

## PLANNING COMMITTEE

31 August 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/102921/O- Development of grass and all weather sports pitches, clubhouse, indoor training building, car parking and landscaping supported by enabling residential development of 190 units at Land to the East of, Holywell Gutter Lane, Hampton Bishop, Hereford, HR1 4JN**

**For: Hereford Rugby Football Club Per Mrs Sally Tagg, Festival House, Jessop Avenue, Cheltenham, Gloucestershire, GL50 3SH**

#### ADDITIONAL REPRESENTATIONS

Further information and proposals have been provided in response to officer queries and further minor changes have been made to the masterplan as follows:

- Any excess water from the sustainable drainage system will be pumped to the local surface water sewer to further mitigate any localised flood risk
- All the housing will be constructed to code level 4 of the Code for Sustainable Homes
- All affordable will be a mixture of shared ownership and social rent
- The applicants have offered to gift their existing site to the Council for a £1
- Additional existing orchard trees are to be retained along there roadside adjacent the lower level pitches
- The service access road has been re-aligned to avoid any impact on one of the existing ponds on site which contains Newts
- A stage 1 road safety audit for the new access has been provided

Should permission be approved, the developers have also confirmed their willingness to address other technical issues covered in the report such as a stronger, more bespoke design code, further amending the balance of the general market housing mix with more two and three bed units and less 4 bed units, review the housing areas on the highest parts of the site, provision of appropriate children's play provision through an off site contribution and other minor revisions to the masterplan.

The developers have also reiterated that this is a unique opportunity as the land is being gifted to the club for a £1 and the club could not afford to acquire land elsewhere in the city

#### Hampton Bishop Parish Council

Further comments were submitted but due to their late receipt, they could only be briefly summarised in the Committee report. An additional letter has also been received. The principal objections outlined in both letters are as follows:

- The development is on a greenfield site and in a sensitive location on the fringe of the city where new housing is contrary to local and national policy

- There is no planning policy foundation for an enabling development of this nature and to approve it would seriously undermine the credibility of established planning policy
- The sequential assessment of alternative sites is purely subjective but even using the applicants methodology, there are sequentially preferable sites and the availability of the site (a criteria which the applicants attributed significant weight) is only relevant if the development is acceptable in all other respects
- The scale of the development would inflict irreparable damage on the local landscape and its character including views from the Wye Valley Walk contrary to UDP policies LA2 and LA3
- The locality has a long history of flooding and the application contains inadequate measures to deal with groundwater run off on to the road and towards the village. The suitability of the site must also be questioned for this reason.
- The development would generate significant and unacceptable levels of additional traffic which will be prejudicial to the free flow and safety of highway users
- Hampton Bishop is a small rural parish and the development is totally disproportionate to the existing community
- There is no housing need for the development as the Council is meeting its 5 year housing land supply required by PPS3 and even if a need existed, the priority is to develop brownfield land

The Parish Council also identify possible uses for the Section 106 if the development is approved. These are:

- A pumping station within the parish to prevent/alleviate flooding,
- Reduction in speed limits and installation of a speed indicator device
- Creation of a footpath/cycleway between Hampton Bishop and Mordiford

#### Hereford City Council

Support the application and welcome the new sports facilities

#### Mordiford and Dormington Group Parish Council

Continued concerns with increased traffic but also see the positive effect the increased school children could have on Mordiford school

#### Highways

All the issues identified in the stage 1 safety audit including the issues set out below can be addressed at the detailed design stage

- An extension of the speed limit for the extent of the site (subject to a TRO), the lighting of the junction,
- Continued review of further extending this speed limit through to Hampton Bishop
- The lighting of the junction and section of highway back to the city
- Design changes to the junction

In addition, as the TA was based on 250 units and the number of 4 beds has been reduced, the change in mix is acceptable. The alignment of the western proposed footpath/cycleway requires amending to better connect with existing facilities and the network west of the site. Also, if the eastern relief road were constructed, the proposed road layout and pedestrian/cyclist links west of the road corridor would not work.

#### Principal Sport and Recreation Officer

The area of informal open space introduced into the masterplan is acceptable but an off site contribution of £210,300 (based on current housing mix and includes 15 years maintenance) to improve the play facilities at Corporation Farm is still required.

The draft Playing Pitch Strategy is currently out to consultation. Whilst the emerging data for Hereford could change once local circumstances and conditions are factored in and predicted housing growth is revised, it is likely that the evidence will support a future deficiency in rugby pitch provision. No further comments can be made on the artificial pitch provision as the Council has not yet completed this assessment.

## Public Rights of Way Manager

We are glad to see the new footpath/cycle links with Holywell Gutter Lane.

## Council Ecologist

### Habitats Regulations Assessment (HRA)

The site is 400 metres from the River Wye Special Area of Conservation (SAC). Currently, insufficient information has been supplied to the Council for completion of the Habitat Regulations Screening assessment to conclude that there will be no likely significant effect on the water quality in the river.

### Assessment of habitats and species present on the site

Parts of the site with nature conservation value were subject to significant damage in January 2011, resulting in the loss of a bat roost and damage and disturbance to great crested newt terrestrial and aquatic habitats; this is fully acknowledged in the addendum report and revised mitigation strategy. These matters have been raised with the police for them to take further action. I agreed with the ecological consultants that the survey information from 2009 should still be used as the baseline for assessing the nature conservation value of the site. Notwithstanding this, further survey information from spring and summer 2011 could have provided a measure of the scale and impact of the damage. Revised reports have been issued as a result of site visits in February and March 2011 to account for the damage and propose additional mitigation.

PPS9 and Herefordshire Council's Biodiversity SPG states that existing habitats and species should be retained and protected, with compensation only considered as a last resort. Threats to priority habitats and species should not be permitted unless their safeguarding is outweighed by the need for the development. Some habitats and species identified on this site will be negatively affected by these development proposals:

Although the hedgerows within the site are not particularly species-rich, they still provide important wildlife corridors. In particular, the hedgerow to the west of the junior pitches has an associated ditch and should be retained

Some areas of these orchards have been in existence for more than 50 years. The apple trees in the central section to the north of tree group G13 are mature with abundant mistletoe (a Herefordshire Priority Species). Birds and insects were certainly present in this area during my recent site visit and the trees had good lichen colonies; bats were also recorded (61 passes) in these orchards during the bat activity surveys, indicating the presence of insects for them to feed on. These areas of mature orchard can be considered traditional and therefore Herefordshire and UK Biodiversity Action Plan Priority Habitat. Most of this area will be under the proposed car park, indoor training and 1<sup>st</sup> pitch, and therefore lost as a result of these development proposals. Other areas of mature fruit trees include where the proposed junior pitches have been located.

The woodland belt and orchards are used by foraging bats and there are implications for some species as a result of the floodlighting of the sports pitches. This is not a concern in the winter months when bats are unlikely to be active, but can be an issue during spring and autumn when foraging times are reduced due to cooler weather conditions. Lesser horseshoe bats are particularly light-sensitive; only one pass by this species was recorded during the surveys, but their echolocation calls are highly-directional and therefore often missed. The woodland belt could provide foraging as well as commuting habitat for this species.

I am concerned about the impact of the proposed housing on the mature trees on the western boundary of the site, and in particular the mature oak tree (T2) that lies within the site at the southern end of the existing scrub area. The deadwood provides important habitat for invertebrates as well as birds such as woodpeckers and should be retained.

If European Protected Species are present on a development site and the proposals include loss of habitat or harm to animals, the Local Planning Authority must establish whether the three tests have been met prior to determining this application.

### Mitigation measures and habitat enhancement and management proposals

The central woodland belt is to be retained and enhanced as part of these proposals. The construction of a bat house in the woodland is welcomed, although further detail will be required.

Orchard habitat will be retained on the site and it is proposed that this will be managed traditionally and organically. The management plan suggests that there will also be sheep-grazing of the grasslands between the fruit trees. It is not clear whether these management proposals are achievable or if there is a land manager that is willing to take on this management regime. It would certainly be a major undertaking to achieve the biodiversity benefits that are proposed if it is to deliver sufficient compensation for the loss of orchard habitat.

### Conclusions:

The Council must complete a screening report for a Habitats Regulations Assessment regarding these development proposals; this cannot be completed in the absence of sufficient information regarding the impact of the development on water quality in the River Wye SAC. Therefore it cannot be concluded that there will be no likely significant effect on the river, and this application should not be approved unless this issue can be resolved.

European protected species - great crested newts and bats - are present on the development site, and have already been harmed by mismanagement of their habitats. The increased human activity on this site is not desirable. In particular, floodlighting of the rugby pitches will affect the northern edge of the woodland belt and could reduce foraging and commuting activity by light-sensitive bat species.

The design of these development proposals will result in the loss of the most valuable areas of orchard on the site; implementation of the proposed master plan will therefore result in loss of Herefordshire and UK Biodiversity Action Plan Habitat and is contrary to UDP Policy NC6. The development proposals include measures for habitat creation, enhancement and management in accordance with PPS9 and UDP Policy NC8 in compensation for habitat losses elsewhere on the site. The enhancement and creation of aquatic and terrestrial habitats for great crested newts is welcomed as is the enhancement of the woodland belt and provision of a bat house. The proposed traditional and organic management of the orchards is also welcomed, but whether this can be delivered is uncertain. It will require a suitable tenant or owner who is fully engaged and compliant with these objectives as well as a long-term commitment to them.

In summary, the development cannot be supported to due to the uncertainties regarding the Habitat Regulations Assessment and associated impacts on the River Wye. Also, whilst the ecological compensation is welcomed, it is not considered sufficient to compensate for the overall loss of orchard.

### Councils Drainage Engineer

I have no objection to the outline proposals.

### Natural England

The requested information concerning the impact of the increased foul drainage discharges through Eign Rd treatment works arising from the development on the water quality within the River Wye has not been provided. As such, Natural England maintain their objection due to inadequate information to assess the likelihood of significant impacts on the River Wye Special Area of Conservation. This information is also required to enable the Council to complete its screening of the development against the Habitat Regulations.

We support the decision to take the 2009 data as the baseline for the delivery of the protected species mitigation and enhancement, despite the damage done in January 2011 and support the combined mitigation strategy for bats and newts which should be secured through an appropriate condition. A construction and environmental management plan should also be required by condition if approved.

We reiterate our concerns regarding the loss of 40% of the orchard which we understand includes pockets of older apple trees which could arguably be classed as traditional and therefore a UK BAP Priority Habitat. The development will result in the loss of these older trees and the improved

management of 26 hectares of retained orchard does not compensate for this. We strongly advise the layout is altered to allow for their retention.

We note that many of the changes to the layout such as the safeguarding the alignment of an eastern bypass have not been made to further minimise the likely impacts as stated in addendum to the landscape and visual assessment. No further clarity has also been provided regarding the regarding and reprofiling of the site. Whilst we do not object on these grounds, the Council should carefully consider the developments compliance with the UDP landscape policies and along with loss of the orchard and particularly the older trees groups.

### Representations

A further 23 letters and e-mails of objection have been received in response to the amended plans consultation. The majority of the points are already covered in section 5.7 of the report. Additional points are:

- The housing is now too close to Hampton Park Road
- More pitches adjacent the road could cause increased accidents
- The latest government policy 'The community Orchards Guide' is for orchards to be retained and their growth encouraged
- Additional netting may be required along the roadside
- The road will increase flood risk
- Many of the letters of support are from resides who do no live close to the site and will not be affected by the development
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One further letter of support has been received. The comments are already covered ins section 5.9 of the report

A petition with 520 signatures has also been received from the rugby club in support of the development

### **OFFICER COMMENTS**

The commitment to construct the housing development to code level 4 and the offer of transferring the clubs existing site to the Council are welcomed and are material planning considerations in the assessment of the development. However, they are not considered sufficient to outweigh the significant visual and landscape harm.

The red line site plan attached to the agenda is the original site area rather than the amended site plan.

### **CHANGE TO RECOMMENDATION**

As Natural England are maintaining their objection, an additional reason for refusal is required as follows

Insufficient information has been provided to demonstrate that the development will not have any significant effects on the River Wye Special Area of Conservation. As such, the development is contrary to policies NC1 of the Herefordshire Unitary Development Plan, advice within PPS 9 and the requirements of the Conservation of Habitats and Species Regulations 2010.

Also the first refusal reason should also make reference to UDP polices S7, NC6 and PPS7 and 9.