

**Minutes of the meeting of Planning and regulatory committee held at Council Chamber, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Wednesday 10 April 2019 at 2.00 pm**

**Present:** Councillor PGH Cutter (chairperson)  
Councillor J Hardwick (vice-chairperson)

**Councillors:** BA Baker, WLS Bowen, DW Greenow, KS Guthrie, EL Holton, AWJohnson, PP Marsh, FM Norman, RJ Phillips, AJW Powers, NE Shaw and SD Williams

**141. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors CR Butler, PJ Edwards, MD Lloyd- Hayes, FM Norman and WC Skelton.

**142. NAMED SUBSTITUTES**

Councillor WLS Bowen substituted for Councillor PJ Edwards, Councillor AW Johnson for Councillor CR Butler, Councillor PP Marsh for Councillor FM Norman and Councillor RJ Phillips for Councillor WC Skelton.

**143. DECLARATIONS OF INTEREST**

None.

**144. CHAIRPERSON'S ANNOUNCEMENTS**

The Chairperson reiterated his thanks to members of the committee and to officers for their work.

**145. 183281 - SWAN HOUSE, WEST STREET, PEMBRIDGE**

*(Proposed five bedroom dwelling to the rear of Swan House.)*

*(Councillor Phillips fulfilled the role of local ward member and accordingly had no vote on this application.)*

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

In accordance with the criteria for public speaking, Mr A Pace, of Pembridge Parish Council, spoke in opposition to the Scheme. Mr A Whibley, the applicant's agent, spoke in support.

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

He made the following principal comments:

- The site formed part of the village's historic burgage plot layout. The burgage plots had consistently been protected by the planning policies of Herefordshire Council and its predecessors. The Neighbourhood Development Plan (NDP) had been adopted and continued this protection.
- When consulted on the NDP Historic England had stated that, amongst other things, the protection of the burgage layout of the village was to be applauded. It was unclear therefore as to how this related to Historic England's response to the application included in the report to the Committee. The NDP, as approved, by the Planning Inspector, reflected the earlier comments.
- It was important the Committee supported adopted NDPs and confirmed that development on the burgage plots was restricted. The proposal was contrary to core strategy policies LD1 and LD 4 and a range of policies within the Pembridge NDP in particular PEM 19 that specifically related to the protection of the burgage plot layout.

In the Committee's discussion of the application it was observed that NDPs should conform to strategic priorities of the local plan but in policy decisions where there was a conflict between the neighbourhood policy and a non-strategic local policy the neighbourhood policy should take precedence. The Pembridge NDP at PEM 19 provided for the protection of the burgage plot layout. The NDP was adopted and attracted full weight. The application should therefore be refused.

The Lead Development Manager commented that Historic England and the Historic Buildings officer had raised no objection to the principle of development on the site leading to the officer recommendation for approval in this particular instance.

The local ward member was given the opportunity to close the debate. He noted that PEM 4 identified sites for new housing development to meet the housing need. The burgage plots had not been identified for development.

Councillor Shaw proposed and Councillor Bowen seconded a motion that the application be refused on the grounds that it was contrary to core strategy policies LD1, LD4, and NDP policies PEM 3,4,19 and 20, and relevant paragraphs of the NPPF. The motion was carried with 12 votes in favour, none against and no abstentions.

**RESOLVED: That planning permission be refused on the grounds that the application was contrary to core strategy policies LD1, LD4, and NDP policies PEM 3, 4, 19, and 20 and relevant paragraphs of the NPPF and officers named in the scheme of delegation to officers be authorised to detail the reasons for refusal.**

**146. 190122 - BALANCE FARM, EYWOOD LANE, TITLEY, KINGTON, HR5 3RU**

*(Application for approval of reserved matters following outline approval 160581/o (proposed site for the erection of 5 no. Four bedroom dwellings.). Reserved matters for access only.)*

*(Councillor Holton had left the meeting and was not present during consideration of this application. Councillor Phillips fulfilled the role of local ward member and accordingly had no vote on this application.)*

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

He noted that since the publication of the committee report, the Planning Inspectorate had confirmed that they had received an appeal in respect of the Council's earlier decision. The scheme subject to the appeal was to all intents and purposes the same as the scheme currently being considered. The outcome of the appeal was awaited.

In accordance with the criteria for public speaking, Mr R Edwards, of Titley and District Parish Council spoke in opposition to the Scheme. Mr R Jones, a local resident, spoke in objection.

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

He outlined the background to the application, the issues that had arisen about highway safety in relation to access to the main road and the legal opinions that had been received. The question of revoking the current permission involved safety considerations and the cost of compensation to the landowner. He considered that it would be preferable if the committee deferred consideration pending the outcome of the appeal.

Councillor Greenow proposed and Councillor Williams seconded a motion that the application be deferred pending the outcome of the appeal to the planning inspectorate. The motion was carried with 10 votes in favour, 1 against and no abstentions.

**RESOLVED: That consideration of the application be deferred pending the outcome of the appeal to the planning inspectorate.**

**147. 182236 - BODENHAM LAKE NATURE RESERVE, BODENHAM, HEREFORDSHIRE**

*(Proposed re-profiling works to include: southern land spit at the eastern end of the lake to be lowered and divided into three islands. Small island close to bird hide on the southern side of the lake will be cleared of trees, lowered and divided into three smaller islands. The southern half of the western island will be re-profiled.)*

*(Councillor Holton had left the meeting and was not present during consideration of this application. Councillor Baker fulfilled the role of local ward member and accordingly had no vote on this application.)*

The Principal Planning Officer (PPO) 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 Council's Constitution, the local ward member, Councillor BA Baker, spoke on the application.

He supported the application noting that no objections to it had been received. He expressed a concern about ensuring public access and the ability of the sailing club to use the site.

In the Committee's discussion of the application it was noted that all the consultees appeared to support the proposal and members indicated their broad support for the proposal. However, clarification was sought in relation to public access and the use of the site by the sailing club.

The PPO commented that the site was open to the public. The use by the sailing club had declined but had not been restricted by the Herefordshire Wildlife Trust as managers of the site. The Trust had given its assurance that the site would remain open to the sailing club. Some safety measures would be in place during construction works.

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

Councillor Greenow proposed and Councillor Guthrie seconded a motion that the application be approved in accordance with the printed recommendation. The motion was carried with 11 votes in favour, none against and no abstentions.

**RESOLVED: That planning permission be granted subject to the following conditions and any other conditions considered necessary by officers named in the scheme of delegation to officers:**

1. **A01 Time limit for commencement (full permission)**
2. **C06 Development in accordance with approved plans**
3. **During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times: Monday-Friday 7.00 am-6.00pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.**

**Reason: To protect the amenity of local residents and to comply with Policy SD1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

4. **The Method of Work and Environmental Risk Management by Frog environmental dated September 2016 shall be implemented in full as stated unless otherwise approved in writing by the local planning authority.**

**Reason: In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), NPPF (2018), Wildlife & Countryside Act (1981 as amended) and Core Strategy (2015) policy LD2.**

#### **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. **Bodenham Lake and adjacent River Lugg (SAC) are recognised for their importance for biodiversity, protected species and ecological habitat and we would like to formally remind the applicant that they have a legal duty to ensure compliance with all relevant legislation and best working practices such as CDM, Health & Safety, Wildlife & Countryside Act, Habitat Regulations et al, at all times during the project and construction.**
3. **In addition to planning permission, the works may require a Flood Risk Activities permit under the Environmental Permitting Regulations (EPR) where works may act to affect a Main River or its floodplain. The applicant is advised to contact the Environment agency direct for clarification.**

**148. DATE OF NEXT MEETING**

The committee noted the date of the next meeting.

**Appendix - Schedule of Updates**

The meeting ended at 3.35 pm

**Chairperson**



# **PLANNING AND REGULATORY COMMITTEE**

**Date: 10 April 2019**

*Afternoon*

## **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.**

**183281 - PROPOSED FIVE BEDROOM DWELLING TO THE REAR OF SWAN HOUSE AT SWAN HOUSE, WEST STREET, PEMBRIDGE,**

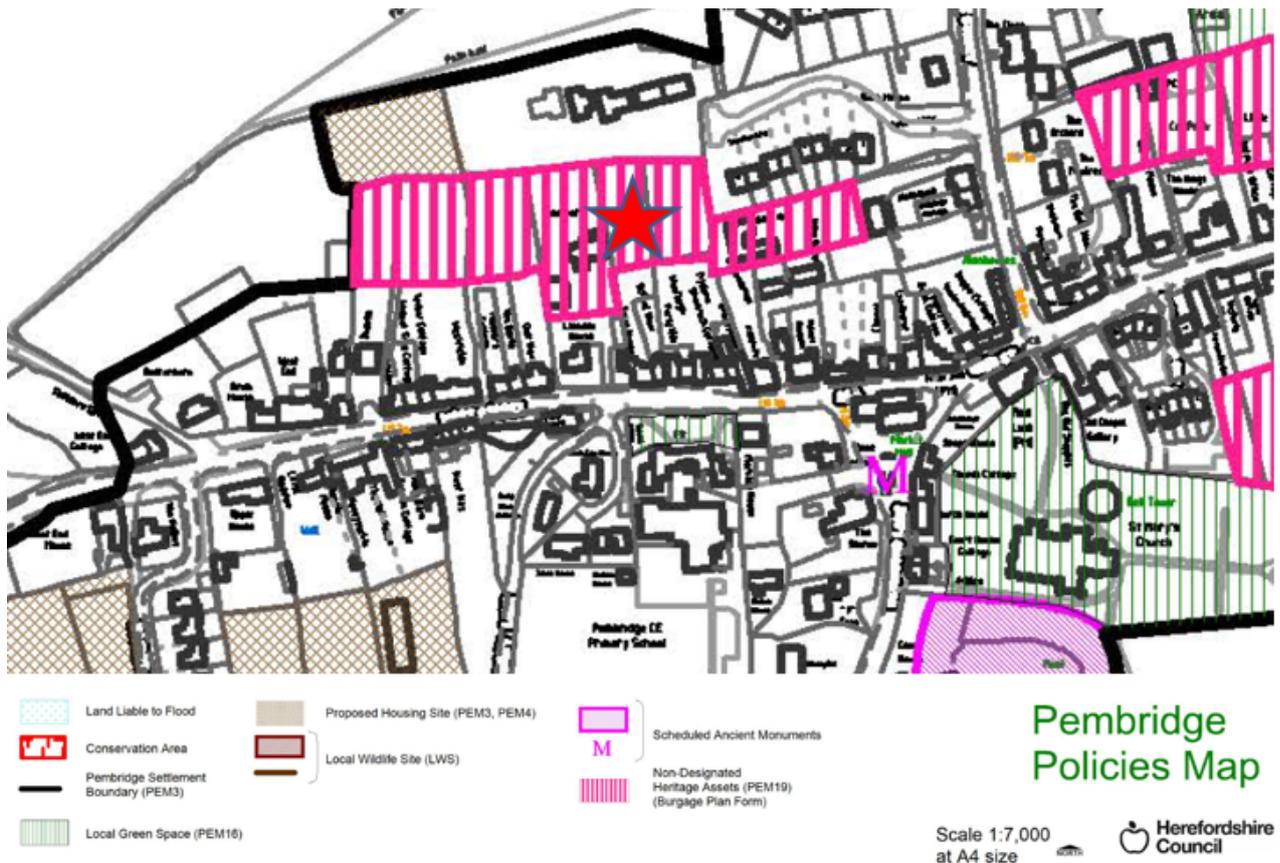
**For: Mr Smith per Mr Alex Whibley, 43 College Road, Hereford, HR1 1EE**

**ADDITIONAL REPRESENTATIONS**

None received.

**OFFICER COMMENTS**

A copy of the Pembridge Village Policies Map from the Pembridge Neighbourhood Development Plan is included below. The burgage plots afforded protection through policy PEM19 are denoted by the pink hatched areas, and the proposal site location is denoted by the red star.



**NO CHANGE TO RECOMMENDATION**

**190122 - APPLICATION FOR APPROVAL OF RESERVED MATTERS FOLLOWING OUTLINE APPROVAL 160581/O (PROPOSED SITE FOR THE ERECTION OF 5 NO. FOUR BEDROOM DWELLINGS.). RESERVED MATTERS FOR ACCESS ONLY. AT BALANCE FARM, EYWOOD LANE, TITLEY, KINGTON, HR5 3RU**

**For: Mrs Vaughan per Mr Alan Poole, Green Cottage, Brierley, Leominster, Hereford, HR6 0NT**

#### **ADDITIONAL REPRESENTATIONS**

None received.

#### **OFFICER COMMENTS**

As outlined in the report, the application currently being considered is a resubmission of an earlier Reserved Matters Application for access that was refused on 28th September 2018. Since the publication of the Committee Report, the Planning Inspectorate have confirmed that they have received an appeal in respect of the Council's earlier decision and that the appeal was valid on 3<sup>rd</sup> March 2019 (APP/W1850/W/19/3225568). The scheme subject to the appeal is to all intents and purposes the same as the scheme currently being considered. The outcome of the appeal is awaited.

#### **NO CHANGE TO RECOMMENDATION**

**182236 - PROPOSED RE-PROFILING WORKS TO INCLUDE: SOUTHERN LAND SPIT AT THE EASTERN END OF THE LAKE TO BE LOWERED AND DIVIDED INTO THREE ISLANDS. SMALL ISLAND CLOSE TO BIRD HIDE ON THE SOUTHERN SIDE OF THE LAKE WILL BE CLEARED OF TREES, LOWERED AND DIVIDED INTO THREE SMALLER ISLANDS. THE SOUTHERN HALF OF THE WESTERN ISLAND WILL BE RE-PROFILED AT BODENHAM LAKE NATURE RESERVE, BODENHAM, HEREFORDSHIRE,**

**For: Miss Cowling per Miss Sophie Cowling, Lower House Farm, Hereford, Herefordshire, HR1 1UT**

#### **ADDITIONAL REPRESENTATIONS**

A further representation has been received from Angela Lloyd, one of the objectors, in response to the Wildlife's Trust additional supportive information. The contents of the letter received is summarised as follows:

- I am pleased to see that a silt curtain was deployed; however, this does not remove the issues that are occurring with current sedimentation levels. I would have expected there to have been monitoring carried out before, during and after the works (this is a minimum requirement), but in order to feel satisfied that there are no further breaches to the Water Framework Directive or Wildlife and Countryside Act I feel it is necessary to receive assurances that more regular monitoring (by staff on the ground) is carried out. What ongoing monitoring of water quality is scheduled?
- I appreciate there is a need to thin some of the islands, this will certainly enhance biodiversity, however, creating a mosaic of habitats (which is what I am suggesting) will enhance it even further (i.e. have both well managed wooded and gravel islands). Clear felling existing islands and simply coating them in gravel is not a sustainable or sensible solution. More creative solutions should be sought (e.g. implementation of floating ecosystems).
- Whilst the maintenance of a 1hectare site for existing species is laudable, I would ask if this is sufficient. As stated the number of native species nesting on the site is 'few'. I would suggest that a total area in excess of 1hectare would be necessary to ensure an increase in the number of species.
- Whilst a spatial divide was created during 2018, there does not appear to have been a sufficient temporal divide, which is my concern for works in the future. Further clarification around the timeframes for the proposed work is required. Please can these be provided?
- Simply using expert knowledge and skill does not always ensure that a job is completed to the highest or best standard. There is no substitute for deep, local knowledge of a site. Sadly HWT like all conservation organisations across the country have been negatively impacted by austerity.
- Did colleagues from WWT suggest other species be planted in the margins to increase biodiversity in the shallows? If not, are there plans to increase floral diversity in this habitat?
- Simply planting young Phragmites is insufficient to stem the current issues of sedimentation.
- The traffic from Canada geese over these areas alone is creating these issues, needless to say what happens during heavy rainfall events. It is wonderful to know that reedbeds will one day provide habitat for invertebrates, birds and mammals, but my concern lies around the here and now and the way in which these areas have been created.
- Longer phasing of these works would have certainly been a good starting point. I am glad to see that the RSPB restoration manual is being utilised, this again is a minimum requirement for this kind of project. Simply planting young Phragmites is insufficient to stem the current issues of sedimentation.
- I am heartened to see that Herefordshire now has a vibrant membership amongst its Wildlife Trust. It has been a long time coming. I appreciate that is not easy to muster support for conservation in a county with agriculture as its main industry. As stated previously I firmly believe that the management of this site requires deep local knowledge. There is an expectation that the Trust would be working in partnership with all of the organisations outlined above, however, utilising outside, expert knowledge and skills will be fruitless without dynamic, strategic steering on a daily basis on the ground.

Six further letters of support from volunteers at Bodenham Lake on behalf of the Wildlife Trust. Contents of letters are summarised below;

- Trail cameras have been used to enable evidence to be gained on the use of these areas from the start of this project. The cameras are usually monitored weekly, and evidence is collected for the seven days and collated by the Trust. The cameras have also been deployed on the islands and land spit from May to August 2018 inclusive.

- It has been apparent that at present the islands, due to the density of tree cover and scrub, support little diversity of wildlife. In contrast, on the areas around the lake where vegetation has been cleared and a shallow bank created many migrant birds have been photographed in these areas, even before the reprofiling. Otters, fallow deer, muntjac, fox, mink, badger, hedgehog and a polecat have all been photographed. Elusive birds such as the water rail have been seen in the areas of reed beds
- Since the reprofiling of the lakeside last autumn, the number and diversity of wildlife has increased. Widgeon, teal, oyster catchers and mandarin duck are some of the species that now visit these enhanced areas. The partial clearance and enhancement of habitat on the islands can only sustain and encourage this wildlife and provide a safe area for breeding.
- The improvements proposed not only benefit the habitat for wildlife, but also increase the enjoyment of visitors to this beautiful reserve. It is well known that engagement with nature is of positive benefit to wellbeing.
- During weekly visits reports of sightings are often told to me by visitors, including glimpses of otters and the water rail. The proposed works will enable such visitors to have a much better view of the wildlife from the hides, and also be of educational benefit to the school children who visit.

## **NO CHANGE TO RECOMMENDATION**

