

**MINUTES of the meeting of Planning Committee held at Council Chamber, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Wednesday 13 January 2016 at 10.00 am**

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

Councillors: BA Durkin, PJ Edwards, KS Guthrie, EL Holton, JA Hyde, TM James, MD Lloyd-Hayes, MN Mansell, FM Norman, AJW Powers, A Seldon, WC Skelton and EJ Swinglehurst

**In attendance:** Councillors JG Lester and AR Round

**125. APOLOGIES FOR ABSENCE**

Apologies were received from Councillor BA Baker, CR Butler, DW Greenow, JLV Kenyon, and LC Tawn.

**126. NAMED SUBSTITUTES**

Councillor BA Durkin substituted for Councillor BA Baker, Councillor MD Lloyd-Hayes for Councillor JLV Kenyon and Councillor MN Mansell for Councillor LC Tawn.

**127. DECLARATIONS OF INTEREST**

**Agenda item 8: 141964 – Land off Madley Road, Clehonger**

Councillor FM Norman declared a non-pecuniary interest because she knew one of the public speakers.

**Agenda item 9: 151937 – Land Adjacent to Newlands, Stoke Lacy, Hereford**

Councillor PJ Edwards declared a non-pecuniary interest on the basis that he might be a distant relation of the applicant.

Councillor A Seldon declared a non-pecuniary interest because the site had been within his former ward boundary.

**128. MINUTES**

**RESOLVED:** That the Minutes of the meetings held on 9 December 2015 be approved as a correct record and signed by the Chairman.

**129. CHAIRMAN'S ANNOUNCEMENTS**

There were no announcements.

**130. APPEALS**

The Planning Committee noted the report.

**131. 150659 - HOLMER TRADING ESTATE, COLLEGE ROAD, HEREFORD.**

*(Demolition of all existing buildings and hard standings, remediation of the site, including reinstatement or landscaping of the former canal and development of up to 120 homes, landscaping, public open space, new vehicle and pedestrian access and associated works at Holmer trading estate, College Road, Hereford.)*

The Principal Planning Officer gave a presentation on the application, and updates/additional representations received following the publication of the agenda were provided in the update sheet, as appended to these Minutes.

In accordance with the criteria for public speaking, Mr J Mayo-Evans, a business owner on the Holmer trading estate, spoke in objection to the application. Mr B Stephenson, the applicant's agent, spoke in support.

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

He observed that, as outlined in the presentation on the application, the loss of employment land had to be weighed against the unique opportunity for the viable reconstruction of the Hereford to Gloucester Canal. In his view the employment land was poor quality and it was essential to take the opportunity to reconstruct the canal.

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

- A scheme for the redevelopment of the trading estate had been allowed on appeal in 2009. This meant that the principle of development on the site had been established.
- The evidence on the impact on future residents of noise and disturbance from businesses that would continue to operate on part of the estate was unclear. It was asked what assurances could be provided that the residential and business uses could co-exist harmoniously.

The Principal Planning Officer commented that the risk of noise nuisance had been considered at the 2009 appeal and it had been concluded that a proposed solution would work. The requirement to protect the development from noise nuisance was reflected in Conditions 24 and 25 as set out in the recommendation.

- Some concern was expressed about the proposed highway arrangements. Access from College road was to be the same as proposed in 2009, via a mini-roundabout and signalised junction over the railway bridge. Opposition was expressed to more traffic lights in the City and the environmental issues they brought. It was also requested that highway improvements were made to the bridge to counter the present accident risk and asked whether the bridge could be improved to facilitate pedestrian and cycle use.

The Transportation Manager commented that the traffic over the railway bridge was single lane to accommodate the existing footpath in order to provide safe pedestrian connectivity. Consideration could be given as part of the S278 process to whether there was sufficient width to create a cycleway as well.

- There was a need for housing in the City. It was to be regretted that the Scheme could not include affordable housing. However, it was observed that the need for affordable housing was being addressed by identifying provision on other sites. In contrast, the restoration of the canal could only be accomplished on the application

site and that would bring significant economic, environmental and social benefits. The development accorded with policy E4 - Tourism which in this case outweighed policy E2 – redevelopment of existing land and buildings.

- The provision of smaller housing units on the development might provide more affordable dwellings.
- Care needed to be taken in dealing with the contaminated spoil on the site.
- Sympathy was expressed to existing tenants of the trading estate who had not yet found alternative premises and it was requested that the Council should do all it could to assist them to relocate.
- The Canal Trust had requested that it be made explicit that the S106 agreement should be a tripartite agreement between the Council, the developer and the Trust and this should be made clear in the Committee's resolution.
- The wording of the Committee's resolution should also make clear that the S106 agreement should include a claw-back mechanism whereby in the event that the canal restoration was not as costly as first assumed, a commuted sum would be paid to the Council for the purpose of delivering affordable housing elsewhere.
- A concern was also expressed about the need to ensure that, whilst some increase in the density of development might be acceptable, to facilitate contributions through the S106 agreement, it would not be appropriate for the scheme to propose the same density of development as proposed in the 2009 application. The Principal Planning Officer commented that the precedent had been set and this matter would be addressed as part of the discussion of the S106 agreement and reserved matters.

The Development Manager commented that there would be footpath access from the development into Aylestone Park. The Council through its economic development officers had been providing assistance to businesses to relocate.

The local ward member was given the opportunity to close the debate. He noted the support for the application and urged that every assistance be provided to existing businesses who wished to do so to relocate.

**RESOLVED: Subject to the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement, the scope of which will include the requirement that the agreement includes a minimum of three parties (the Council, the developer and the Herefordshire and Gloucestershire Canal Trust) to facilitate the restoration of the Hereford to Gloucester Canal and the inclusion of a claw-back mechanism whereby in the event that the canal restoration is not as costly as first assumed, a commuted sum will be paid to the Council for the purpose of delivering affordable housing elsewhere, 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. **A05 Plans and particulars of reserved matters**
5. **B03 Amended plans**

6. **H06 Vehicular access construction**
7. **H17 Junction improvement/off site works**
8. **H19 On site roads – phasing**
9. **H20 Road completion**
10. **H21 Wheel washing**
11. **H27 Parking for site operatives**
12. **H29 Covered and secure cycle parking provision**
13. **H31 Outline travel plan**
14. **No development, or phasing as agreed below, shall take place until the following components of a scheme to deal with the risks associated with contamination of the site are submitted to and approved in writing, by the local planning authority**

**1) A site investigation scheme, based on the preliminary risk assessment, Holmer Trading Estate, College Road, Hereford, September 2014, Waterman Energy, Environment & Design Limited., to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.**

**2) The site investigation results and the detailed risk assessment (1) and, based on these, an options appraisal and remediation strategy, if necessary, of the remediation measures required and how they are to be undertaken.**

**3) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. This should include any proposed phasing of demolition or commencement of other works.**

**4) Prior to occupation of any part of the development (unless in accordance with agreed phasing under part 3 above) a verification (validation) report demonstrating completion of the works set out in the approved remediation strategy (2 and 3). The report shall include results of any sampling and monitoring. It shall also include any plan (a “long-term monitoring and maintenance plan”) for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action and for the reporting of this to the Local Planning Authority. Any changes to these components require the express written consent of the Local Planning Authority. The scheme shall be implemented as approved. Reason: To protect ground and surface waters (‘controlled waters’ as defined under the Water Resources Act 1991). Condition: If during development, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority, a Method Statement for remediation. The Method Statement must**

detail how this unsuspected contamination shall be dealt with. A verification (validation) report demonstrating completion of the works set out in the method statement shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of any sampling and monitoring. It shall also include any plan (a “long-term monitoring and maintenance plan”) for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action and for the reporting of this to the Local Planning Authority. Reason: To ensure that any unexpected contamination is dealt with and the development complies with approved details in the interests of protection of ground and surface waters (‘controlled waters’ as defined under the Water Resources Act 1991).

15. G19 details of play equipment
16. G10 Landscaping scheme
17. G11 Landscaping implementation
18. G14 Landscape management plan
19. L01 Foul/surface water drainage
20. L02 No surface water to connect to public system
21. L03 No drainage run-off to public system
22. L04 Comprehensive and integrated draining of site
23. The recommendations for species mitigations set out in Section 5 of the ecologist’s reports from Ecology Services dated November 2015 and habitat enhancements set out within Section 5 of the ecologist’s reports from Ecology Services dated February 2015 should be followed unless otherwise agreed in writing by the local planning authority and the scheme shall be carried out as approved. A working method statement for protected species present and habitat enhancement plan should be submitted to the local planning authority in writing. The plan shall be implemented as approved.

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (with amendments and as supplemented by the Countryside and Rights of Way Act 2000), the Natural Environment and Rural Communities Act 2006 and the Conservation of Habitats and Species Regulations 2010 (and 2012 amendment).

24. Development shall not commence until a scheme to safeguard the residential units hereby permitted from road traffic, railway and industrial noise has been submitted to and approved in writing by the local planning authority. All works which form part of the approved scheme shall be completed before occupation of any dwellings and shall thereafter be retained.

Reason: To protect the amenities of the residential units hereby approved so as to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the NPPF.

25. Prior to the commencement of development, details of a scheme for acoustic attenuation of noise from the extract fans at Cavanaghs shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to first occupation of any of the residential units hereby permitted and any works or attenuation measures shall thereafter be retained.

Reason: To protect the amenities of the residential units hereby approved so as to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the NPPF.

- 26 No development shall take place until the following has been submitted to and approved in writing by the local planning authority:
- a) a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice
  - b) if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors
  - c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment.

27. The Remediation Scheme, as approved pursuant to condition no. (1) above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment.

28. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local

**planning authority for, an amendment to the Method Statement detailing how this unsuspected contamination shall be dealt with.**

**Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment.**

**INFORMATIVES:**

- 1. Statement of positive and proactive working**
  - 2. S106**
  - 3. HN01 Mud on Highway**
  - 4. HN04 Private Apparatus Within Highway**
  - 5. HN05 Works Within the Highway**
  - 6. HN07 Section 278 Agreement**
  - 7. HN08 Section 38 Agreement and Drainage Details**
  - 8. HN10 No Drainage to Discharge to Highway**
  - 9. HN21 Extraordinary Maintenance**
  - 10. HN25 Travel Plans**
  - 11. HN27 Annual Travel Plan Reviews**
  - 12. HN28 Highway Design Guide and Specification**
- 132. P141964/O - LAND OFF, MADLEY ROAD, CLEHONGER, HEREFORDSHIRE, HR2 9TE**

*(Site for residential development of up to 90 dwellings with access, parking, public open space with play facilities and landscaping.)*

The Principal Planning Officer gave a presentation on the application. He informed the Committee that the applicants had appealed against non-determination of the application. The Committee was being asked to indicate that it was minded to refuse the application on the grounds set out in the recommendation.

In accordance with the criteria for public speaking, Mrs C Protheroe, of Clehonger Parish Council spoke in opposition to the Scheme. Mrs Costello-Bates, a local resident, spoke in objection.

In accordance with the Council's Constitution, the local ward member, Councillor SD Williams, spoke on the application. He supported the grounds for refusal.

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

- Members spoke in support of the grounds for refusal as set out in the report.

- A concern was expressed about the treatment of proportional growth targets with reference to paragraph 4.8.21 of the Core Strategy and policy RA2 and the need for consistency. The wording of policy RA2 itself referred to minimum targets but was silent about proportional growth. The Development Manager commented that the definition of what constituted proportional growth had not been tested in appeal given the recent adoption of the Core Strategy. It was considered that increases which were substantially above the minimum targets, such as in this case, would not constitute proportionate growth.

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

**RESOLVED: That the Committee was minded to refuse planning permission for the following reasons:-**

1. **The application is for large-scale residential development on land adjoining the built up form of the village at Clehonger. It is, however, considered to represent development that is contrary to the existing settlement pattern, which is almost completely contained within the boundaries created by the surrounding roads. The development would thus make a significant, detrimental incursion into pastoral land with urbanising effects and concomitant loss of historic hedgerow. The development is thus considered contrary to Herefordshire Local Plan – Core Strategy Policies RA2 and LD1 as well as Paragraph 17 of the National Planning Policy Framework.**
2. **The village Wastewater Treatment Works is operating over-capacity with the effect that additional discharge would be likely to adversely affect the conservation status of the River Wye SSSI/SAC and its tributary the Cage Brook SSSI. In the absence of agreement between Statutory Undertaker and applicant, a solution enabling connection to the foul mains has not been found and nor has an acceptable alternative arrangement been suggested. The Council is unable to conclude that the development would not lead to a likely significant effect on the River Wye SSSI/SAC and its tributary the Cage Brook SSSI and that on this basis the scheme is contrary to Core Strategy Policies LD2 and SD4 as well as NPPF 118, a restrictive policy, which overrides the presumption in favour of sustainable development.**
3. **A legal agreement pursuant to S106 of The Town and Country Planning Act 1990 (As Amended) has not been completed. As such there is no legal mechanism by which the Council can require the payment of contributions that comply with the CIL regulations at Section 122(2) (b) or properly regulate the delivery, construction and occupation of the affordable dwellings. These measures are necessary to make the development acceptable and the financial contributions are considered fairly related in scale and kind with the proposal. The absence of an agreement is in conflict with Herefordshire Local Plan – Core Strategy Policy ID1, the Council’s Planning Obligations Supplementary Planning Document and guidance set out in the National Planning Policy Framework 2012.**

**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.**

*(The meeting adjourned between 11.39 am and 11.48 am.)*

**133. 151937 - LAND ADJACENT TO NEWLANDS, STOKE LACY, HEREFORD**

*(Proposed demolition of existing buildings and erection of 28 nos dwelling houses with details of access and all other matter reserved.)*

The Principal Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mr K Bungey, a local resident, spoke in objection to the application. Mr P Harris, the applicant's agent, spoke in support.

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

He made the following principal comments:

- The development would be to the detriment of existing properties especially three dwellings to the south of the site. He drew attention to the height differential between Crossfield House and part of the development site. As an outline application it was to be hoped that if it were to be approved the protection of the amenity of existing properties could be considered at the reserved matters stage.
- The applicants were a local family providing development land for the benefit of the village.
- There had been two public consultation exercises. Whilst most people seemed willing to accept some development there was some disappointment over the scale of development proposed. It was feared that it would dominate existing properties and the character of the settlement. However, he acknowledged that economies of scale played their part in considering the size of a development. The scheme would provide 10 affordable housing units which would be of benefit.
- A key question was what constituted proportionate development. The proposal would provide in one development more than the minimum growth the Core Strategy envisaged for Stoke Lacy in the life of the Strategy. There was merit in considering the possibility of organic growth on a number of locations in Stoke Lacy.
- It was disappointing that the S106 agreement did not propose any contribution to the local high school.

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

- Traffic speed on the A465 was a concern. Calming measures had to date proved ineffective.
- The possibility of phasing development was discussed. It was noted that in economic terms this was unlikely to be viable for a small development and phasing also entailed an extended period of disruption from construction works.

- Welsh Water had originally objected to the proposal. The Principal Planning Officer commented that this initial objection had been withdrawn following Welsh Water's discussion with the applicants. Welsh Water's response as a statutory consultee was that it had no objection. There was also no professional objection to the proposed drainage strategy.
- The Parish Council had expressed concerns about the scale of development, the impact on the amenity of existing residents and highway safety.
- The development represented overdevelopment of the village.
- Whilst the development might appear large for Stoke Lacy, it was difficult to argue that the development represented disproportionate growth for the Parish as a whole and that was what the policies in the Core Strategy were based on.
- Any development should be of a good quality and energy efficient.
- The provision of single storey dwellings in the relevant part of the development would preserve the amenity of existing properties and this should be required.

The Development Manager commented that an informative could be added encouraging the provision of single storey dwellings in the relevant part of the site. The density of the development was relatively low at 18 dwellings per hectare. The Core Strategy envisaged 24 dwellings for the Parish over the life of the Strategy rather than the 28 proposed. However, it did represent proportionate growth. There were no other planning applications outstanding and each application had to be considered on its merits. There was provision in the S106 agreement for traffic calming and traffic management measures such as a gateway feature for the village to help reduce the speed of traffic. The development would provide affordable housing and was supported by the Parish Council in principle. The High School was not eligible for S106 funding because there was capacity at the school.

The local ward member was given the opportunity to close the debate. He commented that although a S106 contribution to the High School may not be required this did not mean that one could not be requested. The provision of single storey dwellings in part of the development was a good proposal.

**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. **B01 – Development in accordance with approved plans**
5. **The development shall include no more than 28 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. H02 Single access – footway**
- 7. H03 Visibility splays**
- 8. H06 Vehicular access construction**
- 9. H11 Parking – estate development (more than one house)**
- 10. H18 On site roads – submission of details**
- 11. I13 Scheme to protect new dwellings from road noise**
- 12. The recommendations set out in the ecologist’s report from fpcr dated June 2015 should be followed. Prior to commencement of the development a working method statement for bat species mitigation and a habitat management /enhancement scheme integrated with the landscape scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.**

**An appropriately qualified and experienced ecological clerk of works should 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 and NC7 of Herefordshire Unitary Development Plan. To comply with Herefordshire Council’s Policy NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of the NPPF and the NERC Act 2006**

- 13. L01 Foul/surface water drainage**
- 14. L02 No surface water to connect to public system**
- 15. L03 No drainage run-off to public system**

**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**
7. **HN24 Drainage other than via highway system**
8. **HN05 Works within the highway**
9. **HN28 Highway Design Guide and Specification**
- 10 **That consideration be given within the Reserved Matters application to single storey development where the site adjoins existing dwellings.**

**134. 151354 - LYNDERS WOOD, UPTON BISHOP, HEREFORDSHIRE**

*(Proposed archery course with 3d foam animal targets on a circuit through the woods. To include a reception area, off road parking, and serviced portaloo toilet facilities.)*

*(The Chairman received the Committee's agreement to this item (agenda item 10) being considered in advance of application 151937 (agenda item 9).)*

The Committee had deferred consideration of this application at its meeting on 9 December pending a site visit.

The Acting 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 F Buchanan, the applicant spoke in support of the application.

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

He made the following principal comments:

- Whilst not in the Wye Valley AONB the site was ancient woodland and policy required that ancient woodlands should be protected and enhanced. He remained concerned that the proposed activity would have an adverse impact on flora and fauna.
- He was also concerned about the safety of the site. At least three of the targets required arrows to be directed towards them outwards from the site. He was not aware of there being any independent safety report.
- If permission were to be granted he requested that a condition be imposed restricting activity solely to archery.

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

- The question of safety was the principal concern, in particular the proximity of targets to the site boundary and how the risk of arrows straying outside the site boundary could be reduced.
- Signage to warn people of the potential danger of trespassing on the site was also discussed. It was noted, however, that there was the possibility that this might attract interest contrary to the desired effect.

- It was noted that under the General Permitted Development Order the site could be used for the proposed purpose for 28 days without any planning permission being required. The application sought permission to operate between April-October. The Committee therefore appeared to be being asked to grant permission for some 65 days of controlled operation. This might appear preferable to 28 days of uncontrolled operation.
- The site was ancient woodland and there were far better uses to which it could be put.
- The proposal was a good idea and very few people had objected to it.

The Acting Principal Planning Officer confirmed that there were no public rights of way crossing the site. The site was fenced with barbed wire and a locked gated access. The Council's ecologist had recommended conditions to protect the woodland with the route and position of targets to be controlled. However, some other ancient woodlands were used to a far greater degree. An additional condition could be imposed to address concerns about safety, providing for a buffer zone between the perimeter of the site and the targets and managing the direction of fire to avoid arrows flying outside the site.

The Development Manager added that he had discussed the application with the Council's ecologist and the ecologist considered that the low key usage as proposed would be good for the woodland and ecology and protect it better than many other uses. It should be borne in mind that, as mentioned in the debate, the Committee was in effect being asked to grant permission for some 65 days of controlled operation with 28 days of uncontrolled operation being permitted in any event. A condition restricting use to archery could be imposed.

It was proposed that officers should be authorised to approve the application with additional conditions after consultation with the Chairman and local ward member. The local ward member was given the opportunity to close the debate. He commented that there were concerns in the local community about the proposal and observed that the two Parish Councils involved both opposed the scheme. He remained concerned about safety and the need for a risk assessment to be undertaken by an authenticated qualified person.

**RESOLVED: That Officers named in the Scheme of Delegation to Officers are authorised to grant planning permission, subject to the conditions below and any other further conditions considered necessary after consultation with the Chairman and local ward member about the appropriate positioning of targets:**

1. **A01 Time limit for commencement (full permission)**
2. **B03 Amended plans – received 16.11.2015**
3. **Prior to the implementation of the change of use hereby permitted, a dormouse survey should be conducted and the findings together with full working method statement and enhancement measures for dormice if necessary should 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 should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.**

**Reasons:**

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 Policy LD2 of the Herefordshire Local Plan - Core Strategy and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006.

4. Prior to the implementation of the change of use hereby permitted a report evaluating the impact of the trail upon ground flora and field layer of the woodland and any identified badger activity on the site should be submitted to the local planning authority. Confirmation of the trail route and any required mitigation should be submitted to the local planning authority in writing together with photographic evidence of the measures implemented. The works carried out shall be in accordance with the approved details and mitigation.

An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.

**Reasons:**

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 Policy LD2 of the Herefordshire Local Plan - Core Strategy and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006

5. The use hereby permitted shall only be carried out in accordance with the following:
  1. Participants shall only be allowed on site between the hours of 9am and 6pm on Saturdays, Sundays and bank holidays.
  2. At any one time there shall be no more than 8 participants on the site, in addition to the 2 directors.

Reason: In order to protect the amenity of occupiers of nearby properties and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

6. Upon cessation of the use hereby permitted the portaloos, canopy and targets shall be permanently removed from the site. Between the 1 November and 31 March each year that the use operates the canopy shall be taken down, the target practice area dismantled and the portaloos removed from the site, unless alternative details have first been submitted to and agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenities of the locality and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 7 H03 visibility splays
- 8 H13 access, turning and parking
- 9 Restriction of use to archery only

**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. **Drinking water - The development may mean that non mains drinking water is necessary for the scheme. All new non-mains water supplies must be wholesome and comply with the standards set out in the Private Water Supplies Regulations 2009.**
3. **Food and drink - Please note that if the proposal includes the use of the premises for the production and/or sale of food and drink, in accordance with Article 6 EU Regulation 852:2004 on the Hygiene of Foodstuffs, the business will be required to be registered as a food business with the Commercial team in Environmental Health and Trading Standards.**

*[Note: Following determination of the above application Councillor Durkin informed the Committee of a comment made to him by the applicant as the applicant left the Chamber and requested that this incident be recorded.]*

**135. 152036 - LAND ADJACENT TO, FARADAY HOUSE, MADLEY, HEREFORDSHIRE, HR2 9PJ**

*(Site for proposed erection of 27 dwellings including affordable housing.)*

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 C Boyles, of Madley Parish Council spoke in opposition to the Scheme. Mr B Eacock, the applicant's agent, spoke in support.

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

He made the following principal comments:

- He expressed concern about the impact of the proposal on the drainage and sewerage systems.
- The road from Madley to Bridge Sollers was dangerous. Claypits Lane was also subject to flooding from surface water run-off.

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

- There was a clear need for highway improvements on the Bridge Sollers to Madley road including measures to allow surface water to drain away.
- The proposal formed phase 2 of a development, although phase 1 had not yet commenced. It was surprising that the same access was to serve both phases.
- The footway access was also surprising.

- The proposal would involve the loss of grade 2 agricultural land.
- The Parish Council strongly opposed the application.
- Welsh Water's assessment of the application was questioned.
- The proposal would be within the minimum growth target for the Parish of Madley in the Core Strategy.

The Principal Planning Officer commented that in proposing phase 1 of the development efforts had been made to address connectivity. The access had very good visibility in both directions. Resources had been allocated for improvements to the Madley to Bridge Sollers road. The landowner had allocated land for passing bays and was also keen to assist in improving drainage. Wherever growth took place in Madley there would be extra traffic. The road junction could accommodate the extra traffic.

The Development Manager commented that 51 more houses needed to be provided to meet the minimum growth target in the Core Strategy. The proposal was for 27 dwellings, 9 of which would be affordable. The density was low. The Neighbourhood Plan, whilst a material consideration, was not sufficiently advanced to attract weight. The draft S106 agreement provided a number of community benefits. A suitable drainage proposal would be required prior to the commencement of any development.

The local ward member was given the opportunity to close the debate. He reiterated his concerns about drainage and the condition of the Madley to Bridge Sollers Road He questioned whether funding was in place to support improvements to the road. He added that another site for housing development was under consideration.

**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, as amended by the Committee update, 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. **B01 Development in accordance with the approved plans**
5. **C01 Samples of external materials**
6. **I51 Details of slab levels**
7. **H03 Visibility splays**
8. **H07 Single access - outline consent**
9. **H13 Access, turning area and parking**
10. **H17 Junction improvement/off site works**
11. **H18 On site roads - submission of details**
12. **H19 On site roads - phasing**

13. H20 Road completion in 2 years
14. H27 Parking for site operatives
15. H29 Secure covered cycle parking provision
16. I16 Restriction of hours during construction
17. G11 Landscaping scheme - implementation
18. G14 Landscape management plan
19. G15 Landscape maintenance arrangements
20. The recommendations set out in the ecologist's reports dated 27th June 2013 from Countryside Consultants and from Just Mammals Ecology dated November 2014 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of development a full working method statement to cover great crested newt mitigation shall be submitted to, and be approved in writing by, the local planning authority. The scheme shall be implemented as approved.

Prior to commencement of the development, a habitat enhancement and management scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.

An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation and enhancement work.

**Reasons:** 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 Policy LD2 of the Herefordshire Local Plan - Core Strategy and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006.

21. L01 Foul/surface water drainage
22. L02 No surface water to connect to public system
23. L03 No drainage run-off to public system
24. L04 Comprehensive & Integrated draining of site
27. M17 Water Efficiency - Residential

**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. Non Standard - Drainage advice

3. **HN01 Mud on highway**
4. **HN04 Private apparatus within highway**
5. **HN05 Works within the highway**
6. **HN08 Section 38 Agreement & Drainage details**
7. **HN07 Section 278 Agreement**
8. **HN10 No drainage to discharge to highway**
9. **HN22 Works adjoining highway**

**136. DATE OF NEXT MEETING**

The Planning Committee noted the date of the next meeting.

**Appendix 1 - Schedule of Committee Updates**

The meeting ended at 1.58 pm

**CHAIRMAN**

# **PLANNING COMMITTEE**

**Date: 13 January 2016**

## **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

**150659 - DEMOLITION OF ALL EXISTING BUILDINGS AND HARD STANDINGS, REMEDIATION OF THE SITE, INCLUDING REINSTATEMENT OR LANDSCAPING OF THE FORMER CANAL AND DEVELOPMENT OF UP TO 120 HOMES, LANDSCAPING, PUBLIC OPEN SPACE, NEW VEHICLE AND PEDESTRIAN ACCESS AND ASSOCIATED WORKS AT HOLMER TRADING ESTATE, COLLEGE ROAD, HEREFORD.**

**For: The Owner per Mr Ben Stephenson, Greyfriars House, Greyfriars Road, Cardiff, CF10 3AL**

### **ADDITIONAL REPRESENTATIONS**

Environmental Health Officer: Recommends conditions

The contaminated land assessment reports submitted alongside this application recognise the site to be contaminated due to its previous uses. It is also understood that the adjacent infilled canal is equally likely to contain potentially contaminative material which will need significant consideration as to remedial options in due course.

As and when the project progresses, I would recommend the applicant contact ourselves to discuss further in due course and at an early stage.

With the above in mind I would recommend the following condition be appended to any approval.

1. No development shall take place until the following has been submitted to and approved in writing by the local planning authority:
  - a) a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice
  - b) if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors
  - c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment.

2. The Remediation Scheme, as approved pursuant to condition no. (1) above, shall be fully implemented before the development is first occupied. On completion of the

remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment.

3. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, an amendment to the Method Statement detailing how this unsuspected contamination shall be dealt with.

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment.

#### **CHANGE TO RECOMMENDATION**

Add the conditions to the recommendation.

**151354 - PROPOSED ARCHERY COURSE WITH 3D FOAM ANIMAL TARGETS ON A CIRCUIT THROUGH THE WOODS. TO INCLUDE A RECEPTION AREA, OFF ROAD PARKING AND SERVICED PORTALOO TOILET FACILITIES AT LYNDERS WOOD, UPTON BISHOP, HEREFORDSHIRE**

**For: Mr F Buchanan, 27 Archenfield Estate, Madley, Hereford, Herefordshire HR2 9NS**

#### **ADDITIONAL REPRESENTATIONS**

Herefordshire Badger Group (Affiliated to The Badger Trust) has advised that they have been asked to check on the presence of badger setts in Lynders Wood and that there is at least one sett on the site. Subsequent communication between Herefordshire Badger Group's secretary and the Council's Ecologist and Planning Officer has resulted in confirmation that they agree to the recommended condition. They have specified the information that they consider should be provided in any report, including mitigation if required. In addition they have advised that they are happy to assist if required in providing expert advice and help both on the ground and in writing to whoever requires it.

#### **OFFICER COMMENTS**

The Council's Ecologist has been reconsulted in respect of the information provided by The Badger Group. The Ecologist has advised that he has already flagged up the need to identify impacts upon fauna (dormice) and ground flora and these are to be covered by condition and recommends that the second condition is amended to include the need to determine the impact upon badgers if they have been demonstrated to be present on the site. The mitigation relating to badgers will be one of the nature of working near any setts. Clearly there will be a need to show where the sett(s) occur and avoid areas with significant

badger activity. The reports requested by condition should contain an assessment of this together with mitigation deemed necessary.

In addition the reasons for conditions 3 and 4 were omitted in the Committee Report and are provided below.

#### **CHANGE TO RECOMMENDATION**

Modification of condition 4 to read:

Prior to the implementation of the change of use hereby permitted a report evaluating the impact of the trail upon ground flora and field layer of the woodland and any identified badger activity on the site should be submitted to the local planning authority. Confirmation of the trail route and any required mitigation should be submitted to the local planning authority in writing together with photographic evidence of the measures implemented. The works carried out shall be in accordance with the approved details and mitigation.

An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.

Reasons:

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 Policy LD2 of the Herefordshire Local Plan - Core Strategy.

To comply with Herefordshire Council's Policy NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006

Reasons in respect of condition 3 to read:

Reasons:

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 Policy LD2 of the Herefordshire Local Plan - Core Strategy.

To comply with Policies NC8 and NC9 of Herefordshire's 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.

**152036 - SITE FOR PROPOSED ERECTION OF 27 DWELLINGS INCLUDING AFFORDABLE HOUSING AT LAND ADJACENT TO FARADAY HOUSE, MADLEY, HEREFORDSHIRE, HR2 9PJ**

**For: Bage Developments Ltd per Mr Bernard Eacock, 1 Fine Street, Peterchurch, Herefordshire, HR2 0SN**

#### **CHANGE TO RECOMMENDATION**

Change to Heads of Terms:

Delete clause 6 and replace as follows (incorrect policy reference)

6. The developer covenants with Herefordshire Council that 35% (9 on basis of a gross Development of 27) of the residential units shall be "Affordable Housing" which meets the Criteria set out in policy H1 of the Herefordshire Unitary Development Plan or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations.

Please note that the following tenures will be sought:

- Social Rent
- Intermediate tenure

Delete Clause 9 and replace as follows (incorrect parish references)

9. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of whom has:-

9.1. a local connection with the parish of Madley

9.2. in the event of there being no person with a local connection to Madley any other person ordinarily resident within the parishes of Eaton Bishop, Kenchester, Bridge Sollers, Preston On Wye, Tyberton, Vowchurch, Abbeydore, Kingstone who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 9.1 above.

