

**MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 23 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, KS Guthrie, RB Hamilton, J Hardwick, AJ Hempton-Smith, JW Hope MBE, RC Hunt, JG Lester, MD Lloyd-Hayes, RI Matthews, P Rone, GR Swinford, PJ Watts and JD Woodward

**In attendance:** Councillors JG Jarvis and JF Knipe

**86. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors DW Greenow, Brig P Jones CBE, JLV Kenyon, G Lucas and FM Norman.

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

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillors P Rone, AM Atkinson, JD Woodward, RB Hamilton and AJ Hempton-Smith attended the meeting as substitute members for Councillors DW Greenow, Brig P Jones CBE, JLV Kenyon, G Lucas and FM Norman.

**88. DECLARATIONS OF INTEREST**

9. DMS/112616/F - 44 Tower Road, Hereford, HR4 0LF.  
Councillor PA Andrews, Personal, Resident of Tower Road.

12. DMS/112197/F - Oldstone Farm, Fownhope, Hereford, HR1 4PJ.  
Councillor J Hardwick, Prejudicial, Co-owner of the property.

**89. MINUTES**

Councillor PJ Edwards noted that his comments in respect of the appeals information had been omitted from the minutes. It was agreed that these comments would be added prior to the minutes being approved as correct record.

**RESOLVED: That the Minutes of the meeting held on 2 November 2011 be approved as a correct record and signed by the Chairman subject to the amendment detailed above.**

**90. CHAIRMAN'S ANNOUNCEMENTS**

There were no announcements.

**91. APPEALS**

Councillor RI Matthews requested clarification in respect of costs paid, and received, by the Council in respect of appeals. The Head of Neighbourhood Planning advised that over the

last 12 months the Council had been awarded costs on 4 occasions and had been ordered to pay costs on 3 occasions. He added that the costs were still being negotiated so no detailed figures could be given.

**RESOLVED**

**THAT the report be noted.**

**92. PLANNING ENFORCEMENT PERFORMANCE**

In response to a question the Team Leader – Enforcement advised Members that unauthorised operational development related to a number of different circumstances including sheds, garages and extensions constructed without planning permission and development taking place after the permission had expired. In respect of a question regarding common breaches he added that these usually related to applicants failing to submit more details as required or breaching planning conditions.

Members also discussed areas of enforcement including instances where it was not expedient for the Council to take action, it was confirmed that this usually occurred when there was either no harm, or minimal harm as a result of the breach.

The Committee felt that it would be beneficial for the enforcement report to contain an additional column with figures for the previous 6 month period.

**RESOLVED**

**THAT the report be noted.**

**93. DMS/112232/O - PARK HALL, WORMELOW, HEREFORDSHIRE, HR2 8EQ**

The Principal Planning Officer gave a presentation on the application.

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

- Park Hall was once a successful entertainment venue but it had now become an eyesore.
- The lack of affordable housing was regrettable.
- The application should be supported subject to the conditions recommended by the Principal Planning Officer.

The Committee discussed the application and noted that the site was derelict and had become an eyesore. The development of 5 dwellings was welcomed although they had serious concerns in respect of further development on the site. They also noted that a public footpath ran across the site and requested that this be protected.

The Development Manager (Hereford and Southern Localities) advised the Committee that the applicant would be advised that the Council would be resisting development on other parts of the site since this would form part of the reason for granting planning permission.

In response to a question regarding Tree Preservation Orders, the Principal Planning Officer advised that the issue regarding the protection of the trees was addressed through a suitable condition but that he would look into the issue further to ensure that all trees worthy of preservation were protected.

The neighbouring ward member echoed the Traffic Manager's concerns in respect of visibility and requested that a speed survey be undertaken.

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

- That there was a public house, shop, 2 schools, and cricket ground all within walking distance of the site.
- That the committees concerns regarding additional development on the site was shared.

## **RESOLVED**

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

1. **A01 Time limit for commencement (full permission)**
2. **A02 Time limit for submission of reserved matters (outline permission)**
3. **A04 Approval of reserved matters**
4. **A05 Plans and particulars of reserved matters**
5. **H04 Visibility over frontage**
6. **G02 Retention of trees and hedgerows**
7. **G04 Protection of trees/hedgerows that are to be retained**
8. **G07 Protection of trees covered by a Tree Preservation Order**
9. **G11 Landscaping scheme - implementation**
10. **G14 Landscape management plan**
11. **K4 Nature Conservation - Implementation**
12. **L01 Foul/surface water drainage**
13. **L02 No surface water to connect to public system**
14. **L03 No drainage run-off to public system**

**Informatives:**

1. **HN24 Drainage other than via highway system**
2. **HN08 Section 38 Agreement & Drainage details**
3. **N15 Reason(s) for the Grant of PP/LBC/CAC**

## **94. DMS/112616/F - 44 TOWER ROAD, HEREFORD, HR4 0LF**

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 Lilley, representing some of the residents of Tower Road, spoke in objection to the application and Mr Shaw, the applicant's agent, spoke in support.

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

- Councillor SM Michael, the other local ward member, could not be present due to teaching commitments.
- The previous reasons for refusal outlined at 3.3 and 3.4 of the officer's report were still valid.
- The development previously for 8 one bedroom dwellings was now for 4 two bedroom dwellings so the capacity had not changed.
- The Inspector had been concerned in respect of the previous design of the development, the current proposal was still an 'L' shaped building.
- By siting the building further back on the site the impact on the neighbouring residents was increased.
- If all parking spaces were occupied vehicles would not be able to turn in the parking area and would have to reverse out of the site resulting in a danger to pedestrian safety.
- The proposal was contrary to Unitary Development Plan policies DR1, DR2, H13 and H14 due to the impact on the amenity of the neighbouring residents and the impact on the character and appearance of the location.

The debate was opened with Members noting that the local community did not approve of the current planning application on the site. It was also noted that the neighbouring residents did not object to development on the site and that they would welcome an application for two modest family homes.

In response to a question regarding the car park at the rear of the proposed development, the Principal Planning Officer advised that cars could enter and exit the site in a forward gear.

The committee noted the recent appeal decision on the site. It was noted that the original proposal of 8 one bedroom units had been reduced to 4 two bedroom units; and it was felt that the applicant had made every effort to address the concerns of the neighbouring residents in respect of overlooking and car parking.

In response to additional questions raised by the Committee, the Principal Planning Officer advised that each dwelling benefitted from a separate entrance, with one entrance to the front of the site and three entrances to the rear; that the bay windows on the first floor could be conditioned to require obscured glazing but that the inspector had not previously had a concern regarding this and that the proposed dwelling was a comparative height to the neighbouring properties.

Members continued to discuss the application as well as the previous appeal decisions in respect of the site. A number of members stated that they could see why the previous appeals had been dismissed but that they felt that the applicant had addressed all of the concerns raised within his latest submission. The Inspector's comments, which had not objected to flats on the site, were noted and the Committee felt that a decision contrary to the case officer's recommendation would be difficult to defend.

In response to a question regarding a possible appeal if the application was refused, the Locum lawyer advised that it was difficult to give a clear opinion however he was of the view that an appeal would be difficult to defend.

Members discussed the possibility of adding a condition to the recommendation requiring any first floor bay windows to be fitted with obscured glazing. There was some concern raised in respect of this as it was felt that if obscured glazing was required, had the issue of overlooking really been adequately addressed in the application.

In addition to the point regarding obscured glazing it was also felt that the application was incongruous to the streetscene, highlighted by the fact the applicant had set the site back further away from the road.

Councillor JD Woodward was given the opportunity to close the debate. She reiterated her opening remarks and made additional comments, including:

- If all parking spaces were full it would be impossible to turn a vehicle in the car park.
- It was not possible to predict the outcome of any possible appeal on the site.
- The application should be refused as it was contrary to UDP policies DR1, DR2, H13 and H14.

A motion to approve the application in accordance with the Officer's recommendation was lost.

A motion to refuse the application due to the impact on the amenity of the neighbouring residents as it was contrary to policies DR1, DR2, H13 and H14 of the Council's Unitary Development Plan was moved.

Neither the Head of Neighbourhood Planning nor the Locum Lawyer, representing the Monitoring Officer, requested a further information report and the Committee therefore proceeded to the vote where the resolution as set out below was agreed.

## **RESOLVED**

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

- 1. The local planning authority, consider that the proposed development, by virtue of its siting, scale, design, mass, layout and fenestration would have an adverse impact on the residential amenities enjoyed by the occupiers of the neighbouring property. As such the proposed development would be contrary to policies DR2 (4), H13 (11) and Policy H14 (2) of the Herefordshire Unitary Development Plan.**

### **95. DMS/1122351/F - LOSITO STUD, HARRIS LODGE, WHITCHURCH, ROSS ON WYE, HEREFORDSHIRE, HR9 6EG**

The Team Leader - Enforcement 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 the Committee that an appeal had been lodged on the basis of non determination and therefore the application could not be determined. It was noted that the Committee could delegate a decision to approve the application subject to the withdrawal of the appeal.

In accordance with the criteria for public speaking Miss Harris, the applicant, spoke in support of the application.

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

- The application site fell within the neighbouring ward, Llangarron.
- At paragraph 6.7 the report states that the land on the site that did not fall within the application was used solely for grazing, however there were jumps erected in the fields.
- It was understood that the family had erected the barn on the site.
- There was a question mark locally as to whether the application site was for equine or agricultural use.
- It would be best for the inspector to make a decision on the usage as a stud usage would not require permission.
- The two neighbouring Parish Councils had concerns in respect of the application.
- The UDP was the key policy in determining the application and the site was outside of the settlement boundary as detailed in that policy.
- The application should be refused.

The debate was opened with members speaking in support of the application. It was noted that the agricultural building was already on the site when it came into the applicant's ownership. The issue of the horse jumps in the grazing area was also discussed with it being considered that studs and mares on the site would still need to be exercised and there was therefore a need for the wooden jumps. The Transport Managers comments were noted as well as the Ross Ramblers, who did not object to the application. In summing up it was felt that the proposed application would not be a blot on the landscape but would in fact enable an equine business to function properly.

In response to a question in response to a question regarding the building on the site, the Team Leader - Enforcement advised the Committee that it was already on the site when the land was gifted to the applicant by her family.

Other members had a different opinion in respect of the application and felt that it could not be supported. The comments of the two nearby Parish Councils were noted and concerns were expressed in respect of the highways issues. Members felt that the retrospective nature of the application was regrettable although they noted that this was not a material planning consideration. Members also discussed the footpath that ran across the site; they were of the opinion that the footpath should be protected through appropriate conditions. Some concern was expressed in respect of the enforcement of any proposed conditions due to the ongoing enforcement issues on the site.

It was noted that the land had been gifted to the applicant, Members were concerned that the land could easily be gifted back to the family after benefitting from planning permission.

The Team Leader - Enforcement addressed the Committee in respect of the enforcement issues on the site. He advised that the applicant had failed to comply with an enforcement notice and that this was the subject of an appeal which had now been heard, he added that if the application was approved it would have an impact on the enforcement notice.

In response to a matter raised by the Committee, the Team Leader - Enforcement advised that there was a dwelling in the vicinity of the application site which was

currently on the market. It was felt that this could meet any functional need for a dwelling on the site.

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

- The application would have more local support had the correct process been followed.
- The dwelling opposite the site met the functional need.
- The applicant has not followed the correct process and a number of planning rules appear to have been ignored.
- The planning process appears to have been manipulated from the outset.

The Chairman requested that the Committee vote on the officer's recommendation in order to indicate to officers how they would have been minded to determine the application had they been able to.

Members indicated that they would not have supported the officer's recommendation to approve the application. The Development Manager (Hereford and Southern Localities) asked for clarification in respect of the reasons for not supporting the recommendation. The Locum Lawyer advised that due to the appeal which had been lodged the jurisdiction in respect of a decision had been passed to the Secretary of State. It was his opinion that the decision was now academic and members did not need to give reasons.

## **RESOLVED**

**The application could not be determined by the committee as the applicant had lodged an appeal based on non-determination. The committee debated the application and would have been minded to not support the case officer's recommendation.**

### **96. DMN/112363/F & DMN/112365/L - OAKWOOD, EARDISLEY, HEREFORD, HR3 6NH**

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 Gwilliam, representing Mr Powell, spoke in objection to the application and Mr Hawes, the applicant, spoke in support.

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

- The site visit had been beneficial and helped to highlight the concerns raised in respect of the access.
- The proposed access was at the narrowest point of the road
- There was also a concern in respect of flood water if the kerb was removed.
- The existing access was better.

In response to a question by the Committee, the Principal Planning Officer confirmed that the grass track provided an access to the applicant's tennis court and would serve no other purpose. He also advised that the site was within the settlement boundary so any further applications, if forthcoming, would have to be considered on their merits. In respect of the concerns regarding the removal of the kerb he confirmed that the

neighbouring property had a dropped kerb and this had not caused a problem in respect of flooding.

In response to a specific question regarding a highway drain the Principal Planning Officer advised that it would be reasonable to request a highway drain through a suitable condition.

Members discussed the application and were of the opinion that the proposed access was acceptable and that with the provision of a highway drain the concerns in respect of flooding could also be addressed. However they did have concerns regarding the close proximity of one of the proposed dwellings to a nearby cattle shed. It was felt that the application would be more acceptable if the dwelling was rotated 90 degrees.

Councillor JW Hope MBE was given the opportunity to close the debate. He reiterated his opening remarks and felt that the application should be refused.

## **RESOLVED**

**That officers named in the scheme of delegation to officers be permitted to grant planning permission in respect of application DMN/112363/F subject to the relocation of the dwelling adjacent to the cattle barn and subject to the following conditions:**

- 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 4th March 2009 to suspend (effective from 1st April 2009) the requirements of the Authority's 'Planning Obligations' Supplementary Planning Document (February 2008) in relation to residential developments of five dwellings or less.**

- 2. Before any other development hereby approved is commenced, the construction of the new vehicular access shall be carried out in accordance with a specification to be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.**

**Reason: In the interests of highway safety and to mitigate against localised flooding in accordance with the requirements of Policy DR3 and DR7 of the Herefordshire Unitary Development Plan.**

- 3. Prior to the first occupation of the two new dwellings hereby approved, the existing vehicular accesses to Oakwood and Bridge House shall be permanently closed to vehicular traffic, the details of which shall be submitted to and approved in writing by the local planning authority.**

**Reason: In the interests of highway safety and to conform with the requirements of Policy DR3 of the Herefordshire Unitary Development Plan.**

- 4. Prior to the first occupation of the two new dwellings hereby approved, the renovation of Oakwood shall be completed to the written satisfaction of the local planning authority.**

**Reason: To ensure the safeguarding of a building of architectural or historic interest, to ensure the character and appearance of the**



conservation area is maintained and t comply with the requirements of Policies HBA1, HBA4 and HBA6 of the Herefordshire Unitary Development Plan.

5. B01 Development in accordance with the approved plans
6. C01 Samples of external materials
7. D04 Details of window sections, eaves, verges and barge boards
8. D05 Details of external joinery finishes
9. E03 Site observation - archaeology
10. F08 No conversion of garage to habitable accommodation
11. G04 Protection of trees/hedgerows that are to be retained
12. G10 Landscaping scheme
13. G11 Landscaping scheme - implementation
14. I16 Restriction of hours during construction
15. L01 Foul/surface water drainage
16. L02 No surface water to connect to public system
17. L03 No drainage run-off to public system

**INFORMATIVES:**

1. HN04 Private apparatus within highway
2. HN28 Highways Design Guide and Specification
3. HN05 Works within the highway
4. N11B Wildlife & Countryside Act 1981 (as amended) & Cons (Nat. HaB Bat

In respect of DMN/112365/L listed building consent be granted subject to the following conditions:

1. D01 Time limit for commencement (Listed Building Consent)
2. D09 Details of rooflights
3. Prior to the commencement of any work to repair or replace parts of the timber frame of Oakwood, a detailed schedule shall be submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details.

**Reason:** To ensure that the replacement of original parts of the timber frame are kept to a minimum to safeguard the special architectural and historic interest of the building and to comply with the requirements of Policy HBA1 of the Herefordshire Unitary Development Plan.

4. **D04 Details of window sections, eaves, verges and barge boards**
5. **D05 Details of external joinery finishes**

**97. DMS/112197/F - OLDSTONE FARM, FOWNHOPE, HEREFORD, HR1 4PJ**

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 Committee felt that the application provided an acceptable use for redundant agricultural buildings.

**RESOLVED**

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

1. **A01 Time limit for commencement (full permission) (1 Year)**
2. **B02 Development in accordance with approved plans and materials**
3. **D04 Details of window sections, eaves, verges and barge boards**
4. **D05 Details of external joinery finishes**
5. **D09 Details of rooflights**
6. **D10 Specification of guttering and downpipes**
7. **F07 Domestic use only of garage/store**
8. **F08 No conversion of garage to habitable accommodation**
9. **F14 Removal of permitted development rights Part 2 Class A and Part 40 Classes A - I**
10. **Prior to the first occupation of the development hereby permitted, the section of the modern agricultural building shown on drawing number 1462.08 to be removed shall be demolished and the waste materials removed from the site.**

**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.**

11. **Prior to the first occupation of the development hereby permitted the garaging/store shown on drawing number 1462.08 shall be completed and made available for use.**

**Reason: To minimise the likelihood of indiscriminate parking in the interests of highway safety and to conform with Policy T11 of the Herefordshire Unitary Development Plan.**

12. **G10 Landscaping scheme**

13. **G11 Landscaping scheme - implementation**
14. **G12 Hedgerow planting**
15. **H27 Parking for site operatives**
16. **H13 Access, turning area and parking**
17. **H12 Parking and turning - single house**
18. **The recommendations set out in the ecologist's report dated December 2010 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a full working method statement should be submitted to and be approved in writing by the local planning authority, and the work shall be implemented as approved.**

**Prior to commencement of development, the local planning authority shall be notified that an appropriately qualified and experienced ecological clerk of works has been appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.**

**Reasons:**

**To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended) the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6 and NC7 of the Herefordshire Unitary Development Plan.**

**To comply with Herefordshire Council's Policies NC8 and NC9 in relation to Natural Conservation and Biodiversity and to meet the requirements of PPS9 Biodiversity and Geological Conservation and the NERC Act 2006.**

**INFORMATIVES:**

1. **HN10 No drainage to discharge to highway**
2. **HN05 Works within the highway**
3. **N15 Reason(s) for the Grant of PP/LBC/CAC**

**98. DATE OF NEXT MEETING**

The Planning Committee noted the date of the next meeting.

**APPENDIX 1 - SCHEDULE OF COMMITTEE UPDATES**

The meeting ended at 12.47 pm

**CHAIRMAN**



# PLANNING COMMITTEE

Date: 23 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.

**9 DMS/112616/F - Demolition of existing bungalow and garage to allow for redevelopment comprising 4 no. residential flats with access, car parking, bin / cycle stores, landscaping and other associated works at 44 Tower Road, Hereford, HR4 0LF**

**For: Mr Shaw per Mr David Hutchison, Pegasus Planning Group, Pegasus House, Queens Business Centre, Whitworth Road, Cirencester, Gloucestershire, GL7 1RT**

### ADDITIONAL REPRESENTATIONS

Letter received from Mr James Pattinson, 32 Tower Road who raises the following points:

- The road will be overwhelmed by traffic at the end of a quiet road.
- An oversized building that will be out of character with the already established dwellings in the road.
- The developers have gone full circle. The first application of 8 one bed flats was refused. Now the application is for 4 two bed flats. We could expect all the same problems as with the original application.
- No need for further flats in the area.

### OFFICER COMMENTS

These comments raise no new material planning considerations.

### NO CHANGE TO RECOMMENDATION

**10 DMS/112351/F - Retrospective application for change of use on part of land associated with Losito Stud from agricultural to equine use, retrospective application for change of use from agricultural barn to stables at Losito Stud, Harris Lodge, Whitchurch, Ross on Wye, Herefordshire, HR9 6EG**

**For: Miss Karen Harris, Losito Stud, Harris Lodge, Whitchurch Road, Ross on Wye, Herefordshire, HR9 6EG**

#### **ADDITIONAL REPRESENTATIONS**

This application is now the subject of an appeal against non-determination so the Committee may not determine the application. However an indication from Members is still required as to whether it would have been approved had it been possible to do so, or on what grounds it would have been refused had it been possible to do so.

Additional highway condition CAE

#### **CHANGE TO RECOMMENDATION**

Application cannot be determined.

**12 DMS/112197/F- Proposed conversion of and alterations to a range of period barns to create 2 residential dwellings at Oldstone Farm, Fownhope, Hereford, HR1 4PJ**

**For: SC Hardwick & Sons per Mr James Spreckley, Brinsop House, Brinsop, Hereford, HR4 7AS**

#### **ADDITIONAL REPRESENTATIONS**

An email has been received from Christopher Whitmey of Oldstone Furlong, Fownhope. This supports the application, stating that it would make a worthwhile addition to the housing stock in Fownhope.

#### **NO CHANGE TO THE RECOMMENDATION**