

MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 19 December 2012 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, JG Lester, MD Lloyd-Hayes, RI Matthews, FM Norman, AJW Powers, SJ Robertson, P Rone and PJ Watts

In attendance: Councillors JG Jarvis and JW Millar

106. APOLOGIES FOR ABSENCE

Apologies were received from Councillor MAF Hubbard and GR Swinford.

107. NAMED SUBSTITUTES (IF ANY)

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillors MD Lloyd-Hayes and SJ Robertson attended the meeting as substitute members for Councillors MAF Hubbard and GR Swinford.

108. DECLARATIONS OF INTEREST

9. S122572F - LAND AT THE PARKS, BROCKHAMPTON, HEREFORD, HR1 4SD.
Councillor BA Durkin, Non-Pecuniary, The Councillor is a Member of the AONB Advisory Board.

9. S122572F - LAND AT THE PARKS, BROCKHAMPTON, HEREFORD, HR1 4SD.
Councillor J Hardwick, Non-Pecuniary, The Councillor is a Member of the AONB Advisory Board and also knows the applicant.

9. S122572F - LAND AT THE PARKS, BROCKHAMPTON, HEREFORD, HR1 4SD.
Councillor PGH Cutter, Non-Pecuniary, The Councillor is the Vice-Chairman of the AONB Advisory Board.

11. N122403O - HOLLOWAY COMMON FARM, HAMPTON CHARLES, TENBURY WELLS, HEREFORDSHIRE, WR15 8PY.
Councillor DW Greenow, Non-Pecuniary, The Councillor's son is a director of one of the applicant's clients.

109. MINUTES

RESOLVED: That the Minutes of the meeting held on 28 November 2012 be approved as a correct record and signed by the Chairman.

110. CHAIRMAN'S ANNOUNCEMENTS

111. APPEALS

The Planning Committee noted the report.

112. S121554F - FORMER POMONA WORKS, ATTWOOD LANE, HOLMER, HEREFORD

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 Philpotts, representing Holmer and Shelwick Parish Council, spoke in objection to the application.

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:

- Members were thanked for attending the site visit.
- The density of the scheme was too high.
- Disappointing that the applicant had not attended the meeting to address the Committee.
- The site had been designated as B2 employment land and should remain as such.
- There were 300 homes being built at the Furlongs and therefore the protection of employment land was essential.
- There were concerns in respect of landscaping, sewerage, highways, site levels and contaminated land.
- The Section 106 agreement should require a contribution to Holmer School.
- The site would be more suitable as live/work or starter units for industrial use.
- The Parish Council's proposal for community facilities on the site would also be more acceptable.

The debate was opened with a member of the Committee speaking in objection to the application. He noted the comments of the local ward member and was in full agreement with her concerns. The following reasons were given for refusing the application: loss of employment land; site levels; contaminated land and impact on the landscape. He then went on to draw the Committee's attention to the key policies of the Unitary Development Plan which supported a refusal of the application, with particular reference made of policies S4, DR1, DR4, DR10 and E5.

Members continued to discuss the application, another member of the Committee agreed that the application should be refused but also had concerns in respect of the design and density of the development. It was also considered that the Parish Council's views, and the Parish Plan, had not been taken into account.

Another member of the Committee was of the opinion that the application should be approved. She noted that the site was a brownfield site and drew members' attention to the lack of a five year housing supply, as required by the National Planning Policy Framework. She noted that the site was sustainable and had good links to the city centre. Another member agreed that the use of a brownfield site would be beneficial but felt that the proposed site was not acceptable for the reasons raised by the local ward member.

Members continued to discuss the issue of contamination on the site. The view of the Committee was that the contaminated land should not be covered and that any contamination should be removed from the site prior to it being developed. Concern was expressed that there could be some comeback on the Council if the River Lugg became contaminated as a result of the contaminated land being disturbed.

Members discussed the Section 106 agreement and had concerns regarding the lack of contributions to nearby facilities. It was further noted that there was no contribution to Holmer Primary School and that this would be welcomed.

In response to questions raised by members, the Principal Planning Officer advised that the density of the proposed development was 34 dwellings per hectare. She also added that the issue of the contaminated land had been investigated fully by officers and stated that in their opinion the proposed conditions would address the concerns raised by members.

The Development Manager (Northern Localities) advised members that there were two ways of processing the contaminated soil; the applicant could strip the site and remove the soil to an authorised disposal site for cleansing or the contamination could be capped. In this case capping was proposed and was considered acceptable as stated in the case officer's report. In response to another issue raised by Members, he stated that the density was similar to adjoining developments and that the local road network would benefit from improvements to help alleviate the 'rat run' along Attwood Lane. He also advised that Welsh Water had now confirmed adoption of the sewer. Finally he explained that the loss of employment land was offset by its redevelopment for residential use given the lack of a five year land supply as required by the NPPF. Therefore the proposal was considered to accord with policy.

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

- A contribution to Holmer Primary School should be included in the Section 106 agreement.
- Although Welsh Water had now adopted the sewerage network there were still issues in respect of drainage in the area.
- The issues relating to contamination had not been addressed fully.
- There could be health risks to the local community.

RESOLVED

THAT planning permission be refused for the following reasons and any other reasons considered necessary by officers named in the scheme of delegation to officers:

- 1. Loss of employment land**
- 2. Design and site levels**
- 3. Effect on the landscape amenity of the area**
- 4. Scale of contamination**

113. S122234F - UNIT 3, SALMON RETAIL PARK, HOLMER ROAD, HEREFORD, HEREFORDSHIRE HR4 9SB

The Assistant Director Economic, Environment & Cultural Services 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 Ardron, representing the applicants, spoke in support of the application.

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

- The three local ward members were in agreement that the application should be refused in accordance with the Unitary Development Plan.
- The condition restricting out of town developments was clear and should be upheld.
- The developer should focus on the city centre as there were a number of suitable empty stores which would have been fit for purpose.
- Approving the application would have an adverse impact on the vitality and viability of the city centre.
- Approving the application could set a precedent with other city centre businesses applying to relocate.

In accordance with paragraph 5.13.7 of the constitution, the Leader of the Council, Councillor JG Jarvis, addressed the Committee in support of the application. At the conclusion of his statement he left the meeting for the duration of the debate and the vote.

Two Members of the Committee raised concerns in respect of the attendance of the Leader of the Council at the meeting due to his role as a board member of Hereford Futures.

Members discussed the application and noted that although there was a duty to protect and defend planning policy and conditions there was also a need to take a pragmatic approach when required. It was noted that the Section 106 agreement was signed by all parties and clearly required the applicant to relocate to their new premises on the cattle market site at the earliest possibility. Members also noted that 39 jobs could be lost if the application was not granted, this issue was debated at length with Members of the view that jobs in the County needed to be protected. It was further noted that a number of the jobs were part time but again Members were of the opinion that part time jobs formed a valuable and much needed part of the economy and deserved the same protection as full time positions.

There was some concern expressed as to the analysis of alternative sites undertaken by the applicant. Some members were of the opinion that there were more suitable alternative sites within the city centre that could be utilised if the application was refused.

The issue of precedent was also discussed at length. Some members were extremely concerned that by granting the applicant permission to relocate the floodgates could be opened for a number of city centre retailers to make similar applications. The Assistant Director Economic, Environment & Cultural Services advised the Committee that the current application was fairly unique in that there was a demonstrable need to leave their current premises prior to relocating to their new premises on the cattle market development.

One Member of the Committee noted that the proposed conditions required the applicant to relocate to the new store within 6 months. She requested that if permission was granted that this be amended to a period of 2 months. In response to this point the Assistant Director Economic, Environment & Cultural Services advised that a shorter period could cause issues especially with the forthcoming Christmas period and the works required at the new store.

In response to questions raised during the debate the Assistant Director Economic, Environment & Cultural Services advised that; if there was a delay in the construction of the cattle market development the applicant could make a new application for a further temporary planning permission; that the application was a personal permission and that no part of the new store could be sublet to a third party; that land transaction and commercial contracts were not material planning considerations; that key considerations were keeping Next within the city as well as safeguarding jobs; that granting the planning permission would not set a precedent as each application had to be considered on its merits; that although the relocation of Next could have an adverse impact on expenditure within the city centre that expenditure would remain within the County; and that the comments of Hereford Futures in objection to the application had been made at a very early stage and had been made prior to the Section 106 agreement being agreed with all parties.

Councillor Andrews was given the opportunity to close the debate. She reiterated her opening remarks and requested that the application be refused.

RESOLVED

Subject to the satisfactory completion of a planning obligation under Section 106 of the Town and Country Planning Act 1990 in accordance with the Heads of Terms appended to this report, planning permission be granted subject to the following conditions.

1. A01 Time limit for commencement (six calendar months)

Reason: As required to be imposed by Section 91 of the Town and Country Planning Act 1990 and to reflect the particular circumstances of the application.

2. This permission shall expire on 29 August 2014

Reason: To reflect the particular circumstances of the application and to safeguard the vitality and viability of Hereford City Centre in accordance with Policies TCR1 and TCR2 of the Herefordshire Unitary Development Plan.

3. The planning permission shall enure for the benefit of the applicant, Next Group plc only and shall not enure for the benefit of the land. The use shall also enure only so long as the applicant, Next Retail Limited, occupies the premises, or up to and including the date indicated in Condition 2 of this permission, whichever is the sooner. At the point at which Next Retail Limited vacate the premises the sale of goods from Unit 3 will be as dictated by Condition 5 of planning permission HC/930262/PFE.

Reason: The nature of the development is such that it is only considered acceptable in this location having regard to the applicant's special circumstances in order to protect Hereford's Central Shopping and Commercial Areas in accordance with Policies TCR1 and TCR2 of the Herefordshire Unitary Development Plan.

Reasons for Approval

1. The planning permission reflects the very special circumstances faced by the applicant, Next Retail Limited. The company is unable to continue to

trade from its current premises in the Maylord Centre up to the point at which it will be able to move into the Old Livestock Market development.

- 2. The company has carried out a search of other potential temporary premises. None of these are acceptable for a variety of size and refurbishment costs that would be disproportionate to the proposed period of occupancy.**
- 3. The associated planning obligation pursuant to Section 106 of the Town and Country Planning Act 1990 will provide the appropriate control to ensure that Next vacate the application premises at the sooner or either the expiry of the temporary planning permission or its occupancy of Units 11 and 12 of the Old Livestock Market development.**
- 4. Subject to the tight controls set out in the proposed conditions and the Section 106 Agreement the Councils considers that the circumstances of the application and the material planning considerations involved are sufficient to outweigh the normal application of national and local retail planning policies.**

114. S122572F - LAND AT THE PARKS, BROCKHAMPTON, HEREFORD, HR1 4SD

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.

In accordance with the criteria for public speaking, Mrs Grant, Chairman of Brockhampton with Much Fawley Parish Council, spoke in support of the application.

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

- The application would provide a much needed purpose built home for a family with severe medical needs.
- Details were given of the chronic medical needs of Mr Hope and his daughter, both who were cared for by Mrs Hope on a full time basis.
- Approving the application would keep the family together as well as reducing the burden on the Council to provide social care.
- The local residents and parish council were in support of the application.
- The proposed design had been improved considerably since the initial application was submitted through a number of discussions with the planning officer.
- The dwelling would remain affordable in perpetuity, this was another advantage to the local community.

Members noted the sensitive nature of the application. They thanked the local ward member for giving them a thorough account of the circumstances that had led to the application being submitted.

Members noted that the application site was fairly isolated and that there were no issues of overlooking. They also felt that approving the application would not have an adverse impact on the landscape.

They were keen to ensure that the proposed dwelling remained affordable in perpetuity and recommended that a Section 106 agreement be completed as part of the application to ensure this.

Members discussed the key policies of the Unitary Development Plan and they were of the opinion that the application was in accordance with policies H10, LA1 and LA2. Some members did have concerns that the application was contrary to the National Planning Policy Framework and requested clarification as to whether any of the existing ancillary buildings on the site could be converted. The Senior Planning Officer confirmed that this issue had been investigated with the applicant but that it was deemed that none of the buildings were suitable.

The Head of Neighbourhood Planning advised Members that the application was clearly contrary to policy but that it was the decision of the Committee as to whether they wished to make a departure from policy due to the applicants circumstances. He added that the Core Strategy would be formulated in the New Year and that this would give members the opportunity to ensure that suitable policies were contained within it.

Councillor Durkin was given the opportunity to close the debate. He reiterated his opening remarks and made no further comment.

RESOLVED

THAT subject to completion of a section 106 obligation for ensuring the property remains affordable in perpetuity officers named in the Scheme of Delegation to Officers grant planning permission subject to any conditions noted in the report and subject to any further conditions considered necessary by officers.

Reasons for approval

It is considered that the provision for this local needs housing adjacent to the applicants existing accommodation will provide continuity and improve the conditions in which the applicants live in accordance with para 9 of the NPPF.

In addition the linking of the development to a Section 106 Agreement to ensure that the property remains an affordable dwelling in perpetuity will ensure the dwelling remains available for local people.

Whilst located within the AONB its siting within a group of dwellings ensures that its impact is therefore mitigated within the landscape. Accordingly the proposal is considered to be acceptable and compliant with policies H10, LA1 and LA2 of the HUDP.

115. N121564F - LAND AT BURNT HENGOED, BRILLEY, HEREFORDSHIRE

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

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

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

- The application as supported by Policy H8 of the Unitary Development Plan as there was a functional need for an additional worker on the site.

- There were no suitable existing buildings to convert.
- The application should be approved.

Members discussed the application and noted that the dwelling applied for was of a moderate size and would be of benefit to the farm. It was also noted that it would be essential to ensure that the dwelling was linked to the farm through a suitable agricultural tie condition.

Members discussed the lack of affordable housing in the area and noted that the applicant's agent had clarified the financial details of the farm in his presentation. Members were disappointed that the financial details of applicants needed to be disclosed in an open forum.

In response to comments from the Committee, the Head of Neighbourhood Planning advised Members that there were already two dwellings on the site and that the officer was not convinced that there was a need for a third. He noted that the assessment had indicated a need for 2.8 workers but added that these works would not be needed on site 24 hours a day, and hence the two dwellings could satisfy the need.

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

- The parish council was in support of the application.
- It was vital to retain jobs in rural areas.

RESOLVED

THAT planning permission be granted subject to an agricultural tenancy condition, any conditions noted in the report and any further conditions considered necessary by officers.

Reasons for approval

It is considered that there is a functional agricultural need for the additional agricultural dwelling on the farm and the financial test has been passed. Therefore the principle of erecting an agricultural workers dwelling on this site is considered to be acceptable.

The proposed size, scale, design and appearance of the building is considered to be acceptable and not out of keeping with the character of the area.

The dwelling will be sited adjacent to an agricultural dwelling near the farm complex and as such will not be prominent in the landscape.

The new dwelling will not adversely affect the residential amenities of occupants of existing dwellings in the area. The proposed vehicular access arrangements are also considered to be acceptable.

The proposed development is therefore considered to be acceptable and in accordance with planning policies and guidance, in particular Policies S2, DR1, DR3, DR4, H7, H8, LA2, NC1, of the Herefordshire Unitary Development Plan and Government advice contained in the National Planning Policy Framework (March 2012).

116. N1224030 - HOLLOWAY COMMON FARM, HAMPTON CHARLES, TENBURY WELLS, HEREFORDSHIRE, WR15 8PY

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.

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

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

- There was support for the application from the local community.
- The applicant could be called on for a number of different types of emergencies throughout the year.
- The majority of out of hours call outs were attended to by the applicant.
- The Council needed to support rural businesses.
- The policies relating to agricultural workers should be looked at during the discussions relating to the Core Strategy in the New Year.

Members noted that the application was similar to the previous application and considered that the functional test had been met. They requested that the proposed dwelling be tied to the business through a suitable agricultural occupancy condition.

The Development Manager advised that policy H8 of the Unitary Development Plan required occupancy on the site to be essential by the applicant. He added that Members had to make a decision as to whether this was the case.

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

RESOLVED

THAT Outline Planning permission be granted subject to a rural workers condition, any conditions noted in the report and any further conditions considered necessary by officers.

Reasons for approval

It is considered that there is a functional need for the rural workers dwelling in the locality and the financial test has been passed. Therefore the principle of erecting a rural workers dwelling on this site is considered to be acceptable.

The dwelling will be sited adjacent to the machinery storage area and workshop to the business and as such will not be prominent in the landscape.

The new dwelling will not adversely affect the residential amenities of occupants of existing dwellings in the area.

The proposed vehicular access arrangements are also considered to be acceptable.

The proposed development is therefore considered to be acceptable and in accordance with planning policies and guidance, in particular Policies S2, DR1, DR3, DR4, H7, H8, LA2, NC1, of the Herefordshire Unitary Development Plan and

Government advice contained in the National Planning Policy Framework (March 2012).

117. DATE OF NEXT MEETING

The Planning Committee noted the date of the next meeting.

APPENDIX 1 - SCHEDULE OF COMMITTEE UPDATES

The meeting ended at 1.40 pm

CHAIRMAN

PLANNING COMMITTEE

19 December 2012

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.

S121554/F - DEMOLITION OF EXISTING BUILDING AND ERECTION OF 34 HOUSES AND GARAGES TOGETHER WITH ROADS, SEWERS AND ASSOCIATED EXTERNAL WORKS AT FORMER POMONA WORKS, ATTWOOD LANE, HOLMER, HEREFORD,

For: Ms Rout per Mr Paul Harris, The Stables, Woodbury Lane, Norton, Worcester, WR5 2PT

ADDITIONAL REPRESENTATIONS

In response to concerns raised about contaminated land, the applicants, Lioncourt Homes have provided the following comments:

Lioncourt Homes have had a number of discussions with Nick James, EHO at Herefordshire Council for the above area, with regards to the legacy contamination issues on this site. Intrusive ground investigation reports were submitted as part of the planning application and the discussions with Mr James have been informed by this information. It has been agreed that the final remediation proposal for this site will be detailed and secured as part of standard contamination conditions attached to the consent, should it be granted, and it is certain that a cover layer system will form part of that remediation strategy.

Lioncourt Homes confirm that (in line with common industry practice) the finished levels submitted with our planning information have been raised above existing levels in order to accommodate the intended cover layer. This is to avoid a situation whereby contaminated land is stripped from the site and carted away in order to bring an equivalent volume of "clean" spoil onto site - a scenario which is commercially disadvantageous, creates unnecessary HGV movements within the local highway network and simply moves the problem somewhere else where it will have to be dealt with again at some point in the future. Lioncourt Homes has now commissioned detailed road and drainage design for the site and are confident that the levels Cadsquare have designed are the finished levels for the site going forward and should not require amending in the future. It is anticipated that the approved remediation strategy (once agreed) should be able to be accommodated within the latest proposed level design provided with our planning details.

NO CHANGE TO RECOMMENDATION

**S122572/F - PROPOSED NEW BUNGALOW AT LAND AT THE PARKS,
BROCKHAMPTON, HEREFORD, HR1 4SD**

**For: Mr & Mrs Hope per Mr Nigel Teale, Bramble Farm, Naunton, Upton
Upon Severn, Worcestershire, WR8 0PZ**

OFFICER COMMENTS

Members are advised that the Heads of Terms for the suggested S106 Agreement have not been finalised and in the event that the application is to be approved, officers would seek delegated authority to complete the S106 Agreement before any permission were issued. The Heads of Terms would secure the property in perpetuity as an affordable dwelling, and its occupancy restricted utilising a cascade approach with a local person with ties to the parish and meeting the 'needs' criteria being eligible to purchase and reside within it.

CHANGE TO RECOMMENDATION

There is an incorrect reference to Policy LA2 in the Reason for Refusal. This should refer to Policy LA1 – Areas of Outstanding Natural Beauty

**N121564/F - A NEW FARM WORKERS DWELLING AT LAND AT
BURNT HENGOED, BRILLEY, HEREFORD, HEREFORDSHIRE**

**For: Mr & Mrs Lloyd per Mr Ben Corbett, Lion Court, Broad Street,
Leominster, Herefordshire, HR6 8BS**

ADDITIONAL REPRESENTATIONS

Natural England have responded to the application raising no objections

NO CHANGE TO RECOMMENDATION

**N122403/O - SITE FOR PROPOSED RURAL WORKERS DWELLING AT
HOLLOWAY COMMON FARM, HAMPTON CHARLES, TENBURY
WELLS, HEREFORDSHIRE, WR15 8PY**

**For: Mr & Mrs Bemand per Wall James Chappell, 15-23 Hagley Road,
Stourbridge, West Midlands, DY8 1QW**

ADDITIONAL REPRESENTATIONS

Natural England – No objection

NO CHANGE TO RECOMMENDATION