

MINUTES of the meeting of Planning Committee held at The Shire Hall, St Peter's Square Hereford HR1 2HX on Wednesday 11 February 2015 at 10.00 am

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

Councillors: JM Bartlett, CM Bartrum, AJM Blackshaw, WLS Bowen, AN Bridges, ACR Chappell, EMK Chave, BA Durkin, PJ Edwards, KS Guthrie, JW Hope MBE, MAF Hubbard, Brig P Jones CBE, JG Lester, RL Mayo, PJ McCaull, J Norris, DC Taylor, TL Widdows and DB Wilcox

143. APOLOGIES FOR ABSENCE

Apologies were received from Councillors PA Andrews, PJ Edwards, DW Greenow, J Hardwick, RI Matthews and FM Norman.

144. NAMED SUBSTITUTES

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillor JM Bartlett attended the meeting as a substitute member for Councillor FM Norman, Councillor CM Bartrum substituted for Councillor PA Andrews, Councillor WLS Bowen for Councillor J Hardwick, Councillor ARC Chappell for Councillor RI Matthews, Brig P Jones for Councillor DW Greenow and Councillor DC Taylor for Councillor PJ Edwards.

145. DECLARATIONS OF INTEREST

The Chairman noted that two applications on the agenda had been submitted by Members of the Council who were also Members of the Committee and as such known to all Members of the Committee. He invited Members to consider whether they knew the Members concerned to a degree that warranted a specific interest being declared.

Agenda item 7: P141828/F Mill Field, Fownhope

Councillor WLS Bowen declared a non-pecuniary interest because he knew the applicant.

Councillor AN Bridges declared a non-pecuniary interest because he knew the applicant.

Councillor PGH Cutter declared a non-pecuniary interest as a member of the Wye Valley AONB Joint Advisory Committee.

Councillor BA Durkin declared a non-pecuniary interest as a member of the Wye Valley AONB Joint Advisory Committee.

(Councillor EMK Chave commented that in representations made to Members it had been suggested that since the applicants were members of the Committee, other members of the Committee would know about their applications. She stated for the record that the first she had known of either application was when she received the papers for the meeting.)

146. MINUTES

RESOLVED: That the Minutes of the meeting held on 21 January 2015 be approved as a correct record and signed by the Chairman.

147. CHAIRMAN'S ANNOUNCEMENTS

There were no announcements.

148. APPEALS

The Planning Committee noted the report.

149. P141828/F MILL FIELD, FOWNHOPE, HEREFORDSHIRE

(Proposed residential development of 22 open market family homes and 11 affordable homes.)

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 highlighted that the impact on the Wye Valley Area of Outstanding Natural Beauty (AONB) and whether the proposed development represented a major development within the local context were the critical issues. Officers had concluded that the development was not a major development. He drew attention to the reference in the update to the intervention of the National Planning Casework Unit (NPCU) for the Department for Communities and Local Government and a proposed change to the recommendation recommending that the Committee be minded to approve the application.

In accordance with the criteria for public speaking, Mr M Simmons, Chairman of Fownhope Parish Council spoke in opposition to the Scheme. Mr C Whitmey, a local resident, spoke in objection. Mr J Spreckley, the Applicant's agent spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor WLS Bowen spoke in the role of the local ward member, having acted in that capacity on behalf of local residents for this planning application because the local ward member Councillor J Hardwick was the applicant.

He commented on a number of issues including:

- The Parish Council and the Neighbourhood Planning Group opposed the application.
- The application was within the AONB and outside but adjoining the settlement boundary for Fownhope.
- Account needed to be taken of the proximity of the Cherry Hill Wood SSSI.
- The site was opposite the Grade II listed Mill House Farm complex.
- One view was that the development should be treated as a major development. However, Fownhope was a proposed 'main village within the Core Strategy. Using a baseline figure of 342 dwellings the proposed development represented less than 10% growth and less than half of the growth proposed within the Core Strategy and included 11 affordable homes. The Principal Planning Officer had concluded that the development was not a major development. He highlighted the comments of the Conservation Manager (Landscape) in bold type in paragraph 6.12 of the report.
- There was some adverse impact on the landscape. The Campaign to Protect Rural England objected. However, the applicant had done a considerable amount to mitigate this impact.

- The development had little impact on the road network.
- Funding was available with the proposed Section 106 agreement to improve footpath access.
- The statutory consultees did not object to the development.
- Weight had to be given to the Council's lack of a 5 yr housing land supply.

In the Committee's discussion of the application the following principal points were made:

- It was observed that whether the development was to be treated as a major development was a matter of opinion not fact. Various opinions were expressed on this point. In particular reference was made to paragraph 6.10 of the report setting out the National Planning Policy Guidance on whether a proposed development in a designated area should be treated as a major development. Attention in this context was drawn to the extract from the comments of the Conservation Manager (Landscape) at paragraph 6.12 of the report that: the development would result in "a locally significant adverse change in character of this part of the village". Although the Conservation Manager went on to say that there was the potential for mitigation, the negative impact, whether or not it could be mitigated to some extent was a key consideration. The development should be considered a major development, engaging paragraph 116 of the National Planning Policy Framework.
- The absence of a five year housing supply had to be weighed against the guardianship of the AONB.
- The Principal Planning Officer clarified that the Council assessed Fownhope's contribution to housing growth in the core strategy at 73 houses; the Parish Council considered 61 houses would meet the percentage of growth required. This represented 49% or 54% respectively of the proposed growth requirement.
- The Cherry Hill SSI was a particularly beautiful part of the County. The Wye Valley AONB Partnership was quoted in the report as follows: "the Wye Valley is regarded as one of the finest lowland landscapes in Britain, with the River Wye one the nation's favourite rivers."
- The application did seek to mitigate the impact of the development.
- Measures to make the affordable housing energy efficient and therefore affordable and sustainable in the longer term would have been welcomed.
- It was asked whether a condition could be imposed passing control of the proposed orchard to the Parish Council so that any further development of the site would require the Parish Council's approval. The appropriateness of such an approach was questioned. The Principal Planning Officer commented that paragraph 4 of the draft heads of terms left the maintenance of public open space open for negotiation.
- Account should be taken of local opposition to the development.
- It was questioned whether the width of the current footpath was sufficient and whether that width could be adequately maintained given the overhanging trees. The Transportation Manager confirmed that the feasibility of providing a footpath direct from the development to the village alongside the B4224 had been assessed and one could not be provided.
- It was suggested that the current 30mph speed restriction should be moved back further in advance of the access to the development.
- The development was sustainable and there should therefore be a presumption in favour of development given the absence of a five housing land supply.
- There were no objections from the statutory consultees.

- The proposed provision of bungalow was welcome.
- In conclusion, it was proposed that the application should be refused on the grounds that it did represent a “major” development and that as such paragraph 116 of the National Planning Policy Framework applied. This required permission for a major development in an AONB to be refused save in exceptional circumstances and where it could be demonstrated the proposed development was in the public interest.

The Development Manager commented that if the Committee considered the development was a “major” development paragraph 116 of the NPPF was engaged. He added that the absence of a completed S106 agreement was a further ground for refusal.

The Solicitor sought and received confirmation of the Committee’s view that the development was a “major” development and that the exceptional circumstances in paragraph 116 of the NPPF had not been met and the development would have an adverse effect upon the AONB.

The local ward member was given the opportunity to close the debate. He noted that in deciding whether an application represented a “major” development regard had to be had to the local context and it was a fine balance. He reiterated the benefits of the Scheme, noted the absence of a five year housing land supply and the Parish Council’s objection.

RESOLVED: That planning permission be refused on the grounds set out below and officers named in the scheme of delegation be authorised to finalise the drafting of the reasons for refusal for publication based on the Committee’s view that the application represented “major” development and that paragraph 116 of the NPPF was therefore engaged, and the consequent test of “exceptional circumstances” had not been met in that (i) there was not sufficient evidence from the developer of the cost of, and scope for, developing elsewhere outside the Area of Outstanding Natural Beauty (AONB), and (ii) the development would have an adverse effect on the AONB; and a S106 agreement had not been completed.

150. P141963/O LAND EAST OF CALLOWSIDE, ELM TREE ROAD, EWYAS HAROLD, HEREFORDSHIRE, HR2 0HZ

(Site for erection of up to 38 houses and apartments with highway access onto Elm Green Road; associated infrastructure and landscaping.)

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 Overstall of Parish Council spoke on the Scheme. Mrs A Hayter, 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 GJ Powell spoke on the application.

He was broadly supportive of the application, noting that the last housing needs study in 2009 had identified the need for 51 affordable homes in Ewyas Harold and that need remained to be met. However, the application was for outline planning permission and he considered that a number of issues would need to be addressed at the reserved matters stage including: the provision of a continuous pathway alongside the B4347; provision for transportation needs in in a S106 agreement, detailed drainage proposals,; measures to ensure safety of bus service operation; and the importance of the developer

conducting further consultation with the Parish Council and local community to deliver a site that had local support.

In the Committee's discussion of the application Members supported the outline application noting that a number of matters would need to be resolved at the reserved matters stage.

The Development Manager commented that approval was being sought for the principle of development and there was scope for detailed discussion to take place on the reserved matters.

The local ward member was given the opportunity to close the debate. He had no additional comments.

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 38 dwellings and no dwelling shall be more than two 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. **H03 Visibility splays**
7. **H08 Access closure**
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**
13. **H21 Wheel washing**
14. **H27 Parking for site operatives**
15. **H29 Covered and secure cycle parking provision**
16. **H30 Travel plans**

17. The species mitigation and habitat enhancement measures shall be carried out in accordance with the recommendations set out in Section 4.5 of the ecologist's report from EDP dated June 2014. Prior to commencement of the development, the habitat features to be retained or lost shall be clearly identified as part of the landscape plan and the works proposed shall be carried out in accordance with the plan.
18. G04 Protection of trees/hedgerows that are to be retained
19. G09 Details of boundary treatments
20. G10 Landscaping scheme
21. G11 Landscaping scheme - implementation
22. L01 Foul/surface water drainage
23. L02 No surface water to connect to public system
24. L03 No drainage run-off to public system
25. L04 Comprehensive and integrated draining of site

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. 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. HN01 Mud on highway
8. HN25 Travel Plans
9. HN05 Works within the highway

151. P142410/O LAND ADJACENT TO B4222, LEA, ROSS ON WYE, HEREFORDSHIRE.

(Proposed outline consent for the erection of up to 38 dwellings.)

The Development Manager 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, Mr P Fountain of Lea Parish Council spoke in opposition to the Scheme. Mr S Banner, Chairman of the Lea Action Group, spoke in objection. Mr B Weatherley, 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 H Bramer spoke on the application.

He commented on a number of issues including:

- The application was a further one predicated on the absence of a five year housing land supply. In Lea there were 218 properties. The draft Core strategy envisaged 14% growth up to 2031(30 additional homes). Permission had already been granted for 48 additional homes in Lea. This further application was a step too far.
- Welsh Water had expressed strong concerns regarding overland flooding downstream of the proposal.
- The Transportation Manager had identified that the visibility splays for access needed to be addressed.
- The land drainage manager had identified concerns about fluvial flood risk.
- He highlighted the objections of Lea Parish Council and Ashton Ingham Parish Council set out in the report.

In the Committee's discussion of the application the following principal points were made:

- The proposal represented overdevelopment, with too much development delivered too quickly which would have a significant detrimental effect. The application should be refused on these grounds.
- The two Parish Councils had highlighted a number of material considerations in their objections.

The Transportation Manager commented that revised drawings indicated that the visibility splays at the site's access would be satisfactory.

The Development Manager commented that Welsh Water's concerns related to a flood alleviation scheme. Such a scheme would have to be provided before the occupation of any dwellings. There were strong objections to proposed limits on growth in the core strategy and no limit could therefore be placed on development based on the number of houses for which permission had already been granted. He emphasised that an application for 40 homes at Lea had been refused under delegated powers because the proposal had been unacceptable. In contrast, officers considered this application site to be suitable for development. S106 monies would address the pressure on provision of school places. He could not provide the Committee with grounds for refusal.

The local ward member was given the opportunity to close the debate. He reiterated his comments about the scale of development at Lea adding that he did not consider the proposed development to be sustainable.

RESOLVED: That planning permission be refused on the grounds set out below and officers named in the scheme of delegation be authorised to finalise the drafting of the reasons for refusal: the development would represent overdevelopment of Lea.

Informative

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 and by identifying matters of concern with the proposal and clearly setting these out in the reasons for refusal. Furthermore, Members of the planning committee which took the decision to refuse planning permission

have been asked to consider whether there are opportunities to amend the development to address this harm. Where a potential way forward has been identified, this has been communicated to the Applicant. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.

152. P143600/F LAND NORTH OF TARS MILL FARM, HOLLOW FARM ROAD, DINEDOR, HEREFORDSHIRE, HR2 6PE

(Proposed three bedroom dwelling.)

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, Mr G Morris, the Applicant's agent spoke in support of the application.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, the local ward member, Councillor P Sinclair-Knipe spoke on the application.

He commented on a number of issues including:

- The personal family circumstances of the applicant provided a justification of the need for the development.
- The demands of modern farming made it important for a farmer to be near his place of work.
- The Committee had recently approved a similar application at Holme Lacy.
- The Parish Council supported the application. There were numerous letters in support of the application and none in objection to it.

In the Committee's discussion of the application the following principal points were made:

- Most farmhouses would probably fail the sustainability test because by their nature they were often in isolated locations.
- There was a farming need for the development.
- There was a social need for the development.
- The applicant had failed to engage with the planning process and provide information required to support the application.
- The application was contrary to policy. Information to support approval having regard to paragraph 55 of the National Planning Policy Framework had not been provided.
- The Principal Planning Officer confirmed that the application had originally been for an agricultural dwelling but evidence to support the functional need had not been provided. The application before the Committee was for an open market dwelling in the open countryside, hence the recommendation that the application be refused.

The Development Manager confirmed that an agricultural tie to the property could be appealed if imposed.

The local ward member was given the opportunity to close the debate. He reiterated his support and the local support for the application.

The Solicitor sought and received confirmation that the grounds for approval were that there was a local social and agricultural need for the development and the development was sustainable.

RESOLVED: (on the Chairman's casting vote) that officers named in the Scheme of Delegation to officers be authorised to grant planning permission subject to conditions considered necessary on the grounds that there was a local social and agricultural need for the development and the development was sustainable.

Appendix 1 - Schedule of Committee Updates

The meeting ended at 1.05 pm

CHAIRMAN

PLANNING COMMITTEE

Date: 11 February 2015

(Morning)

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

P141828/F - PROPOSED RESIDENTIAL DEVELOPMENT OF 22 OPEN MARKET FAMILY HOMES AND 11 AFFORDABLE HOMES AT MILL FIELD, FOWNHOPE, HEREFORDSHIRE.

For: SC Hardwick & Sons per Mr James Spreckley, Brinsop House, Brinsop, Herefordshire HR4 7AS

ADDITIONAL REPRESENTATIONS

1. The National Planning Casework Unit for the Department for Communities and Local Government have requested that should the Council be minded to grant permission that the decision not be issued until the Secretary of State has considered the case against his call-in policy and issued a decision. This does not prevent the application being considered at today's meeting.
2. The agent has submitted the following in response to the Parish Council comments in respect of a lack of engagement with the local community:-

"I note that you have repeated the comments of the Parish Council relating to the consultation process, or their alleged lack of consultation, but have not addressed this in your appraisal nor repeated my rebuttal of their accusation of the lack of consultation. You will recall that I addressed this in some detail in my email to you of 19 September, copying to you my emails to the Parish Council clerk dated 12th June 2012 and 28 January 2013 submitting details of our proposals for their consideration and comment. You will see from their response that the reluctance to engage in consultation was entirely from the Parish Council. It is worth noting that this response from the Parish Clerk was copied to the then Chairman of the Parish Council, who is now the Chairman of the Neighbourhood Plan Steering Group. As a result of this reluctance to engage, I held two Planning Exhibitions in December 2013 to enable me to engage directly with the public. These were widely advertised, although again the clerk declined to circulate the details by email or post details on the Parish Council notice boards. I also attended the Parish Council meeting in December 2013 to explain the proposals, and all the plans were submitted by email to the Parish Council clerk for circulation. As a result of the feedback there have been comprehensive amendments and a comprehensive re-design of the whole proposed development. I met again with the Parish Council as recently as 14th October 2014 to discuss the details of the proposed Community Orchard. In the interest of balance and fairness I would be grateful if you would include this specific information in your update to Members."

3. The Neighbourhood Plan Steering Group (NPSG) has submitted its planning consultant's conclusions in relation to the application site. The assessment concludes that the site should be rejected in principle because of its significant environment effects on matters of acknowledged and national importance, in

particular effect on the Wye Valley AONB and the character and appearance of the Conservation Area.

OFFICER COMMENTS

1. The National Planning Casework Unit request that if the Council is minded to approve the application the Secretary of State is informed to consider to his 'call-in' powers. The wording of the recommendation is changed to reflect this.
2. Item 7 of the Draft Heads of Terms S.106 agreement describes the financial contribution towards recycling as £2640 per dwelling, when it should read £2640 in total (or £120 per open market dwelling).
3. The NPSG assessment of the site's suitability for housing is part of the evidence base that will inform the neighbourhood plan. Officers consider this piece of work cannot be attributed weight in the decision-taking process for the following reasons:-
 - The Neighbourhood Plan, and by extension its evidence base, is not sufficiently advanced to attract weight.
 - The site assessment work has not been subject to any consultation.
 - The site assessment paper is wrong in law as it relies on the General Development Management Order definition of the term 'Major Development' i.e. 10 or more houses or sites exceeding 0.5ha. Case law establishes that for the purposes of NPPF paragraph 116 the term 'Major Development' cannot be ascribed a numerical value.
 - The assessment does not take into account the planning application.

CHANGE TO RECOMMENDATION

In response to the National planning Casework Unit's intervention, it is requested that if Members are minded to granted planning permission The Secretary of State is informed to consider his call-in powers.

**P142410/O - PROPOSED OUTLINE CONSENT FOR THE
ERECTION OF UP TO 38 DWELLINGS AT LAND ADJACENT
TO B4222, LEA, ROSS ON WYE, HEREFORDSHIRE,**

**For: MLN (Land and Properties) Ltd per Mr Weatherley,
Knights, The Brampton, Newcastle under Lyme, Staffordshire,
ST5 0QW**

ADDITIONAL REPRESENTATIONS

A draft S106 has been submitted in accordance with the Draft Heads of Terms.

NO CHANGE TO RECOMMENDATION

**P143600/F - PROPOSED THREE BEDROOM DWELLING AT
LAND NORTH OF TARS MILL FARM, HOLLOW FARM ROAD,
DINEDOR, HEREFORDSHIRE, HR2 6PE**

**For: Mr D Greenow & Ms V Huntley per Collins Design & Build,
Unit 5 Westwood Industrial Estate, Pontrilas, Hereford,
Herefordshire HR2 0EL**

ADDITIONAL REPRESENTATIONS

4 additional letters of support have been received that raise no new issues.

The Transportation Officer has confirmed that he has no objections.

NO CHANGE TO RECOMMENDATION