

MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 12 October 2011 at 10.00 am

Present: Councillor PGH Cutter (Chairman)
Councillor BA Durkin (Vice Chairman)

Councillors: PA Andrews, AN Bridges, PJ Edwards, DW Greenow, KS Guthrie, J Hardwick, JW Hope MBE, RC Hunt, Brig P Jones CBE, JLV Kenyon, JG Lester, MD Lloyd-Hayes, G Lucas, FM Norman, GA Powell, GR Swinford and PJ Watts

In attendance: Councillors AM Atkinson, AJM Blackshaw, RB Hamilton, MAF Hubbard, JG Jarvis, SM Michael, C Nicholls, SJ Robertson and JD Woodward

64. APOLOGIES FOR ABSENCE

Apologies were received from Councillor RI Matthews.

65. NAMED SUBSTITUTES (IF ANY)

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillor GA Powell attended the meeting as a substitute member for Councillor RI Matthews.

66. DECLARATIONS OF INTEREST

8. DMS/112097/F - Dadnor Court, Dadnor, Ross-on-Wye, HR9 6QL.
Councillor G Lucas, Personal, Friend of the applicant.

9. DMN/112240/FH - Glen Helen, 1 Elmsdale Road, Ledbury, Herefordshire, HR8 2EG.
Councillor PGH Cutter, Personal, Business interest in the solar industry.

67. MINUTES

The Democratic Services Officer advised the Committee that Councillor LO Barnett had requested a minor amendment to the minutes in respect of agenda item 7 (minute number 62). She requested that specific reference be made to the fact that her comments were taken from the emails that she had received; that she understood that the committee were only decided on the conditions and that she was well aware of national and local policies on renewable energy.

RESOLVED: That subject to the amendments detailed above, the Minutes of the meeting held on 12 October 2011 be approved as a correct record and signed by the Chairman.

[Note: The resolution in respect of minute number 62 was omitted from the minutes published in the agenda dated 12 October 2011. The resolution agreed was as set out in the officer's report and amended in the updates sheet circulated at the meeting. The amended minutes were resubmitted to the Committee for approval on 2 November 2011]

68. CHAIRMAN'S ANNOUNCEMENTS

The Chairman advised the Committee that agenda item 11 would be considered after the live stock market application as the mayor, who was the local ward member for the application, had a prior engagement.

69. APPEALS

The Planning Committee noted the report.

70. DMS/112085/RM - LIVE STOCK MARKET & ADJ LAND, EDGAR STREET, HEREFORD, HR4 9HX

The Principal Planning Officer advised the Committee that the application before them related solely to reserved matters as the outline application had come before them in March 2011. It was noted that at the outline application stage the following matters had been agreed:

- Principle
- Floorspace thresholds
- Siting and height parameters
- Vehicular access and general highway alterations
- Traffic impact, retail impact and environmental impact.

He went on to advise Members that although the Council had made a commitment to deliver the ESG link road, the application was not dependent on it. He also drew members' attention to an error in the report in respect of parking provision, he advised that the new provision was 617 spaces and not 517 as stated in paragraph 6.47 of the report.

In reference to questions raised at the Planning Committee Site Inspection, which had taken place on Tuesday 11 October, he commented that there was a perception of insufficient parking provision throughout the city, however this was not supported by the data collected by the Council. He also advised that there were new and proposed sustainable transport links and made reference to the recently approved Connect2 cycle way as well as the improved Holmer Road cycle ways. In response to a question regarding the re-use of materials on the site he commented that some of the building plaques were being re-used and that all of the hardcore arising from the demolition would also be crushed and re-used on site.

In response to a letter which had been received from Councillor MAF Hubbard, one of the local ward members, the Principal Planning Officer advised that legal advice had been sought in respect of a proposed condition regarding the restriction of the units around the entrance into the site from Widemarsh Street to retail use only. He confirmed that the advice given was that it would not be lawful to add such a condition at the reserved matters stage. He added that the committee had agreed to maximum floorspace restrictions for restaurant and café uses at outline stage and that as a result of this, it was likely that not all the units in this area could be food outlets in any event.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor MAF Hubbard, one of the local ward members, commented on a number of issues, including:

- Impressed with the general scale, appearance, landscaping and street layout of the proposed development.
- Also pleased to see the inclusion of the small wooden framed pavilion buildings.
- Concerned that the views from Edgar Street were not being enhanced.
- Concerned with the level of integration to the city centre as required by the Council's Unitary Development Plan.

- The issue of usage of some of the units was a matter of layout and could therefore be considered at the reserved matters stage.
- Therefore it was proposed that units 27-29 and all three pavilion buildings be restricted to retail use only.
- Pedestrian integration was a key factor of the development and the crossings on Newmarket Street needed to be reconsidered.
- The proposed pedestrian crossings were not 'shared space crossings' as agreed at the outline application stage.
- Traffic exited the roundabout at fairly high speed, the western crossing was too close to the roundabout.
- There were good examples of shared space crossings throughout the Country including a recently constructed one in Manchester.
- Request that the Committee adds two further conditions to the resolution to restrict the usage of the specified units and pavilions to retail and to reconsider the highway details in particular the pedestrian crossings.

Councillor PA Andrews, another of the local ward members, also addressed the Committee and commented on a number of issues, including:

- Support the principal of the application but have a couple of concerns.
- The design along Edgar Street needed to be reconsidered and improved.
- The design of the development into Newmarket Street also had to be more attractive to the public.
- The inclusion of 3 sets of traffic lights within 100 yards along Newmarket Street was also a concern.

Members were generally in support of the application with a number of the committee of the view that the proposed application was well overdue and would benefit the County as a whole. It was noted that the application had been discussed since 2001 and had taken several years to come to fruition.

Members did however have some concerns in respect of the application. The first issue to be discussed related to traffic. It was noted that the traffic lights along Newmarket Street could have a detrimental effect on the flow of traffic through the city. Some members of the Committee were also concerned that the application had come prior to the provision of the link road.

In response to comments regarding the link road, the Assistant Director - Economic, Environment & Cultural Services advised members that the application before them had to be determined on its merits. He added that work was ongoing to provide the link road but reminded members that they had granted outline permission for the retail site without the benefit of the link road and it would be unreasonable to condition it at this stage.

Another area of concern raised by the Committee was the Edgar Street facade including the department store frontage. A number of members raised concerns with the majority feeling the design could be improved and made more appealing to people accessing the site from Edgar Street. Concern was expressed in respect of the choice of materials for the Edgar Street facade with one of the members voicing concern with the choice of wooden cladding. Members suggested that the applicant may consider making more use of some of the existing elements of the site including historic signage with references to the cattle market.

Members also discussed the linkage between the proposed site and the existing city centre. Members felt that it was imperative that the two areas of the city be well integrated in order for the city centre to remain vibrant. The issue of a condition restricting the usage of specific units to retail only was discussed.

In response to a question regarding restrictions of usage of specific units, the Locum Lawyer advised that such a condition was fundamental to the application and should have been agreed at the outline application stage. He felt that it would be unlawful to add such a condition at the reserved matters stage.

In response to a question regarding the shop front design guide, the Principal Planning Officer advised that the agreement of this was a condition of the outline planning permission and therefore its approval was not required at the reserved matters stage.

The issue of CCTV was raised with one member of the Committee raising the point that the CCTV in the new development needed to be suitably integrated with the existing Council CCTV system.

In response to a question regarding delivery vehicles accessing the site, the Principal Planning Officer advised that vehicles would not be waiting to access the site on the carriageway as there were 2 waiting spaces for HGV's.

One of the Committee members noted the Principal Planning Officers advice but was still concerned that the delivery vehicles would be in the same area as buses on Newmarket Street.

Members continued to discuss the possibility of restricting the usage of specific units to retail only. The Locum Lawyer advised the Committee that it would not be correct to amend an essential part of the outline permission at the reserved matters stage and that therefore he had to reiterate his opinion that a restriction of usage condition would not be lawful.

In response to the comments from the Locum Lawyer, Councillor MAF Hubbard, one of the local ward members, replied that in his opinion the proposed condition addressed the issue of layout which the Committee was permitted to consider at the reserved matters stage. Therefore he felt the condition was reasonable and enforceable and requested that the Committee add it to any resolution made.

The Assistant Director - Economic, Environment & Cultural Services advised Members that he would not add anything further to the legal advice given but that in terms of planning it would be unreasonable to add the suggested condition at this stage. He went on to add that the layout of the units was an issue that could be determined at the reserved matters stage but that allocation of the usage could not.

Members also discussed renewable energy and requested clarification from the Principal Planning Officer as to the standard that the developer proposed for the site. One member also requested clarification regarding the ongoing preservation of the trees proposed on the site. It was also noted that there was an existing tree forum within the County and that it may be beneficial for the applicant to consult with them in order to gain their views on the matter.

In response to a number of questions raised during the debate, the Principal Planning Officer advised that three banks of covered cycle storage had been proposed as part of the application; that the applicants had agreed to develop the site in accordance with the BREEAM excellent standard, and that this had been added as a condition; that night time only deliveries could affect the commercial viability of the units; that a shared space concept had been achieved for the crossings on Newmarket Street whilst also including designated crossing for the disabled; that overall, these design features along with new active shop fronts would make Newmarket Street a more pedestrian orientated retail street; and that there was a condition regarding the management of the trees over the long term attached to the outline permission

Councillor MAF Hubbard and PA Andrews were given the opportunity to close the debate. Councillor Hubbard reiterated his opening remarks and made the following additional comment:

- Pleased that Members were voting on an approval including the proposed condition to restrict the usage of the units around the entrance into the site from the city centre

Councillor PA Andrews closed the debate with the following comments:

- The design of the Edgar Street façade needed to be revisited and it needed to be made more appealing to shoppers.

A motion to approve the application with an additional condition restricting the usage of the units around the entrance into the site from the city centre to retail use was lost and the resolution as set out below was agreed.

RESOLVED

That planning permission be granted subject to the following conditions and any further conditions considered necessary by officers:

1. **Within twelve months of the commencement of development or in accordance with a timetable to be agreed in writing with the local planning authority, details to include scaled plans of the following shall be submitted for the approval in writing of the local planning authority:**
 - a) **The design, materials and finish for the gates serving the service yards on Edgar Street and Newmarket Street.**
 - b) **The material, finish and means of enclosing the retail kiosks.**
 - c) **Details of the planting beds for the areas of climbing plants.**
 - d) **The material, height, finish and means of enclosing the new garden associated with the Old Market Inn.**
 - e) **Details of any externally visible rainwater goods.**
 - f) **Plans, materials and finish for the trolley parks.**

Development shall be carried out in accordance with the agreed details and shall be completed prior to first occupation of any of the units hereby permitted.

Reason: To ensure a satisfactory design and appearance to the development and to comply with Policy DR1 of the Herefordshire Unitary Development Plan.

2. **The siting, design and external appearance of all plant and equipment, including renewable energy generation, and any associated supporting structures shall be submitted, approved and completed prior to the occupation of the relevant unit(s) which they service.**

Reason: To ensure a satisfactory design and appearance to the development and to comply with Policy DR1 of the Herefordshire Unitary Development Plan.

3. **C06: Development in accordance with the approved plans**

Informative:

1. **N09 – Approval of reserved matters**
2. **N15 – Reasons for the grant of planning permission**

[Councillor GR Swinford wished it to be noted that he abstained from voting in respect of this item]

71. DMS/111901/F & DMS/111902/C - FRIARS HOUSE, 9 FRIARS STREET, HEREFORD, HR4 0AS

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

In accordance with the criteria for public speaking Mrs Barnacle and Ms Minton, two residents of Red Lion Court, spoke in objection to the application and Mr Beacon, the applicant's agent, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor JD Woodward, also representing her fellow ward member Councillor SM Michael, commented on a number of issues, including:

- There was heavy vehicular use along Friar Street which contained 136 residential dwellings as well as a primary school and social clubs.
- The current dwelling was set back from the road and was considerably smaller than the proposed building.
- The proposed dwelling was 0.6 metres closer to the rear boundary and was considerably higher than the existing building.
- The traffic manager raised concerns at paragraph 4.2 of the report.
- The lack of any parking provisions and a footpath in front of the proposed dwelling was a concern for the local residents.
- Concerns were expressed in terms of the height, density and mass of the proposed development as well as the highway issues.
- The proposed application did not enhance the conservation area.
- There was no disabled parking allocated as part of the development.
- The application was therefore contrary to Unitary Development Plan policies DR1, DR2, DR3, H13, H16 and HBA6.

Members discussed the application and shared the concerns of the local ward members. They expressed concerns at the close proximity of the proposed dwelling to the edge of the highway. They were also concerned that there was no parking provision included in the development and felt that this would have a detrimental effect to the amenity of the neighbouring residents on Friar Street. It was noted that there was no mention of renewable energy in the application and also that there was no communal open space.

Other Members, also speaking in objection to the application, had concerns in respect of the site with the general view being that the proposed application would result in an over intensification of the site. It was also felt that the proposed application did not enhance or preserve the conservation area.

Members were of the view that the application was contrary to Herefordshire Council's Unitary Development Plan policies DR1, DR2, DR3, H13, H16, and HBA6.

A further information report was not requested from the Assistant Director - Economic, Environment & Cultural Services or the Locum Lawyer, representing the Monitoring Officer, and therefore the Committee proceeded to the vote.

RESOLVED

That the applications be refused for the following reasons:

In respect of DMS/111901/F:

- 1. The proposed development by virtue of its siting, density, scale, mass, design and height would fail to promote or respect the character of the area and context of the site and would represent a cramped and over intensive form of development. As such the proposal is considered to be contrary to Policies DR1 and H13 of the Herefordshire Unitary Development Plan.**
- 2. The proposed development, by virtue of its siting, density, scale, mass, design and height would adversely impact on the amenities and living conditions of the adjoining residential properties and fail to provide sufficient amenity space for residents within the site contrary to the requirements of Policies DR1, DR2 and H13 of the Herefordshire Unitary Development Plan.**
- 3. The proposed development, by virtue of its siting, density, scale, mass, design and height would fail to preserve or enhance the character and appearance of the Conservation Area contrary to the requirements of Policy HBA6 of the Herefordshire Unitary Development Plan**

In respect of DMS/111902/C:

- 1. The demolition of the dwelling is considered to be unacceptable at this time as there is no redevelopment proposed that would preserve or enhance the character and appearance of the Conservation Area. The proposal therefore conflicts with the requirements of Policy HBA7 of the Herefordshire Unitary Development Plan.**

72. DMS/112097/F - DADNOR COURT, DADNOR, ROSS-ON-WYE, HR9 6QL

The Senior Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

RESOLVED

That planning permission be granted subject to the following conditions:

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans**
- 3. The ménage shall be used for the training of the applicant's own horses and shall at no time be used for any commercial training or other equestrian enterprise.**

Reason: In order to safeguard the character and amenity of the area and to comply with Policy DR3 of Herefordshire Unitary Development Plan.

4. G02 Retention of trees and hedgerows

Informative:

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

73. DMN/112240/FH - GLEN HELEN, 1 ELMSDALE ROAD, LEDBURY, HEREFORDSHIRE, HR8 2EG

The Senior Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet. He advised that the word 'not' had been omitted in the last sentence of paragraph 6.3 of the report.

RESOLVED

That planning permission be granted subject to the following conditions:

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans**
- 3. The external surface of the flue pipe, hereby approved, shall have a matt black finish unless otherwise first agreed in writing by the local planning authority.**

Reason: To ensure that the flue pipe is satisfactory in appearance and to comply with Policy DR1 of the Herefordshire Unitary Development Plan.

4. CE2 Solar panels or other external renewable energy installations

Informative:

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

74. DMS111656F - LAND OPPOSITE THE BELL INN, TILLINGTON, HEREFORDSHIRE, HR4 8LH

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

In accordance with the criteria for public speaking Mrs Reynolds, representing Burghill Parish Council and Mr Roberts, a neighbouring resident, spoke in objection to the application and Mr Ball, the applicant, spoke in support.

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

- The application came before committee in December 2010 and had caused the local residents some concern.
- Burghill Parish Council objected strongly to the application.
- The existing condition protected the amenity of the local residents and was in accordance with policy DR2 of the Herefordshire Council Unitary Development Plan.
- The translocation of the hedge had not been successful.

- The applicant was now requesting unlimited access to the site to feed goldfish and a cat, this seemed unreasonable.
- The speed of traffic along the road had increased and it was no longer safe for horse riding although it did not meet the criteria for a speed restriction.
- Applicant needed to work more closely with the local residents.

Members opened the debate by noting that the applicant needed to work more closely with the neighbouring residents. It was however considered that the proposed condition was reasonable and would address the concerns of the neighbouring residents.

However some members had concerns in respect of the enforcement of the existing conditions on the site and also raised the issue of highway safety as a concern. A number of members noted that they had visited the site in December 2010 and shared the concerns in respect of vehicular speeds along the highway.

The Development Manager advised the Committee that the enforcement issues referred to related to the applicant commencing work on the site prior to the discharge of conditions, he added that this was not uncommon. In response to other issues raised he advised that the hedge would have to be replanted and that although the application sought unrestricted access to the site the proposed condition kept some restrictions in place.

It was noted that the enforceability of the proposed condition regarding access to the site could be problematic and could cause issues between the applicant and the neighbouring residents. Some members were of the view that the proposed condition was not enforceable.

Another member of the Committee noted that the application was an agricultural usage and that there should be no restriction of access to the site. It was also noted that a farm on the site could result in more traffic movements than the existing use.

Councillor SJ Robertson was given the opportunity to close the debate. She reiterated her opening remarks and made the following additional comment:

- The original conditions were put in place to mitigate the concerns of the neighbouring residents.
- The removal of the original conditions would be contrary to policies DR1 and DR2 of the Unitary Development Plan.

A motion to approve the application in accordance with the case officer's recommendation failed and the resolution as set out below was agreed.

RESOLVED

That planning permission be refused for the following reasons:

- 1. The application is contrary to policies DR1 and DR2 of the Council's Unitary Development Plan**

75. DATE OF NEXT MEETING

The Planning Committee noted the date of the next meeting.

APPENDIX 1 - SCHEDULE OF COMMITTEE UPDATES

PLANNING COMMITTEE

12 October 2011

Schedule of Committee Updates/Additional Representations

Note: The following schedule represents a summary of the additional representations received following the publication of the agenda and received up to midday on the day before the Committee meeting where they raise new and relevant material planning considerations.

DMS/112085/RM - Application for approval of Reserved Matters following Outline application DMS/103136/O for the redevelopment of the Livestock Market and adjacent land at Live Stock Market & adj Land, Edgar Street, Hereford, HR4 9HX

For: Stanhope Plc per Savills Plc, Embassy House, Queens Avenue, Bristol, BS8 1SB

ADDITIONAL REPRESENTATIONS

Amended plans have been received relating to the Block B frontage on to Newmarket Street and the cinema materials. These change the material for the upper parts of this building to timber cladding and introduce additional relief in the first floor Newmarket Street elevation through the creation of recessed panels and obscure glazing. In addition, the alignment of the pedestrian crossing of Widemarsh Gate has been amended to more directly align with the pedestrian desire line and improve the flow of pedestrians.

A highway materials options report has been received

Two emails have been received from Cllr. Hubbard and Cllr. Chave.

Cllr. Hubbard requests that several of the units around the entrance into the site from Widemarsh Street to be restricted to retail use only to enhance the retail connectivity between the city centre and development.

Cllr. Chave's comments are as follows:

- Continued concerns regarding the connectivity of the development with the city centre and manner in which the buildings relate to the streets
- Question the need for the number of additional retail and restaurants proposed and usability of some of the cycle racks
- Concerned with the height of some of the buildings and the level of parking provision,
- Consider that some of the materials may appear dated very quickly
- Welcome the plans for the public realm, the new tree planting, the provision of PV panels, the variation in roof heights and the introduction of a 20mph zone

OFFICER COMMENTS

The site falls with Three Elms and Central Wards rather than Aylestone Ward.

The amended plans largely addresses the issues identified in the Committee report concerning Block B and the manner in which it addresses Newmarket Street.

Following legal advice, the imposition of a condition as requested by Cllr Hubbard would not meet the legal requirements of Circular 11/95 concerning the use of conditions. This is because the matters to be considered under this application are the layout, scale, appearance and landscaping of the development and therefore a condition that restricts the uses of parts of the development fall outside the scope of matters that can be considered under this application.

CHANGE TO RECOMMENDATION

In light of receipt of the acceptable amended plans, the application is now recommend for approval.

DMN/112240/FH - Proposed installation of solar thermal panels on roof of existing garage together with bio-mass flue at Glen Helen, 1 Elmsdale Road, Ledbury, Herefordshire, HR8 2EG

For: Mrs Harvey per Mr Ian Guest, 22 Upper Chase Road, Malvern, Worcestershire, WR14 4XG

ADDITIONAL REPRESENTATIONS

Ledbury Town Council recommends Approval

NO CHANGE TO RECOMMENDATION