

MINUTES of the meeting of Planning Committee held at The Shirehall, St Peter's Square, Hereford HR1 2HX on Wednesday 17 September 2014 at 10.00 am

Present: Councillor PGH Cutter (Chairman)
Councillor PA Andrews (Vice Chairman)

Councillors: AJM Blackshaw, WLS Bowen, AN Bridges, EMK Chave, PJ Edwards, KS Guthrie, J Hardwick, EPJ Harvey, JW Hope MBE, JG Jarvis, JG Lester, MD Lloyd-Hayes, RL Mayo, PJ McCaull, NP Nenadich, FM Norman and J Norris

In attendance: Councillors AW Johnson, JW Millar and PD Price

58. APOLOGIES FOR ABSENCE

Apologies were received from Councillors BA Durkin, DW Greenow, MAF Hubbard, RI Matthews, TL Widdows and DB Wilcox.

59. NAMED SUBSTITUTES

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillor WLS Bowen attended the meeting as a substitute member for Councillor RI Matthews, Councillor EPJ Harvey for Councillor TL Widdows, Councillor JG Jarvis for Councillor DW Greenow, Councillor MD Lloyd-Hayes for Councillor MAF Hubbard and Councillor NP Nenadich for Councillor DB Wilcox.

60. DECLARATIONS OF INTEREST

Agenda Item 9: P141157/F Land at Green Lane Cottage, Green Lane, Yarpole.

Councillor FM Norman declared a non-pecuniary interest because she lived in the area and knew the applicant and objectors.

61. MINUTES

RESOLVED: That the Minutes of the meeting held on 27 August 2014 be approved as a correct record and signed by the Chairman.

62. CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed Councillor PJ McCaull as a new Member of the Committee.

63. APPEALS

The Planning Committee noted the report.

64. P141712/O LAND OPPOSITE ENGLAND'S GATE INN, THE MOOR, BODENHAM, HEREFORDSHIRE

(Outline application with all matters reserved for residential development.)

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, as appended to these Minutes.

In accordance with the criteria for public speaking Mrs E Dimbylow, a resident, spoke in objection. Mr D Hughes, the applicant's agent spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, the local ward member, Councillor JW Millar spoke on the application indicating his support for it.

He commented on a number of issues including:

- The local community had embraced the concept of neighbourhood planning. It had concluded that the proposed site was the best site for additional housing and that a development of 40 houses was acceptable.
- He acknowledged that there were some concerns about the development but he considered that these could be addressed. Sustainable development required growth in existing villages.

The debate opened and the following principal points were made:

- The Parish Council had identified the site as the preferred site and had submitted no objection. This was a good example of localism and the application should be supported.
- It was requested that the width of the highway be reduced in order to provide a continuous footpath to the development supporting the policy objective of giving priority to the needs of pedestrians. The Principal Planning Officer confirmed that a continuous footpath of adequate width could be provided and that was now the intention. However, it may not be possible to provide a path 2 metres wide. This would be resolved when detailed drawings were completed.
- Consideration needed to be given at the reserved matters stage to ensuring that the housing was of appropriate design so that it reduced the impact on England's Gate Inn and the other historic buildings nearby. The Principal Planning Officer commented that a landscape buffer was proposed. He drew attention to paragraph 6.35 of the report which recommended further consultation with the Parish Council and local community on the detail of any reserved matters submission.
- Clarification was sought on how villages were placed in terms of the assessment of the number of houses they could accommodate in the absence of an adopted Core Strategy. It was asked whether, if the proposed development were approved, it would count towards the allocation identified for Bodenham in the draft Core Strategy. The Development Manager commented that the Committee could not give weight to the draft Core Strategy in considering the application. The position would be assessed when the Core Strategy was approved and a Neighbourhood Plan was produced. The Principal Planning Officer added that the development would count towards the growth identified for the period of the Core Strategy (2011-2031) but a final figure for housing growth for the village could not be confirmed until the Core Strategy was adopted.
- The Principal Planning Officer clarified the provisions relating to affordable housing set out in paragraphs 8 and 9 of the draft Heads of Terms appended to the report. He confirmed that there would be 14 affordable housing units and that

a covenant would apply to those units proposed for intermediate tenure occupation.

- The applicant's intention to construct buildings to a minimum of code 4 of the code for sustainable homes was welcomed.

The local ward member was given the opportunity to close the debate. He reiterated his support for the proposal which represented sustainable development with community benefits and had the support of the majority of the village.

RESOLVED: That subject to the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement in accordance with the Heads of Terms stated in the report, officers named in the Scheme of Delegation to Officers are authorised to grant outline planning permission, subject to the conditions below and any other further conditions considered necessary.

1. **A02 Time limit for submission of reserved matters (outline permission)**
2. **A03 Time limit for commencement (outline permission)**
3. **A04 Approval of reserved matters**
4. **C01 Samples of external materials**
5. **The development shall include no more than 40 dwellings and no dwelling shall be more than two and a half storeys high.**

Reason: To define the terms of the permission and to conform to Herefordshire Unitary Development Plan Policies S1, DR1, H13 and the National Planning Policy Framework.

6. **H06 Vehicular access construction**
7. **H09 Driveway gradient**
8. **H11 Parking - estate development (more than one house)**
9. **H17 Junction improvement/off site works**
10. **H18 On site roads - submission of details**
11. **H19 On site roads - phasing**
12. **H20 Road completion in 2 years**
13. **H21 Wheel washing**
14. **H27 Parking for site operatives**
15. **H29 Secure covered cycle parking provision**
16. **H30 Travel plans**
17. **E01 Site investigation - archaeology**
18. **L01 Foul/surface water drainage**

19. L02 No surface water to connect to public system
20. L03 No land drainage to connect to public system
21. L04 Comprehensive & Integrated draining of site
22. G10 Landscaping scheme
23. G11 Landscaping scheme - implementation
24. The recommendations set out in Section 5.1.2 of the ecologist's report from Turnstone Ecology dated March 2014 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a habitat protection and enhancement plan should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.

Reason: 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 Herefordshire Unitary Development Plan.

25. Prior to commencement of the development a 'Tree Protection Plan' to include hedgerow protection following BS 5837:2012 *Trees in relation to design, demolition and construction* should be submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved.

Reason: 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 Herefordshire Unitary Development Plan.

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 outline planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. HN10 No drainage to discharge to highway
3. HN08 Section 38 Agreement & Drainage details
4. HN07 Section 278 Agreement
5. HN04 Private apparatus within highway
6. HN28 Highways Design Guide and Specification
7. HN27 Annual travel Plan Reviews
8. HN25 Travel Plans

9. HN13 Protection of visibility splays on private land

10. N02 - S106 Obligation

65. P140942/O LAND OFF PIXIEFIELDS, WESTFIELDS, CRADLEY, HEREFORDSHIRE

(Site for residential development of up to 60 houses.)

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, as appended to these Minutes. He elaborated in particular on the land drainage proposals.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor AW Johnson, one of the two local ward members, spoke on the application.

He commented on a number of issues including:

- The Parish Council had identified that the remaining housing need identified for the village within the draft core strategy was now fewer than 50 houses. However, the proposed development was for up to 60 houses and was too large. This was his principal concern about the development, although he would also have liked more detail to have been provided.
- He acknowledged officers comments that concerns about flooding could be addressed at the reserved matters stage.

The debate opened and the following principal points were made:

- Concern was expressed about the proposed size of the development noting that the Parish Council had suggested that the site, at a maximum, could accommodate 30 houses. In addition there was concern about the ability of facilities in Cradley to cope with a development of the size proposed. Existing facilities including the school and Dr's Surgery appeared to be at capacity. The village post office had closed.
- The Development Manager commented that Cradley was identified as a main settlement in the Unitary Development Plan and was identified in the draft core strategy as a village where there would be the main focus for growth. A development of up to 60 houses was of an acceptable size and the village did have facilities. The Principal Planning Officer added that the proposal was for up to 60 houses and it was possible that if there were constraints on the site the size of the development could be reduced. However, a development of up to 60 dwellings was acceptable. A development of 25 houses per hectare was not a high density. Given the absence of a five year housing land supply he questioned whether this could be sustained as a ground for refusal of the application. If at the reserved matters stage the applicant proposed a lower number of houses this could be accommodated.
- The robustness of the provision in the S106 agreement for maintenance of the on-site Public Open Space (POS) was questioned as the proposed location of the POS. The Principal Planning Officer commented that the provision of POS would be subject to detailed discussions with the applicant. The proposal was to provide the POS on the site. The Council did not have the resources to adopt POS. The location of the POS would also be considered at the reserved matters stage. The aim would be to mitigate the landscape impact of the development.

- The viability of the drainage proposals was questioned. The Principal Planning Officer commented that there was sufficient capacity in the proposed attenuation basins to cope with a 1 in 100 year rainfall event.
- The vehicular access and pedestrian access were criticised.
- Building to Code Level 3 of the Code for Sustainable Homes was not appropriate. It was noted that the draft Heads of Terms provided that the affordable housing units were to be constructed to Code Level 4.
- It was requested that the affordable housing should be “pepperpotted” across the site.
- A concern was expressed about the protection of trees on the site. The site did not bring the two halves of the village together. The provision in the draft Heads of Terms for creation of new footpaths and cycleway and enhancement in the usability of existing ones connecting to the site was important. It was noted that this aspect would require discussion at the reserved matters stage.

The Development Manager made the following comments:

- Only one year group at Cradley Primary School was currently over capacity. The draft Heads of Terms provided for enhanced educational infrastructure.
- The vehicular access was good. He considered that refusal on grounds of access would not be defensible at appeal and there was a risk of costs being awarded against the Council.
- The village through previous Development Plan documents had sought to maintain a strategic gap between the two halves because of landscape impact.
- The distribution of affordable homes within the development would be one of a number of issues considered at the reserved matters stage. If the details of the scheme were not considered acceptable the matter could be brought back before the Committee.
- He reiterated that the proposed density of development (25 houses per hectare) was relatively low. The Council’s policies had previously considered a density of a minimum of 35 houses per hectare to be acceptable. Under the current policy regard was had to the character of the area but a density of 25 was still relatively low. He cautioned against refusal of the application on this ground.

The Planning Lawyer commented that in considering the number of homes proposed weight could not be given to the draft Core Strategy. Regard had to be had to the Unitary Development Plan and the National Planning Policy Framework. The Committee had not utilised the NPPF balance, benefits had not been discussed and real and significant harm, with evidence in support, had not been identified. She therefore considered that if the application were refused there would be a significant risk of costs being awarded against the Council at appeal.

In response to a suggestion that consideration of the application might be deferred the Development Manager commented that such a course ran the risk of an appeal on the grounds of non-determination. The development represented sustainable development.

The local ward member was given the opportunity to close the debate. He commented that a group of houses below the site would be overlooked by the development. He considered that the development was out of keeping with the village and supported a

deferral to allow greater detail to be provided. He hoped that this would enable officers to negotiate a smaller development.

An observation was made that the application was for outline permission. Many of the Committee's concerns related to detailed matters that would have to be the subject of a further application. It was therefore proposed that, without incurring the risks outlined by officers, the Committee could approve the outline application but require the detailed application to be returned to it for consideration.

RESOLVED: That subject to the expiration of the public consultation period on 18 September 2014 and that no new material planning considerations are raised, officers named in the Scheme of Delegation to Officers be authorised to complete a Section 106 Town & Country Planning Act 1990 planning obligation agreement in accordance with the Heads of Terms stated in the report, and are authorised to grant outline planning permission, subject to the conditions below and any other further conditions considered necessary, and subject to any application for detailed reserved matters being forwarded to the Committee for determination.

1. **A02 Time limit for submission of reserved matters (outline permission)**
2. **A03 Time limit for commencement (outline permission)**
3. **A04 Approval of reserved matters**
4. **A05 Plans and particulars of reserved matters**
5. **Prior to commencement of the development, a habitat and species enhancement scheme based upon Section 5 of the report by Ecology Services dated April 2014 should be submitted to and be approved in writing by the local planning authority. The work shall be implemented as approved and an appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological enhancement work.**

Reason: 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, NC7, NC8 and NC9 of the Herefordshire Unitary Development Plan and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006.

6. **Prior to the commencement of the development hereby approved the applicant or any successor in title shall enter into an agreement under Section 278 of the Highways Act (date) to determine the extent of highway improvement works required along the residential estate road of Pixiefields from the boundary of the application site to its junction with the B4220. The works as approved shall be completed prior to the occupation of the first dwelling on the site.**

Reason: In order to provide an appropriate means of access to the site and to comply with Policies H13 and T8 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

7. **The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage**

have been submitted to and approved by the Local Planning Authority in liaison with Severn Trent Water. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution and to comply with Policies DR4 and DR7 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

8. L01 Foul/surface water drainage
9. L02 No surface water to connect to public system
10. L03 No drainage run-off to public system
11. M02 Limit rate of surface water discharge
12. G03 Retention of existing trees/hedgerows
13. G04 Protection of trees/hedgerows that are to be retained
14. G17 Provision of open space and play areas (outline permissions)
15. I26 Interception of surface water run off

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.
2. N11A Wildlife and Countryside Act 1981 (as amended) - Birds
3. N11C General
4. HN04 Private apparatus within highway
5. HN28 Highways Design Guide and Specification
6. HN05 Works within the highway
7. The reserved matters application will be considered by the Planning Committee when submitted.

66. P141157/F LAND AT GREEN LANE COTTAGE, GREEN LANE, YARPOLE, LEOMINSTER, HR6 9BG

(Proposed demolition of an existing dwelling and erection of five detached dwellings with new access, garages and parking.)

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, as appended to these Minutes.

In accordance with the criteria for public speaking, Ms J King, Clerk to Yarpole Group Parish Council spoke in objection to the Scheme. Mr T Rogers of the Yarpole Built Environment Group spoke in objection. Mr B Thomas, the applicant's agent, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor WLS Bowen, the local ward member, spoke on the application.

He commented on a number of issues including:

- The village wanted the best quality of development for this central and significant site. Some development would be welcomed if it were of the highest quality of design and layout and the density was acceptable.
- With the exception of one parish meeting, the developers had not engaged in discussions with the Parish Council, as the Parish Council wished.
- The Planning Inspectorate Appeal decision of 27 August 2013 raised a number of matters. The decision had stated that the design of a development on the site should look to reflect the older part of the village. Although the original plans had been modified to a degree this was still not the case.
- The development would involve the loss of hedgerow and destroy the character of an historic green lane.
- He questioned the need to move the existing access.
- He requested that consideration of the application should be deferred to provide an opportunity for the Parish Council, residents, and the developer to discuss the design and layout to deliver a high class development with a mix of housing.

The debate opened and the following principal points were made:

- It was asked if it could be required that any houses should be built to at least code 3 of the code for sustainable homes.
- Clarification was sought on the site level.
- Villages needed to grow gradually. The scheme provided such gradual growth and should be supported.
- The development represented a bridge between the newer and older part of the village
- The developer was a local builder who would produce a high quality development. .
- Green Lane Cottage had become an eyesore and needed to be demolished. The plot was clearly ripe for development.
- Design was subjective. The Scheme represented betterment.
- One suggestion was that the local ward member should be consulted by officers on final aspects of the Scheme's design.

- Another proposal was that consideration should be deferred. The Parish Council had a clear view of what was required in terms of quality of design and density of development. There had been insufficient engagement with the developer to date. A deferral would provide the opportunity for consultation.
- The Council should demonstrate its support for community led development.
- An archaeological record of the cottage was requested.

The Development Manager commented that there had been a number of changes to the scheme since the appeal decision to which reference had been made. The amended scheme was of a better design. The previous proposal had been for two storey houses. The new scheme was for 1 1/2 storey cottage style properties which would bridge the newer and older parts of the village. A slab level would be agreed as one of the conditions. The scheme represented organic growth within the settlement boundary; Members had expressed a preference for this form of growth during recent Committee meetings. A Neighbourhood Development Plan was not in place and would not hold weight until the Core Strategy and the Plan were adopted. He confirmed that the code levels for sustainable homes were to be abolished. Building Regulations had already been amended to encourage high energy efficient dwellings.

The local ward member was given the opportunity to close the debate. He reiterated that detail on design and layout was missing from the application and that he would like there to be more discussion of these issues with the village, as residents had requested..

The Planning Lawyer referred to the officer recommendation and confirmed that if planning permission were granted further delegation would relate to conditions only. She further asked that Members consider the utility of deferral.

A motion that consideration of the application be deferred, to permit further discussion between the developer and the Parish Council, was lost.

RESOLVED: That officers named in the Scheme of Delegation to Officers are authorised to grant full planning permission, subject to finalising the conditions below and any other further conditions considered necessary after consultation with the Chairman and the local ward member.

1. **A01 Time limit for commencement (full permission) (12 months)**
2. **B02 Development in accordance with approved plans and materials (site plan – amended drawing number 886/03, rev. B, Proposed house – plot 1, elevations and floor plan – amended drawing number 886/04, Rev A, Proposed house – plot 2, elevations and floor plan – amended drawing number 886/05 rev. A, Proposed house – plot 3, elevations and floor plan – amended drawing number 886/06, Rev B, Proposed house – plot 4, elevations and floor plan – drawing number 886/07, Proposed house – plot 5, elevations and floor plan – drawing number 886/08, Proposed garages – drawing number 886/09 and detail as set out in the application form dated stamped received by Herefordshire Council 10 April 2014)**
3. **C01 Samples of external materials**
4. **G11 Landscaping scheme - implementation (plan number 888/03)**
5. **No timber panelled fences will be constructed on site and**

boundary hedges will be in accordance with the approved plan number 886/03 rev. B, and where no boundary hedge is indicated between the individual dwellings on site this will also be of hedge/plant boundary treatment with associated post and wire fence if considered necessary. If hedgerow protection during growth is required this will be of post and wire mesh construction.

Reason: With consideration to the overall visual appearance of the site and to comply with Policies DR1 and LA2 of the Herefordshire Unitary Development Plan.

6. No development will commence on Plot number 4 until the public footpath order has been confirmed by the Council in writing.

Reason: In order to ensure a public footpath remains available for use and to comply with Policy T6 of the Herefordshire Unitary Development Plan.

7. H13 Access, turning area and parking

8. The recommendations set out in Section E and Appendix 3a of the ecologist's report from Edward's Ecology dated June 2012 must be followed in relation to the identified protected species. Prior to commencement of the development, a species and habitat enhancement plan must be submitted to and be approved in writing by the local planning authority, and the work shall be implemented as approved. An appropriately qualified and experienced ecological clerk of works will be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.

Reason: 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, NC7 NC8 and NC9 of the Herefordshire Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006

9. L01 Foul/surface water drainage

10. L02 No surface water to connect to public system

11. L03 No drainage run-off to public system

12. Prior to any development on site details must be submitted to the Local Planning Authority and approved in writing with regards to a detailed surface water drainage design. This must include the following information, as a minimum:

- a. The results of infiltration testing undertaken in accordance with BRE 365 and data regarding groundwater levels.
- b. A detailed drainage strategy designed in accordance with the draft National Standards for Sustainable Drainage and Policy DR4 of the Herefordshire Unitary Development Plan.
- c. Calculations and drawings that demonstrate that the development will manage surface water runoff from the proposed

dwellings and access road up to and including the 1 in 100 year event (taking climate change effects into account) within the site boundary to ensure no increased flood risk to people and property elsewhere.

d. Demonstration that the Applicant has considered designing for larger events that overwhelm the surface water drainage system and/or occur as a result of blockage.

e. Calculations and details of any proposed infiltration features, including the access road and driveway construction should permeable paving be used.

Reason: To protect the proposed development and people and property elsewhere against increased flood risk associated with surface water runoff and to comply with Policy DR4 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 13. Detail will also be provided prior to any development on site to the Local Planning Authority and approved in writing regarding the proposed adoption and maintenance of the surface water drainage system, including all infiltration features and this will also include detail for the proposed access road.**

Reason: To protect the proposed development and people and property elsewhere against increased flood risk associated with surface water runoff and to comply with Policy DR4 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 14. Prior to development on site the applicant/developer must provide to the Local Planning Authority evidence which will be agreed in writing of adequate separation and/or treatment of polluted water to ensure no risk of pollution is introduced to groundwater or watercourses both locally and downstream of the site, especially from proposed parking and vehicular areas.**

Reason: To protect the quality of the natural environment and to comply with Policy DR4 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 15. Before work commences, details of the finishes to be used for all external joinery, timber, plaster and masonry surfaces shall be submitted to the local planning authority. The work shall subsequently only be carried out in accordance with details approved in writing by the local planning authority.**

Reason: In order to ensure that the development is of high quality construction and to comply with Policy DR1 of the Herefordshire Unitary Development Plan and to comply with the National Planning Policy Framework

- 16. Before work commences, details of the guttering, down pipes and all associated fittings shall be submitted to the local planning authority. The work shall subsequently only be carried out in accordance with details approved in writing by the local planning authority.**

In order to ensure that the development is of high quality construction and to comply with Policy DR1 of the Herefordshire Unitary Development Plan and to comply with the National Planning Policy Framework.

- 17. I51slab levels**
- 18 D24 archaeological record**

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. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. 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. HN04 Private apparatus within highway**
- 3. HN01 Mud on highway**
- 4. HN28 Highways Design Guide and Specification**
- 5. HN05 Works within the highway**
- 6. N11A Wildlife and Countryside Act 1981 (as amended) - Birds**
- 7. N11C General**

67. LLANERCH Y COED, DORSTONE, HEREFORD, HR3 6AG

(Change of use of redundant farm buildings into 3 residential cottages to be used as holiday lets. Erection of 5 demountable geo domes (or shepherds huts). Purpose built shower/w.c. adjacent to farm buildings (to replace soon to be demolished new build stable block. Communal lounge/dining and kitchen for geo dome guests in existing buildings.)

The Senior Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mr A Williams of Clifford Parish Council spoke in opposition to the Scheme. Mr M Cooke, a resident, spoke in objection. Mr P Smolas spoke on behalf of the applicant in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor PD Price, the local ward member, spoke on the application.

He expressed concern about the appropriateness, implementation and enforcement of the proposed S106 agreement and whether it was too onerous for the business. However, he noted that the applicant had agreed to comply with the conditions contained within the agreement.

In debate, reservations were expressed about the proposed use of the S106 agreement and concern expressed that it was disproportionate.

The Development Manager commented that the use of a S106 agreement in this way was unusual. However, the approach had been proposed in response to concerns expressed by the Committee about access when they had considered the application on 8 January and their wish to protect local residents. The matter had been brought back to the Committee due to additional detail and because the proposed approach was different from that which had originally been proposed. The Applicants were content to enter into this potentially punitive agreement. If the S106 agreement was not supported this would permit unlimited use of the roads to the site. Members could, however, reject the S106 agreement if they wished.

The local ward member was given the opportunity to close the debate. He reiterated his concern that the proposed S106 agreement was too onerous. However, he acknowledged that the applicant had agreed to accept the proposal.

RESOLVED: That subject to the completion of a S106 agreement, officers named in the scheme of delegation to officers be authorised to grant planning permission subject to the following conditions and any further conditions considered necessary by officers

1. **The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990 and the National Planning Policy Framework.

2. **The development hereby approved shall be carried out strictly in accordance with the approved plans and documents, received 8 August 2013 and the schedule of materials indicated thereon unless otherwise stipulated by conditions attached to this Planning Permission.**

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 and the National Planning Policy Framework.

3. **The existing Bed and Breakfast use occurring on the land and buildings within the line edged red and blue on the approved plans shall permanently cease on the first use of the any part of the development hereby permitted.**

Reason: In order to protect the amenity of this open countryside location and occupiers of nearby properties so as to comply with Policies S1, DR2, DR13 and RST1 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

4. **Notwithstanding the provisions of article 3(1) and Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, (or any order revoking or re-enacting that Order with or without modification), no development which would otherwise be permitted under Classes A, B, C, D, E and H of Part 1, or development or land uses permitted under Part 4, Part 5, Part 27 and Part 40 of Schedule 2, shall be carried out.**

Reason: To ensure the character and amenity of this tranquil open countryside location is maintained and also to ensure the character and appearance of the original conversion scheme is maintained and to comply with Policies S1, S2, DR1, DR2, DR3, T8, LA2, HBA12 and HBA13 of the Herefordshire Unitary Development Plan and the heritage aims and objectives of the National Planning Policy Framework.

- 5. The buildings subject of this planning permission, the holiday accommodation permitted and the dwelling known as Llanerch Y Coed, Dorstone, Herefordshire shall not be sold or leased separately from each other.**

Reason: It would be contrary to the policy of the local planning authority to grant permission for a separate dwelling or separate independent economic use in this location having regard to policies S1, S2, DR1, DR2, DR3, H7 and E8 of Herefordshire Unitary Development Plan and the relevant aims and objectives of the National Planning Policy Framework.

- 6. The buildings which are the subject of this application shall be used for holiday accommodation only and for no other purpose including any other purpose within Class C of the Schedule of the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.**

An up to date register of all visitors and occupiers of the holiday accommodation including names, date and duration of stay and home address shall be kept and made available to the Local Planning Authority at all times.

No single person or group is permitted to stay in the accommodation permitted in this permission for more than 28 consecutive days or for a total of 156 days in any calendar year.

Reason: Having regard to Policy S1, DR2 and RST1 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework the local planning authority are not prepared to allow the introduction of separate units of residential accommodation in this rural, isolated unsustainable open countryside location.

- 7. The existing public right of way crossing the application site shall not be obstructed, to diverted or stopped up during the construction phase or at anytime thereafter during the use of hereby permitted development.**

Reason: To ensure the public right of way is not obstructed and to conform with the requirements of Policy T6 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 8. The Travel Plan shall be implemented, in accordance with the approved details, on the first occupation of the development. A detailed written record shall be kept of the measures undertaken to promote sustainable transport initiatives and a review of the Travel**

Plan shall be undertaken annually. All relevant documentation shall be made available for inspection by the local planning authority upon reasonable request.

Reason: In order to ensure that the development is carried out in combination with a scheme aimed at promoting the use of a range of sustainable transport initiatives and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan and the relevant aims and objectives of the National Planning Policy Framework.

- 9. The soft landscaping scheme approved and as shown on the approved plans listed under Condition 2 of this permission shall be carried out concurrently with the development hereby permitted and shall be completed no later than the first planting season following the completion of the development. The landscaping shall be maintained for a period of 5 years. During this time, any trees, shrubs or other plants which are removed, die or are seriously retarded shall be replaced during the next planting season with others of similar sizes and species unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5-year maintenance period. The hard landscaping shall be completed prior to the first use of the development hereby permitted**

Reason: In order to maintain the visual amenities of the area and to comply with Policy LA6 of Herefordshire Unitary Development Plan and the relevant aims and objectives of the National Planning Policy Framework.

- 10. Not later than 1 October in each of the 5 calendar years following the planting of any trees or shrubs on this site in connection with the development hereby permitted the operator shall submit to the Local Planning Authority a written statement detailing:**
- a) The number, location and species of any trees, shrubs and hedge plants which have died, become diseased or seriously damaged in the preceding 12 months, and**
 - b) Proposals for the replanting and maintenance of any such failures with plants of similar size and species within the following 6 months.**

Reason: In order to maintain the visual amenities of the area and to conform with Policy LA6 of Herefordshire Unitary Development Plan and the relevant aims and objectives of the National Planning Policy Framework.

- 11. The external lighting shall be installed and operated in accordance with the approved details received 4th April 2014 and thereafter be maintained as such.**

No further external lighting shall be installed upon the site (including upon the external elevations of any existing or proposed building or structure within the red or blue line area identified on the plans listed under Condition 2 of this permission) without the prior written consent of the local planning authority.

Reason: To safeguard the character and amenities of the area and to comply with Policy DR14 of Herefordshire Unitary Development Plan and the relevant aims and objectives of the National Planning Policy Framework.

- 12. The development shall be carried out in strict accordance with the details of the foul and surface water drainage arrangements received 27 June 2014. This scheme shall be implemented before the first use of any of the buildings or development hereby permitted.**

Reason: In order to ensure that satisfactory drainage arrangements are provided and to comply with Policy DR4 of Herefordshire Unitary Development Plan

- 13. The recommendations set out in the ecologist's report listed under Condition 2 of this Decision Notice and The Ecological Measures contained within the Construction Environmental Plan, received 10 June 2014 shall be followed in relation to the identified protected species unless otherwise agreed in writing by the local planning authority.**

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policies NC1, NC5, NC6 and NC7 of Herefordshire Unitary Development Plan and the relevant aims and objectives of the National Planning Policy Framework

- 14. The architectural details of windows and their openings, doors and their openings, eaves, verges and barges and ridges, shall be carried out in accordance with the details received 27 June 2014 and thereafter be maintained as such.**

Reason: To ensure that the work is carried out in accordance with details that are appropriate to the safeguarding of the architectural or historic interest of the building (as one which is of local interest) and to comply with the requirements of Policies HBA12 and HBA13 of the Herefordshire Unitary Development Plan and the relevant aims and objectives of the National Planning Policy Framework .

- 15. The finishes to be used for all external joinery, timber, plaster and masonry surfaces work shall be carried out in accordance with details received 27 June 2014.**

Reason: To ensure that the work is finished with materials, textures and colours that are appropriate to the safeguarding of the architectural or historic interest of the building (as one which is in a conservation area, or of local interest) and to comply with the requirements of Policy HBA12 and HBA13 of Herefordshire Unitary Development Plan and the relevant aims and objectives of the National Planning Policy Framework.

- 16. The chimney flues shall have a dark matt finish of a colour as described in details Received 27th June 2014 and thereafter be maintained as such.**

Reason: To ensure that the work is carried out in accordance with details that are appropriate to the safeguarding of the architectural or historic interest of the building (as one which is of local interest) and to comply with the requirements of Policies HBA12 and HBA13 of the Herefordshire Unitary Development Plan and the relevant aims and objectives of the National Planning Policy Framework.

- 17. The guttering, down pipes and all associated fittings shall be carried out in accordance with details Received 27th June 2014 and thereafter be maintained as such.**

Reason: To ensure that the rainwater goods are of an appropriate form in the interests of the building (as one which is of local interest) and to comply with the requirements of Policies HBA12 and HBA13 of Herefordshire Unitary Development Plan and the relevant aims and objectives of the National Planning Policy Framework.

- 18. All works of external repair, restoration and replacement are to exactly match the original features, materials and finishes of the building.**

Reason: To ensure that all of the works arising from the approved scheme are of an appropriate form in the interest of the building (as one which is in a conservation area, or of local interest) and to comply with the requirements of Policies HBA12 and HBA13 of Herefordshire Unitary Development Plan and the relevant aims and objectives of the National Planning Policy Framework.

- 19. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no windows other than those expressly authorised by this permission shall be constructed in any elevation of the buildings subject of this permission, and no dormer windows shall be constructed in the roof slope of any building subject of this permission.**

Reason: In order to protect the character and appearance of the original buildings that are of historic merit worthy of safeguarding through the permitted use and conversion and to protect the residential amenity of adjacent properties and to comply with Policies DR1, DR2, H18, HBA12 and HBA13 of the Herefordshire Unitary Development Plan and the relevant aims and objectives of the National Planning Policy Framework.

- 20. The geodomes (excluding the bases) hereby permitted shall be removed from the site from 1 October to 31 March of each year.**

Reason: The local planning authority is only prepared to allow this accommodation as a temporary measure as the application was assessed and permitted on the basis of the geodomes being removed from the site during these dates and in the interests of the character and appearance of this open countryside location and having regard to Policies S1, DR1, DR2, DR3, LA2 and RST1 of the Herefordshire Unitary Development Plan and the relevant aims and objectives of the National Planning Policy Framework.

21. In the event of the holiday use ceasing or the business failing, the geodomes hereby permitted including their bases and all associated infrastructure shall be removed permanently from the site and the land reinstated in accordance with details (including timescale) which shall be submitted to and approved in writing by the local planning authority.

Reason: The local planning authority permitted this development having regard to the special circumstances and business plan provided by the applicants and is not prepared to allow unused buildings and infrastructure to undermine and despoil the character and appearance of this isolated rural landscape and to comply with Policies S1, S2, DR1, DR2 and LA2 of the Herefordshire Unitary Development Plan and the relevant aims and objectives of the National Planning Policy Framework.

22. No more than 13 people in total are permitted to stay on site in the accommodation and/or geodomes at any time during a training event and no more than 26 people in total are permitted to stay on site in the holiday accommodation or geodomes at any other time.

Reason: The application has been assessed and permitted on the basis of this maximum occupancy number set out in the application submission and having regard to safeguarding the character, appearance and amenity of this isolated rural location and having regard to the sustainability of the location and capacity of the local road network and to comply with Herefordshire Unitary Development Plan Policies S1, DR1, DR2, DR3, E8, LA2, and RST1 and the relevant aims and objectives of 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. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. 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 Your attention is drawn to the requirements of Part M of the Building Regulations 1991 in respect of the need to provide access and facilities for the disabled.
- 3 This permission does not imply any rights of entry to any adjoining property nor does it imply that the development may extend into or project over or under any adjoining boundary.
- 4 This permission does not extinguish any rights of way which may exist over the site nor does it imply that such rights of way may be diverted or otherwise altered.
- 5 All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- intentionally kill, injure or take any wild bird
- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- intentionally take or destroy the egg of any wild bird
- intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird. The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural England and the Council's Ecologist.

6 It is an offence for any person to:

**Intentionally kill, injure or take any bats.
Intentionally or recklessly damage, destroy or obstruct access to any place that a bat uses for shelter or protection. This is taken to mean all bat roosts whether bats are present or not.**

Under the Habitats Regulations it is an offence to damage or destroy a breeding site or resting place of any bat. This is an absolute offence - in other words, intent or recklessness does not have to be proved. The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010 that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural England. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural England (0300 060 6000) and the Council's Ecologist. Advice is also available from the Bat Conservation Trust Helpline on 0845 1300 228.

7 The attention of the applicant is drawn to the provisions of the Wildlife and Countryside Act 1981 (as amended). This gives statutory protection to a number of species and their habitats. Other animals are also protected under their own legislation. Should any protected species or their habitat be identified during the course of the development then work should cease immediately and Natural England should be informed. They can be contacted at: Block B, Government Buildings, Whittington Road, Worcester, WR5

2LQ. Tel: 0300 060 6000.

The attention of the applicant is also drawn to the provisions of the Conservation of Habitats and Species Regulations 2010. In particular, European protected animal species and their breeding sites or resting places are protected under Regulation 40. It is an offence for anyone to deliberately capture, injure or kill any such animal. It is also an offence to damage or destroy a breeding or resting place of such an animal.

68. 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

Date: 17 September 2014

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.

SCHEDULE OF COMMITTEE UPDATES

P141712/O - OUTLINE APPLICATION WITH ALL MATTERS RESERVED FOR RESIDENTIAL DEVELOPMENT AT LAND OPPOSITE, ENGLAND'S GATE INN, THE MOOR, BODENHAM, HEREFORDSHIRE

For: Mr Richards per Hughes Architects Limited, 29 Broad Street, Newtown, Powys, SY16 2BQ

ADDITIONAL REPRESENTATIONS

One further letter of representation has been received from Mrs E Dimbylow, 7 Brockington Road, Bodenham.

The letter focusses upon the impact that the development would have upon the setting of the Grade II listed England's Gate PH and associated outbuilding and stables. The letter considers that the application site is an important component of the pub's rural setting and that the failure to preserve this setting when housing developments took place in the 1960s and 1970s is scant justification for eroding what remains still further. Hedgerow loss is also noted.

It is also noted that despite the apparent high level of support for this site in preference to another site in the village, a large majority of residents did not write in support and may therefore be taken to not be in favour of development of this site.

OFFICER COMMENTS

The impact of the development on the setting of the public house and its associated complex has been assessed by the Conservation Manager(Historic Buildings). Whilst acknowledging that the proposal would influence the setting of the listed building, the degree of impact is capable of mitigation at the Reserved Matters stage such that it is unlikely to be 'significant' within the meaning of paragraph 134 of the NPPF; which requires any harm to be weighed against the public benefits of a proposal.

NO CHANGE TO RECOMMENDATION

P140942/O - SITE FOR RESIDENTIAL DEVELOPMENT OF UP TO 60 HOUSES AT LAND OFF PIXIEFIELDS, WESTFIELDS, CRADLEY, HEREFORDSHIRE

For: Quercus PRF LLP per Mr James Spreckley, Brinsop House, Brinsop, Hereford, Herefordshire, HR4 7AS

ADDITIONAL REPRESENTATIONS

Eight letters of support have been received. In summary the points raised are as follows:
Schedule of Committee Updates

- the need for more family housing to ensure Cradley continues as a thriving community
- the need for more affordable housing
- the resultant infrastructure improvements resulting from the S.106 monies
- the need for more housing for the younger people in the village.

A further eight letters of objection have been received. No new issues are raised from those listed at paragraph 5.6 of the main report.

The Council's Land Drainage Engineer has been asked to further consider the objections raised on flooding grounds and advises that their responses to the application have been reviewed again along with the latest FRA/drainage strategy submitted by the applicant. She maintains the views expressed at paragraph 4.9 of the report that the applicant has provided sufficient confirmation for an Outline Planning Application to demonstrate that there are viable means to sustainably and safely manage surface water runoff within the site boundary to protect adjacent development from increased flood risk.

She considers that the objections made on the grounds of flooding are valid, but is confident that all concerns can be addressed via the Reserved Matters application and/or detailed planning conditions.

OFFICER COMMENTS

Conditions 7 to 11 inclusive all relate to the treatment of foul and surface water from the proposed development. They will appropriately mitigate the impact of the proposed development. In particular, condition 11 requires that surface water should be limited to Greenfield run-off rates. The measures proposed for flood mitigation are intended to improve existing conditions and the conditions proposed are considered to appropriately cover the comments made by the Land Drainage Engineer.

NO CHANGE TO RECOMMENDATION

P141157/F - PROPOSED DEMOLITION OF AN EXISTING DWELLING AND ERECTION OF FIVE DETACHED DWELLINGS WITH NEW ACCESS, GARAGES AND PARKING AT LAND AT GREEN LANE COTTAGE, GREEN LANE, YARPOLE, LEOMINSTER, HR6 0BG

For: Mr Thomas per Architectural Design Limited, The Malt House, Shobdon, Leominster, Herefordshire HR6 9NL

ADDITIONAL REPRESENTATIONS

The Land Drainage Manager has responded in respect of the amended plans received indicating no changes to the original response to the application.

NO CHANGE TO RECOMMENDATION

