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Borough of Telford and Wrekin

Planning Committee

Wednesday 15 March 2023

6.00 pm

4th Floor Meeting Room, Addenbrooke House, Ironmasters Way,
Telford TF3 4NT

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Committee Members: Councillors C F Smith (Chair), G L Offland (Vice-Chair), G H Cook, N A Dugmore, I T W Fletcher, A S Jhavar, J Jones, J Loveridge and P J Scott

Substitutes Councillors S Bentley, V A Fletcher, J E Lavery, I Preece, G C W Latham-Reynolds, Lord Sahota, W L Tomlinson, B Wennington and D R W White

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INFORMATION RECEIVED SINCE PREPARATION OF REPORT

Application number	TWC/2021/0190
Site address	Maddocks Hill and Quarry, Little Wenlock, Telford, Shropshire
Proposal	Change of use from former quarry to educational fieldwork centre including the erection of 3no. Iron-Age roundhouses, 1no. multi-purpose activity structure, warden's accommodation & 5no. camping pods ***AMENDED BUSINESS STATEMENT RECEIVED, AMENDED DESCRIPTION***
Recommendation	Full Grant

1. FURTHER PUBLIC REPRESENTATIONS

1.1 Following on from publication of the Planning Committee Report, a further four representations objecting to the proposal have been submitted, this is together with a document intended for Members attention setting out planning policies prepared by an objecting party. In summary these relate to:

- rewilding of the site and the impact of development on wildlife, biodiversity habitat loss and impact on designations, including extract of paras. 6.1.9 and 6.1.11 of TWLP Policy NE1 Biodiversity and Geodiversity and maps showing location of designations and extract of para. 6.1.14 Policy NE1 identification of visitor and residential pressure;
- queries around TWC Ecology representations – objection of 18/06/21 includes extract of paras. 6.1.9 and 6.1.11 of TWLP Policy NE1 related to Local Wildlife Site (LWS) and Local Geological Site (LGS), objection of 07/07/22 which outlined that it was unclear if a feasible drainage system can be achieved for the site and will leave further detailed comments until that issue has been addressed, then support subject to conditions omitting references to coverage harmful impacts on the LWS and LGS;
- use of timber from woodland to build structures and educational activities;
- access to the site by the fire service and on site flow rate;
- highways access and users of the access track which is a right of way / prospective bridleway; impact of activities on the on the Wrekin Forest Strategic Landscape and the adoption of alternative approaches to deliver the educational fieldwork (run only daytime courses for students linked specifically to curricular outcomes, utilise minibus drops to the roadside so users can access the site on foot and use established car parking, use modest daytime shelter materials, use local accommodation networks for multi-day courses, limiting the numbers and times of year for study courses etc.).

- 1.2 Officers can confirm that all of these further representations are available in full, from the online planning file (01/03/2023 onwards): <https://secure.telford.gov.uk/planning/pa-applicationresponses-public.aspx?Applicationnumber=TWC/2021/0190>. The Member document is available via <https://secure.telford.gov.uk/planning/pa-documents-documents-public.aspx?ApplicationNumber=TWC/2021/0190> (14/03/2023).

2. OFFICER COMMENTS

- 2.1 The biodiversity context of the site has been further evidenced through the course of the application with objection of TWC Ecology having consequently been removed. Whilst off site enhancements are to be made biodiversity net gain wise, the site itself is to be directly managed for conservation and biodiversity enhancement, with further control through condition around the geological context, seeking to ensure the retention of the designations.
- 2.2 Following resolution of foul drainage arrangements and submission of the Addendum to Ecological Appraisal (addressing Dingy Skipper Butterflies, and Peregrine Falcons), the Council's Ecologist is of the professional opinion that any harm to the Local Wildlife Sites could be overcome through mitigating conditions. Officers note to Members that these necessitate provision of Biodiversity Enhancement and Management Plan with associated Biodiversity Net Gain Monitoring Plan, implementation in accordance with ecological survey, and controls around lighting.
- 2.3 Relating to use of woodland materials; it is worth appreciating that there is an active felling licence for the site such that removal could take place in any case. Nonetheless, in combination with the required biodiversity controls, Officers consider that this will ensure appropriate management.
- 2.4 Officers acknowledge that access by standard fire appliances is an issue for this development; bearing in mind the non-standard distance from an adopted highway and nature of the access track to the site, it represents an operational area that needs to be further understood. The representation of the Shropshire Fire Service identifies that this would be subject to further assessment through the Building Regulations stage, and is subject to separate legislation.
- 2.5 Bearing in mind that some of the structures may potentially not be subject to building regulations, it is felt reasonably necessary for the evidence of further dialogue with Shropshire Fire Service, and any mitigation required (e.g. a charged static tank of at least 45,000 litres capacity with associated access for a pumping appliance), to be controlled through condition prior to first use of the site. Without satisfactory resolution of this requirement, and the Building Regulations legislation, the planning permission could not be implemented.

- 2.6 Representation around vehicular rights along the access track has been made and Officers confirm that there is no public vehicular right, but as confirmed by the applicant, there is a private vehicular right. Private vehicular rights may not always be shown on a Land Registry search.
- 2.7 Public and private vehicular rights can coincide. If a person has private vehicular rights over a non-vehicular public right of way, the Council cannot, except under exceptional circumstances, restrict those rights. A person having private vehicular rights is, in most circumstances, able to authorise third parties to exercise those same rights.
- 2.8 The route is an old quarry road – used by trucks. It would appear to have had a tarmac surface at the time that it was used as such. There is certainly evidence of the old tarmac track on site, admittedly much deteriorated. The work to improve the surface would be a repair, rather than an upgrade to a more urban surface material. This will minimise the visual impact of the access track.
- 2.9 The Council recognises the concern regarding the potential conflict of use between motor vehicles accessing the site and rights of way users, nonetheless there is mitigation available to minimise this risk through the installation of regular passing places.
- 2.10 The track is already used for vehicular access and has been for decades. The Council is, therefore, suggesting passing places to mitigate against an increased use rather than a wholly unprecedented vehicular access.
- 2.11 It is noted that where the authority have published an Order to modify the Definitive Map by recording the route as a Restricted Byway that does not necessarily mean that it is supported, it means that there is an obligation to make an Order if there is sufficient evidence to support the legal test.
- 2.12 If the route is upgraded to a Restricted Byway, which would allow horse and carriages to use it, the conflict between a horse-drawn carriage and other horse riders, cyclists, or pedestrians would be no different from a motor vehicle. It is anticipated as far harder to get a horse and carriage to reverse than a car or minibus.
- 2.13 In relation to the representation setting out alternative possibilities of conducting an educational fieldwork centre, Officers acknowledge the merit in the scope provided. As referenced within the Committee Report, the applicant has nonetheless wished to pursue on site accommodation and access therein with a year round operation. Technical consultees and the LPA have therefore been required to consider the application on this basis, with recommendations made accordingly.
- 2.14 Through the specific topography of the site entailed, the modest nature of structures, with mitigation around highways access (noting it would not be

appropriate to restrict attendees to within a one hour commute to the site), restrictions on amplified noise, the form of works to the access track, in combination with strict control around the form of activities deemed acceptable through the legally binding S106 (to not include socially led and sport based activities – this is not the location for laser clay pigeon shooting, bouncy castles, archery, roleplay, etc.) as referenced, the scheme as it stands is on balance considered acceptable.

3. DETAILED RECOMMENDATION

3.1 Based on the update above, the updated recommendation to the Planning Committee on this application is that **DELEGATED AUTHORITY** be granted to the Development Management Service Delivery Manager to **GRANT PLANNING PERMISSION** subject to the following:

- A) The applicant entering into a Section 106 agreement with the Local Planning Authority, with terms to be agreed by the Development Management Service Delivery Manager, relating to:
 - i) The land use for the site (excluding access track) shall be for the purpose of educational use.

- B) The following conditions (with authority to finalise conditions and reasons for approval to be delegated to Development Management Service Delivery Manager):-

A04 Time Limit Full

B029 Details of gate and treatment of exposed edge to earth bund

B029 Details of refuse arrangements and bin store design

B029 Details of boundary treatment (were any proposed beyond gated entrance in the future)

B049 Highway Improvement Works

B129 Landscaping detail earth bund south of entrance gate

B141a Erection of artificial nesting/roosting boxes

B142 Biodiversity Enhancement and Management Plan

B145 Lighting Plan

B149 Biodiversity Net Gain Monitoring Plan

BCustom Geological report

BCustom Confirmation Fire Service access and arrangements

C013 Parking, Loading, Unloading and Turning

C029 Operation of site in accordance with recommendations of Slope Stability Appraisal Report

C030 Drainage prior to first use and occupation

C074 Tree protection and no further tree removal in surveyed area

C091 Ecological Survey – working in accordance with protected species survey

C119 Construction Method Statement

C038 Development in accordance with plans

D13 Noise Levels

DCustom Restricted occupancy warden accommodation – timing and not primary residence.

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INFORMATION RECEIVED SINCE PREPARATION OF REPORT

Application number	TWC/2021/0806
Site address	Land corner of Colliers Way/Rock Road, The Rock, Telford, Shropshire
Proposal	Erection of food store including the creation of new vehicle access, parking and associated landscaping *** AMENDED DESCRIPTION AND AMENDED PLANS ***
Recommendation	Full Grant

Online planning file: <https://secure.telford.gov.uk/planning/pa-applicationresponses-public.aspx?ApplicationNumber=TWC/2021/0806>

1.0 FURTHER PUBLIC REPRESENTATIONS

1.1 Since the publication of the Committee Report, the following consultation responses have been submitted to the Local Planning Authority. It is understood that copies of these representations have also been sent directly to Democratic Services and Planning Committee Members.

- Objection from Knight Frank on behalf of Telford Trustees No. 1 Ltd and Telford Trustees No. 2 Ltd (hereby referred to as 'The Trustees').

1.2 The representations reiterate comments made previously by the 'The Trustees' and set out within the Committee Report, and are summarised in their representations as follows:

- i. The proposed development is contrary to local and national planning policy which seeks to direct new retail floorspace to Town Centre locations;*
- ii. The proposed development would have an adverse impact upon the Town Centre;*
- iii. The Applicant uses an out-of-date evidence base to assess the impacts of the proposed development on the Town Centre;*
- iv. There are inadequacies associated with the Applicant's Town Centre Health Checks;*
- v. There are a number of inadequacies associated with the submitted Sequential Test; and*
- vi. The Applicant fails to address the cumulative impacts of the proposed development, which is being brought forward at the same time as a new supermarket at Unit 2 & 3 The Forge Retail Park (Ref. TWC/2021/0949).*

1.3 The representations also state that Knight Frank were unable to provide further representations before now, as they were advised that the application was being determined at Committee. It should be noted that the final

representations were received by the applicants on the 3rd February 2023 and uploaded to the public file upon receipt. On the 13th February 2023, Knight Frank emailed for an update on the application and were advised of these further submissions having been uploaded and currently under consideration. On the 2nd March 2023 a further email was received by Knight Frank to advise that they were still in the process of reviewing the additional information and were intending to submit further representations; it was at this point they were advised of the Planning Committee determination. There has been a period of over 5 weeks for further representations to be made, since publication of the applicant's latest statement.

2.0 OFFICER COMMENTS

2.1 No additional material planning considerations are raised in the representations, which have not already been addressed in the main Committee Report.

2.2 Turning to each of the points raised above at para 1.2 above, Officers would however comments as follows:

- i. Officers have assessed the application as a whole and set out within the Committee Report why Officers consider the application satisfies local and national planning policies;
- ii. The applicants have demonstrated that the application would not have a significantly adverse impact on Town Centres and this has been assessed by our independent Retail Consultants whom corroborate those conclusions;
- iii. The applicant's initial Retail Impact Assessment was underpinned by the Council's latest Retail Study (dated 2014). In order to update this, and as requested by Officers, the applicants undertook a Town Centre Health Check and updated Householder Survey and reassessed the proposal against this updated data. The applicants revised Retail Impact Assessment was assessed by our independent Retail Consultants whom corroborated the applicants findings, and found that the Town Centre Health Check was similar to their own independent Town Centre Health Check;
- iv. The representations do not set out the 'inaccuracies' referred to in the Town Centre Health Check for Officers to comment upon. Our independent Retail Consultants have however not raised any inaccuracies within the applicant's findings as set out above;
- v. The matter of the sequential test has been fully addressed within the Committee Report;
- vi. The applicants have considered the cumulative impact of the Forge Retail proposals (TWC/2021/0949) coming forward together, and these findings are set out within the Committee Report. Our independent

Retail Consultants corroborate the conclusions made and are happy that there would be no significant adverse impact on the Town Centres should both schemes be approved.

- 2.3 The representations also refer to a pre-application enquiry made to the Council on the Lime Green Car Park. Officers did not reference this enquiry within their Committee Report due to the confidential nature of such enquiries. To be clear, requests made through this pre-application process relate to information required to support the proposals set out within their pre-application enquiry, and are not requests that the Council have made to 'The Trustees' on this current application.
- 2.4 With the evidence available to us at this time, as set out within the Committee Report, Officers do not consider that the loss of the Blue Willow or Lime Green car parks would be acceptable. The existing car parks are an important amenity which supports the viability and future offer within the wider retail and commercial area, along with linked-trips to the uses within the wider Town Centre. As such, they are considered an important asset to the Town Centre as it stands and no evidence has been provided to the Council for us to consider otherwise at this time. As such, Officers do not consider the Lime Green and Blue Willow Car Parks to be sequentially alternative sites.
- 2.5 Officers have not asked 'The Trustees' to submit car parking data in support of their representations on this application. The Committee Report only seeks to demonstrate that no such evidence has been provided to justify the loss of the car parks.
- 2.6 The representations made state that it is premature of Officers to recommend approval, on the basis that the car parking usage data is not yet available for the Lime Green and Blue Willow Car Parks. This application was submitted in July 2021 and given the level of information submitted to date and time passed, Officers do not consider the recommendation premature.
- 2.7 The representations set out that the matter of land ownership could be overcome but that the applicants have not sought to do this. The recent February (2023) statement by the applicants includes an email from Homes England which clearly sets out the land ownership issues with no known date of completion (noting this has been ongoing for over 30 years and is not a priority). Officers are satisfied that the applicants have taken on the Council's request for further information and made proportionate enquiries and got a clear response from relevant landowner(s). Officers do not consider it unreasonable therefore to assume that such a transfer is not going to complete within a reasonable timeframe.
- 2.8 The representations refer to two other foodstore proposals. The Forge Retail application (Ref. TWC/2021/0949) is currently being independently assessed and impacts relating to cumulative impacts are set out within the Committee Report. The proposal at Redhill (ref: TWC/2023/0021) was only validated on the 12th January 2023, and is currently under consideration by Officers.

Officers are satisfied that at this time, the application can be approved under local and national planning policy without significant adverse impact.

- 2.9 The final comments of our independent Retail Consultants on the sequential test are acknowledged within the Committee Report, but the Council are not bound by these recommendations should they wish to pursue a different recommendation. Officers have balanced all material considerations, including the recent assessment from our independent Retail Consultants, and made a recommendation of planning judgement as set out within the Committee Report.
- 2.10 The recommendation remains unchanged, and the scheme is on balance considered acceptable.

3.0 DETAILED RECOMMENDATION

3.1 Based on the conclusions above, the recommendation to the Planning Committee on this application is that **DELEGATED AUTHORITY** be granted to the Development Management Service Delivery Manager to **GRANT PLANNING PERMISSION** (with the authority to finalise any matter including conditions, legal agreement terms, or any later variations) subject to the following:

- A) The applicant/landowners providing a Memorandum of Understanding (subject to indexation from the date of committee with terms to be agreed by the Development Management Service Delivery Manager) relating to:
- i) £30,000 towards highways improvement works at the junction between Colliers Way and Rock;
 - ii) £5,000 towards Travel Plan monitoring;
 - iii) £168,420 towards off-site woodland planting to mitigate biodiversity net loss;
 - iv) £2,034.20 for S106/MOU Monitoring Fee.
- B) The following conditions (with authority to finalise conditions and reasons for approval to be delegated to Development Management Service Delivery Manager):-

Full Permission
Coal Authority Investigations
Coal Authority Signed Declaration
Foul & Surface Water
SuDS Management Plan
SuDS CCTV
Landscape Maintenance
Lighting Plan
Bat & Bird Boxes
Biodiversity Net Gain Monitoring Plan
Landscape Habitat Management Plan

Badger pre-commencement inspection
Materials as submitted
Parking/Loading/Unloading
Highway Technical Details
Approved Plans
Travel Plan
Delivery Hours
Opening Hours
Noise Mitigation/Barrier – in accordance with NIA
Noise: Plant/VRL/Cooler units
Sales/comparison good restrictions
Delivery routing
Extraction Equipment
CCTV specification
Restrict subdivision of units/mezzanine
Existing tree protection – in accordance with AIA

Informatives:

CA – High Risk
Fire Service
S278 Highways
Scope of Consent - S106/MOU
I32 Fire Authority
I40 Conditions
I41 Reason for Grant
RANPPF2 Approval following amendments - NPPF

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