

MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 30 January 2013 at 10.00 am

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

Councillors: AN Bridges, PJ Edwards, DW Greenow, KS Guthrie, J Hardwick, JW Hope MBE, MAF Hubbard, RC Hunt, TM James, Brig P Jones CBE, JG Lester, RI Matthews, FM Norman, AJW Powers, P Rone, GR Swinford and PJ Watts

In attendance: Councillors AW Johnson and JF Knipe

131. APOLOGIES FOR ABSENCE

Apologies were received from Councillor PA Andrews.

132. NAMED SUBSTITUTES (IF ANY)

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillor TM James attended the meeting as a substitute member for Councillor PA Andrews.

Councillor P Rone also attended the meeting and utilised the vacant Conservative Group seat on the Planning Committee.

133. DECLARATIONS OF INTEREST

7. N123067/F - LAND AT THE COACH HOUSE, OLD CHURCH ROAD, COLWALL, MALVERN.

Councillor AW Johnson, Non-Pecuniary.

134. MINUTES

Councillor PGH Cutter, the Chairman of the Planning Committee, requested that his declaration of interest be amended to remove reference to the St Joseph's Convent which had now closed.

RESOLVED: That the Minutes of the meeting held on 9 January 2013 be approved as a correct record and signed by the Chairman.

135. CHAIRMAN'S ANNOUNCEMENTS

There were no announcements.

136. APPEALS

The Planning Committee requested clarification in respect of the appeal at Porthouse farm where the appeal had been lost yet costs against the Council were awarded. The Development Manager (Northern Localities) confirmed that the appellant had lost the appeal on a legal technicality but that the Council had lost on all of the planning reasons. He added that the costs had not been determined at this stage but that the figure would be a five figure sum.

In respect of the appeal at Chapel Cottage, Wellington, the Development Manager (Northern Localities) confirmed that the costs awarded to the Council would be under £1000.

137. N123067/F - LAND AT THE COACH HOUSE, OLD CHURCH ROAD, COLWALL, MALVERN

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 Ashton, representing Colwall Parish Council, spoke in objection to the application and Mr Barry, the applicant's agent, spoke in support.

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

- There were very few objections from local residents.
- The application had been bourn out as a result of the health needs of the applicant.
- The proposed screening would address any concerns.
- There were no windows on the northern elevation of the proposed dwelling.
- One additional dwelling would not have an adverse impact on traffic in the area.
- The proposed dwelling was adjacent to the settlement boundary but would have been inside the settlement boundary had it been a straight line.
- Both local ward members supported the application.

The Committee opened the debate with a Member speaking in support of the application. He did however request that the Committee consider two minor amendments to the recommendation. He was of the opinion that the informative note regarding land drainage consent should be added as a condition and that condition 7 should be amended to require mature planting.

In response to a question regarding the zinc roof, the Principal Planning Officer confirmed that the roof was not corrugated but that it did have seams which added to the aesthetics of the roof. He also confirmed that the roof would initially be a silver grey colour but that it would end up as a more weathered colour. In response to a further question he confirmed that the render would be white or off-white.

Members noted that the proposed dwelling was the second application to meet the 'Passivhaus' standard bought before committee in recent months. They welcomed the sustainable nature of the application.

Concerns were expressed in respect of the Council's lack of a five year housing supply. The Committee felt that this matter needed to be resolved as a matter of urgency to avoid a large number of similar applications being submitted throughout the County. It was noted that Parish Councils were still making their recommendations based on settlement boundaries but that this had changed significantly with the introduction of the National Planning Policy Framework in 2012 and a presumption in favour of sustainable development on sites adjoining the settlement boundary.

In response to a number of issues raised during the debate the Principal Planning Officer confirmed that part of the site had flooded in 2007 but that the proposed dwelling was

not due to be sited on this portion of the site. He also confirmed that planning conditions should not deal with matters that were subject to a separate process. Therefore he advised the Committee against making the informative note requiring land drainage consent into a condition. In response to the request for mature planting he advised the Committee that the Landscape Officer had advised that mature planting resulted in a higher failure rate and that small plants had a far better growth rate, therefore he requested that condition 7 should not be amended.

The Member who moved the motion subject to the two amendments referred to above accepted the guidance of the Principal Planning Officer and removed the two amendments from the motion.

Councillor AW Johnson was given the opportunity to close the debate. He chose to make no additional statement.

RESOLVED

That planning permission be granted subject to the following conditions:

- 1. The development hereby permitted shall be begun before 20 February 2014.**

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 Local Planning 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) (Amendment) (England) Order 2005, the employment element of any mixed use development and residential developments of five dwellings or less.

- 2. Prior to commencement of the development hereby permitted the following matters shall be submitted to the Local Planning Authority for their written approval:-**

- A full written schedule (including colour finishes) of all external materials (including doors, rainwater goods and windows).**
- Written details and samples of the surfacing material to the driveway.**
- Full details of all external lighting (if any).**
- Full details of the "green roof".**
- Written details of the colour of the render and paint colour (if any) to the flue.**

The development shall not commence until the Local Planning Authority has given such written approval. The development shall be carried out in full accordance with the approved details and thereafter maintained as such.

Reason To ensure a satisfactory appearance to the development in accordance with Policies DR1, LA1 and HBA6 of the Herefordshire Unitary Development Plan 2007.

- 3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended, including the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order**

with or without modification) no development normally permitted by Classes A, B, C, D, E, F and G of Part 1 and Classes A and C of Part 2 of Schedule 2 of Article 3 of the General Permitted Development Order 1995 shall be carried out without the express consent of the Local Planning Authority.

Reasons:

a) To safeguard the architectural integrity of the scheme and to safeguard the character and appearance of the area which hereabouts is designated as an Area of Outstanding Natural Beauty and a Conservation Area, in accordance with Policies LA1, HBA6 and DR1 of the Herefordshire Unitary Development Plan 2007.

b) To safeguard the privacy of the occupiers of the dwellinghouse to the north known as 'Whitegates' in accordance with Policy DR2 of the Herefordshire Unitary Development Plan 2007.

4. Prior to commencement of the development hereby permitted all existing trees shown to be retained upon the approved drawings shall be protected by fencing of in accordance with the advice contained within BS5837:2012. Once these protective measures have been erected but prior to commencement of the development a suitably qualified arboricultural consultant appointed by the developer shall inspect the site and write to the Local Planning Authority to confirm that the protective measures are in-situ. Upon confirmation of receipt of that letter by the Local Planning Authority the development may commence but the tree protection measures must remain in-situ until completion of the development.

Reason: To safeguard the trees upon the site that are of amenity value in accordance with Policy LA5 of the Herefordshire Unitary Development Plan 2007.

5. Other than any external lighting permitted pursuant to condition 2 above, no further external shall be installed upon the site, including the external elevations of the building, without the express consent of the Local Planning Authority.

Reason: To safeguard the character of the Malvern Hills Area of Outstanding Natural Beauty in accordance with Policies LA1 and DR14 of the Herefordshire Unitary Development Plan 2007.

6. The car port hereby permitted shall be permanently kept available for the parking of two private motor vehicles.

Reason: In the interests of highway safety and to ensure that the site is dominated by the parking of private motor vehicles thus ensuring that the character and appearance of the Conservation Area and Malvern Hills Area of Outstanding Natural Beauty is not adversely affected, in accordance with Policies T11, LA1 and HBA6 of the Herefordshire Unitary Development Plan 2007.

7. All planting in the approved details of landscaping (i.e. Landscaping Proposals - Drawing number CHC 001 (Scale 1:200) received 10 January 2013) shall be carried out in the first planting and seeding seasons following the first occupation of the dwellinghouse hereby permitted or completion of the development (whichever is the sooner). Any trees or

plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that the development is satisfactorily integrated into the landscape and to soften the rear (north) elevation of the dwellinghouse when viewed from the garden of 'Whitegates' to the north, in accordance with Policies LA1 and LA6 of the Herefordshire Unitary Development Plan 2007.

8. Prior to commencement of works on site, evidence that the proposed dwelling design and specification complies with Passivhaus Certification criteria is to be submitted to the Local Planning Authority by a CEPH (Certified European Passivhaus) designer. Evidence is to include full PHPP (Passivhaus Planning Package) assessment, proposed construction method including specification for all external envelope elements, general arrangement plans, sections and elevations, key junction details and ventilation design information. The works on site shall not commence until the Local Planning Authority have confirmed in writing receipt of the aforementioned evidence and their satisfaction with the submitted documentation.

Reason: The sustainability credentials of the proposed building was given considerable weight in the decision of the Local Planning Authority to grant planning permission for the dwellinghouse and to accord with Policy S1 of the Herefordshire Unitary Development Plan 2007.

9. Evidence of Passivhaus certification received from the Passivhaus Institute in Darmstadt shall be submitted to the Local Planning Authority by an accredited Passivhaus assessor within six months of the first occupation of the dwellinghouse hereby permitted.

Reason: The sustainability credentials of the proposed building was given considerable weight in the decision of the Local Planning Authority to grant planning permission for the dwellinghouse and to accord with Policy S1 of the Herefordshire Unitary Development Plan 2007.

10. Prior to commencement of the development hereby permitted, a Construction Environmental Management Plan and Habitat Enhancement scheme shall be submitted to the Local Planning Authority for their written approval. This shall include timing of the works, details of storage of materials to minimise the extent of dust, odour, noise and vibration arising from the construction process. The development shall not commence until the Local Planning Authority has given such written approval. The Construction Environmental Management Plan and Habitat Enhancement scheme shall be carried out in full accordance with the approved details and thereafter maintained as such;

Reasons:-

a) To ensure that all species and sites are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats Regulations 2010 and policies NC1, NC6 And NC7 of the Herefordshire Unitary Development Plan 2007.

b) To comply with policies NC8 and NC9 of the Herefordshire Unitary Development Plan 2007 in relation to Nature Conservation and Bio-diversity and to meet the requirements of the NPPF and the NERC Act 2006.

Reasons for Approval.

- 11. Whilst the proposal is contrary to the provisions of the Development Plan in that it would provide a new house outside of the existing settlement boundary, in this instance it was considered that full conditional planning permission should be granted as:**
- a) Herefordshire Council has a shortfall in its 5 year housing land supply plus 5%.**
 - b) The site immediately abuts the settlement boundary of Colwall which is a main village and considered to be sustainable.**
 - c) The design of the building is outstanding in terms of both its architecture and sustainability credentials.**
 - d) The proposal would enhance the Conservation Area.**
 - e) The proposal would not harm the landscape which hereabouts is designated as an Area of Outstanding Natural Beauty.**
 - f) In all other respects the proposal is considered to be acceptable in planning terms.**

The decision was also made in the context of the National Planning Policy Framework which advances a presumption in favour of sustainable development.

Informatives:

- 1. The Local Planning Authority acted positively and proactively in dealing with this development by providing pre-application advice prior to the submission of the planning application.**

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of minor matters of concern with the application (as originally submitted) have resulted in the submission of a detailed landscaping scheme. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

- 2. The applicant/developer are advised that a separate Land drainage consent from the Lead Local Flood authority (Herefordshire Council – Agents Amey) will be required. The relevant contact is Martin.Jackson@amey.co.uk**
- 3. The documents to which this decision relate are:**
- Planning Application Form received 30 October 2012.**
 - Topographical Survey – Drawing number G 7217/1 received 30 October 2012.**
 - Site Location Plan – Drawing number 7022 PL001 Revision 1 (Scale 1:1250) received 30 October 2012.**
 - Site Plan – Drawing number 7022 PL002 Revision 1 (Scale 1:200) received 30 October 2012.**

- **Floor Plans – Drawing number 7022 PL100 Revision 1 (Scale 1:100) received 30 October 2012.**
- **Elevations – Drawing number 7022 PL600 Revision 1 (Scale 1:100) received 30 October 2012.**
- **Sections – Drawing 7022 PL800 Revision 1 received 30 October 2012.**
- **Perspectives – Drawing 7022 PL810 Revision 1 received 30 October 2012.**
- **Timber Cladding Details – Drawing number 7022 PL910 received 30 October 2012.**
- **Bridge Details – Drawing number 7022 PL900 Revision 1 received 30 October 2012.**
- **Design & Access Statement (October 2012) received 30 October 2012.**
- **Aboricultural Implications Assessment received 30th October 2012.**
- **Landscaping Proposals – Drawing number CHC 001 (Scale 1:200) received 10 January 2013.**

138. S122604/O - LAND REAR OF WHITE HOUSE DRIVE, KINGSTONE, 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, Mr Wright, representing Kingstone and Thruxton Parish Council, and Mr Barton, a neighbouring resident, spoke in objection to the application and Mr Reed, the applicant's agent, spoke in support.

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:

- That Welsh Water were unable to deliver a piped supply to the reservoir therefore a number of HGV's delivered water via the narrow Kingstone roads.
- The primary bus route from Kingstone picked passengers up approximately a mile away from the proposed site. This route was currently unlit.
- People would have to travel to work as there was little employment in Kingstone itself.
- What would happen if the Welsh Water upgrade required did not take place?
- The Council needed to address the core strategy to avoid a number of similar application outside of the settlement boundaries of villages throughout the County.
- Why was the cycling policy referred to in the list of appropriate policies, the roads around Kingstone were not safe for cyclists.

In response to a number of points made by the local ward member, the Development Manager (Northern Localities) confirmed that:

- If the upgrades were not completed by Welsh Water, the dwellings could not be occupied.
- The Core Strategy was being set out through the LDF process by the Planning Policy team headed up by Andrew Ashcroft.
- The cycling policy was referred to as a number of cycle routes were being extended throughout the county including a route to Madley industrial estate.

The committee opened the debate by voicing their concerns in respect of the application. The first Member who spoke was of the opinion that he could not support the application. He added that there were a number of narrow roads in the area which were used by agricultural vehicles as well as large HGV's. He also noted that the public had made their feelings known in respect of the application with 84% of local residents against it and that this was supported with 69 letters of objection received by the Planning Department. He then went on to address the issue of sustainability and stated that the site was clearly not sustainable as there was no employment available in Kingstone as well as the difficulty in accessing Hereford City due to the traffic issues on the A465 through Belmont. In summing up he felt that the Council had a duty to listen to the residents of Kingstone who had made it clear that they did not want the development as the dwellings were not needed. This had been confirmed as the Parish Council had completed a housing survey which had shown that there was not a need for such a large number of dwellings in Kingstone.

Another Member stated that he was concerned about the reference to H10 in the report. H10 of the Unitary Development Plan listed 7 provisions that needed to be fulfilled in respect of affordable housing. In this instance it appeared that there was some concern as to whether provisions 1, 2 and 6 had actually been fulfilled. These areas addressed issues of a proven, genuine and quantifiable need; evidence that local housing could not fulfil the demand; and that it did not involve a mixed development.

The Committee were concerned that the Council could be subject to a large number of similar applications due to a delay in the introduction of the LDF framework. It was considered that the Council should be taking note of the concerns of the local residents in respect of these issues. The general view of the Committee was that the development was not sustainable and the village of Kingstone was lacking in respect of the required infrastructure.

A Member of the Committee stated that there had been a number of similar applications throughout the County which were clearly not sustainable. He also noted that there was a lack of jobs and infrastructure in the village, a point supported by the local ward member. He was also concerned that there was no proposed play area on the site and felt that it not acceptable to make young children to cross busy roads to access play facilities.

Another Member spoke in objection to the application and stated that the Committee understood that the Council did not have a 5 year housing supply and that they also understood that there was a presumption in favour of sustainable development. However Kingstone did not need to supply the housing shortfall for the whole county. The report made one short reference to sustainability yet the development was being referred to as a sustainable development. The Committee had a duty to ensure that developments were permitted in the most suitable locations through the County however this was not a suitable location and should be refused.

It was noted that Welsh Water had already indicated that the upgrade would not be complete until 2015. The Committee considered that it should ensure the entire required infrastructure was in place prior to granting permission on the site. Another Member noted that the Localism Act required Council's to listen to local residents and that, in this case, the local residents had made it very clear that they were not in support of the application.

One Member of the Committee felt that the applicant needed to address sustainability. Why had a 'wet system' not been investigated after Welsh Water had advised of a lack of drainage capacity. Safe cycling routes throughout the County also had to be provided before the Council could make steps to reduce vehicular movements on the busy routes into the city.

Finally it was stated that there was no analysis contained within the report as to why Kingstone was deemed as sustainable and as to why the site was considered as sustainable. The Committee needed to be persuaded of these facts and there was a clear lack of evidence at present. There was also no play space on the site and no clear sustainable features in the proposed dwellings.

Councillor JF Knipe was given the opportunity to close the debate. He reiterated his opening remarks and requested that the application be refused.

The Development Manager (Northern Localities) addressed the Committee. He advised them that Kingstone was included in the Unitary Development Plan as a main village and therefore development in this area was deemed as sustainable in planning terms. He added that a refusal on the grounds of sustainability would not be defensible at appeal.

In terms of the infrastructure he advised that Welsh Water had identified works required to the network and that these would be completed by 2015.

In terms of cycling he advised that the draft heads of terms appended to the officer's report set out where monies would be spent to improve the cycle network in the area. This included a link to Madley industrial estate.

He also drew Members' attention to the comments from the Transportation Manager who had not objected to the application and added that a refusal based on highway grounds would therefore not be defensible at appeal.

Finally he addressed the issue of design which had been raised during the debate. He noted that the design and layout of the proposed dwellings was similar to other developments in the area and would therefore not be a suitable reason for refusing the application.

The Development Manager advised Members to defer the application in order for an enhanced report to be resubmitted to them clarifying the points raised in the debate. The Committee were not minded to defer the application.

Therefore, in light of the concerns raised above, the Development Manager advised that he would be requesting a Further Information Report in accordance with paragraph 5.12.10.4 of the Planning Code contained within the Council's Constitution as there would be the potential to lose an appeal and also as the applicant would be in a position to claim substantial costs against the Council if any such appeal was lost.

Members noted that the question put to the Principal Planning Officer, in respect of Unitary Development Plan Policy H10, had not been responded to. The Principal Planning Officer advised that there was an identified housing need in Kingstone and that the development would meet this requirement and if homes were available the need would be cascaded to adjoining parishes. In respect to the issue regarding mixed development the lack of a five year housing land supply negated this criterion.

The Regulatory, Environment and Litigation Solicitor, representing the Monitoring Officer, advised the Committee that the reasons for refusal put forward during the debate, including issues regarding sustainability, highway access, density and drainage, would in his opinion be difficult to defend at an appeal. Therefore he concurred with the Development Manager that a further report would be necessary and requested that the Further Information Report procedure be followed accordingly.

The Chairman read out an extract from the Council's Planning Code, namely paragraph 5.12.10.4, which related to the Further Information Report process. He advised Members

that the Committee were now required to defer the determination of the application and could not move to a vote.

RESOLVED:

That consideration of planning application S122604/O be deferred pending a further information report.

139. DATE OF NEXT MEETING

The Planning Committee noted the date of the next meeting.

APPENDIX 1 - SCHEDULE OF COMMITTEE UPDATES

The meeting ended at 11.50 am

CHAIRMAN

PLANNING COMMITTEE

30 January 2013

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 N123067/F - ERECTION OF TWO STOREY DWELLINGHOUSE AT LAND AT THE COACH HOUSE, OLD CHURCH ROAD, COLWALL, MALVERN

For: Mr Beard per Architype, Upper Twyford, Twyford, Hereford, Herefordshire HR2 8AD

ADDITIONAL REPRESENTATIONS

A letter of support has been received from the occupiers of New Winnings, Walwyn Road, Colwall. They welcome the development of such a dwelling with sustainability credentials and consider that it would act as a shining example if Herefordshire could be a pioneering county embracing such developments.

The agent for the applicant has usefully clarified a few precise dimensions which should be regarded as an amendment to the Committee Report:-

- a) The house at ground floor level would be 12.068 metres wide (rather than 11.9 metres);
- b) The depth of the house would range from 13.641 metres to 18.018 metres (rather than 13.3 metres to 17.3 metres); and
- c) The first floor would be set back from the front elevation of the ground floor by some 3.839 metres (rather than 5 metres).

NO CHANGE TO RECOMMENDATION

