

**MINUTES of the meeting of Planning Committee held at Council Chamber, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Wednesday 18 May 2016 at 10.00 am**

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

Councillors: BA Baker, CR Butler, DW Greenow, KS Guthrie, EL Holton, TM James, JLV Kenyon, RI Matthews, FM Norman, AJW Powers, A Seldon, WC Skelton, EJ Swinglehurst and LC Tawn

**In attendance:** Councillors ACR Chappell and P Rone

**189. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors PJ Edwards and JA Hyde.

**190. NAMED SUBSTITUTES**

Councillor RI Matthews substituted for Councillor PJ Edwards.

**191. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**192. MINUTES**

**RESOLVED:** That the Minutes of the meeting held on 26 April 2016 be approved as a correct record and signed by the Chairman.

**193. CHAIRMAN'S ANNOUNCEMENTS**

There were no announcements.

**194. APPEALS**

The Planning Committee noted the report.

**195. 151072 - LAND OFF BELMONT ROAD, HEREFORD, HEREFORDSHIRE, HR2 7JE**

*(Proposed development of a petrol filling station, ancillary retail kiosk with associated infrastructure.)*

The Principal Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mr S Kerry, Town Clerk, Hereford City Council spoke in opposition to the Scheme. Mr A Jones representing ASDA, the applicant, spoke in support.

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

He made the following principal comments:

- He paid tribute to the community work of ASDA in the South Wye area. ASDA had also through the S106 agreement contributed to the provision of a flood alleviation scheme, the Kindle Centre and relocation of St Martin's bowling club and the reconfiguration of the A49/A465 roundabout.
- The planning permission granted to ASDA in 2005 had included provision for apartments on the portion of the site on which it was now proposed to locate the petrol station. The applicant was now arguing that a residential development was not viable. However, there was a higher need for residential accommodation within the City now than when permission had originally been granted. A development on the Ship Inn site opposite was clearly considered viable.
- He questioned the need for another petrol filling station in the County. There could also be no guarantee that ASDA would remain the provider of petrol at the lowest cost, which was its current reputation.
- The principal concern was the capacity of the road network. The road filter to ASDA could only accommodate four cars and this currently led to tailbacks. Even if the increase in traffic as a result of the development matched the applicant's claim this would still create additional problems. The view expressed by Highways England that the proposals would not represent a severe impact on the strategic road network was at odds with the daily experience of congestion by residents.
- A number of cycleway developments were underway and these would converge on the A49 (Belmont/Asda roundabout). Additional road traffic would be in conflict with these developments.

Councillor P Rone, an adjoining ward member, also spoke on the application. He made the following principal comments:

- The proposal would have an adverse impact on the busiest junction in the County, generating traffic and causing congestion.
- He questioned the applicant's conclusion that residential development on the site would not be viable. If the requirement that a S106 agreement was entered into was the issue making the development unviable it was an option for this to be waived.
- He questioned the demand for an additional petrol station. He also suggested the petrol station could be located on a different part of the ASDA site, preventing the construction of an eyesore on a gateway to the City in the central conservation area.

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

- Demand for housing remained high. The applicant's view that residential development was not viable was questioned.
- It was questionable whether there was demand for another petrol station. The provision of a kiosk suggested the proposal was intended to attract additional custom not simply serve those already using the store.
- The proposal would increase the existing congestion. Any accident in that location brought the City to a standstill. Increased traffic and driver frustration would lead to more accidents.
- It was proposed that the application should be refused because of the adverse effect on the highway network.

- Several members expressed their dissatisfaction with the proposal and concern about its impact on the highway network. However, there was also a view that there were no strong planning grounds for refusal.

The Transportation Manager commented that the proposal would have a minimal impact on the highway network. In his view it would not be possible to defend an appeal against refusal of permission on highway grounds.

The Lead Development Manager supported this view adding that the professional and technical advice to the Committee provided no grounds for objection on highway grounds.

- A view was expressed that the impact on the highway network was not severe and the proposal therefore complied with policy MT1. The report acknowledged that there were a number of issues to be addressed, however, conditions in the recommendation were designed to provide the required mitigation. There were therefore no grounds for refusal.
- It was questioned why the absence of a five year housing supply did not support the case for the site to be developed for residential development as originally intended. The Lead Development Manager commented that the NPPF provided that, *'to be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within 5 years and in particular that the development of the site is viable'*. The site did not meet those criteria.
- Regard should be had to the comments of the local ward member and the adjoining ward member, and to the concerns expressed by the City Council.
- The threat of increased congestion created a risk to air quality.
- Reassurance was required that the petrol storage arrangements were safe having regard to flood risk.
- The site was prominent, at an entrance to the city and in a conservation area. It was suggested that the proposal was contrary to policy LD1 and if other landscape and conservation area policies did not militate against such a proposal it suggested a need to revisit those policies. The proposal could be located on another part of the applicant's site in a less prominent position with less adverse impact.

The Lead Development Manager commented that:

- Members' concerns were acknowledged. However, to refuse the application on highway grounds the impact of the development on the highway network would have to be severe. The assessment was that in the peak hour there were 3,000 traffic movements; it was estimated that a petrol station would add 64 movements. The professional advice was that this could not be regarded as a severe impact.
- The development was not assessed to be a "destination" but an addition to the ASDA store.
- The site was at a gateway to the City. The applicant had modified the design of the petrol station in recognition of this fact.
- The impact on independent petrol service businesses would not necessarily be adverse, as evidenced by a petrol station on Ledbury Road, Hereford.
- There would be landscaping around the perimeter of the site.

- Hereford City was not progressing a Neighbourhood Development Plan. Development in the City would be addressed through the Hereford Area Action Plan that Herefordshire Council would produce.

The local ward member was given the opportunity to close the debate. He reiterated his concerns about traffic congestion and observed that Highways England was only concerned in its response about the impact on the strategic road network, not other traffic impacts. It would be preferable for the site to be used for residential development.

The adjoining ward member reiterated that the proposed development would be inappropriate in the conservation area and was in the wrong location within the applicant's site.

A named vote was requested.

For (9): Councillors BA Baker, CR Butler, PGH Cutter, KS Guthrie, J Hardwick, JLV Kenyon, RI Mathews, WC Skelton, and EJ Swinglehurst.

Against (6): Councillors DW Greenow, EL Holton, FM Norman, AJW Powers, A Seldon, and LC Tawn.

Abstain (1): Councillor TM James

**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. **G10 Landscaping scheme**
4. **G11 Landscaping scheme - implementation**
5. **The development hereby permitted shall not be commenced until such time as a scheme to ensure that any petrol fuel storage tanks installed at the site shall be constructed, installed and monitored to ensure no pollution of groundwater has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved and should include:-**

**Detailed design of petrol storage tanks to include tank design to BS EN 12285-1:2003, leak detection system for tanks and pipe work, details of dual contained pipe work, details of the tank manufacturer's warranty and details of proposed methods of construction and installation.**

**Reason: To protect controlled waters.**

6. **Development shall not be occupied until the agreed mitigation works, as shown indicatively on CA Design drawing number (PA)04 Revision H, have been designed in detail to the written satisfaction of the Planning Authority, in consultation with the Highway Authority for the A49 Trunk Road, and implemented as approved.**

**Reason: To ensure that the safety and efficient operation of the strategic road network is not compromised by this proposed development**

7. A detailed boundary fencing plan and schedule shall be submitted to and agreed in writing by the Local Planning Authority, in consultation with the Highway Authority for the A49 Trunk Road, prior to the erection of any fencing or similar boundary treatment. The detailed fencing plan and schedule shall be implemented as approved.

Reason: To ensure that any proposed fencing structure does not jeopardise the ongoing safe operation of the strategic road network, in accordance with paragraph A1 of Annex A of DfT Circular 02/2013.

8. A detailed forecourt lighting installation and maintenance plan and schedule, following the Institute of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Light GN01:2011 (or as updated), shall be submitted to and agreed in writing by the Local Planning Authority, in consultation with the Highway Authority for the A49 Trunk Road, prior to the commissioning or alteration of any external artificial light source within the development hereby permitted. This shall give details of lighting specifications, lamp positions, directions, and intensity across the site and the surrounding highway network. The detailed lighting plan and schedule shall be implemented as approved and maintained in perpetuity.

Reason: To prevent stray light from the site affecting the ongoing safe operation of strategic road network, in accordance with paragraph 49 of DfT Circular 02/2013.

9. No development pursuant to this application shall commence until a Construction Management Traffic Plan (CMP) has been submitted to, and approved in writing by, the local planning authority, in consultation with the highways authority for the A49 Trunk Road and that the scope of the CMP is to be agreed in writing, by the local planning authority, in consultation with the highways authority for the A49 Trunk Road prior to the preparation of the CMP. The CMP shall be implemented as approved and reviewed by the appointed main contractor throughout the construction period. If changes to the CMP are deemed necessary at any point throughout the construction period, these changes will be approved in writing by the local planning authority, in consultation with the highways authority for the A49 Trunk Road.

Reason: To ensure that the safety and efficient operation of the strategic road network is not compromised during the construction period.

10. E01 Site investigation - archaeology
11. H21 Wheel washing
12. H27 Parking for site operatives
13. I16 Restriction of hours during construction
14. Non – Standard – Hours of Delivery and management of delivery vehicles.

**INFORMATIVES:**

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of

**matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework**

- 2. EA informative - Flood Evacuation Contact**
- 3. EA - Pollution Prevention**
- 4. HN01 Mud on highway**
- 5. HN04 Private apparatus within highway**
- 6. HN05 Works within the highway**
- 7. EA Waste informative**

**196. 160812 - LAND AT WEST WINDS, CHOLSTREY ROAD, LEOMINSTER, HEREFORDSHIRE, HR6 8RT**

*(Proposed 23 dwellings with garages and car spaces.)*

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 noted that the Committee had refused a previous application on 24 February 2016. However, that decision was the subject of an appeal and the application had been resubmitted.

In accordance with the criteria for public speaking, Mr C Thomas, of Leominster Town Council spoke in opposition to the Scheme. Mr J Verity, Chairman of Leominster Civic Society and a local resident, spoke in objection.

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

She made the following principal comments:

- Nothing in relation to the application appeared to have changed since the Committee had refused the application in February. The grounds for refusal that had been advanced then remained valid.
- She expressed disappointment that the Council's concerns about the Neighbourhood Development Plan's conformity with the Core Strategy, referred to in paragraph 2.3 of the report, had not been resolved at an earlier stage. The Town Council's view and that of local people was that a bypass should be built in advance of any further housing development. Herefordshire Council considered that approach to be contrary to policy. The Neighbourhood Plan would not be approved in a referendum if it proposed otherwise. This meant the Plan was effectively stalled.
- Concerns about air pollution, highway safety and the preservation of a green corridor remained. Congestion and air pollution had a direct impact upon people in the area and in their vehicles.
- The changes being proposed to the rail service by Network Rail would mean increased waiting times at the level crossing and this would have a knock on effect on traffic in the vicinity of the proposed development.

- The importance of preserving the green corridor was not being given the weight it warranted. There was a risk that the area would be dominated by huge blocks of housing to the detriment of the setting and character of the area.

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

- The Lead Development Officer explained that in considering the resubmitted application the absence of a 5 year housing land supply was a new factor to which the Committee had to have regard. The applicant had advanced this as one of the grounds for their appeal. He noted that a seminar on the housing land supply would be arranged for July.

He also stated that he thought it unlikely that the Secretary of State would call in an application for 23 dwellings because it was in conflict with the Neighbourhood Plan which was at Regulation 16 stage, as he had done in the case of an application for 100 dwellings at Bartestree. Leominster Town Council needed to review the comments made by the Council on conformity with the Core Strategy, redraft and resubmit the Plan. Whilst weight had to be given to the absence of a five year housing land supply he observed that paragraph 198 of the national planning practice guidance did provide that: where a planning application conflicted with a neighbourhood plan that had been brought into force, planning permission should not normally be granted.

- Disappointment was expressed that the lack of the NDP's conformity with the Core Strategy had not been resolved at an earlier stage. The Lead Development Manager commented that the Town Council had been informed of Herefordshire Council's concerns in April 2015 but had not addressed them.
- Regard had to be had to the fact that the Committee had approved the principle of the use of the proposed access for an application on adjoining land.
- A Member questioned the statements in paragraph 6.14 of the report in relation to the application of policy LD3. The Development Manager confirmed the paragraph reflected the way the policy was being interpreted. The Member commented that he would be seeking further clarification.

The Lead Development Manager highlighted the additional condition recommended in the Committee update and that the Heads of Terms would provide for transport contributions.

The local ward member was given the opportunity to close the debate. She reiterated her view that the preservation of the green corridor was important and again referred to the difficulty in reconciling the Neighbourhood Plan and the Core Strategy. She remained of the view that the proposal was contrary to policy LO1, noting also paragraph 4.6.10 of the Core Strategy, relating to congestion and air quality in the Bargates area, and was also contrary to policy LO1 in that the developers had failed to engage with the local community on the 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 appended to 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 Prior to commencement of the development, a species mitigation and habitat 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 Policy LD2 of Herefordshire Local Plan-Core Strategy

- 5 L01 - Foul/surface water drainage
- 6 L02 - No surface water to connect to public system
- 7 L03 - No drainage run-off to public system
- 8 No development shall commence until the developer has prepared a scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and local drainage will be dealt with and this has been approved by the Local Planning Authority

Reason : To ensure that effective drainage facilities are provided for the proposed development, and that no adverse impact occurs to the environment or the existing public sewerage system

- 9 I20 - Scheme of surface water drainage
- 10 H03 - Visibility splays
- 11 H06 - Vehicular access construction
- 12 H13 - Access, turning area and parking
- 13 H27 - Parking for site operatives
- 14 H17 – Junction improvement/off site works

#### **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. 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. HN04 - Private apparatus within highway



5. **HN01 - Mud on highway**
6. **HN28 - Highways Design Guide and Specification**
7. **HN05 - Works within the highway**

**197. DATE OF NEXT MEETING**

The Planning Committee noted the date of the next meeting.

**Appendix 1 - Committee Update**

The meeting ended at 12.14 pm

**CHAIRMAN**



## **PLANNING COMMITTEE**

**Date: 18 May 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**

**160812 - PROPOSED 23 DWELLINGS WITH GARAGES AND CAR SPACES. AT LAND AT WEST WINDS, CHOLSTREY ROAD, LEOMINSTER, HEREFORDSHIRE, HR6 8RT**

**For: Mr And Mrs Preece per Mr John Needham, 22 Broad Street, Ludlow, Shropshire, SY8 1NG**

### **ADDITIONAL REPRESENTATIONS**

Transportation Manager states that an additional condition should be attached and that the 30 mph Traffic Regulation Order needs to be extended westwards to act as a buffer for the access, this will require engineering features to reinforce the access . All works to applicant expense and subject to a Section 278 Agreement

Also site needs to link in with cycleway to north.

The S106 contribution will contribute to crossing the A44 in the vicinity of the site.

### **OFFICER COMMENTS**

Additional condition recommended

### **CHANGE TO RECOMMENDATION**

Addition of Condition **H17 – Junction improvement/off site works**