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Your Ref: 161690

Our Ref: APP/W1850/W/16/3157903

Further appeal references at foot of letter

Herefordshire Council
P O Box 230
Blueschool House
Blueschool Street
Hereford
HR1 2ZB

07 December 2016

Dear Sir/Madam,

Town and Country Planning Act 1990

Appeals by FATYDAM 2 LIMITED

Site Addresses: Wheatsheaf Inn, Bromyard Road, Whitbourne, WORCESTER, herefordshire, WR6 5SF and car park opposite wheatsheaf inn, bromyard road,

I enclose for your information a copy of the appellant's final comments on the above appeal(s). Normally, no further comments, from any party, will now be taken into consideration.

Yours faithfully,

Daniel Cardy
Daniel Cardy

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through the Planning Portal. The address of our search page is - www.planningportal.gov.uk/planning/appeals/online/search

Linked cases: APP/W1850/W/16/3157904

FATYDAM 2 LIMITED

registered office

63 BROMYARD ROAD

WORCESTER WR2 5BZ

EMAIL , fatydam2@yahoo.com

To whom it may concern ,

Our comments on Whitbourne Parish Councils rebuttal relating to planning appeals 3157903 and 3157904 .

Point 1 , they say it has not being proved that the public house is no longer viable , evidence has been submitted to the County council who expressly accept in this appeal that non viability has been proven .

Point 2 , there is no existing open view across the car park as a large hedgerow and trees on adjacent abutting land block this aspect especially when one considers the view from a car drivers prospective sitting down eye level at maybe only 1.2 or 1.5 metres . The parish council accept that the highways department have not designated this junction as dangerous and I have already supplied accident data for the past decade that shows no accidents have occurred here . The visabilty from the junction in either direction is unimpeded for several hundred metres .

Point 3 , number of vehicle movements , I think it is accepted that a few private houses would be a less intensive use than a public house car park thus making this area even safer . When the public house was operational and the car park was intensively used I have been unable to find any records of accidents at this location .

Point 4 , 'bus stop' we do not interfere with the existing bus stop .

Point 5 , 'liable to severe flooding ' , firstly the Environment agency flood maps do not identify this area as being at risk , secondly in a submission to the planning authority objecting to the proposal the Parish council stated that they used this car park in emergencies when there was flooding in the village , which would seem to contradict this claim . Finally the Planning authority have not raised any objection on these grounds.

'foul sewerage ' the local water authority have commented that they have no objection to the proposals .

Point 6 , LU1 and LU4 , The parish council state in LU1 that the settlement boundary will be the main focus for new development in the neighbourhood area , but they do not allocate any sites and say that they will forfill their quota from windfalls which them selves are not in the settlement zone but are located in the greater NDP area . We are also in the NDP area and are demonstrable in a more sustainable and deliverable location than any of the possible windfall sites that they have identified , also it should be noted that by their own admission they still have a shortfall after their expected windfall sites are brought forward . We actually doubt the deliverabilty of most of these identified sites with them in remote locations some subject to flooding others being in the grounds of listed buildings etc. From the Whitbourne NDP ,

' A Neighbourhood Development Plan for Whitbourne for 2011-2031 must have regard for our housing needs in that period, and how they are to be met.

On 17th April 2015 the Herefordshire Neighbourhood Planning Team Leader advised us that the total number of new dwellings required to 2031 was 39. We have been informed, and accept, that this number should be regarded as a minimum.

At this point it may be useful to consider calls that have been made (though by very few parishioners) for a far larger number of new houses within the Plan period.

It was claimed that a large new development would:

1. rescue the village school

2. rescue the *Live and Let Live* public house

3. increase custom for the village shop

Claims (1) and (2) had obvious flaws but have in any case been overtaken by time. The village school is closed and the *Live and Let Live* public house is busy under new ownership. As for the village shop, it will continue to flourish whilst it provides the services that the village requires.

So we see no reason to challenge the figures laid down by Herefordshire Council.

- where, then, are the 39 dwellings to be found?

- we have been advised that this Plan should either “*allocate land for new housing*” OR “*demonstrate an alternative delivery mechanism*”.

We have been able to locate sites that the owners have earmarked for housing development.

The first was created on 29th October, 2014, by Herefordshire Council Planning Committee, when it approved an application to build an estate of 20 dwellings adjacent to Acreage.

Further sites can be found, with expected windfall up to 2031, as shown in the following table:

Whitbourne Neighbourhood Development Plan Final Version - Issued September 2016

Housing Projections

Site No of Units

Ardley Meadows development adjacent to Acreage 20

Committed Units

Lower Tedney Farm (RRB) 6

Old Rectory 4

Total 10

Expected windfall units to 2031

The Croft 13

Tiblands Farm (RRB) 2

Virginia Cottage 1

Other windfall (estimated) 10

Total 26

Overall Total 56

The larger site at The Croft is owned by senior and respected members of the community who fully intend to sell the site for housing at the appropriate time. Given the ages of the parties, that time may realistically be expected to fall within the span of this Plan. The appeal of the site to developers has already been demonstrated and compelling evidence of this interest has been provided.

Natural England expressed concern that this site might not be viable for housing because its map of the area marked The Croft as “traditional orchard”. No such orchard is to be found at The Croft, and the owners, who are long standing, recall no such feature during their tenure. The smaller site, adjacent to Virginia Cottage, in the Conservation Area, has been set aside for development within the lifetime of the Plan.

It has also attracted an inaccurate report, namely that it is unsuitable for housing because of flooding. A householder directly opposite the site reports that in more than 40 years of her occupancy no such flooding has occurred. Moreover, building techniques are now available to raise a new dwelling above the threat of flood. The site is owned by a distinguished landowner whose family ties with the parish go back

more than a century. Given his character and antecedents, it is inconceivable that he would permit any development in the Conservation Area that did not respect its special nature.

The foregoing sites, then, provide a realistic prospect of 14 new dwellings within the lifetime of this Plan.

As to ‘an alternative delivery mechanism’, we instance the present availability for housing

development of the buildings listed under LU2

Redundant Rural Buildings (RRB). Whitbourne is a rural parish with an ancient farming history. It would be astonishing, given the radical

changes in agriculture within living experience, if there were no RRB ripe for development.

The owner of **Lower Tedney Farm** is a respected member of the parish whose family has built up over generations an international reputation as breeders of prize cattle. He has obtained planning consent for the conversion of the RRB into 6 dwellings.

At the **Old Rectory** 4 RRB have been converted into dwellings.

Finally, **Tiblands Farm** is owned by a long established Whitbourne family whose firm intention is to develop RRB into 2 dwellings within the lifetime of the Plan.

It should be noted that all these developments will meet different kinds of housing need. They vary in size. Some are proposed for sale, others for rental.

In addition, we have been advised by Herefordshire Council that we may build into our forecast unexpected windfall sites. This is a calculation that is at best uncertain. How do we predict the unpredictable? It appears to us that the least faulty method is to take as a guide the pattern over the last twenty years, recognising always that unexpected factors may throw any calculation out of kilter. The result in Whitbourne is illuminating. In recent years 14 windfall dwellings have arisen.

Three houses now occupy the site of the old post office

near the village hall; **four more stand at Moor Court alongside the *The Wheatsheaf* Public House**. More have been from the conversion of RRB than might have been expected. In the last decade conversions of RRB at Poplands Farm and Wishmore Farm appear to confirm a trend.

Finally the Parish council state that we are in conflict with their policy LU4 ,

' Policy LU4 - Housing Strategy

The Neighbourhood Plan supports the delivery of a minimum of 50 houses in the Neighbourhood Area over the plan period.

Housing or development proposals should seek to:

- i. Be in keeping with the character of their surroundings by virtue of their siting and layout, density, scale, massing, design, landscaping and choice of materials**
- ii. Deliver a range of dwelling types and sizes to meet local housing requirements**
- iii. Respect the amenity and privacy of any adjoining properties**
- iv. Ensure suitable and safe access to the highway '**

We feel that we can and or do comply with all of this policy as this is an outline application .

In conclusion we believe that the Parish councils concerns are unfounded and that we genuinely support the objectives of the housing supply over the plan period in the Whitbourne neighbourhood plan . Their plan is solely reliant on windfalls and ours are demonstrable more deliverable and in better sustainable location than any others mentioned in their NDP document . Also noting that they do not allocate any housing or identify any windfalls that may come in the actual settlement boundary of Whitbourne Neighbourhood plan .

I respectfully ask that our appeal be allowed ,

yours faithfully peter styles pp fatydam 2 limited.

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To whom it may concern ,

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3157903 ,

Referring their response it is I believe difficult for them to rely on their planning policies SD1 RA2 RA3 AND MT1 and also the Whitbourne neighbourhood development plan . It is accepted that with out a 5 year land supply these policies in them selves are not paramount and the question is one of harm versus detrimental impact . In relation to the policies listed we believe that we actually meet the bulk of their criteria .

SD1 , this brownfield PDL site is a very efficient use of land as per the first paragraph of SD1 and all the other points of SD1 that may relate to this application could not be judged by Herefordshire but could be met as this is an outline application .

RA2 , 'sustainable housing growth will be supported in or adjacent to those settlements ' we are adjacent in the meaning of close to or nearby . 'Neighbourhood Development Plans will allocate land for new housing or otherwise demonstrate delivery to provide levels of housing to meet the various targets, by indicating levels of suitable and available capacity.' The Whitbourne NDP does not allocate any housing sites in spite of an identified need and relies completely on windfall sites that are outside of the settlement boundary as they claim our site is , also the sites they propose as windfall are not proven to be deliverable are in less sustainable locations than ours proposed and seem to totally rely on the antecedence of historic local landowners whose word is enough to justify the Parish councils position on deliverability . ' Housing proposals will be permitted where the following criteria are met:' '1, Their locations make best and full use of suitable brownfield sites wherever possible;' We are the only deliverable brownfield site in the locality and in the NDP area , the redundant public house is ripe for conversion and the last planning use of the rear area was a 'hard standing ' and is tarmaced although now overgrown . 'Housing proposals will be permitted where the following criteria are met:' ' 4.They result in the delivery of schemes that generate the size, type, tenure and range of housing that is required in particular settlements, reflecting local demand.' From the questionnaire that he parish council produced most respondents showed a preference for smaller more affordable market housing which is exactly what we are trying to deliver .

RA3 ,

' Policy RA3 – Herefordshire's countryside

In rural locations outside of settlements, as to be defined in either Neighbourhood Development Plans or the Rural Areas Sites Allocations DPD, residential development will be limited to proposals which satisfy **one or more** of the following criteria:

1. meets an agricultural or forestry need or other farm diversification enterprise for a worker to live permanently at or near their place of work and complies with Policy RA4; or
2. accompanies and is necessary to the establishment or growth of a rural enterprise, and complies with

Policy RA4; or

3. involves the replacement of an existing dwelling (with a lawful residential use) that is comparable in size and scale with, and is located in the lawful domestic curtilage, of the existing dwelling; or
4. would result in the sustainable re-use of a redundant or disused building(s) where it complies with Policy RA5 and leads to an enhancement of its immediate setting; or
5. is rural exception housing in accordance with Policy H2; or
6. is of exceptional quality and innovative design satisfying the design criteria set out in Paragraph 55 of the National Planning Policy Framework and achieves sustainable standards of design and construction; or
7. is a site providing for the needs of gypsies or other travellers in accordance with Policy H4. '

We strongly suggest that the wording of this policy RA3 is ambiguous and we are identifiable in the neighbourhood development plan area or NDP and therefore in a settlement that has an identified housing need . Also as this application partly redevelops a proven redundant building is compatible with the gist of RA5 .

' Policy MT1 – Traffic management, highway safety and promoting active travel

Development proposals should incorporate the following principle requirements covering movement and transportation:

1. demonstrate that the strategic and local highway network can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts can be managed to acceptable levels to reduce and mitigate any adverse impacts from the development;
2. promote and, where possible, incorporate integrated transport connections and supporting infrastructure (depending on the nature and location of the site), including access to services by means other than private motorised transport;
3. encourage active travel behaviour to reduce numbers of short distance car journeys through the use of travel plans and other promotional and awareness raising activities;
4. ensure that developments are designed and laid out to achieve safe entrance and exit, have appropriate operational and maneuvering space, accommodate provision for all modes of transport, the needs of people with disabilities and provide safe access for the emergency services;
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6. have regard to with both the council's Highways Development Design Guide and cycle and vehicle parking standards as prescribed in the Local Transport Plan - having regard to the location of the site and need to promote sustainable travel choices. '

1, we are reducing intensity of lawful use from public house car park to a few residential units.

2, we have a main public bus stop adjacent to the site .

3, we intend to ,

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Whitbourne neighbourhood development plan , we have had regard to the Whitbourne NDP and consider it to be flawed , it does not provide with any certainty deliverable housing allocations relying on promises of future planning applications which themselves do not appear to be in the settlement zone albeit in the NDP area . We to are in the NDP area and are demonstrable more sustainable and deliverable than any of the proposed sites on the NDP 'wish list ' . They have an identified housing need no allocations rely totally

on windfall and can not show any proof of deliverability within the plan period. They admit in the NDP that they are dependant on the promises of certain community members whose antecedence can not be questioned !

Quote from the NDP

' The smaller site, adjacent to **Virginia Cottage**, in the Conservation Area, has been set aside for development within the lifetime of the Plan. It has also attracted an inaccurate report, namely that it is unsuitable for housing because of flooding. A householder directly opposite the site reports that in more than 40 years of her occupancy no such flooding has occurred. Moreover, building techniques are now available to raise a new dwelling above the threat of flood. The site is owned by a distinguished landowner whose family ties with the parish go back more than a century. **Given his character and antecedents**, it is inconceivable that he would permit any development in the Conservation Area that did not respect its special nature.

The foregoing sites, then, provide a realistic prospect of 14 new dwellings within the lifetime of this Plan.

As to 'an alternative delivery mechanism', we instance the present availability for housing development of the buildings listed under **LU2 Redundant Rural Buildings (RRB)**.

Whitbourne is a rural parish with an ancient farming history. It would be astonishing, given the radical changes in agriculture within living experience, if there were no RRB ripe for development.

As to those listed and located in the map on Page 10, the owner of **Lower Tedney Farm** is a respected member of the parish whose family has built up over generations an international reputation as breeders of prize cattle. He has obtained planning consent for the conversion of the RRB into 6 dwellings.

At the **Old Rectory** 4 RRB have been converted into dwellings.

Finally, **Tiblands Farm** is owned by a long established Whitbourne family whose firm intention is to develop RRB into 2 dwellings within the lifetime of the Plan.

It should be noted that all these developments will meet different kinds of housing need. They vary in size. Some are proposed for sale, others for rental.

In addition, we have been advised by Herefordshire Council that we may build into our forecast unexpected windfall sites. This is a calculation that is at best uncertain. How do we predict the unpredictable? It appears to us that the least faulty method is to take as a guide the pattern over the last twenty years, recognising always that unexpected factors may throw any calculation out of kilter. The result in Whitbourne is illuminating. In recent years 14 windfall dwellings have arisen. Three houses now occupy the site of the old post office near the village hall; **four more stand at Moor Court alongside the *The Wheatsheaf* Public House**. More have been from the conversion of RRB than might have been expected. In the last decade conversions of RRB at Poplands Farm and Wishmore Farm appear to confirm a trend.

Councils comments 3.

3.1 we disagree as above .

3.2 This is not open countryside but PDL . Redevelopment of A hard standing at the rear of a former public house .

Paragraph 198 of the NDP , it is not clear to us what the council consider to be paragraph 198 of the

Whitbourne NDP .

Paragraph 55 of the NPPF . Is basically repeated by Herefordshires policy RA3 discussed earlier in this rebuttal .

Councils statement points number 4 ,

4.1 we do supply a meaningful choice of transport we have a main route bus stop serving nearby towns and cities on site and the stopping point of the free school bus service. I can not see any reference in the Herefordshire core plan document any mention of lit pedestrian routes which they are saying we are not providing . In any case as this is an outline application we could easily provide a lit pedestrian route to the public bus stop adjacent our site.

4.2 They state that we do not comply with policy RA2 'it does not adjoin the settlement boundary ' RA2 does not say anywhere adjoin it says

' To maintain and strengthen locally sustainable communities across the rural parts of Herefordshire, sustainable housing growth will be supported in or **adjacent** to those settlements identified in Figures 4.14 and 4.15. ' We take the view adjacent as in the latin means nearby or close to .

4.5 Regards the second ground of refusal , visibility looking north or south from the dual width parking access is sufficient as it is prominent from the main building and vehicles leaving the A44 would have had to slow down to make the sharp 90 degree turn of the A44 onto the class 3 road . Where is the highways objection ? They say they did not give us the pre app due to no comment from highways but this actual application was then 6 months later , are they still seriously saying that after 6 months they still could not get an actual highways comment ? The highways objection is an opinion of the planning officer not a qualified highways operatives opinion .

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4.5 'Regards the second ground of refusal ,the issue is the lack of visibility that would result from vehicles joining the A44 and turning westwards to Bromyard.' This visibility is beyond any necessary standard . ' visibility would be impaired by by any buildings erected ' The buildings are on the east side of the road and so would not in any way effect visabilty to vehicles turning west . As for vehicles turning east the proposed dwellings are set back from the footpath and looking down the road from the recommended height and position of a car drivers view point the visibility eastwards down the rod from the junction is better than any standard would ask for and is easily demonstrated by a site visit . Also I note that in the 7 month from initial pre app to the formal planning application Herefordshires highways department have not been inclined to make any comment . The highways objection is an opinion of the planning officer not a qualified highways operatives opinion .

I respectfully ask that our appeal be allowed ,

yours faithfully peter styles pp fatydam 2 limited.