

Aymestrey Parish Council

Minutes of Extraordinary Meeting of the Parish Council Wednesday 28 August 2019 at 7.30pm in Aymestrey Parish Hall

Present: Cllrs Ian Banks, David Duggan, Annaly Goodwin, Helen Hamilton (Chaired the meeting in Cllr Goddard's absence), Ken Holland, Eleanor Waldron.

Cllr John Probert not in attendance.

In attendance: Ward Cllr Carole Gandy, Maggie Brown (Clerk).

1. **Apologies** received from Cllr Ian Goddard.

Councillor Probert arrived at the meeting; the Chairman suspended debate to enable the Clerk to clarify with Councillor Probert that he was unable to join the meeting because Herefordshire Council had not yet received his lawfully required election expenses declaration. Councillor Probert then left.

The clerk returned to the room and the Chairman resumed debate.

2. **Declarations of Interest & requests for dispensations:**

- 2.1. Cllr Annaly Goodwin declared an interest in item 4 as neighbour to the site.
- 2.2. Cllr Eleanor Waldron declared a Disclosable Pecuniary Interest in item 6 as applicant.
- 2.3. No requests for dispensations were received.

3. **Open Discussion:** Cllrs Goodwin and Waldron were invited to comment on items 4 and 6 respectively as residents of the parish.

4. **Appeal** under section 78 of the Town & Country Planning Act 1980 Reference [APP/W1850/W/19/3233291](#). Application [174073](#) – Land to the Rear of Mortimers Cross Inn, Mortimers Cross, Leominster. Site for proposed residential development with new vehicular access.
Cllr Goodwin left the room prior to debate. **RESOLVED:** Vote recorded 3 for & 1 against, to send submission to the Planning Inspector in response to the Appellant's Statement of Case. See attached to these Minutes. Cllr Goodwin returned to the room.

5. **[P192683/FH - Full Householder](#)** Bower Cottage Aymestrey Leominster Herefordshire HR6 9SX, Replace dilapidated single storey lean-to with a two storey extension on a slightly larger footprint.

RESOLVED: The Parish Council supports this application.

6. **[P192831/L - Listed Building Consent](#)** Oldfield Farm Oldfield Road Richards Castle Ludlow Herefordshire SY8 4EY, Repairs and alterations to a Grade II listed House, ancillary accommodation (Granary) and Outbuilding

Cllr Waldron left the room prior to debate. **RESOLVED:** The Parish Council supports this application. Cllr Waldron returned to the room.

7. **P192305/F - Planning Permission** High View Farm Aymestrey Leominster Herefordshire HR6 9SZ, Proposed erection of a stable building in connection with the existing equine use (horse training and livery).
RESOLVED: To respond as follows. *Aymestrey Parish Council confirms that the Design and Access Statement has fully addressed its former concerns, and wishes to record its support of this application.*

8. **BT Telephone Boxes Removal Consultation 2019.**

RESOLVED: The Parish Council **objects** to the removal of:

Box 41, 01568 770277 at Upper Lye, PC01. HR6 9UL

This area has very poor mobile coverage, there is no access to other telephones in public houses or similar. Defibrillator installed due to 2 fatalities at Upper Lye.

Noted: This is not a conservation area.

Box 39, 01568 708847 at Mortimers Cross, PCO PC01. HR6 9PD

This area has very poor mobile coverage and is a known accident blackspot.

9. Payment of costs for PA6 NPTC Level 2 Award in the Safe use of Pesticides.
RESOLVED: To further consider this item due to cumulative cost of courses, after discussion with the Footpaths Officer.

10. Date of next scheduled meeting on Wednesday 25 September 2019 noted.

Meeting closed at 20:32

Signed*Ian Goddard*.....

DATE 25 September 2019

Ian Goddard, Chairman.

Original signed and on file.

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29 August 2019

Response to the Appellant's Statement of Case

Appeal Reference **APP/W1850/W/19/3233291**

Site Address **Land to the Rear of Mortimers Cross Inn, Mortimers Cross, Leominster, Herefordshire. HR6 9PD**

Aymestrey Parish Council has previously set out its objections to the proposed development and is aware that these representations will be taken into account in the planning appeal. It is making this submission in response to the Appellant's Statement of Case.

The appeal site has a long history of unauthorised development by the Appellant and the previous owner of the land. To the Parish Council's knowledge, it has been the subject of a series of planning enforcement notices and four planning appeals, including an enforcement appeal, all of which have been dismissed. The appeal references are listed below.

The appeal site was also the subject of a court case - Williams v Herefordshire Council [2010] EWHC 3617 (Admin) - relating to an enforcement notice requiring the removal of two mobile homes and the removal of covered walkway and associated site works. The enforcement notice further required that the land be returned to an agricultural condition.

The landowner's conviction was quashed because the enforcement notice had failed to require the cessation of residential use of the land: Lord Justice Elias found that "the obligation to cease living in the home for residential purposes is in principle quite distinct from the obligation to remove it."

The site was previously within the ownership of the Mortimers Cross Inn and during the late 1970s planning permission was granted for the seasonal use of the land for three touring caravans and three tents.

From around the year 2,000, the Appellant's predecessor began using the land to site permanent residential mobile homes and also carried out operational development, including the creation of hard standing and access roads. The planning history up to 2008 is set out in the decision letter to enforcement appeal reference APP/W1850/C/08/2081083.

In 2013, the Council entered a s.106 legal obligation with the then owner of the land, requiring her to comply with the terms of the enforcement notice that was the subject of the above appeal.

The Appellant has undertaken further unauthorised development on the land, including the erection of a pre-fabricated house, which has been in-situ for approximately two years. This is the subject of a further enforcement notice.

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The Parish Council has at all times objected to the unauthorised development of this site, having witnessed its degradation over many years. It does not agree with the Appellant that it should be regarded as brownfield land.

In appeal reference APP/W1850/A/08/2090189 against refusal of an application for the “stationing of five mobile homes” on the appeal site, Inspector Duggan rejected the then Appellant’s claim that the land was brownfield, saying “an enforcement notice has recently been upheld which requires to the landowner to remove the caravan and hardsurfacing from the site and reinstate it to its previous condition. Therefore....I have assessed the site as being a greenfield site set within open countryside having been reinstated to a meadow.”

As far as the Parish Council is aware, the planning enforcement notice requiring the removal of hardstanding and gravel has not been withdrawn. The s.106 obligation was not complied with and it appears that it did not apply to successive owners of the land.

NEIGHBOURHOOD DEVELOPMENT PLAN (NDP)

The Aymestrey NDP was made by Herefordshire Council on 5th July 2019. The plan defines a settlement boundary for Mortimers Cross and the appeal site lies outside this boundary.

POLICY AYS2 of the NDP makes clear that residential development should take place within settlement boundaries or the site allocated in the plan.

The Appellant argues that the appeal site should have been allocated in the NDP in preference to the site allocated, which is greenfield. The appeal site was not put forward in response to the NDP call for sites.

The potential for development in Aymestrey parish is severely constrained by topography, restricted access and the fact that land close to the Aymestrey Village and Mortimers Cross lies within flood risk zones. All of the other sites put forward following the call for sites were deemed unsuitable for development either because they were within a flood risk zone or their development would have had an adverse impact on the setting of a listed building.

The site allocated for residential development in the NDP was part of a larger site put forward. The NDP allocated only part of the land to ensure that the remaining former water meadow would be retained. This land would connect with the appeal site to provide a continuous undeveloped area of land, linking into existing woodland and offering potential for the creation and retention of high quality wildlife habitat.

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WATER MEADOW

The Appellant asserts that Herefordshire Council has no evidence that the appeal site is a former water meadow. He cites the 2018 Herefordshire Water Meadows Project by David Whitehead Associates as evidence that the appeal site was not water meadow. In fact, page 57 of the report (Appendix 1) shows that the meadows between Aymestrey (village) and Mortimers Cross were water meadow. Although the appeal site is not shown on the plan, the map and aerial photographs show that the water channel along which water was diverted from the River Lugg ran along the edge of the woodland, which ends immediately north of the appeal site. It appears likely, therefore, that these channels extended as far as the appeal site, which is why Herefordshire Council described the land as water meadow.

Even if the land were not former water meadow, it was previously undeveloped land with no previous history of development or intensive agricultural use and will have delivered a high level of biodiversity. The Parish Council would like to see this land restored to a condition that delivers ecological benefits, linked to the area of open land to the rear of the site allocated for residential development in the NDP.

ACCESS

The Appellant says that it is common ground with the Council the required visibility splays can be delivered and maintained and that the splays are not dependent on land outside the Appellant's control.

Neither of these statements is correct. The Appellant does not own the land required for the visibility splay to the west and undertook the removal of the vegetation referred to in the email from Mark Lewis (Appellant's Appendix 2) without the permission of the landowner. It appears unlikely that the landowner would grant permission for the removal of any vegetation that may be planted or grow in place of that which was removed.

The application location plan shows an area of land coloured in blue, part of the car park to the Mortimers Cross Inn, as being owned by the Appellant. The title register to the appeal land, shows that the Appellant's ownership of this strip of land half as wide as shown on the Location Plan (Appendix 2). This may be of sufficient width to accommodate the footpath and cycle way, but the safety of pedestrians / cyclists may be compromised as it emerges onto the A4110, close to a notorious accident black spot. The latest fatal traffic accident at the Mortimers Cross junction occurred earlier this month. Mortimers Cross Inn has limited car parking availability. A large proportion of the pub's clientele are construction and farm workers with large vehicles which need the space that would be used for the proposed pedestrian/ cycle route to reverse safely.

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Mr and Mrs Goodwin, the owners of the Mortimers Cross Inn, advised in an objection to the planning application that the Appellant does not have a right to erect fences across the car park to secure the pedestrian/cycle route. It is unclear from the title registers to either the appeal land or the Mortimers Cross Inn (Appendix 3) whether this is correct. Both refer to restrictive covenants but there is no further information as to whether these relate to the relevant area of land.

Appeal References:

APP/W1850/C/08/2081083 - Enforcement Appeal

APP/W1850/X/08/2067729 - S. 195 Appeal (linked to enforcement appeal)

APP/W1850/A/08/2090189 - s.78 Appeal

Herefordshire Council Planning Reference No. DCN061811/F (Appeal reference not known). s. 78 Appeal against refusal of permission for "Change of use of land for holiday chalet development, erection of 8 chalets in landscaped gardens".

Mrs Maggie Brown

Clerk to Aymestrey Parish Council

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