

MINUTES of the meeting of Planning Committee held at The Shire Hall, St Peter's Square Hereford HR1 2HX on Wednesday 5 August 2015 at 10.00 am

Present: Councillor PGH Cutter (Chairman)
Councillor J Hardwick (Vice Chairman)

Councillors: BA Baker, WLS Bowen, CR Butler, KS Guthrie, EPJ Harvey, EL Holton, JA Hyde, TM James, JLV Kenyon, FM Norman, AJW Powers, WC Skelton, EJ Swinglehurst and LC Tawn

In attendance: Councillors JM Bartlett and PJ McCaull

27. APOLOGIES FOR ABSENCE

Apologies were received from Councillors PJ Edwards, DW Greenow and A Seldon.

28. NAMED SUBSTITUTES

Councillor WLS Bowen substituted for Councillor PJ Edwards and Councillor EPJ Harvey substituted for Councillor A Seldon.

29. DECLARATIONS OF INTEREST

Agenda item 7: 143769 - Upper House Farm, Moreton-on-Lugg, Hereford

Councillor J Hardwick declared a non-pecuniary interest because he knew the applicants.

30. MINUTES

RESOLVED: That the Minutes of the meeting held on 15 July 2015 be approved as a correct record and signed by the Chairman.

31. CHAIRMAN'S ANNOUNCEMENTS

The Chairman reported that agenda item 10: 151121 – Land off High Street, Leintwardine, Herefordshire had had to be withdrawn from the agenda.

The Development Manager explained that following a High Court decision the Government had been required to withdraw its guidance exempting development from the requirement to have a Section 106 agreement where the development was fewer than 10 dwellings. This meant that application 151121 now required a Section 106 agreement. Consultation on that agreement would have to be undertaken before the application could be considered by the Committee.

32. APPEALS

The Planning Committee noted the report.

33. 143769 - UPPER HOUSE FARM, MORETON-ON-LUGG, HEREFORD, HR4 8AH

(Proposed construction of six poultry houses and feed bins, ancillary works, erection of biomass boiler building and single storey ancillary building, amendments to existing vehicular access and associated landscaping.)

(Councillor J Hardwick declared a non-pecuniary interest.)

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.

He added, further to the published update, that two more letters of representation had been received. One of these had been a letter from the applicant's agent in response to points raised by members of the Committee on the site visit. The other had been from the Campaign to Protect Rural England (CPRE).

The applicant's agent had commented in relation to drainage that the scheme included an extensive surface water management system. Regarding odour a permit was already in place for 12 poultry units and the biomass boiler. All matters relating to emissions and waste that would be produced from the site had been considered as acceptable and within the thresholds permitted by the Environment Agency.

The CPRE had expressed concern that the phosphate content of chicken manure was contributing to very serious pollution problems in the County's rivers. They had also referred to a document on the government website describing "pollution control outside of environmental permitting regulations" stating that pollution matters outside the installation boundary were not covered by environmental permit and were therefore a matter the Planning Committee needed to consider.

The Development Manager highlighted a slide in his presentation containing an odour modelling plan, showing the area that would be affected to varying degrees by odour.

He also drew attention to the Environment's log of complaints and its response to those complaints set out at appendix 1 to the report.

In relation to the impact of the development on the setting of listed buildings he referred to the comments of the Conservation Manager (Historic Buildings) as reflected at paragraph 4.9 of the report. He remarked that that the Conservation Manager had had the opportunity to assess these matters, however no objection to the application had been received from him. The Development Manager added that the visual impact of the development was limited given the distance between the development and the two listed buildings to which the Conservation Manager had referred and the fact that a modern housing estate lay between the development and those buildings. He did not consider, having had regard to the provisions of the relevant legislation, that the development had a substantial or significant impact on the listed buildings causing them significant harm,

The applicant had amended the application following officer comment on landscape and drainage and the consultation on these amended proposals was reflected in the report. There were no significant issues to resolve in relation to either drainage or environmental issues, only matters of detail.

In order to ensure that the conditions attached to any planning permission, if granted, were tailored to be specific to the site, rather than simply relying on the standard conditions set out in the recommendation in the report he requested that, in the event of an approval, officers be given delegated authority to finalise the detailed wording of any conditions.

In accordance with the criteria for public speaking, Mr K Cooper, Chairman of Moreton-on-Lugg Parish Council spoke in opposition to the Scheme. Mr P Young, a local resident, spoke in objection. Mr G Clark, the applicant's agent, spoke in support.

In accordance with the Council's Constitution the local ward members were invited to speak on the application.

Councillor PE Crockett, one of the two local ward members, was unable to attend the meeting. Arrangements had been made for Councillor WLS Bowen to speak on her behalf. He made the following principal points:

- Three Parish Councils had expressed their reservations and requested that the application be refused.
- The development would have an adverse visual impact.
- The odour and smell from the development was a concern especially when the sheds were being cleaned out. The proposed doubling of the size of the site and the planned rotation of cleaning of the two sites would mean the cleaning-out would take place more frequently.
- There appeared to be no restriction on the time during which deliveries of feed took place.
- The biomass boiler would require 1500 tonnes of fuel a year to be delivered to the site.
- There was concern about the safety of the access off the A49, upon which he was aware Councillor Guthrie proposed to elaborate.
- The company had been slow to implement tree planting conditions imposed under the previous permission. If planning permission were to be granted it would be important that tree planting conditions were firmly enforced.
- The health of the chickens was a concern.
- The proposal was in the Moreton Brook catchment which currently failed the Water Framework Directive target for phosphate.
- Whilst it was stated that foul water was to be removed from the site, it had to be asked if this simply transferred the problem.
- Local residents should be entitled to the quiet enjoyment of their homes.
- Attendance at public meetings about the issue had been high indicating the level of concern about the issues.
- He requested that the application be refused.

Councillor Guthrie, the second local ward member, made the following principal points:

- Consideration needed to be given to whether the development was agricultural or industrial.
- The scale of the development and its cumulative impact was unacceptable. It would exacerbate the noise and odour problems affecting the local community.
- It would have an adverse effect on the Cuckoo Corner campsite tourist facility.
- She referred to the foreword of the National Planning Policy Framework which stated that sustainable development should mean change for the better. The local view was that the proposal did not represent sustainable development from their perspective.

- She also assessed the proposal in relation to the three dimensions of sustainable development described in the NPPF asserting that it failed to fulfil the criteria.
- The A49 was a busy, fast and dangerous road. There had been two fatal accidents in the vicinity of the farm access. Highways England and the Police were proposing a new speed enforcement regime. The cumulative effect of housing and other development on traffic volumes needed to be considered.
- The modelling of the area that would be affected by odour and the degree of that effect did not reflect the reality of the actual experience of local residents. She read extracts from a number of letters of objection describing the unpleasant effects of the odour.
- Noise was another concern. Log cutting to provide fuel for the biomass boiler was extremely noisy and was taking place at 7am.
- The development was in the open countryside and on grade 2 and grade 3a agricultural land qualifying it as the best land as defined by the NPPF and to which safeguards should therefore be applied.
- She highlighted the concerns expressed by the Wye and Usk Foundation at paragraph 5.5.2 of the report that the development would contribute to a rise in phosphate levels in the River Wye and that levels were already a problem.
- The proposal was contrary to the NPPF and a number of saved UDP policies which she detailed.
- The environment and the quality of life of local residents should be protected and the application refused.

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

- The Council should request the Highways Agency to make improvements to the A49.
- It was noted that the development would create two additional jobs.
- It was suggested that consideration should be given to using technologies to burn chicken manure to fuel the biomass boiler thereby reducing vehicle movements and noise.
- The proposal would exacerbate a situation that was already problematic.
- The impact on tourism needed to be considered.
- Account needed to be taken of the cumulative impact of the development.
- The effect of increased phosphate levels in the County's rivers was a major concern. The Moreton Brook catchment area already contained an excess of phosphates
- Whilst not a planning consideration the welfare of the chickens was a concern.
- There were concerns about the effect of the development on the health of local residents.
- The access to and from the A49 was satisfactory with good visibility. An extension of the 50mph speed limit would be welcome as would signs warning motorists of the movement of heavy vehicles.
- There should be restrictions on the hours during which log cutting and other noise generating activities could take place.
- The NPPF referred to the need to improve places where people lived. The proposal would have a serious, negative impact on residential amenity.

- Paragraphs 109, 110 and 120 of the NPPF were relevant setting out the need to protect the landscape and minimise pollution.
- A concern was expressed about how waste removed from the site would be regulated. The Development Manager commented that movement of waste from the site was subject to licence and controlled.
- The authority had responsibilities to discharge under the EU habitats directive and could not take the view that certain pollution matters were simply the responsibility of the Environment Agency.
- The visual impact of the site was not acceptable. It was clearly visible from higher ground.
- A number of detailed concerns were expressed about the odour modelling and how the latest model compared with the models produced for earlier developments on the site. The experiences of the local residents and the views of local ward members suggested that the model did not reflect the reality. The Environmental Health Officer Environmental Protection commented that improvements in building design and construction might account for some of the differences from previous odour models. He confirmed that the model took account of both the existing development and the new proposed development.
- It was suggested that UDP policy E16 – Intensive Livestock units was relevant and represented a ground for refusal in addition to the range of policies Councillor Guthrie had identified.
- The proposal appeared contrary to policy E13 in that there surely was an adverse impact on amenity and the environment and the proposal was not well related to existing development in terms of scale.
- Consideration needed to be given to the effect of a development on the County as a whole.
- There was a concern that a number of complaints made to and logged by the Environment Agency were unsubstantiated and disproved by the record.

The local ward members were given the opportunity to close the debate.

Councillor Bowen requested the Committee to consider the negative impact upon the amenity of residents of further development mindful of the impact of the existing development.

Councillor Guthrie noted the adverse impact of the development on the County as a whole as well as the effect upon local residents and rivers.

The following grounds for refusing the application were advanced: NPPF paragraphs 9, 14 and 17 relating to residential amenity, paragraphs 109, 110 and 120 relating to pollution, saved policies E13 and E16 of the UDP and the cumulative effect in the landscape.

The Development Manager commented that in his view the Committee's concerns about odour and pollution supported by policy E16 and relevant paragraphs of the NPPF represented the strongest grounds for refusal.

RESOLVED: That planning permission be refused and Officers named in the Scheme of Delegation to Officers be authorised to finalise the drafting of the reasons for refusal for publication based on the Committee's concerns about odour and pollution supported by policy E16 and relevant paragraphs of the NPPF.

(The meeting adjourned between 11.40 am and 11.50 am.)

34. 150812 - LAND OFF WESTCROFT, LEOMINSTER, HEREFORDSHIRE, HR6 8HG

(Site for proposed residential development for 35 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 added that if the Committee was minded to approve the application he proposed that an informative should be added stating that the proposed layout of the scheme was not acceptable and it must be ensured that the amenity of properties adjoining the site was protected.

In accordance with the criteria for public speaking, Mr R Pendleton, of Leominster Town Council spoke in opposition to the Scheme. Mr K Wheeler, a local resident, spoke in objection. Mr C Goldsworthy, the applicant's agent, spoke in support.

In accordance with the Council's Constitution, the local ward member, Councillor PJ McCaull, spoke on the application.

He made the following principal comments:

- The access to the site was situated at a dangerous corner. There had been a number of accidents and near misses in that location. There would also be traffic management issues within the site itself.
- He questioned the figures contained in the Transport Statement accompanying the application regarding the number of additional vehicle movements the site would generate. He considered the figure to be too low. The surrounding area already suffered from traffic problems.
- There were many houses for sale in Leominster. He doubted whether there was a demand for more housing to be built.
- The site was surrounded by residential development with no public open space. The local community had expressed a wish for the land to be used to create a green open space, with a wildlife garden and other elements including redevelopment of a former pond.

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

- There were visibility problems with the access. In part these were caused by parked cars.
- The development should be considered as infill development.
- Road travel in the area was problematic. The roads were narrow. Two Doctors surgeries in the area added to the traffic difficulties.
- Air pollution in the Bargates area was acknowledged as being of concern. Traffic measures agreed almost 3 years ago, including replacement of the traffic lights with "smart" versions, had not been implemented. Any proposal that would increase traffic in that area should be rejected.
- The assessment of the number of additional vehicle movements the site would generate appeared to be too low.
- The proposal would have an adverse impact on existing residents of the area.

- An application in 2003 for a smaller development on the site had been refused.
- The site was outside the settlement boundary. In opposition to this point it was observed that the Authority had already granted planning permission for a number of sites outside settlement boundaries having regard to national government policies as expressed through the NPPF.
- There was support for the land to remain as open space. It was noted in response, however, that the land was privately owned.
- The proposal was contrary to the emerging Neighbourhood Plan.
- Discussion focused on a view that the application for 35 houses represented overdevelopment and that a smaller development with the provision of some green space would be a preferable option. It was proposed that consideration of the application should be deferred to allow further discussions to take place with the applicant and other relevant parties.
- In response to a question the Senior Litigator commented that he was inclined to the view that if the application were refused and an appeal lodged the Inspector would consider the appeal on the basis of the plans in place at the time the Committee made its decision. Account would not be taken of any progress made in the interim in relation to the adoption of the Core Strategy or the Leominster Neighbourhood Plan. He would, however, research the matter. Further questions were asked about the bearing this view had on the ability to advance an argument that developments were premature as emerging plans neared approval.
- The Principal Planning Officer commented in relation to prematurity that the Core Strategy proposed 1,500 new homes in Leominster. In that context it would be difficult to argue that a development of 35 houses would jeopardise strategic development objectives,
- The Principal Planning Officer also commented that the application previously refused had been for 8 houses but on a smaller area. Current UDP policy suggested that a density of 30-50 houses per hectare in that location would be acceptable. The emerging Core Strategy proposed a density level of 35 houses per hectare. The proposal before the Committee represented a density level of 27-28 houses per hectare.
- He clarified that the traffic flow figures at paragraph 6.21 of the report referred to trips during the peak flow periods.

The Development Manager commented that to refuse an application on highway grounds the impact of a development had to be severe. That was not the case in this instance. No weight could be given to the Neighbourhood Plan. The County required housing development and Cabinet had agreed a policy that development outside settlement boundaries would be permitted in some circumstances. The developer was offering an amount of public open space which would help offset the lack of play space in the area. In considering whether the density of a development was appropriate a Planning Inspector would take account of the character of the surrounding area, which in this case was an area of dense development. A proposed density of up to 28 houses per hectare was therefore readily acceptable. He reiterated that the argument of prematurity could not be applied. The Committee was being asked to consider the principle of development and access, not the detail of the application.

The local ward member was given the opportunity to close the debate. He suggested that a compromise might be possible. He noted that he had not received objections to development to the one side of the hedge in the centre of the site. He supported a deferral to permit further discussions.

RESOLVED: That consideration of the application be deferred to permit further discussions to take place.

35. 151344 - BPI FILMS, WORCESTER ROAD, LEOMINSTER, HEREFORDSHIRE, HR6 0QA

(Proposed alterations to roof, replacement of existing roof vents with noise suppression louvres. Acoustic panel surround and silencers to chiller units.)

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 R Pendleton, of Leominster Town Council spoke in opposition to the Scheme. Mr and Mrs Domanski, local residents, spoke in objection. Mr P Cooke, on behalf of the applicant, spoke in support.

In accordance with the Council's Constitution, the local ward member, Councillor JM Bartlett, spoke on the application.

She made the following principal comments:

- The recognition that there were issues to rectify was welcome.
- The report stated that planning permission was not required for the new unit itself. The principal issue was whether the works were the best solution to the noise problems being caused by the factory, representing best practice and the use of the best techniques.
- UDP policy DR13 required this type of development to include appropriate measures to mitigate noise impact to an acceptable level. There were still a number of issues for the applicant to address in relation to noise. She therefore requested that in line with Leominster Town Council's representation, if permission were granted, following completion of the proposed works the applicant should be required to undertake a noise assessment of the site to ensure that the measures had worked.
- BPI was important to the economy of Leominster and of the County as a whole. BPI had recently met the Town Council. It was to be hoped that if permission were granted, with the proposed condition, links between the two would continue to improve.

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

- Noise from the factory was clearly affecting local residents. The proposed improvements should be approved and then subjected to regular monitoring to ensure that they were effective.
- Low frequency sound was very intrusive and difficult to track. The company appeared to be trying to address the issue and its efforts should be supported.
- The noise from the factory had caused considerable distress to local residents. Local confidence in the company's actions to address the problem had been shaken. A condition requiring monitoring of the new measures would contribute to rebuilding that confidence.
- It was asked why the report expressed such confidence at paragraph 6.4 that the measures proposed would have a positive impact. The Environmental Protection Service Manager commented on work undertaken by the Service and by the Company with consultants. Noise would continue to be an issue for some residents

because it was difficult to completely silence a factory. However, the firm had co-operated with the Service and he considered that the proposals were good.

The Development Manager commented that a condition of the type being proposed would be unenforceable. An informative note could be added requesting the applicant to undertake monitoring, but a requirement to do so could not be imposed.

The local ward member was given the opportunity to close the debate. She expressed concern that a condition could not be imposed and that it appeared that some residents would continue to suffer from the noise. It was to be hoped that the Company would seek to rebuild confidence with the community.

RESOLVED: That planning permission be granted subject to the following conditions:

1. **A01 Time-limit-for-commencement (full permission)**
2. **B01 Development in accordance with the approved plans**
3. **C02 Matching external materials**

Informative:

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. **The Planning Committee encourages the adoption of further monitoring following the installation of sound proofing, louvres and sound dampening to the chiller units, and discussions with the Council's Environmental Health Department.**

36. 151121 - LAND OFF HIGH STREET, LEINTWARDINE, HEREFORDSHIRE

This application was withdrawn from the agenda, pending a consultation upon an S106 agreement, for the reason set out in Minute no 31 - Chairman's announcements.

37. DATE OF NEXT MEETING

The Planning Committee noted the date of the next meeting.

Appendix 1 - Schedule of Updates

The meeting ended at 1.40 pm

CHAIRMAN

PLANNING COMMITTEE

Date: 5 August 2015

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

143769 - PROPOSED CONSTRUCTION OF SIX POULTRY HOUSES AND FEED BINS, ANCILLARY WORKS, ERECTION OF BIOMASS BOILER BUILDING AND SINGLE STOREY ANCILLARY BUILDING, AMENDMENTS TO EXISTING VEHICULAR ACCESS AND ASSOCIATED LANDSCAPING. AT UPPER HOUSE FARM, MORETON-ON-LUGG, HEREFORD, HR4 8AH

For: Mr and Mrs S Perkins per Mr Graham Clark, Newchurch Farm, Kinnersley, Hereford, Herefordshire HR3 6QQ

ADDITIONAL REPRESENTATIONS

A further letter has been received from a local resident raising issues relating to odour, noise from log grinder and highway safety on A49(T).

OFFICER COMMENTS

The issues raised are all addressed within the report to Planning Committee

NO CHANGE TO RECOMMENDATION

150812 - SITE FOR PROPOSED RESIDENTIAL DEVELOPMENT FOR 35 HOUSES AT LAND OFF WESTCROFT, LEOMINSTER, HEREFORDSHIRE, HR6 8HG

For: Mr Bates per Miss Lorraine Whistance, 85 St Owen Street, Hereford, Herefordshire, HR1 2JW

Informative HN05 (Works within the highway) has been duplicated in the Recommendation therefore informative note number 10 is deleted

CHANGE TO RECOMMENDATION

Removal of informative note 10

151344 - PROPOSED ALTERATIONS TO ROOF, REPLACEMENT OF EXISTING ROOF VENTS WITH NOISE SUPPRESSION LOUVRES. ACOUSTIC PANEL SURROUND AND SILENCERS TO CHILLER UNITS AT BPI FILMS, WORCESTER ROAD, LEOMINSTER, HEREFORDSHIRE, HR6 0QA

For: Mr Cooke per Mr Stephen Potter, Pomona Office, Kings Acre Road, Hereford, Herefordshire, HR4 0SN

ADDITIONAL REPRESENTATIONS

Three further letters of objection have been received from local residents.

OFFICER COMMENTS

The representations do not materially raise issues different from those identified in the report.

NO CHANGE TO RECOMMENDATION

151121 - PROPOSED RESIDENTIAL DEVELOPMENT OF 10 NO DWELLINGS AT LAND OFF HIGH STREET, LEINTWARDINE, HEREFORDSHIRE

For: Mr Stewart per Mr Alastair Stewart, 7 Sweetlake Business Park, Shrewsbury, Shropshire, SY3 9EW

This application has been removed from the Committee agenda following a change in Central Government Policy that will necessitate further consultation.

