Prior Neighbourhood Development Plan and the Natural Environment and Rural Communities (NERC) Act 2006 and the guidance set out within the National Planning Policy Framework.**

**86. 230076 - ASHWOOD HOUSE, STOKE PRIOR, LEOMINSTER, HEREFORDSHIRE, HR6 0LG**

The planning officer gave a presentation on the application.

In accordance with the council's constitution the local ward member spoke on the application. In summary, he supported the application subject to the parish council's request for a condition restricting the development being used as a separate dwelling and clarification of drainage measures.

The committee debated the application. There was concern that the development could become a separate dwelling and it was queried how the council could condition the permission to prevent this from occurring.

The Development Manager North Team explained that a condition could be attached to the permission to ensure that the development could not be sold or let separately to the main dwelling.

A motion that the application be approved in accordance with the case officer's recommendation and a condition to restrict the sale or letting of the development as a

separate dwelling was proposed by Councillor Paul Andrews and seconded by Councillor John Stone. The motion was put to the vote and was carried unanimously.

**RESOLVED – that:**

**That planning permission be granted subject to the following conditions, an additional condition to restrict the sale or letting of the development as a separate dwelling and any other further conditions considered necessary by officers named in the scheme of delegation to officers:**

**That planning permission be granted subject to the following conditions:**

- 1. C01 - Time limit for commencement (full permission)**
- 2. C06 – Development in accordance with the approved plans**
- 3. CBO – Scheme of surface water drainage**

**INFORMATIVES:**

- 1. IP2 – Application approved following amendment**

The meeting ended at 1.10 pm

**Chairperson**

**181943 - OUTLINE PLANNING APPLICATION FOR UP TO 6 DWELLINGS. ALL MATTERS RESERVED APART FROM ACCESS. AT LAND TO THE NORTH OF SCHOOL ROAD (U66207), TARRINGTON, HEREFORDSHIRE**

**For: Tatintune Ltd per Mrs Kate Girling, Canalside House, Brewery Lane, Skipton, BD23 1DR**

**UPDATE TO OFFICER REPORT**

The following internal consultation responses were omitted from the published Officer Report.

Land Drainage Team – comment

23/1/23 - We have been reconsulted on the above site as we understand that the proposals have been amended to 6 new dwellings rather than 9. The drainage proposals appear to remain unchanged. Under the same application number, we provided a consultation response in July 2022 whereby the proposed foul water drainage system was approved in principle with further details to be confirmed at Discharge of Condition stage. Further investigations of the Welsh Water Sewer Network show that a gravity fed connection may be achieved to the northwest of the site . As per our previous response (attached), this option must be explored. Our previous comments still stand.

14/7/22 - The Applicant proposes the construction of up to 15 dwellings. The site covers an area of approx.0.85ha and is currently a Greenfield site. An ordinary watercourse flows along the eastern boundary of the site. The topography of the site slopes down from approx. 90.5m AOD in the southwest to the northern, eastern and southern site boundaries at 83m AOD, 82m AOD and 85m AOD respectively.

Review of the Environment Agency's Flood Map for Planning (Figure 1) indicates that the site is located within the low risk Flood Zone 1. This application has been supported by a Flood Risk Assessment (FRA).

The FRA has considered the risk of flooding from fluvial flooding, surface water, groundwater, sewers, reservoirs and any other manmade sources.

Flood risk; -

Review of the EA's Risk of Flooding from Surface Water map indicates that the site is not located

within an area at risk of surface water flooding. The flows are demonstrated to be contained within the Tarrington Brook. It has been stated in the Planning Statement that the Finished Floor Levels will be raised by 300mm.

We agree with this proposal. The overland flow routes have been considered to direct flows towards the Tarrington Brook (located to the East of the site).

Local residents have raised concerns of flooding in the area. It is thought that this development may have a detrimental effect on the area. The Applicant has demonstrated that the surface water runoff can be controlled to below QBAR, thus no additional flows will be discharged into the brook.

There was mention of the culvert under School Lane and how this has been unable to cope with flows in the past. There are two culverts under School Lane. It is assumed that the downstream culvert is being referred to (as this development will have no bearing on the flows through the upstream culvert).

Review of the EA's Groundwater map indicates that the site is not located within a designated Source Protection Zone or Principal Aquifer.

Surface water drainage; -

The Applicant has not undertaken infiltration testing. It was assumed that infiltration is not viable as the ground was boggy upon site visit. It may be that there is a permeable layer of soil beneath the surface.

In line with the drainage hierarchy, the Applicant should undertake infiltration testing in accordance with BRE365 to establish whether infiltration techniques are a viable option. The groundwater level should also be established to be a minimum of 1m below the base of any unlined infiltration features. Where site conditions and groundwater levels permit, the use of combined attenuation and infiltration features are promoted to provide treatment and reduce runoff during smaller rainfall events. The drainage strategy should be redesigned to include soakaways if infiltration rates permit.

It should be noted that soakaways should be designed for a minimum 1 in 30 year design standard, be located a minimum of 5m from building foundations, that the base of soakaways and unlined storage/conveyance features should be a minimum of 1m above groundwater levels, and must have a half drain time of no greater than 24 hours.

The Applicant is currently proposing to provide an attenuation pond (92m<sup>3</sup>) in the lowest part of the site with restricted outfall into the Tarrington Brook at 21/s (62mm hydrobrake). QBAR has been calculated to be 3.41/s/ha. The impermeable area for the site is 0.326ha, thus the discharge rate is approx. 1.11/s. When the QBAR value is less than 21/s/ha, it is considered acceptable to use the higher value of 21/s/ha for events up to the 100 year return period.

10% urban creep has been accounted for. This is to account for possible replacement of permeable driveways with non-permeable driveways in the future by homeowners who may be unaware of the purpose of permeable driveways. It also accounts for the additional of any impermeable area to gardens etc.

The Applicant has provided MicroDrainage submissions for the ICP SUDS (QBAR calculation) and Network Calculations, however no evidence of providing storage for the 1 in 100 year + 40% cc storm event has been provided.

The invert level of the outlet (box culvert 1500mm<sup>0</sup>) into the pond has not been stated, however it must be lower than 82.638. The hydrobrake invert level is set at 82.600, this is 38mm below the box culvert before the pond. This means that the pond will be dry for the majority of the time. In storm events, it is likely that the system will back up as water will be above the inlet. This should be redesigned to ensure that the pond is providing storage for flood events.

The Applicant should confirm the level of the outfall into the Brook. The Applicant should also provide details of how the respective box culvert sections will be jointed.

The Applicant must provide a MicroDrainage submission to demonstrate that the system has been designed to cope with the 1 in 100 year + 40% climate change event.

For the proposed outfall to the adjacent watercourse, the Applicant must consider the risk of water backing up and/or not being able to discharge during periods of high river levels in the receiving watercourses. The ownership of the land either side of the watercourse should be clarified as permission may be needed from adjoining houses.

The drainage system should be designed to ensure no flooding from the drainage system (which can include on-the-ground conveyance features) in all events up to the 1 in 30 year event. The Applicant must consider the management of surface water during extreme events that overwhelm the surface water drainage system (including temporary surcharging of gullies) and/or occur as a result of blockage. Surface water should either be managed within the site boundary or directed to an area of low vulnerability. Guidance for managing extreme events can be found within CIRIA C635: Designing for exceedance in urban drainage: Good practice.

Consideration has been given to the control of potential pollution of ground or surface waters from wash down and vehicles. The Applicant is providing trapped gullies, permeable paving and an attenuation basin.

The Applicant must confirm the proposed adoption and maintenance arrangements for the shared surface water drainage system. The Applicant should confirm whether this road is to be put forward for adoption, an approval in principle will be required for the box culvert.

Foul water drainage; -

The Applicant is proposing to connect to the existing public foul sewer located to the east of the site.

This will require a pumping station (proposed to be located adjacent to the pond), which will be put forward to Welsh Water for adoption.

We note that in a response from Welsh Water (dated 15/06/2018), the utilisation of a foul water pumping station should be explored and discussed further with Welsh Water Engineers as part of the Adoption Agreement.

Prior to a pumping station being confirmed, the Application should show that all other gravity fed/direct discharge options have been explored.

Overall comment; -

In principle we do not object to the proposals, however we recommend that the following information provided within suitably worded planning conditions:

- Results of infiltration testing undertaken in accordance with BRE365 and confirmation of groundwater levels to demonstrate that the invert level of any soakaways or unlined attenuation features can be located a minimum of 1m above groundwater levels in accordance with Standing Advice;
- If infiltration techniques are a viable option, the drainage strategy should be revised to demonstrate that opportunities for the use of SUDS features have been maximised, where possible, including use of infiltration techniques and on-ground conveyance and storage features;
- A revised detailed surface water drainage strategy (please review comments in 'Surface Water Drainage' section^ with supporting calculations and evidence that there is sufficient onsite attenuation storage to ensure that site-generated surface water runoff is controlled and limited to agreed discharge rates for all storm events up to and including the 1 in 100 year rainfall event including climate change;
- Provision of a revised foul water drainage strategy which considers a gravity fed discharge;
- Evidence that the Applicant has sought and agreed permissions to discharge foul water from the site with the relevant authorities;
- Confirmation of the proposed authority responsible for the adoption and maintenance of the proposed surface water and foul water drainage systems. The Applicant

should confirm whether the access road is to be put forward for adoption, an approval in principal will be required for the box culvert.

### **ADDITIONAL REPRESENTATIONS**

A further representation from a local resident has been received following the publishing of the Officer Report / Agenda pack, raising concerns with respect to flooding from the Tarrington Brook to the north of the site. The comments can be summarised as follows;

- Flooding at Sparchall Farm has been increased by the discharge from housing developments in Tarrington.
- Copies of correspondence from Malvern Hills District Council between 1976 and 1982 relate to the Council's efforts to mitigate known flooding problems on Sparchall Farm land. This relates to housing at Barrs Orchard.
- Flooding would be exacerbated by more water coming from the Barrs Court development with matters worsened further after the development of Pound Close.
- Situation need urgent consideration and also should be taken into account on planning application 181943.



**212518 - RESERVED MATTERS FOLLOWING OUTLINE APPROVAL 191541 (OUTLINE FOR THREE OR FOUR BEDROOM DWELLING ON A PLOT OF LAND CURRENTLY PART OF HILLCREST'S GARDEN) AT LAND SOUTH OF YEW TREE FARM, RUCKHALL COMMON ROAD, EATON BISHOP, HEREFORD, HR2 9QX**

**For: Mrs James per Mr Russell Pryce, Unit 5, Westwood Industrial Estate, Ewyas Harold, Hereford, Herefordshire HR2 0EL**

**UPDATE TO OFFICER REPORT**

Further to paragraph 6.24 of the report, advice has been received from the Council's Private Water Team that there is a registered private water supply to the north-east at Bethel Rose Cottage. Whilst this may lie within 50m of the proposed drainage mound, this matter would be considered as part of the necessary permit application to the Environment Agency. It does not give rise to a reason to withhold reserved matters approval.



**204230 - PROPOSED ALTERATIONS AND DEVELOPMENT OF EXISTING EQUINE FACILITIES TO FORM A NEW INDOOR ARENA, STABLING AND AN ESSENTIAL WORKER'S DWELLING AT PRIORY FARM, STOKE PRIOR, LEOMINSTER, HR6 0ND**

**For: Mr & Mrs Pearson per Mr Garry Thomas, Ring House Farm, Fownhope, Hereford, Herefordshire HR1 4PJ**

**UPDATE TO OFFICER REPORT**

Additional to the updated Officer Report dated and scheduled for the Planning and Regulatory Committee on 18 January 2023 (withdrawn from the agenda), the following supplementary comments can be made.

In January 2023, the applicant submitted a Manure Management Plan and draft Section 106 agreement with respect to addressing the impact of the increased manure generated from the intensification of the equine enterprise (increased stabling provision proposed). This was considered by officers and for the reasons as set out comprehensively in the comments received from the Planning Ecology Team, it remains the case that the application, 'the project' in its entirety, is not able to demonstrate nutrient neutrality. As such, in accordance with the 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'), Part 6, section 63(5) – it would not be lawful to grant planning permission when an adverse effect on the integrity of a protected site has been identified.

Planning Ecology Comments (16 January 2023)

***Background from previous comments***

*The application site lies within the catchment of the River Lugg SAC (Lugg- Lower Lugg), which comprises part of the River Wye Special Area of Conservation (SAC); a habitat recognised under 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') as being of international importance for its aquatic flora and fauna.*

*At present the levels of phosphates in the River Lugg exceed the water quality objectives and it is therefore in unfavourable condition. Where a European designated site is considered to be 'failing' its conservation objectives there is limited scope for the approval of development which may have additional damaging effects. The competent authority (in this case the Local Planning Authority) is required to consider all potential effects (either alone or in combination with other development) of the proposal upon the European site through the Habitat Regulations Assessment process. Permission can only be granted if there is scientific certainty that no unmitigated phosphate pathways – nutrient neutrality exist and that the HRA process can confirm 'no adverse effect on the integrity of the River Lugg (Wye) SAC'. Natural England; the statutory nature conservation body, advise that recent case law requires effective mitigation to be demonstrated on a case by case basis whilst the River Lugg Nutrient Management Plan is reviewed to ensure greater certainty that this can provide large scale mitigation development in the area.*

*The proposed development would support the potential for a maximum of 12 additional horses to be stabled at the site – with associated additional manure created which is an additional source (pathway) for phosphates in to the River Lugg SAC.*

### **Additional comments in respect of supplied Manure Management Plan and draft s.106 agreement**

*The supplied Manure Management Plan (MMP) appears to be based on 19 horses – this number does not relate to existing potential occupancy (baseline) or the maximum potential additional number of horses the development would facilitate, or the potential total maximum number of horses on the site based on existing and proposed provision of stabling.*

*The supplied additional information appears to be based on Nitrogen rather than Phosphate which is the relevant constraint requiring Nutrient Neutrality to be demonstrated on a precautionary basis and with scientific and legal certainty for the operational lifetime of the proposed development.*

*The MMP is based on Nitrate Vulnerable Zone considerations and standard farming manure management practices and regulation that have not been demonstrated as HRA compliant; in particular as demonstration of Phosphate Nutrient Neutrality within the River Lugg SAC catchment is the required outcome.*

*The movement of manure offsite has been proposed but no nutrient neutrality for the P moved offsite has been demonstrated. The AD plant systems as proposed for offsite management of manure do not destroy P – so the input and output levels of P from an AD remain the same. The proposed receptor site for the exported manure is located within the River Lugg SAC catchment. As currently proposed, the additional P created by the intensification supported by the proposed development and exported from site remains within the Lugg catchment and has pathways to the River Lugg SAC.*

*No details to demonstrate that there are no P pathways in to the River Lugg SAC during the storage of additional/total manure on the site prior to export/spreading have been supplied.*

*No 'legacy' P calculations for fields proposed for spreading have been supplied to demonstrate that agricultural cropping for the proposed area of spreading will achieve nutrient neutrality for the additional application of manure proposed. This balanced application of nutrients must demonstrate how it will deliver required nutrient neutrality for the operational lifetime of the proposed development.*

*The supplied draft s.106 agreement does not appear to provide certainty of how any nutrient neutrality systems proposed can be secured, monitored and enforced for the operational lifetime of the proposed development. This includes securing what actions will be undertaken to ensure equine operations remain nutrient neutral should the proposed receptor AD plant fail, no longer operate or cannot be used to manage manure created by intensification supported by this development. This s.106 presumes nutrient neutrality in respect of additional digestate created by the AD has been scientifically and legally demonstrated as nutrient neutral for the lifetime of the development – this is not the case.*

*From supplied information significant uncertainty remains that the required nutrient neutrality can be demonstrated, secured, monitored or enforced for the proposed development and the equine intensification it supports.*

### **ADDITIONAL REPRESENTATIONS**

A further representation from applicant's agent has been received following the publishing of the Officer Report / Agenda pack, provided below:

#### **Rebuttal Statement April 2023**

**Location: Priory Farm, Stoke Prior, Herefordshire**

**Proposal: Proposed alterations and development of existing equine facilities to form a new indoor arena, stabling and an essential worker's dwelling.**

**Prepared on behalf of the Applicant: Mr and Mrs Pearson**

**Planning Application Reference: 204230**

## **1 SUMMARY**

1.1 The principle of the development has already been unanimously approved by the planning committee in February 2022.

1.2 The Parish Council supports the proposed development.

1.3 There are several public interest letters supporting the proposed development.

1.4 The power to impose conditions when granting planning permission is very wide. It is imperative the Planning Committee uses its wide scope of powers to impose suitable conditions in the planning permission as set out in... *Circular 11/95: Use of Conditions in Planning Permissions. 5<sup>th</sup> May 2006*;

1.5 A condition can be written requiring a Section 106 Agreement. The draft agreement and Frontier Report appended to that agreement would ensure a high level of animal husbandry and site management of equine manure. Such a condition would remain within the control of Herefordshire Council in perpetuity and within the scope of The Conservation of Habitats Species Regulations 2017.

1.6 Regulation 63 (6) states: *"In considering whether a plan or project will adversely affect the integrity of the site, the competent authority must have regard to the manner in which it is proposed to be carried out or to **any conditions** or restrictions subject to which they propose that the consent, permission or other authorisation should be given."*

1.7 As the site does not *"host"* a priority natural habitat type, or a priority species... *imperative reasons of overriding public interest* required under Regulation 64, does not apply.

1.8 The residential foul drainage element of the proposal is satisfied and, with regard to permitted equine practice – in the spirit of the moratorium – the applicant can demonstrate phosphate neutrality certainty via the extinguishment of permitted historic equine intensity and, the provision of betterment in the management of the potential for phosphate to enter a SAC. It is noted the relevant SAC is located at some considerable distance from the site area and, it is noted equine manure has a low phosphate content where by hand picking of equine manure from the fields on a daily basis is good standard practice.

## **2. PART VI TOWN AND COUNTRY PLANNING ACT 1990**

2.1 The Applicant is mindful should the Planning Department refuse the application or, retroactively impose unreasonable conditions, they are at liberty to serve a purchase notice on the Council in accordance with the above Act.

## **3 CONCLUSION**

**i) The proposed condition requiring a Section 106 would comply with the regulations and the spirit of the *"phosphate moratorium"* in perpetuity;**

**ii) The planning approval would bring the site under effective planning control and extinguish historic equine use from 110 horses to just 28;**

**iii) The housing element of the proposal is satisfied such that it is confirmed there is acceptable neutrality of phosphate entering the SAC.**

Web links to draft section 106 agreement – application 204230:

[Draft Section 106 Agreement](#)

[Draft Section 106 Agreement - Appendix 1 Plan of Land](#)

Draft Section 106 - Appendix 3 Manure Management Plan