

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

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

Councillors: PA Andrews, AM Atkinson, AN Bridges, PJ Edwards, DW Greenow, KS Guthrie, J Hardwick, JW Hope MBE, JA Hyde, JLV Kenyon, JG Lester, MD Lloyd-Hayes, G Lucas, FM Norman, GR Swinford, DC Taylor and PJ Watts

**In attendance:** Councillor PD Price

**76. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors RC Hunt, Brig P Jones CBE and RI Matthews.

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

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillors AM Atkinson, JA Hyde and DC Taylor attended the meeting as substitute members for Councillors RC Hunt, Brig P Jones CBE and RI Matthews.

**78. DECLARATIONS OF INTEREST**

No declarations of interest were made.

**79. MINUTES**

The Democratic Services Officer advised the Committee that the minutes of the meeting held on 14 September 2011 had been resubmitted for approval as the resolution for application DCNW2008/1289/F had previously been omitted.

**RESOLVED:** That the Minutes of the meetings held on 14 September 2011 and 12 October 2011 be approved as a correct record and signed by the Chairman.

**80. CHAIRMAN'S ANNOUNCEMENTS**

The Chairman advised Members that the Overview and Scrutiny 'Task and Finish Group' who had been tasked with looking at the Council's planning functions had sent out a questionnaire to all members. On behalf of Councillor PJ Watts, Chairman of the Task and Finish Group, he asked members to complete the questionnaire and return it at their earliest convenience.

**81. APPEALS**

The Planning Committee noted the report.

**82. DMN/111554/F - LEDBURY WELDING & ENGINEERING LTD, NEW MILL INDUSTRIAL ESTATE, LEADON WAY, LEDBURY HR8 2SR**

The Head of Neighbourhood Planning advised that the application had been withdrawn by the applicant.

**83. DMS/110387/O - LAND NORTH OF HAWTHORN RISE, PETERCHURCH, HEREFORD, HR2 0RQ**

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. The Principal Planning Officer also verbally reported the receipt of a further four letters of objection.

In accordance with the criteria for public speaking Mr Hepworth, representing some of the residents of Hawthorn Rise, spoke in objection to the application and Mr Smith, the applicant's agent, spoke in support.

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

- The site inspection was welcomed and gave the committee the opportunity to see at first hand the issues that concerned the local residents.
- There was no objection to housing on the site as it was within the settlement boundary and designated for housing in the Council's Unitary Development Plan.
- The residents of Hawthorn Rise had suffered through an excessive build time with the development still not being completed.
- The proposed access was not acceptable. The initial plans for Hawthorn Rise did not show a gap between numbers 12 and 13 where the new access was now being proposed. The current construction access situated to the north west of the site was deemed more suitable.
- There were also concerns in respect of drainage. The ditch being proposed for drainage, which was located at the south east of the site, was higher than the centre of the site. If permission was granted there would have to be a clear drainage condition.
- A condition to address the concerns regarding overhead electricity cables was also proposed.
- Concerns were also expressed regarding the allocation of affordable homes on the site. It was suggested that the affordable homes be integrated into the site and not situated together in one row. It was noted that this could be dealt with at the reserved matters stage.

Members opened the debate by thanking the officers for a thorough and detailed site inspection.

The committee expressed concerns in respect of the proposed access. It was felt that the residents of Hawthorn Rise had bought their homes in good faith after viewing site plans which did not indicate an access between numbers 12 and 13. The Committee were of the opinion that the applicant should investigate other options in respect of the access, particular reference was made to the current construction access to the north west of the site.

Members did discuss the possibility of deferring the determination of the application to give the applicant the opportunity to reconsider the access.

The Head of Neighbourhood Planning advised members that the concerns regarding the access could not be suitably addressed through a deferral as the applicant would have to submit a new application if the access was to be revised as had been suggested. He also stated that the proposed access was 4.5 metres wide and complied with highway standards.

Members also discussed their concerns in respect of the overhead cables, it was noted that this issue could be addressed through a suitable condition at the reserved matters stage. The issue in respect of the affordable housing was also noted. Members agreed with the local ward member that the affordable homes should be integrated throughout the site and not situated in one row.

During the debate members discussed refusing the application. One member was of the opinion that the access was out of character and would have a negative effect on the setting and surroundings for the residents of Hawthorn Rise. Another member expanded on this and was of the opinion that approving the application would result in a loss of amenity to the neighbouring residents as well as changing the character of the street scene.

Councillor PD Price was given the opportunity to close the debate. He reiterated his opening remarks and made additional comments, including:

- The residents of Peterchurch did not object to development on the site.
- There was potential for even further development to the North West of the site so the proposed access could be heavily used.
- The UDP should be amended to allow the access road to also serve as a vehicular access to the recreation area.

A motion to defer the determination of the application in order for further discussions in respect of the proposed access to take place was lost.

The substantive motion to refuse the application contrary to the officer's recommendation was subject to the further information procedure as set out in the Council's constitution. A further information report was not requested from the Head of Neighbourhood Planning or the Locum Lawyer, representing the Monitoring Officer, therefore the Committee proceeded to the vote.

## **RESOLVED**

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

- 1 The position of the proposed access serving significant additional residential development would by reason of its proximity to existing properties in Hawthorn Rise and the associated increased levels of vehicular and pedestrian activity have an adverse effect upon the established residential character of the cul-de-sac and the residential amenity of existing occupiers. Accordingly, the proposal would be contrary to Policies DR2 and H13 of the Herefordshire Unitary Development Plan.**

### **84. DMS/112513/F - FOUR FOXES VINEYARD, LONGWORTH LANE, BARTESTREE, HEREFORD, HR1 4BX**

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 Mr Wilson, representing Bartestree with Lugwardine Parish Council, and Mr Smith, the applicant's agent, spoke in support of the application.

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

- The site map contained within the agenda was unacceptable and did not show the site in relation to the neighbouring area.
- Recently had a discussion with the Chairman of the Parish Council's Planning Committee who made a strong case for supporting the application.
- The policy referred to in the case officer's reason for refusal could also be used to support the application.
- The site was in a sustainable location and was just outside of the settlement boundary.
- There was no other use for the building and it could easily fall into a state of disrepair.

Members noted that the Parish Council was in support of the application and voiced concerns that the building could end up derelict if the application was not approved. The planning history of the site was also noted, the Committee were satisfied that there had been an attempt to use the building for business use but that this had proved unsuccessful.

In respect of the site, the Committee felt that it was sustainable and would be suitable for a small 2 bedroom dwelling. They were however of the opinion that the footprint of the existing building should not be extended. There was a discussion as to how this could be achieved with one of the Members recommending that the permitted development rights be removed to ensure that any extensions to the building would be subject to planning consent.

The Locum Lawyer advised that the removal of permitted development rights would normally be through the use of an article four direction. However he was of the opinion that a condition could be added to the resolution to address the concerns of the committee.

The Head of Neighbourhood Planning advised that it was not unusual to remove permitted development rights for applications but the use of a condition was an acceptable course of action for the committee to take.

In response to a number of points raised by the Committee, the Principal Planning Officer advised that there had been no details of 'local use' contained in the applicant's submission. She also advised that the site had been market tested but noted that it was not unusual for buildings to struggle to sell in the current financial climate this however did not discount other uses such as a holiday let, which would be deemed more acceptable. It was also noted that the previous uses of the building, for retail and a coffee shop, were not during the applicant's ownership. Finally she added that if the site was granted planning permission the committee could then be faced with an application for a new dwelling on the site.

In response to the concerns raised by the Principal Planning Officer, the committee asked for legal advice in respect of a condition restricting any further extensions to the building. The Locum Lawyer confirmed that a condition could be added which would be precise, accurate and enforceable.

Councillor DW Greenow was given the opportunity to close the debate. He reiterated his opening remarks and requested that the application be approved.

The Locum Lawyer and the Head of Neighbourhood Planning had a brief discussion in respect of section 4.8.10.2 of the Council's Constitution regarding the Further

Information Report process. Neither Officer requested a further information report and the Committee proceeded to the vote.

## **RESOLVED**

**THAT planning permission be granted subject to the following conditions and any other conditions considered necessary by the Assistant Director – Economic, Environment & Cultural Services.**

- 1 The development hereby permitted shall be begun before the expiration of one year from the date of this permission.**

**Reason: To comply with the provisions of Section 91(1) (b) of the Town and Country Planning Act 1990 (as amended) and to reflect the decision of the local planning authority on 4 March 2009 to suspend (effective from 1 April 2009) the requirements of the Authority's Planning Obligations Supplementary Planning Document (February 2008) in relation to all employment developments falling within Classes B1, B2 and B8 of the Town and Country Planning Use Classes Order 1987 as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005, the employment element of any mixed use development and residential developments of five dwellings or less.**

- 2 The development hereby approved shall be carried out strictly in accordance with the approved plans (drawing nos. JS/166/11/3 RevA and JS/166/11/2) and the schedule of materials indicated thereon.**

**Reason: To ensure adherence to the approved plans and to protect the general character and amenities of the area in accordance with the requirements of Policy DR1 of the Herefordshire Unitary Development Plan.**

- 3 Notwithstanding the provisions of article 3(1) and Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, (or any order revoking or re-enacting that Order with or without modification), no development which would otherwise be permitted under Classes A, B, D, E and F of Part 1 and of Schedule 2, shall be carried out.**

**Reason: In order to protect the character and amenity of the locality and to comply with Policy HBA12 of the Herefordshire Unitary Development Plan.**

## **85. DATE OF NEXT MEETING**

The Planning Committee noted the date of the next meeting.

## **APPENDIX 1 - SCHEDULE OF COMMITTEE UPDATES (Pages 1 - 2)**

The meeting ended at 11.35 am

**CHAIRMAN**



# PLANNING COMMITTEE

2 November 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.

**7 DMN/111554/F - Demolition of existing buildings and erection of a Class A1 (Retail) store, car parking, landscaping and associated works at Ledbury Welding & Engineering Ltd, New Mill Industrial Estate, Leadon Way, Ledbury HR8 2SR**

**For: Tesco Stores Ltd per Mr Gary Sutton, 14 Windsor Place, Cardiff, CF10 3BY**

## APPLICATION WITHDRAWN

**8 DMS/110387/O - Erection of sixteen dwellings, construction of vehicular access and associated works at Land North of Hawthorn Rise, Peterchurch, Hereford, HR2 0RQ**

**FOR: Mr Smith Per Mr Paul Smith, 12 Castle Street, Hereford, Herefordshire, HR1 2NL**

## ADDITIONAL REPRESENTATIONS

A further 8 letters have been received from residents of Hawthorn Rise (nos. 5, 8, 10, 11, 13, 14, 16 and 17). These in the main do not object in principle to the erection of new dwellings upon the application site but reiterate concerns about the timescale for developing the site and the noise and disturbance that will be experienced (potentially over an extended period of time based upon previous experience); loss of privacy suggesting that only bungalows should be permitted and more specifically along the southern perimeter of the site boundary with Hawthorn Rise; surface water drainage issues and localised flooding of back gardens which must be addressed by proper enforcement of any conditions; permanent access should be created within the adjoining field to avoid noise and disturbance and expressing concerns about poor visibility onto the B4348

## **OFFICER COMMENTS**

The concerns that have been raised reiterate those that have been set out in the report.

In response to these, officers have resolved the following;

-sought to incentivise the quicker delivery of dwellings through the S106 Agreement which as recommended would require the affordable housing to be available upon completion of the 6<sup>th</sup> open market dwelling.

-a temporary construction access has been negotiated that would avoid plant and machinery using the existing estate road (condition 15).

- Drainage Engineer now satisfied that a surface water attenuation system can be designed to properly manage run-off

Furthermore the application no longer includes the approval of the layout of the site and as such concerns about the height of development and its relationship to existing properties are reserved matters for future consideration.

Correction to paragraph 6.26- the final sentence should read "...the application has been amended such that the scale and layout of the development have now been reserved for future consideration. On the basis that the means of access has been agreed with the Traffic Manager and the surface water issues can be addressed by condition, it is considered that the proposal accords with plan policy and as such is recommended for approval.

## **NO CHANGE TO RECOMMENDATION**