

Minutes of the meeting of Planning and Regulatory Committee held at Herefordshire Council Offices, Plough Lane, Hereford, HR4 0LE on Wednesday 16 August 2023 at 10.00 am

Present: Councillor Terry James (chairperson)
Councillor Clare Davies (vice-chairperson)

Councillors: Polly Andrews, Bruce Baker, Dave Boulter, Simeon Cole, Dave Davies, Elizabeth Foxton, Catherine Gennard, Peter Hamblin, Stef Simmons, John Stone and Richard Thomas

In attendance: Councillors David Hitchiner

Officers: Development Manager North Team, Development Manager Majors Team, Highways Representative and Senior Lawyer

13. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Dan Powell and Councillor Diana Toynbee.

Councillor Jacqui Carwardine gave her apologies as local ward member for application 223281.

Councillor Ellie Chowns gave her apologies as local ward member for application 231926.

14. NAMED SUBSTITUTES (IF ANY)

There were no substitutes.

15. DECLARATIONS OF INTEREST

There were no declarations of interest.

16. MINUTES

RESOLVED: That the minutes of the meeting held on 26 July be approved.

Councillor Terry James left the chair of the committee and left the committee to act as the local ward member for the following application.

Councillor Clare Davies assumed the chair of the meeting.

17. 181494 - LAND ADJACENT TO SPRING COTTAGE, HEADBROOK, KINGTON, HR5 3DY (Pages 19 - 24)

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

In accordance with the criteria for public speaking Mr Fitton, spoke on behalf of Kington Town Council, Ms Rush, local resident, spoke in objection to the application and Mr Turner, the applicant, spoke in support.

In accordance with the council's constitution the local ward member spoke on the application. He explained that the application had been approved by committee in 2018 and the only significant change since that time had been the county meeting its 5 year land housing supply target. The town of Kington had an undersupply of housing for a working town and it was difficult to find appropriate sites for development in the town. The proposed development was not on the floodplain, was an accessible site and would provide affordable housing for working people in Kington. If the application was refused, the decision would be difficult to defend at appeal as the committee would overturn a previous decision when there had been little change to circumstances.

The committee debated the application. During consideration of the application the committee raised the following principal points:

- The approval of the application at committee in 2018.
- That careful consideration needed to be given to environmental constraints, in particular the impact of the development on the landscape character and the conservation area.
- The location of the application site above the floodplain.
- The need for additional housing in Kington.
- The need for additional affordable homes in Kington to meet the need of the local population.
- The area of the meadow that would be open to the public would be a benefit to the local community and the public.

The local ward member was given the opportunity to close the debate. He explained that the benefits of application outweighed the dis-benefits.

A motion that the application be approved due to: the need for additional housing in Kington; the need for additional affordable housing in Kington; and the benefit to the public of opening the space on the meadow for public access, was proposed by Councillor Bruce Baker and seconded by Councillor Richard Thomas. The motion was put to the vote and was carried by a simple majority.

RESOLVED - That:

- **The application is approved due to: the need for additional housing in Kington; the need for additional affordable housing in Kington; and the benefit to the public of opening the space on the meadow for public access; and**
- **Authority is delegated to officers to draft and impose conditions for the planning permission, in consultation with the chairperson and vice chairperson of the Planning and Regulatory committee.**

There was an adjournment at 11:15 a.m.; the meeting reconvened at 11:30 a.m.

Councillor Terry James resumed the Chair and his seat on the committee..

Councillor Richard Thomas left the committee to act as the local ward member for the next application.

18. 223281 - LAND AT ASHLEY FARM, GRAFTON COURT CLOSE, GRAFTON, HEREFORD, HEREFORDSHIRE, HR2 8BL

The Development Manager Majors Team gave a presentation on the application.

In accordance with the criteria for public speaking Mr Kilby, the applicant's agent, spoke in support of the application.

In accordance with the council's constitution the local ward member spoke on the application. He explained that he supported the application.

The committee debated the application. Support was expressed for the application.

The local ward member was given the opportunity to close the debate.

A motion that the application be approved in accordance with the case officer's recommendation was proposed by Councillor Polly Andrews and seconded by Councillor Catherine Gennard. The motion was put to the vote and was carried unanimously.

RESOLVED - That:

Planning permission be granted subject to the following conditions and any other conditions considered necessary by officers named in the scheme of delegate to officers:

Standard Conditions / Reserved Matters submission requirements

- 1 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.**

Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.

- 2 The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of the approval of the last reserved matters to be approved, whichever is the later.**

Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.

- 3 Approval of the details of the layout, scale, appearance and landscaping (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.**

Reason: To enable the local planning authority to exercise proper control over these aspects of the development and to secure compliance with Policy SD1, LD1, LD2, LD3, MT1, SC1 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework

- 4. The development shall be carried out strictly in accordance with the approved plans:**

- Location Plan: HA 43595_PL_01_D**

Reason. To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1, LD1, LD2, LD3, MT1, of the Herefordshire Local Plan – Core Strategy [and the National

Planning Policy Framework.

5. The reserved matters submission relating to layout, scale, appearance and landscaping for the development (or phase) submitted pursuant to Condition 3 shall be accompanied by details relating to the of the ancillary farm shop / café and educational / skills facility as follows:

- a) Retail Floor Area
- b) Hours of opening
- c) Hours of Delivery
- d) Waste Management Arrangements

Reason: Reason: In order to allow further assessment of impacts of the proposed uses having regard to residential amenity, retail impact and highways safety having regard to policies SD1, MT1 and E5 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework. (to inform whether a sequential approach should not be applied and ensure the proposal adheres to Para 90 of the NPPF).

6. The Reserved Matters submission relating to layout, scale, appearance and landscaping for the development (or phase) submitted pursuant to Condition 3 shall be accompanied by details of a submission of surface water and foul water drainage design details (including but not limited to details of shallow infiltration test results).

Reason: To ensure drainage conforms with Policies SD3 and SD4 of the Herefordshire local Plan - Core Strategy and the National Planning Policy Framework

7. The reserved matters submission relating to layout, scale, appearance and landscaping for the development (or phase) submitted pursuant to Condition 3 shall be accompanied by details relating to the of the sports facilities and associated buildings or uses as follows:

- a) Hours of use
- b) Hours of Delivery (if applicable)

Reason: In order to allow further assessment of impacts of the proposed uses having regard to residential amenity and highways safety having regard to policies SD and MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework. (to inform whether a sequential approach should not be applied and ensure the proposal adheres to Para 90 of the NPPF).

Pre-commencement Conditions

8. No development shall commencement until a map based phasing plan that identifies the following:

- Timing of delivery of on-site highway works (including but not limited to on site roads, footways and cycleways including crossing of Shaws Path)
- Timing of delivery of car park(s)
- Timing of delivery the foul and surface water drainage arrangements including any off site works
- Timing and delivery of off Site Highway works
- Any other known phases of the development (e.g buildings /

structures or pitches)

The development, including the completion and delivery of infrastructure shall be constructed in accordance with the agreed phasing plan.

Reason: To clarify the delivery of the proposed development (in relation to conditions and RM submissions) and ensure the acceptable phasing of the construction so as to ensure no detriment to the safe operation of the highway network and the timely provision of necessary infrastructure to serve the proposed uses. This is to ensure compliance with Herefordshire Local Plan – Core Strategy Policies SD1, SS4, SS7, MT1, OS2.

9. The Reserved Matters submission relating to layout, scale, appearance and landscaping for the development of the 3G Artificial Grass Pitch submitted pursuant to Condition 3 shall be accompanied by the following details (see informative below):

- Siting
- Design
- Specification of the AGP
- Noise Mitigation measures

Reason: To ensure that the proposed development is fit for purposes and sustainable and that there is sufficient and adequate noise mitigation in place, and that there is flexibility to address concerns, in the interests of amenity in accordance with the requirements of policies SS6 and SD1 of the Herefordshire Local Plan - Core Strategy and guidance contained within the National Planning Policy Framework.

10. No longer than twelve months prior to any works or site preparation commencing a full, Construction Environmental Management Plan (CEMP) – including but not limited to detailed ecological working methods and consideration of all environmental effects of construction processes shall be submitted to and agreed in writing by the Local Planning Authority.

The approved CEMP shall be implemented in full for the duration of all construction works at the site unless otherwise approved in writing by the Local Planning Authority.

If works are to be undertaken in phases, then the CEMP should clearly identify this.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife and Countryside Act 1981, National Planning Policy Framework (2021), NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1, LD2 and LD3 and the council's declared Climate Change & Ecological Emergency.

11. Prior to the commencement of any phase of development a Construction Management Plan for that phase shall be submitted to and approved in writing by the Local Planning Authority. The approved Construction Management Plan (s) shall thereafter be adhered to throughout the construction period for that phase. The Construction Management Plan shall include, but is not limited to, the following matters:

- a) site management arrangements, including on-site storage of materials, plant and machinery; temporary offices, contractors compounds and other facilities;
- b) on-site parking and turning provision for site operatives, visitors and construction vehicles (including cycle parking for staff and visitors); and provision for the loading/unloading of plant and materials within the site;
- c) wheel washing facilities and other measures to ensure that any vehicle, plant or equipment leaving the application site does not carry mud or deposit other materials onto the public highway;
- d) measures for managing access and routing for construction and delivery traffic;
- e) hours during which construction work, including works of site clearance, and deliveries can take place.
- f) Tree / hedge protection plan for the phase of development
- g) Construction Traffic Management Plan

The development shall be carried out in accordance with the approved details for the duration of the construction of the development.

Reason: In the interests of highway safety, in the interests of safeguarding adjoining amenity and uses and to conform to the requirements of Policies SD1, LD2, and MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy

12. Development shall not begin in relation to any of the specified improvements / works necessary to provide access from the nearest publicly maintained highway or other works related to the crossing of Shaw's Path until details have been submitted to and approved in writing by the Local Planning Authority following the completion of the technical approval process by the Local Highway Authority.

The development shall not be first used or occupied until the scheme has been constructed in accordance with the approved details.

Reason: To ensure the safe and free flow of traffic on the highway and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy Plan and the National Planning Policy Framework

Pre-occupation / Pre Use Conditions

13. No premise shall be occupied until a potable water scheme to serve the development has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall demonstrate that the existing water supply system can suitably accommodate the proposed development. If necessary, a scheme to reinforce the existing public water supply system in order to accommodate the development shall be delivered prior to the occupation of any building. Thereafter, the agreed scheme shall be constructed in full and remain in perpetuity.

Reason: To ensure the development is served by a suitable potable water supply in accordance with the requirements of policy SD3 of the Herefordshire Local Plan Core Strategy.

14. Prior to the first use of or occupation of the development hereby permitted

full details of a scheme for the provision of covered and secure cycle parking facilities to serve the proposed uses shall be submitted to the Local Planning Authority for their written approval.

The covered and secure cycle parking facilities shall be carried out in strict accordance with the approved details and available for use prior to the first use of the development hereby permitted. Thereafter these facilities shall be maintained;

Reason: To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy and to conform with the requirements of Policies SS7, SD1, MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

15. The use of the Artificial Grass Pitch hereby permitted shall not commence until:

(a) certification that the Artificial Grass Pitch hereby permitted has met FIFA Quality Concept for Football Turf – FIFA Quality or equivalent International Artificial Turf Standard (IMS) and

(b) confirmation that the facility has been registered on the Football Association's Register of Football Turf Pitches have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the development is fit for purpose and sustainable and to accord with Herefordshire Local Plan Core Strategy Policy OS2

16. Before the 3G AGP hereby approved is brought into use, a Management and Maintenance Scheme for the facility including management responsibilities, a maintenance schedule and a mechanism for review shall be submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. This shall include proposed measures to ensure the replacement of the Artificial Grass Pitch when the surface needs to be replaced. The measures set out in the approved scheme shall be complied with in full, with effect from commencement of use of the 3G AGP.

Reason: To ensure that a new facility/ies is/are capable of being managed and maintained to deliver [a facility/facilities] which is fit for purpose, sustainable and to ensure sufficient benefit of the development to sport and to accord with Herefordshire Local Plan Core Strategy Policy OS2

17. No development hereby permitted shall be brought into use until written and illustrative details of the number, type/specification and location of electric vehicle charging point, shall be submitted to and approved in writing by the Local Planning Authority.

The electric vehicle charging points shall be installed in accordance with the approved details and be maintained and kept in good working order thereafter as specified by the manufacturer.

Reason: To address the requirements policies in relation to climate change SS7, MT1 and SD1 of the Herefordshire Local Plan Core Strategy, to assist in redressing the Climate Emergency declared by Herefordshire Council and to accord with the provisions at paragraphs 108 and 110 of the National

Planning Policy Framework

- 18. Prior to first commencement of any use hereby permitted, a noise management plan for that use or phase shall be submitted to, and approved in writing by the Local Planning Authority.**

The Noise Management Plan (NMP) should address the following points as a minimum:

- statement of intent**
- a brief summary of the premises / site / activities**
- a location / site plan**
- an inventory of potential noise sources, including noise from voices detail of noise controls and limits (e.g. site rules)**
- site noise monitoring and / or evaluation**
- responding to complaints (including actions to be undertaken and recorded)**
- management command, communication, and contact details**
- periodic NMP review**

Reason: To ensure that there is sufficient and adequate noise mitigation in place, and that there is flexibility to address concerns as they arise, in the interests of amenity in accordance with the requirements of policies SS6 and SD1 of the Herefordshire Local Plan - Core Strategy and guidance contained within the National Planning Policy Framework.

- 19. A BS4142:2014 assessment (methods for rating and assessing industrial and commercial sound) in relation to any external fixed plant or equipment shall be carried out and submitted to and approved in writing by the Local Planning Authority prior to any installation. Works and installation shall be carried out in accordance with the approved details prior to first use and shall be maintained and kept in good working order thereafter as specified by the manufacturer.**

Reason: To ensure that there is sufficient and adequate noise mitigation in place, and that there is flexibility to address concerns as they arise, in the interests of amenity in accordance with the requirements of policies SS6 and SD1 of the Herefordshire Local Plan - Core Strategy and guidance contained within the National Planning Policy Framework

- 20. Prior to first commencement of any use hereby permitted a detailed specification and location plan for 'hard' habitat enhancement features including provision of bat roosting features (such as bat boxes or bricks), bird nesting boxes (mixed types) and provision of hedgehog homes and hedgehog highways through any impermeable boundary features shall be approved in writing by the planning authority. The approved scheme shall be implemented in full prior to any occupation of approved dwellings and be hereafter maintained.**

Reason: To ensure that all species are protected and habitats enhanced having regard to the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife and Countryside Act 1981, National Planning Policy Framework (2021), NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1, LD2 and LD3 and the council's declared Climate Change & Ecological Emergency

21. **Prior to first installation of any external lighting to illuminate the development (e.g building / car parking footways) a detailed specification and location plan shall be submitted to and approved in writing by the Local Planning Authority. This excludes sports related flood lighting (see informative below).**

Reason: To allow consideration of the impacts of the proposed lighting on biodiversity, amenity, landscape character, pedestrian, highway and rail safety having regards to the requirements of policies SS6, SD1, MT1 of the Herefordshire Local Plan – Core Strategy.

Compliance Conditions

22. **No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.**

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment

23. **All surface water flows created by the approved development shall be managed through relevant Sustainable Drainage System (SuDS). The approved SuDS shall be hereafter maintained and managed as approved. No surface water shall be discharged to any mains sewer system.**

Reason: In order to ensure Nutrient Neutrality and comply with The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD2, SD3 and SD4

24. **Only foul water from the development site shall be allowed to discharge to the public sewerage system and this discharge shall be made at: or downstream of manhole reference number S049373646 as indicated on the extract of the Sewerage Network Plan attached to this decision notice. No building shall be occupied until it is served by the approved connection.**

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

25. **No retained tree shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the construction phase and thereafter for 5 years from the date of occupation of the building for its permitted use, other than in accordance with the approved plans and particulars.**

Reason: In order to maintain the visual amenities of the area and to conform with Policy LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

26. **Any farm shop hereby permitted as shall be used for Class E (a) and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.**

Reason: The Local Planning Authority wish to control the specific use of the land/premises, in the interest of local amenity and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework

27. Any café hereby permitted shall be used for Class E (b) and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: The Local Planning Authority wish to control the specific use of the and/premises, in the interest of local amenity and to comply with Policies MT1 and SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

28. In the event that the polytunnels hereby permitted become redundant and all other associated development shall be removed and the land reinstated to its original condition within nine months.

Reason: In order to maintain the visual amenities of the area and to conform with Policy LD1 and SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework

29. Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following documents and plan:

Bearwood Associates Ltd – BS5837:2012 Arboricultural Impact Assessment Oct 2022

Reason: To ensure that the development is carried out only as approved by the Local Planning Authority and to conform with Policies LD1 and LD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

INFORMATIVES:

1. IP2 - Application Approved Following Revisions
2. This permission does not authorise the display of any advertisements on the site (including any shown on the plans accompanying the application). Separate application should be made to Herefordshire Council in accordance with the Town and Country Planning (Control of Advertisements)(England) Regulations 2007
3. The submitted details should demonstrate that the AGP meets relevant design guidance from FA and RFU to meet relevant requirements for training and matchplay use (where relevant).

Guidance on preparing Community Use Agreements is available from Sport England. <http://www.sportengland.org/planningapplications/> For artificial grass pitches it is recommended that you seek guidance from the Football Association/England Hockey/Rugby Football Union on pitch construction when determining the community use hours the artificial pitch can accommodate.

4. Any works on this land will need to be undertaken following engagement with Asset Protection to determine the interface with Network Rail assets, buried or otherwise and by entering into a Basis Asset Protection Agreement, if required, with a minimum of 3 months notice before works start. Initially the outside party should contact assetprotectionwales@networkrail.co.uk
5. The proposed development site is crossed by public sewers with the approximate position being marked on the attached Statutory Public Sewer Record. The positions shall be accurately located, marked out on site before works commence and no operational development shall be carried out within a specified easement zone either side of the centreline of the public sewers. The applicant is advised to contact Welsh Water to discuss.
6. The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 other Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition.

Further information can be obtained via the Developer Services pages of www.dwrcymru.com. The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water to establish the location and status of the apparatus.

7. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.
8. In accordance with National Planning Policy Framework (Edition 11) and Technical Advice Note 12 (Design), the applicant is advised to take a sustainable approach in considering water supply in new development proposals, including utilising approaches that improve water efficiency and reduce water consumption. We would recommend that the applicant liaises with the relevant Local Authority Building Control department to discuss their water efficiency requirements. The approved use should investigate an adequate grease trap to be fitted, in accordance with environmental health regulations, and maintained thereafter so as to prevent grease entering the public sewerage system.
9. As the proposed orchard planting shown on the masterplan is currently outside the application boundary no condition to ensure the detailed specifications for provision planting and management of the orchard area are currently relevant. As an advisory any application to include the orchard planting should demonstrate that it will be a Traditional "standard" Orchard with all trees on fully vigorous rootstocks and include a range of fruit types and varieties – including heritage varieties of local distinctiveness. The understorey should be a traditional wildflower rich

seed mixture. A relevant minimum 30 year establishment and maintenance plan should be provided that recognises the extensive formative care and pruning that will be required and specialist nature of the pruning and management of fruit trees.

10. There is a Prohibition of Driving Order on byway GF7 and HA14, so these cannot be used by vehicles to access the site.
11. The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended), with enhanced protection for special “protected species” such as all Bat species, Great Crested Newts, Otters, Dormice, Crayfish and reptile species that are present and widespread across the County. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it is advised that advice from a local professional ecology consultant is obtained.
12. The applicant’s attention is drawn to the comments of Sport England who will require (either as part of the Reserved Matters or discharge of condition) details to include plans and information to show the proposed location of the AGP within the existing playing field, the overall AGP dimensions including run-off areas, proposed hard-surfaced areas for goal storage, spectator viewing/circulation, the proposed carpet pile length, shockpad specification, infill material containment and de-contamination zones, sports fencing design, proposed pitch line markings for various pitch sizes to be provided, and detailed sports lighting design. The AGP shall not be constructed other than in accordance with the approved details.

The application submission for the development of the 3G AGP did not propose (within plans or documents) the use of flood lighting and as such a separate planning permission would be required. The applicant’s attention is drawn to the comments received from statutory and non-statutory consultees in respect of impacts of lighting for the proposed development.

13. The applicant’s attention is drawn to the comments of Network Rail.

Councillor Richard Thomas resumed his seat on the committee.

19. **212518 - LAND SOUTH OF YEW TREE FARM, RUCKHALL, COMMON ROAD, EATON BISHOP, HEREFORD, HR2 9QX** (Pages 25 - 26)

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

In accordance with the criteria for public speaking Ms Wall, local resident, spoke in objection to the application and Mr Pryce, the applicant's agent, spoke in support.

In accordance with the council's constitution the local ward member spoke on the application. In summary he explained that the application had been deferred at the April

meeting of the planning committee due to concerns regarding drainage on the site and a construction management plan for the site which was located in an inaccessible position along narrow lanes. It was explained that local residents maintained their objections to the development based on drainage issues due to flaws with the drainage solutions proposed. It was commented that there was no culvert at the entrance to the application site. It was noted that the local drainage engineer made objections previously to the proposals on site. The location of the application site in close proximity to a well was contrary to regulations managing foul water drainage close to sources of drinking water.

The committee discussed the application. It was noted that the application concerned reserved matters which did not include drainage and the local drainage engineer had raised no objection to the latest drainage solution proposed on the application site.

The The Senior Planning Officer provided clarification that:

- He had seen photographic evidence from 2021 of a clay pipe culvert that ran adjacent to the site.
- The local drainage engineer had no objection to the drainage strategy proposed for the site which would allow water generated by the development to be dealt with on site. The drainage solution proposed would not address existing problems in the area but would provide for drainage on the development.
- With regards to the well at a nearby property Welsh Water had confirmed that a water supply was provided to the house.
- It was explained that the current application was a reserved matters application. Drainage was a conditional matter which had been determined earlier during outline approval.

The local ward member was given the opportunity to close the debate. It was important that the development complied with all drainage conditions and took account of the potential future use of the nearby well. Access to the site was problematic and the site management plan needed to be properly enforced.

A motion that the application be approved in accordance with the case officer's recommendation was proposed by Councillor Polly Andrews and seconded by Councillor Richard Thomas. The motion was put to the vote and carried unanimously.

RESOLVED – That:

That reserved matters approval be granted subject to the following conditions and any other conditions considered necessary by officers named in the scheme of delegation to officers:

1. **The development hereby approved shall be carried out strictly in accordance with the approved plans (drawing nos. YTF-PA-529601b; YTF-PA-5296-02d; YTF-PA-5296-03d; YTF-PA-5296-04c and YTF-PA-5296-06) except where otherwise stipulated by conditions attached to this reserved matters approval.**

Reason: To ensure adherence to the approved plans and to protect the general character and amenities of the area in accordance with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

2. **The development hereby approved shall be carried out strictly in accordance with the approved schedule of materials, as found on drawing no. YTF-PA-5296-03d, unless samples and/or trade descriptions of alternative materials are submitted to and approved**

in writing by the local planning authority (in which case, development shall be carried out in accordance with the approved details).

Reason: To ensure that the materials harmonise with the surroundings so as to ensure that the development complies with the requirements of Policies SD1 and LD1 of the Herefordshire Local Plan – Core Strategy, Policy EB1 of the Eaton Bishop Neighbourhood Development Plan and the requirements of the National Planning Policy Framework.

- 3. The development hereby permitted shall be carried out in accordance with the submitted Construction Management Plan and site set-up plan (YTF-PA-5296-07) for the duration of the construction period of the development.**

Reason: In the interests of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 4. All planting, seeding or turf laying in the approved landscaping scheme (drawing no. YTF-PA-5296-02d) shall be carried out in the first planting season following the occupation of the dwelling or the completion of the development, whichever is the sooner. Any trees or plants which die, are removed or become severely damaged or diseased within 5 years of planting will be replaced in accordance with the approved plans.**

Reason: To ensure implementation of the landscape scheme approved by local planning authority in order to conform with Policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework

- 5. Existing boundary treatments shall be retained, unless otherwise specified on the approved plans or approved in writing by the local planning authority (in which case, development shall be carried out in accordance with the approved details).**

Reason: To ensure the development is assimilated into its semi-rural setting, in order to conform with Policies SS6, SD1 and LD1 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.

- 6. Any new access gates/doors shall be set back 5 metres from the adjoining carriageway edge and shall be made to open inwards only.**

Reason: In the interests of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 7. Prior to first occupation of the dwelling hereby permitted, written and illustrative details of the type/specification and location of a charging point to enable the charging of plug-in and other ultralow emission vehicles (e.g. provision of cabling and outside sockets) and serve the occupiers, shall be submitted to and approved in writing by the local planning authority. The charging point shall be**

installed prior to first occupation and be maintained and kept in good working order thereafter as specified by the manufacturer.

Reason: To address the requirements of policies in relation to climate change, including SS7, MT1 and SD1 of the Herefordshire Local Plan - Core Strategy; to assist in redressing the Climate and Ecology Emergency declared by the Council; and to accord with paragraphs 107 and 112 of the National Planning Policy Framework.

INFORMATIVES:

1. The attention of the applicant is drawn to the conditions on the outline planning permission granted on 3 September 2019, reference no. 191541/O. This application, for the approval of reserved matters, is granted subject to these conditions.
2. The applicant is reminded of the obligation to ensure that nearby public rights of way (EB19 and EB19A) are not obstructed during the construction period.
3. This approval does not imply any rights of entry onto or over adjoining property.

20. 231926 - BARN AT WOOLNER HILL FARM, STONEHOUSE LANE, BRINGSTY, HEREFORDSHIRE

The Development Manager North Team gave a presentation on the application.

The committee debated the application.

A motion that the application be approved in accordance with the case officer's recommendation was proposed by Councillor Bruce Baker and seconded by Councillor John Stone. The motion was put to the vote and was carried unanimously.

RESOLVED – That:

Prior Approval be granted subject to the following conditions (as required by the Town & Country (General Permitted Development) (England) Order 2015)

1. Development under Class Q is permitted subject to the condition that development under Class Q (a) and under Class Q (b), if any, must be completed within a period of 3 years starting with the date of this permission.

Reason: In accordance with Condition (3) as outlined under Conditions of Class Q under Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

2. The development shall be carried out strictly in accordance with the approved plans (drawing nos. 4439 (P) 001, 4439P (O) 106 & 4439 P (O) 107), except where otherwise stipulated by conditions attached to this permission.

Reason: To ensure adherence to the approved plans and to protect the general character and amenities of the area in accordance with the requirements of the National Planning Policy Framework and to ensure compliance with the provisions of Class Q of Part 3 of the General Permitted Development Order.

INFORMATIVES:

1. The applicant is advised that in accordance with Regulation 75 of the Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019, it is a condition of any planning permission granted by a General Development Order that is likely to have a significant effect on a European site (either alone or in combination with other plans or projects), that works should not commence until the developer has received written notification of the approval from the local planning authority under Regulation 77. The applicant should therefore be satisfied before commencing works that the development will not have any likely effect on any European Site. In addition, applicants are advised that they can, if they choose to, apply to Natural England as the appropriate Nature Conservation body, under Regulation 76 of the Regulations (as amended) prior to making any necessary application to the Local Planning Authority under Regulation 75.

2. The attention of the applicant is drawn to the provisions of the Wildlife and Countryside Act 1981 (as amended). This gives statutory protection to a number of species and their habitats. Other animals are also protected under their own legislation. Should any protected species or their habitat be identified during the course of the development then work should cease immediately and Natural England should be informed. They can be contacted at: Block B, Government Buildings, Whittington Road, Worcester, WR5 2LQ. Tel: 0300 060 6000.

The attention of the applicant is also drawn to the provisions of the Conservation of Habitats and Species Regulations 2010. In particular, European protected animal species and their breeding sites or resting places are protected under Regulation 40. It is an offence for anyone to deliberately capture, injure or kill any such animal. It is also an offence to damage or destroy a breeding or resting place of such an animal.

3. The proposed development may not have access to mains water and be reliant on a private water supply. The applicant is advised that the Private Water Supplies (England) Regulations 2016 (as amended) and the Water Supply (Water Quality) Regulation 2016 are likely to apply. In accordance with these Regulations and the Building Regulations 1984 the water must be of a potable and safe standard.

If the supply is to be used for shared or commercial purposes including renting, the private Water Supplies (England) Regulations 2016 specify that the water supply cannot be used until it has been risk assessed by the local authority's private water supplies team (01432 261761) and found compliant. Applicants that are connecting to existing private water supplies or accessing sources of water on land over which they have no control are advised to give careful and specific attention to contractual/civil arrangements including rights of access, maintenance arrangements, provision of alternative water supply are agreed in writing at the outset.

21. DATE OF NEXT MEETING

Noted.

The meeting ended at 12.33 pm

Chairperson

PLANNING COMMITTEE

Date: 16 August 2023

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

181494 - PROPOSED LAND FOR RESIDENTIAL DEVELOPMENT AND ASSOCIATED WORK TOGETHER WITH PUBLIC OPEN SPACE AND LOCAL GREEN SPACE. AT LAND ADJACENT TO SPRING COTTAGE, HEADBROOK, KINGTON, HR5 3DY

For: Mr & Mrs Turner per Mr Peter Draper, Yew Tree Cottage, Byford, Hereford, Herefordshire HR4 7LB

ADDITIONAL REPRESENTATIONS

Comments from the applicant's agent were received on 14 August – these are appended to this update sheet.

The following representation was received on 1 August by a neighbour who has already made comment on the application previously; -

Dear Sirs,

I have attached 3 photographs taken showing how many cars park on Headbrook in Kington and can completely block one side of the carriage way. This is a busy route into and out of the town from the A44 and is used by many vehicles including both regular scheduled services and school buses. A large number of heavy goods vehicles use Headbrook to access the petrol station, not only for fuel but also to park up for a snack and a drink. Delivery vans into the town shops in addition to locals and visitors to the town all use this road. There is very limited free parking in Kington so people park in this area and catch the bus into Hereford or walk to the local shops and amenities.

I believe that the access road to the proposed new housing estate would further add to the congestion of this road which is already difficult to cross at certain times of the day and would warrant a pedestrian crossing area or at the very least survey the volume of traffic on this road to review what steps can be taken to reduce the speed of vehicles and control the amount parking by non-residents.

It is for the reasons above that I object to building on the meadow to the north of Headbrook.

*Yours sincerely,
Diane Ferriday.*



Further to the above late representation, the applicant has provided the following response (11 August); -

Good Morning,

Following the latest photographs to be added to the planning portal, please find attached photographs taken at 9.30 a.m. today, 11th August 2023.



OFFICER COMMENTS

- Officers consider that the matters highlighted in the above late representations / comments do not raise any new material planning considerations not already covered within the Officer's Report.
- It was confirmed on Friday 11 August by the Strategic and Neighbourhood Planning Manager we continue to have a five year housing land supply of 6.27 years. The formal Annual Position Statement and Report will follow in the coming weeks.

CHANGE TO RECOMMENDATION

- No change to recommendation as set out within the Officer's Report.

Appendix - Applicant's Comments on the Officer Report to Planning Committee of 16.08.23

PDA Planning

Yew Tree House, Byford, Hereford HR4 7LB
T: 01981 590500 & 07831 105423
E: info.pdaplanning@gmail.com
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Town & Country Planning Consultants
Land, Property and Development Consultants

Peter J Draper, DipTP (Nottm), FPCS Catherine M Draper, MEd, DipTP (Nottm), PGCE

181494 - Land adjacent to Spring Cottage, Headbrook, Kington

Applicant's Comments on the Officer Report to Planning Committee of 16.08.23

- Re 1.7: There was no mention of the 5 Year Housing Land Supply (5YHLS) or 'Tilted Balances' in the 2018 Planning Committee's debate nor is it mentioned as such in the debate recording, the subsequent Committee Minutes, or in the Approval Reasons.
- Re 1.8: No 'Tilted Balances' were mentioned in 2018 and therefore were not 'engaged'.
- Re 1.9: The present 5YHLS position does not alter the fundamental reasons for the 2018 Planning Committee approval; the 5YHLS was not fundamental in the reasons for the 2018 approval.
- Re 1.10: The 2018 approval was based on an up to date Local Plan/Core Strategy Policy i.e. Policy KG1 – Development in Kington, which seeks to accommodate around 200 new dwellings in the town (the LP/CS Inspector recommended a minimum of 200 dwellings); the originally approved proposal for Headbrook is for up to 35 dwellings and thus is entirely policy compliant.
- Hence, re 1.10 and 1.11, we cannot understand or agree that there has been a significant change to the planning policy context and certainly no reason for the application being referred to another Planning Committee some 4.5 years later for 'another go'.
- Re 6 and 6.1 and following to 6.15.1: This largely re-presents the original views and/or objections from Council and Statutory Consultees of 2018 and which were fully considered by the 2018 Committee and largely dismissed; there should be no difference now.
- However, the one major difference now concerns Natural England (NE) who had no objection originally in 2018, but then in July 2019 (when the scheme's S.106 Agreement was about to be signed off and a final permission issued) objected on the grounds of the 'Dutch Case' and created the subsequent embargo on all new Herefordshire development within the River Wye SAC area, resulting in nearly 4 years of development stagnation. The proposal has now passed the 'phosphates test' and the required credits have been purchased, such that nutrients neutrality has been secured and NE now has no objections whatsoever.
- Re 7 and 7.1 and following to 7.3.1: This largely re-presents the original views and/or representations/objections of other outside bodies and members of the public; all these were fully considered by the 2018 Committee and generally dismissed and again there should be no difference now.
- Re 7.1/7.1.1: In the Kington Town Council reconsultation views of 10 January 2023, there seems to be some confusion and the overall comment seems to reiterate their original objection of 2018, which was largely based on the now failed Kington Neighbourhood Plan (KNP); this seems at odds with the fact that in February 2020 the Town Council, in considering revision of KNP, now supported the Headbrook housing site under Policy KANP – Housing Delivery.
- Re 7.2/7.2.2/7.2.3: This covers the Public Consultation of May 2018 which was considered fully by the 2018 Committee and the reconsultation of December 2022/January 2023; the reconsultation resulted in very similar objections to those of 2018 which were previously fully considered by the Committee and not accepted. We provided strong rebuttal reasons, emphasising where there were errors of fact, in 2018 (Brief Statement: June 2018) and again in 2023 (Brief Statement No 3: May/June 2023), notwithstanding that there were actually 6 separate representations made in 2023 within the 'time limit' and a further 6 out of time of which 5 had already made earlier, in-time, representations.
- Re 8, Officers Appraisal and 8.1 and following to 8.12: This was all fully considered and debated by the 2018 Committee and they found that the proposal was fully sustainable and appropriate.
- Re 8.13 to 8.27: The Conservation Area at its nearest point is over 70 metres from the proposed housing and cannot be viewed against the existing mix of other commercial and residential building and the existing

landscape; this was fully considered by the 2018 Committee at a site visit and the later debate and it was found that there would be no impingement on the CA.

- Re 8.28 to 8.35: The effect of the proposal on the local landscape was fully considered by the Committee in 2018 both at the site visit and the later debate and the consensus was that there would be little harm to the local landscape and that the green space and landscape enhancement elements of the scheme would benefit the area greatly.
- Re 8.57 to 8.63: This emphasises the work that has gone on since December 2018 and July 2019 to create the nutrient neutrality required by NE and which the proposal now meets fully to the complete satisfaction of NE.
- Re 8.64: This is breathtakingly inaccurate. The S.106 Agreement was fully accepted and ready for signing off in July 2019 (despite the fact that the Council's dilatory inaction had taken since December 2018 to be ready for their signatures, while the applicants had already signed). Following the 2019 development moratorium, in November 2020 the applicants commissioned the necessary environmental work to prove the phosphates credits acceptance and in August 2022 they were invited to apply for the purchase of credits. In April 2023 the applicants paid the Council nearly £63,000 in purchase fees and the original S.106 was amended and agreed with the Council on 21 April to take account of the credits purchase; this was signed by the applicants on 27 April with a promise from the Council to complete the transactions within a few days and to issue the planning permission. By 10 May, the Council had changed the position and reneged on its promise and the applicants were informed that the Planning Application would be referred back to a new Planning Committee – hence the applicants have been waiting for a further four months until 16 August for a resolution with a current and amended S.106 ready for completion.
- Re 8.69: The refusal recommendations are nothing more than a 'cut and paste' job from the original December 2018 officer report, which was fully debated and considered by the Planning Committee, resulting in a clear-cut 11 to 1 vote to approve the planning application, subject to the completion of the S.106 Agreement.
- Re the 5YHLS debate: The 2023 assessment has yet to be published; in a Planning Appeal case at Winforton in 2022 (application 210131), the Council in their Case Statement said, regarding the Headbrook proposal:

"The application has been assessed and found to be acceptable in all respects, except the need to carry out a positive HRA. The application was placed 'on hold' and in priority queue to be offered phosphate credits. The LPA wrote to the Applicant on 5th August 2022 to invite them to purchase credits that were now available from the Council's Integrated Wetland scheme in Luston. A formal response is required by the 26th August, however the Applicant has informally advised officers that they intend to purchase credits to mitigate for the effects of the development. This would allow for a positive HRA to be carried out. There is therefore a high likelihood that the Council will be able to grant permission in near future and that the housing will subsequently come forward thereafter"

If the Headbrook proposal was good enough for the Council's appeal evidence in 2022 and the 5YHLS, then it should be good enough for August 2023 and should be approved by the Planning Committee as it was, overwhelmingly, in December 2018.

END

*P J Draper, DipTP (Nottm), FPCS
On behalf of Mr & Mrs M Turner
August 2023*

SCHEDULE OF COMMITTEE UPDATES

212518/RM - RESERVED MATTERS FOLLOWING OUTLINE APPROVAL 191541/O (OUTLINE FOR THREE OR FOUR BEDROOM DWELLING ON A PLOT OF LAND CURRENTLY PART OF HILLCREST'S GARDEN) AT LAND SOUTH OF YEW TREE FARM, RUCKHALL COMMON ROAD, EATON BISHOP, HEREFORD, HR2 9QX

For: Mrs James per Mr Russell Pryce, Unit 5, Westwood Industrial Estate, Ewyas Harold, Hereford, Herefordshire HR2 0EL

ADDITIONAL REPRESENTATIONS

Officers have been made aware of advice provided to the neighbours at Yew Tree Farm by the Environment Agency (EA) in respect of concerns regarding their well. Whilst these comments have not been submitted as a representation on this application, it was felt appropriate to update Members.

"Thank you for taking the time yesterday to provide us with supplementary information regarding your query, about a proposed septic tank within 50m of your property. Colleagues within our Land & Water and Groundwater & Land Contamination Teams have considered the information available to us and have reached a conclusion for you. The proposed drainage field should be located 50 metres downgradient of the well situated on your property, to comply with the General Binding Rules. This development would therefore need to apply for a discharge permit, so that the discharge from this activity can be thoroughly assessed in greater detail. We feel that your local authority should be satisfied that this is a groundwater discharge activity that warrants further investigation, prior to the implementation of the plans for the proposed development."

OFFICER COMMENTS

With regard to the EA's correspondence, Officers are at a slight disadvantage in that we do not know the content of discussions leading to the response. In relation to Regulation 7 of the General Binding Rules, which govern whether or not an environmental permit is required, our position is as follows:

- Regulation 7 states that to prevent groundwater pollution you must check if the discharge point is in a groundwater source protection zone 1 (SPZ1). A groundwater SPZ1 can be the area around a commercial water supply used for drinking water or food production. A suggestion has been made by the Local Member (Cllr Hitchiner) that well water is being used to cultivate crops. However, the advice received from Land Drainage and confirmed via DEFRA's interactive mapping online is that the site does not lie within a groundwater SPZ1.
- Regulation 7 also says that a groundwater SPZ1 can also be any area within 50 metres of a private water supply for human consumption. It is therefore relevant to ask neighbours if they have one and, if so, how far their spring, well or borehole is from your drainage field. Our Private Water Team has confirmed that Yew Tree Farm is not registered as private supply for human consumption. We also know that this area is served by a mains water supply.

On this basis, even if a permit was deemed to be required, we do not envisage that there would be any likely grounds for refusal in the absence of registered use of the well for domestic drinking water. It is important to emphasise that the Council should not seek to duplicate controls that are the responsibility of another authority – in this case the EA and the consideration of a permit application.

CHANGE TO RECOMMENDATION

N/A

