

**MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 2 February 2011 at 10.00 am**

**Present:** Councillor TW Hunt (Chairman)  
Councillor RV Stockton (Vice Chairman)

Councillors: PA Andrews, WU Attfield, DW Greenow, KS Guthrie, JW Hope MBE, B Hunt, RC Hunt, MD Lloyd-Hayes, G Lucas, JE Pemberton, DC Taylor, WJ Walling, PJ Watts and JD Woodward

**In attendance:** Councillor JJD Lavender

**104. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors ACR Chappell, PGH Cutter, GFM Dawe, H Davies, RI Matthews and AP Taylor

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

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillors PA Andrews, WU Attfield and MD Lloyd-Hayes attended the meeting as substitute members for Councillors ACR Chappell, GFM Dawe and AP Taylor.

**106. DECLARATIONS OF INTEREST**

8. DMS/102805/F - 44 TOWER ROAD, HEREFORD, HR4 0LF.  
Councillor PA Andrews, Personal, Resident of Tower Road.

**107. MINUTES**

**RESOLVED:** That the Minutes of the meeting held on 12 January 2011 be approved as a correct record and signed by the Chairman.

**108. CHAIRMAN'S ANNOUNCEMENTS**

The Chairman advised Members that a special meeting of the Planning Committee had been arranged for 23 March 2011 to determine an application in respect of the Edgar Street Grid.

**109. APPEALS**

The Committee noted the report.

**110. DMCW/092858/F - SAINSBURYS, BARTON YARD, HEREFORD, HR4 0AG**

The Principal Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mr Wilson, representing the applicants, spoke in support of the application.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillors JD Woodward, one of the local ward members, commented on a number of issues, including:

- Concerns that the authority may be seen to be allowing other competitors to expand but restricting Sainsburys.
- The route from Sainsburys to Eign Gate via the underpass was not aesthetically pleasing but did not warrant refusal of the application.
- Should parking provisions be increased whilst Sainsburys allow workers from the nearby West Mercia Police offices to park in their car park.
- The re-siting of the recycling facilities was welcomed to address noise concerns from the nearby residents of Pomona Court.
- The increase to 30% for the sale of comparison goods was not welcomed.
- No objections had been received from the Traffic Manager, the Environmental Health Manager or the Highways Agency.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor JJD Lavender, the other local ward member, reiterated the points raised by Councillor JD Woodward and made additional comments, including:

- Sainsburys were committed to Herefordshire with good community investment and community relations.
- It was not reasonable to ask Sainsburys to split their operations between 2 sites when they already owned the existing site.
- By citing the Edgar Street Grid development in the report the Council would be giving a commercial advantage to a competitor.
- It was not fair to state that the proposed application would be at a detriment to the city centre as it was realistically no further from the city than the proposed site of the Edgar Street Grid.

The Assistant Director – Environment, Planning and Waste advised Members that they were not required to make a judgement on the integrity of Sainsburys or were they required to make a decision based on the forthcoming livestock market application. He added that the proposed application at Sainsburys and the livestock market application had to be determined separately. He also advised the Committee that they were not required to make a judgement on the quality of the route from the Sainsburys store to the city centre or were they required to make a judgement based on the percentage of non food goods sold at other supermarkets throughout the city.

The Assistant Director – Environment, Planning and Waste advised the Committee that their decision should be based on the impact the application would have on the vitality and viability of the city centre. He noted the report produced by Drivers Jonas Deloitte, the Council's long term retail consultants, which supported the view that the application should be refused due to the impact on the city centre.

The debate opened with Members of the Committee discussing the fact that the proposed application was contrary to key strategic policies and could therefore undermine the Council's key regeneration site as well as undermining the long standing policy approach of the authority.

Other Members disagreed with this viewpoint and felt that the application should be supported. They noted that there had been no objections from the Traffic Manager, the Conservation Manager or the City Council and added that a distance of 580 metres could not be deemed as outside of the city centre. It was also noted that Sainsburys were not responsible for the route from their store to the city centre and that the Committee should welcome an extension on the site which would not impact on the city centre trade.

In response to the comments in support of the application the Locum Lawyer advised that under PPS 4 it was for the applicant to prove that the application would not have the type of adverse effect on the city centre that PPS 4 sought to avert. He also added that the site had been deemed as outside of the city centre and not even classed as on the edge of the city centre in planning terms.

The Committee were advised that comparison goods referred to in the application would consist of non food goods, including toys, white goods and electronics.

Members noted that in their opinion it appeared that Sainsburys were being asked to split their operation over two sites and that this was not a reasonable request. They also noted the community support for the application and the fact that there had only been two letters of objection received.

In response to a question, the Principal Planning Officer advised that store deliveries were made at the rear of the store and did not cause concern locally. The also added that the road improvements would address any concerns from the Highways Agency.

Some Members of the Committee felt that the expansion of the site was acceptable however the increase to 30% for sales of comparison goods was not. Members discussed the possibility of approving the application with the omission of the increase to comparison goods.

The Assistant Director – Environment, Planning and Waste advised Members that the application could not be amended to remove the reference to 30% of comparison goods and could only be addressed by deferring the application for further discussions with the applicant. A motion to defer the application failed.

The Assistant Director – Environment, Planning and Waste noted that the application had raised a complex set of issues and that there had been a good debate by the Committee. He stated that there was clear evidence that the current application had the potential to undermine the future vitality and viability of the city centre. Finally he noted that investor and developer confidence in the development of the city's key strategic regeneration proposals would also be affected if the application was approved.

Councillors JD Woodward and JJD Lavender were given the opportunity to close the debate. They reiterated their opening remarks and made additional comments, including:

- It was imperative that Members voted on the application in hand without consideration of the Edgar Street Grid development.
- It was difficult to separate the proposed application from the Edgar Street Grid application especially as the second reason for refusal stated in the Officer's report was based on the afore mentioned application.

## **RESOLVED**

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

- 1. The proposal fails to demonstrate that this out of centre site is sequentially preferable to potentially available sites located within or on the edge of the existing Hereford City Centre. Consequently the development is contrary to Policies TCR9 and TCR20 of Herefordshire Unitary Development Plan and Policies EC15 and EC17 of Planning Policy Statement 4.**
- 2. The proposal fails to demonstrate that the increase in size of the store would not adversely impact on the vitality and viability of Hereford City Centre. Furthermore the proposals contained in the application would**

**undermine the potential to deliver the Eign Gate Regeneration Area. Consequently the development is contrary to Policies TCR1, TCR2 and TCR20 of Herefordshire Unitary Development Plan and Policy EC16 of Planning Policy Statement 4.**

*[Councillor PA Andrews wished for it to be noted that she abstained from voting in respect of this item.]*

**111. DMS/102805/F - 44 TOWER ROAD, HEREFORD, HR4 0LF**

The Principal Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mr Alikija and Mrs Lilley, two of the neighbouring residents, spoke in objection to the application, and Mr Shaw, the applicant, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillors JD Woodward, one of the local ward members, commented on a number of issues, including:

- That she had met with Mr Shaw and Mr Withers to discuss the application but had not indicated to the applicant that she was in support of the application.
- The new application was for 5 two bedroom flats which was an increase of 2 bedrooms over the previous application.
- The local community were united in objection to the application.
- The supplied photographs did not accurately illustrate the parking issues on Tower Road.
- The residents of 40 Tower Road had 7 windows overlooking the proposed development.
- The bungalow which currently occupied the site had been set back from the road to protect the amenity of the neighbouring residents.
- The proposed flats would have an adverse impact on the street scene of Tower Road as the proposed development was too large.
- Could a car be turned in the proposed car park or would they have to exit the site in a reverse gear.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor JJD Lavender, the other local ward member, reiterated the points raised by Councillor JD Woodward and made additional comments, including:

- Tower Road had a distinct character and strong local community.
- The proposed development would erode the community spirit.
- The Children's play area would be overlooked by residents of the flats.
- The application was contrary to Unitary Development Plan policies DR1, H13.11 and H14.2.

Members noted that Tower Road was made up of predominantly detached dwellings and that there were currently no flats on the road. They added that the Council's Unitary Development Plan stated that the local distinctiveness in an area should be reinforced and that approving the application would not achieve this aim. They added that the proposed development was not in keeping with the area and would have an adverse impact on the amenity of the neighbouring residents. They also voiced their concerns in respect of possible highways issues resulting from the increase in cars on the road should the application be approved.

Members noted that the forthcoming introduction of the localism bill would give the authority greater powers to refuse applications of this nature. They did however note that at present the application had to be determined under the current local and national policy framework.

The Locum Lawyer and the Assistant Director – Environment, Planning and Waste had a brief discussion in respect of section 4.8.10.2 of the Council's Constitution regarding the Further Information Report process. The Locum Lawyer, representing the Monitoring Officer, and the Assistant Director both felt that a decision contrary to the Officer's recommendation would be defensible at appeal and that a Further Information Report would not be required.

Councillors JD Woodward and JJD Lavender were given the opportunity to close the debate. They reiterated their opening remarks and requested that the application be refused.

## **RESOLVED**

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

**The local planning authority consider that the proposal is unacceptable in that it would constitute a form of development which by virtue of its form, design, appearance and layout does not respect and is out of character with established residential development in the area. On this basis the proposal would conflict with Policies DR1, H13(1) and H14(2) of Herefordshire Unitary Development Plan 2007.**

### **112. DMS/102337/O - LAND OFF WITHIES ROAD, WITHINGTON, HEREFORDSHIRE, HR1 3PX**

The Principal Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking Mr Stentiford, a neighbouring resident, spoke in objection to the application, and Mr Soutar, the applicant, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor Greenow, the local ward member, commented on a number of issues, including:

- The land in question was not designated as public open space but was surrounded by public open space.
- 40% of the housing in Withington was currently affordable housing.
- Local residents were generally in support of the application.
- The applicants had initially requested £70000 of playbuilder funding and were now in receipt of £37000, the proposed application would provide that much needed funding.
- The proposed play area and public open space would be an excellent, and much needed, community facility.
- The village had good facilities and good public transport links.

Members opened the debate by noting that the application was contrary to current planning policy. A motion to refuse the application was seconded.

Some Members noted that the current economic climate required communities to investigate alternative methods of funding. They felt that the application could be viewed as an enabling development and should be supported.

The Locum Lawyer advised the Committee that PPS 5 specifically permitted enabling developments in the case of listed buildings and heritage assets but that he was not aware of such enabling provisions for the matter under consideration. He also advised that in his opinion the application was contrary to Unitary Development Plans H10 and H7 and should therefore be refused.

In response to comments by the Committee the Assistant Director – Environment, Planning and Waste advised Members that the application had to be determined under the current planning policy framework as the localism bill would not be implemented until the end of 2011.

Members discussed the foul water and drainage issues on the site and felt that it was imperative that these issues were addressed as a matter of urgency prior to any planning permission being granted on the site.

The Locum Lawyer and the Assistant Director – Environment, Planning and Waste had a brief discussion in respect of section 4.8.10.2 of the Council's Constitution regarding the Further Information Report process. The Locum Lawyer, representing the Monitoring Officer, felt that the application should be refused however the Assistant Director – Environment Planning and Waste noted the comments of the Committee and felt that a Further Information Report would not be required.

Councillor Greenow was given the opportunity to close the debate but chose to make no additional statement.

#### **RESOLVED**

- 1. The Assistant Director Law and Governance be authorised to complete the planning obligation under Section 106 of the Town and Country Planning Act 1990 in accordance with the Heads of Terms.**
- 2. Upon completion of the above-mentioned planning obligation Officers named in the Scheme of Delegation be authorised to issue planning permission subject to appropriate conditions to be agreed in consultation with the Chairman and Local Ward Member.**

*[Councillor WU Attfield and JE Pemberton wished for it to be noted that they abstained from voting in respect of this item]*

#### **113. DMS/103179/F - CARADOC COURT, SELLACK, ROSS-ON-WYE, HEREFORDSHIRE, HR9 6LS**

The Principal Planning Officer gave a presentation on the application.

The Committee noted that the application would have been determined under delegated powers had it not been a member application.

#### **RESOLVED**

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

- 1. B04 Amendment to existing permission**
- 2. B01 Development in accordance with the approved plans**

#### **INFORMATIVE:**

**1. N15 Reason(s) for the Grant of PP/LBC/CAC**

*[Councillor MD Lloyd-Hayes wished for it to be noted that she abstained from voting in respect of this item.]*

**114. DMN/102226/F - GREAT PENLAN, BRILLEY, HEREFORDSHIRE, HR3 6JW**

The Principal Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking Mr Howie, the applicant's agent, spoke in support of the application.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor JW Hope, the local ward member, commented on a number of issues, including:

- There was a clear need for an additional dwelling so that application was in accordance with policy H7 of the Council's Unitary Development Plan.
- The business was financially viable as could be demonstrated by the submitted accounts.
- There was a labour requirement for 2.63 persons on the site.
- There was a long term need which met the requirements of Policy H8 of the UDP.
- A section 106 agreement and appropriate conditions could address the concerns of the planning department adequately.

Members noted that there had been no letters of objection received in respect of the application. They felt that the functional need for an additional dwelling on the site had been demonstrated and felt that the application should be supported. They did however feel that it was imperative to ensure that the new dwelling, and the existing dwelling, were legally tied to the farm through a suitable section 106 agreement.

Councillor JW Hope was given the opportunity to close the debate but chose to make no additional statement.

**RESOLVED**

- 1. The Assistant Director Law and Governance be authorised to complete a planning obligation under Section 106 of the Town and Country Planning Act 1990.**
- 2. Upon completion of the above-mentioned planning obligation Officers named in the Scheme of Delegation be authorised to issue planning permission subject to appropriate conditions to be agreed in consultation with the Chairman and Local Ward Member.**

**115. DATE OF NEXT MEETING**

The Committee noted the date of the next meeting.

The meeting ended at 1.05 pm

**CHAIRMAN**

