

MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 20 February 2013 at 10.00 am

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

Councillors: PA Andrews, AN Bridges, DW Greenow, KS Guthrie, JW Hope MBE, MAF Hubbard, RC Hunt, Brig P Jones CBE, RI Matthews, FM Norman, AJW Powers, R Preece, GR Swinford and PJ Watts

140. APOLOGIES FOR ABSENCE

Apologies were received from Councillors PJ Edwards and JG Lester.

141. NAMED SUBSTITUTES (IF ANY)

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillor R Preece attended the meeting as a substitute member for Councillor PJ Edwards.

142. DECLARATIONS OF INTEREST

8. S113607/O - TIDNOR WOOD ORCHARDS, TIDNOR LANE, LUGWARDINE, HEREFORD, HR1 4DF.

Councillor DW Greenow, Non-Pecuniary, The Councillor previously grazed sheep on the land in question.

143. MINUTES

The Regulatory, Environment and Litigation Solicitor requested that the word 'would' be replaced with 'could' in the penultimate paragraph of minute number 138. One Member of the Committee requested that 'He also advised Members that a further application would be forthcoming.' Be added at the end of the first paragraph of minute number 136.

RESOLVED: That subject to the amendments detailed above, the Minutes of the meeting held on 30 January 2013 be approved as a correct record and signed by the Chairman.

144. CHAIRMAN'S ANNOUNCEMENTS

The Chairman advised the Committee that Councillor J Stone had presented him with a petition relating to solar panels within his ward prior to the meeting and that this would be handed to the Head of Neighbourhood Planning for an appropriate response.

The Head of Neighbourhood Planning advised Members that the appeal in respect of the former Pomona Works site had been received and was due to be determined by a public enquiry. He requested volunteers from the Committee to attend the appeal and help set out the Committee's reasons for refusing the application. Councillors DW Greenow and MAF Hubbard agreed to attend the enquiry.

145. APPEALS

The Planning Committee noted the report.

146. ENFORCEMENT REPORT

The Development Manager (Enforcement) presented a report relating to planning enforcement action undertaken throughout the County between 1 April 2012 and 30 September 2012.

One Member of the Committee felt that it would be beneficial to establish closer working links between the enforcement section and Councillors. It was considered that this would be advantageous in dealing with contentious ward issues as well as whilst formulating planning policy.

Members also discussed the time taken for enforcement action to be taken. It was noted that there were applicants who would avoid enforcement action in respect of landscape planting conditions by avoiding undertaking any planting until such a time that the weather made it unreasonable to enforce the condition. It was however further noted that the policy was currently being amended and the revised policy would include deadlines for actions.

In response to a question about the 10 year and 4 year rules regarding planning enforcement, the Team Leader advised that the policy had recently been amended in the case of developments which had been deliberately hidden from the Council. He added that the Council now had a year to take action in these such cases.

RESOLVED

That the report be noted.

147. S113607/O - TIDNOR WOOD ORCHARDS, TIDNOR LANE, LUGWARDINE, HEREFORD, HR1 4DF.

The Development Manager (Hereford and Southern Localities) 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, Dr Dowling, a local resident, spoke in objection to the application and Mr Davies, representing Bartestree and Lugwardine Group Parish Council, spoke in support.

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

- The Committee had visited the site previously in July 2012.
- Both speakers had expressed their views well and their comments should be noted.
- The application was a balance between the policy and the needs of a small local business.
- Some of the orchard was extremely rare, other parts were not.
- The applicant was keen to have a regulated site where visitors would attend on an appointment basis.
- The application was against policy but needed to be 'weighed up' against the impact it would have and the needs of the business.

Two Members of the Committee opened the debate by speaking in support of the application. They noted that the apple was iconic to the county and that the preservation

of the orchard was key in determining the application. The two members both felt that rural enterprise should be supported and that the proposed dwelling was modest in size. In moving approval of the application it was considered that an agricultural tie condition and a long term ecology plan would be two necessary conditions. The use of a wet system for the drainage on the site was also proposed.

The Head of Neighbourhood Planning addressed the Committee in respect of the key policy issues required for consideration in determining the application. He advised Members that the policy supported orchards and their protection through biodiversity action plans. However the policy stated that it needed to be essential for the proper functioning of the business for residents to be there at all times, as the application related to 25 acres of orchards he did not feel that this policy requirement had been met especially as it was noted in the report that the applicant did not make the cider.

Another Member of the Committee spoke and said that he would like to support the application as he wanted to support small local businesses, however he considered that it would be irresponsible for the Committee to grant planning permission at this time. He advised Members that Community Interest Companies operated in a number of different ways with some paying dividends to shareholders, some also operated under an 'asset lock' basis. He requested further clarification in respect of the enterprise being considered. In summing up he had concerns in respect of the financial history presented by the applicant and questioned whether there was a long term genuine need for a dwelling on the site.

Other Members discussed the application and agreed that the essential need test had not been met. They also had concerns in respect of the previous accounts submitted by the applicant and respectfully considered that the accounts did not support the case for a dwelling on the site.

In response to a number of points raised, the Development Manager advised that the management plan stated that the company was subject to an asset lock and that if the Community Interest Company was mismanaged then it could only be sold on to another CIC or charity.

The debate continued with further members speaking both in support and in objection to the application. Some considered that the dwelling would not have a detrimental impact on the orchard and would go a long way to protecting the orchard in years to come whereas others considered that granting the application would open the floodgates to a number of similar applications on small plots of agricultural land. The issue of the essential need for a dwelling was considered at length, the majority of speakers on the subject considered that, at the current time, the essential need test could not be met.

Members also discussed the protection of the orchard. The Development Manager advised that at present the orchard was not protected and that it could be felled at any time. He added that if there was a need for a dwelling on the site the protection of the orchard could be addressed through an appropriate condition, however he added that he had reservations as to whether a condition would offer the level of protection required by the Committee.

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

- It was right that the application should come before the Planning Committee for determination as it was finely balanced.

The Head of Neighbourhood Planning set out the reasons for approval which had been put forward by the Committee. A motion to approve the application failed and the resolution as set out below, as recommended by officers in the report, was agreed.

RESOLVED

That planning permission be refused for the following reasons:

- 1. In the absence of any exceptional circumstances demonstrating that there is an essential need for a full time and permanent residential presence on the site, the erection of a dwelling in this isolated rural location would represent unwarranted and unsustainable development that would be contrary to Policies S1, H7 and H8 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.**
- 2. In the absence of any exceptional circumstances justifying the introduction of a dwelling in this location, its siting, design and layout would result in harm to the character and appearance of the site and the surrounding locality. The unwarranted erosion of this attractive landscape which also forms part of an Unregistered Park and Garden would be contrary to Policies LA2 and LA4 of the Herefordshire Unitary Development Plan.**
- 3. In the absence of any exceptional circumstances justifying the introduction of a dwelling in this location, its siting would result in harm to the biodiversity value of the site through the loss of trees and associated habitat. The unwarranted and unmitigated loss of orchard habitat would be contrary to Policies NC1, NC6, NC7 and NC8 of the Herefordshire Unitary Development Plan.**

148. S123313/FH - TALBOTS BARN, THE LINE, LINTON, ROSS ON WYE, ROSS-ON-WYE, HR9 7RU.

The Development Manager (Hereford and Southern Localities) gave a presentation on the application. He advised the Committee that the application had been bought before them as it had been submitted by a member of staff employed within the planning department.

RESOLVED:

That planning permission be granted subject to the following conditions:

- 1. A01 Time limit for commencement (full permission)**
- 2. B02 Development in accordance with approved plans and materials**
- 3. F07 Domestic use only of garage**
- 4. F08 No conversion of garage to habitable accommodation**
- 5. F13 Restriction on separate sale**

Reason for Approval

- 1. The application represents an extension and alterations of acceptable size, scale and form which are in keeping with and subservient to the original dwelling and its character as a converted agricultural building, resulting in no adverse impact upon adjoining residential amenity or the character and**

appearance of this open countryside location. Furthermore the proposal is considered to satisfy Herefordshire Unitary Development Plan policies S1, S2, DR1, DR2, H18 and HBA13 and the requirements of the National Planning Policy Framework.

INFORMATIVES:

1. 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, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

149. DATE OF NEXT MEETING

The Planning Committee noted the date of the next meeting.

APPENDIX 1 - SCHEDULE OF COMMITTEE UPDATES

The meeting ended at 11.10 am

CHAIRMAN

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.

S113607/O - PROPOSED THREE BEDROOM DETACHED AGRICULTURAL DWELLING AT TIDNOR WOOD ORCHARDS, TIDNOR LANE, LUGWARDINE, HEREFORD, HR1 4DF

For: Mr Henry May, Knockmoyle, Strone, Dunoon, Argyll, PA23 8TB

ADDITIONAL REPRESENTATIONS

The applicant has submitted a written address that has been circulated to Planning Committee Members.

Since the publishing of the agenda Natural England has completed the HRA Screening of the proposal and has concluded that subject to strict adherence to the commitment to installing an upgraded private package treatment works, there would be no likely significant effects on the River Wye SAC.

OFFICER COMMENTS

In relation to the applicant's written address it should be noted that Tidnor Wood Orchards is not a designated Local Nature Reserve.

CHANGE TO RECOMMENDATION

Omit reference to the outstanding Natural England input.

