

<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>6 AUGUST 2014</b>
<b>TITLE OF REPORT:</b>	<b>P141087/F - PROPOSED CONSTRUCTION OF A DETACHED 4 BED DWELLING AND GARAGE BLOCK CONTAINING ARTIST STUDIO AT LAND AT GARD D Y FFIN, GARWAY, HEREFORDSHIRE, HR2 8RE</b>  <b>For: Mrs Wildey per Mrs Anne Wildey, Gardd Y Ffin, Garway, Hereford, Herefordshire HR2 8RE</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=141087&amp;search=141087">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=141087&amp;search=141087</a>

**Date Received: 7 April 2014**

**Ward: Pontrilas**

**Grid Ref: 346507,222466**

**Expiry Date: 26 June 2014**

Local Member: Councillor J Norris

## **1. Site Description and Proposal**

- 1.1 The application site is within the garden area of Gardd y Ffin, immediately to the west of the U71412 at Garway. Garway Common lies to the north of the site, open agricultural fields to the west, Gardd y Ffin to the south and the U71412 to the east. The site is well bound on all sides by tree belts and copses, save for the southern boundary which is currently open to the reduced garden space of Gardd y Ffin. The facilities within Garway are located between 300 and 800 metres to the north and north-west of the site.
- 1.2 The application proposes the erection of a two storey dwelling 26 metres to the north of Gardd y Ffin. The dwelling would be 'L' shaped and face east with a wood effect conservatory within the crook of the 'L'. The dwelling would be 7 metres in height, 14 metres wide and 7.5 metres deep. The projecting gable would extend a further 1.5 metres from the rear of the dwelling and the conservatory 3.5 metres. The dwelling would be rendered on a brick plinth under a natural slate roof. Brick detailing would also be employed at the window head and sills.
- 1.3 A garage would be provided immediately adjacent and perpendicular to the dwelling and would be clad in timber boarding under a slate roof. The garage would measure 9 metres x 6.4 metres in plan form and 5.5 metres in height.
- 1.4 Access would be gained via an existing drive which currently leads into a modest, roadside garage some 50 metres to the south of the proposed dwelling. This modern garage would be demolished to allow a driveway to the dwelling and garage. The driveway would be gravelled to soften its impact and to aid with drainage.
- 1.5 In terms of landscaping, a pond would be provided to the rear of the dwelling, with silver birches and sycamore trees to be planted to the north. The curtilage of the proposed dwelling

and Gardd y Ffin would be defined by a new post and wire fence and hedgerow with a post and rail fence would skirt the western side of the driveway.

## 2. Policies

### 2.1 National Planning Policy Framework (NPPF)

The following sections are of particular relevance to this application:

Introduction	-	Achieving Sustainable Development
Section 6	-	Delivering a Wide Choice of High Quality Homes
Section 7	-	Requiring Good Design
Section 8	-	Promoting Healthy Communities
Section 11	-	Conserving and Enhancing the Natural Environment

### 2.2 Herefordshire Unitary Development Plan 2007 (UDP)

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
S6	-	Transport
S7	-	Natural and Historic Heritage
DR1	-	Design
DR3	-	Movement
DR4	-	Environment
H6	-	Housing in Smaller settlements
H7	-	Housing in the Countryside Outside Settlements
H13	-	Sustainable Residential Design
T8	-	Road Hierarchy
LA2	-	Landscape Character and Areas Least Resilient to Change
LA5	-	Protection of Trees, Woodlands and Hedgerows
LA6	-	Landscaping
NC1	-	Biodiversity and Development
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity

### 2.3 Herefordshire Local Plan – Draft Core Strategy

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land for Residential Development
SS4	-	Movement and Transportation
SS6	-	Addressing Climate Change
RA1	-	Rural Housing Strategy
RA2	-	Herefordshire's Villages
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Local Distinctiveness
LD2	-	Landscape and Townscape
LD3	-	Biodiversity and Geo-Diversity
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

- 2.4 The Unitary Development Plan policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/unitary-development-plan>

- 2.5 The emerging Core Strategy is at an early stage of preparation not yet having been submitted to the Secretary of State. A number of objections have been lodged against the Core Strategy's rural housing policies. For these two reasons the emerging Core Strategy is attributed minimal weight in the determination of this application in accordance with paragraph 216 of the NPPF.

### 3. Planning History

- 3.1 SH970953PO - Erection of 2 dwellings: *Withdrawn*
- 3.2 SH980246PO - Erection of 2 dwellings: Refused as the application site fell outside of defined village boundaries of the incumbent local plan and was therefore within open countryside without justification. The landscape impact of the proposal was therefore unacceptable.

### 4. Consultation Summary

- 4.1 The Transportation Manager initially objected to the application stating the following:

*"The application is not acceptable in highway terms due to the visibility, the splay to the North is on a bend, the splay crosses land outside the applicants ownership which needs to be maintained, without the maintenance, the splay would be reduced which puts the safety of the highway user at risk."*

*If this is addressed, then I would have no objection as the layout is acceptable thought the scheme would benefit from a passing place due to the long drive.*

However, upon receiving clarification regarding the upkeep of visibility splays on 23<sup>rd</sup> July 2014, the Transportation Manager rescinded his objection as follows:

*"Following a site visit and clarification regarding the common and the position regarding maintenance of the visibility splays, I have no objection to the application if you are minded to approve, please condition parking, turning within the site."*

- 4.2 The Conservation Manager (Ecology) did not object to the application stating that:

*"I have read the preliminary ecological appraisal and would agree with the findings. The ecological assessment for bats and great crested newts finds a marginal case for potential disturbance of these protected species. I think the proposals for ecological mitigation are adequate given the potential habitat for them. I also think there is potential for ecological enhancement of the site and I would like to see this within a condition in addition to the mitigation proposals."*

Upon receiving two method statements, one for bats and one for birds, the ecologist stated that:

*"I would be content that these two method statements and the appointment of an ecological clerk of works would satisfy the planning condition. In the bat statement there is a confirmation*

*required as to whether a temporary bat box will be required but this would be resolved easily and I do not have a problem with it.*

*On the basis of the detailed information provided I would not be requiring a condition.”*

4.3 Welsh Water does not object to the proposal but state that:

*“As the applicant intends utilising a private treatment works we would advise that the applicant contacts Natural Resources Wales who may have an input in the regulation of this method of drainage disposal.*

*However, should circumstances change and a connection to the public sewerage system/public sewerage treatment works is preferred we must be re-consulted on this application.”*

4.4 Herefordshire Nature Trust did not provide comment

## **5. Representations**

5.1 Garway Parish Council resolved not to object to the application stating that:

*“Garway Parish Council support this application with a majority vote at the Parish Council meeting on 16th June 2014”*

5.2 Four letters of objection were received from members of the public raising the following concerns:

- That the proposal would result in the loss of large garden space which should be retained in village locations.
- That the house is too large to meet a local need for smaller units.
- The house is contrary to UDP Policy RA2 being larger than 100 square metres.
- The resultant dwelling would be of too great a value.
- There is no need for an artists studio.
- No tree survey has been undertaken of the trees within the adjacent common.
- The application site is outside of Garway’s building envelope.
- There is no need for the dwelling.
- That the proposal requires a crossing across the common and there is no declaration on the application form that the land owner has been notified.

5.3 Another 2 objections were received though one was later withdrawn and the other requested that its contents and sender details be kept confidential.

5.4 The consultation responses can be viewed on the Council’s website by using the following link:-

<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

Internet access is available at the Council’s Customer Service Centres:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

## 6. Officer's Appraisal

### The Principle

- 6.1 The application site is located within a small cluster of dwellings some 150 metres to the south of the main body of Garway. I consider the main mass of development to be that which flanks either side of the C1223 on an east-west axis. The satellite cluster of dwellings within which the application site lies makes up a not insignificant proportion of residential development within Garway. On this basis, the application falls to be firstly considered against UDP Policy H6 which sets parameters for development in small settlements rather than Policy H7 which sets a general presumption against development in the open countryside.
- 6.2 In the context of the UDP, residential development within small settlements is limited to infill where the gap along the frontage is limited to less than 30 metres, where the plot is less than 350 square metres and where the proposed dwelling would have a floorspace no greater than 100 square metres. The nature of this application site meets none of the aforementioned criteria being 2715 square metres in area with no perceivable frontage given the lack of a dwelling to the north. The proposal is therefore contrary to local planning policy.
- 6.3 Having established this conflict with the UDP, it is necessary to determine whether there are any other material planning considerations which indicate that the proposal may be acceptable. The NPPF is a material planning consideration (paragraph 13 and 196) and was attributed full weight in March 2013 (paragraph 214).
- 6.4 The UDP remains the adopted local plan though the weight which can be attributed to each policy is determined by its level of conformity with the NPPF. Paragraph 47 of the NPPF requires local authorities to have a five year supply of land for housing at all times. The Council's published stock of housing land is less than the required five years, a position recently upheld at appeal. The weight which can be attributed to local policies that stipulate the geographical limit of residential development are therefore afforded significantly reduced weight (paragraph 49) and UDP Policy H6 cannot be relied upon in this instance. Instead the principle of residential development is determined by the sustainability of the site with regards its proximity to facilities and services and the sites physical relationship with the local pattern of development.
- 6.5 The Government's definition of sustainable development is considered to be the NPPF in its entirety though paragraph 17 lays out a concise set of 'core planning principles'. Amongst these principles are that decision taking should:
- take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it; and
  - actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus development in locations which are or can be made sustainable.
- 6.6 UDP Policy S1 requires, amongst other things, that development proposals should respect patterns of local distinctiveness and landscape character in both town and country. Policy DR1 similarly requires that development should promote or reinforce the distinctive character of the locality. Policy H13, supported by DR1, requires consideration of the design of residential development and its potential to impact on the locality in terms of neighbouring residential amenity, landscape character, the environment and highways safety. These policies are

generally consistent with the advice on design and distinctiveness set out in the NPPF (chapter 7) and so continue to attract considerable weight.

- 6.7 As the proposal is for the provision of a dwelling within a residential garden development must be specifically considered in the context of paragraph 53 of the NPPF and whether or not the proposal constitutes 'inappropriate garden grabbing'.

#### Sustainability

- 6.8 The application site lies within a reasonable distance of all facilities within Garway, namely the public house (350m), primary school (530m) and well utilised village hall (570m) and as such walking would be an option for everyday activities. Although a bus stop is located within the village just 250 metres from the application site, this service only provides two trips a day to and from Hereford and the more extensive facilities therein. Furthermore, the journey time exceeds an hour rendering it unlikely that one would make frequent use of this service.
- 6.9 While there is no footway and the narrow lane is unlit, I do not consider that walking to Garway would place residents in any significant danger as the UC71412 is not busy with traffic and the nature of the road keeps vehicle speeds relatively low. The road benefits from flat grass verges which provide a place of refuge if required. The route is often used by occupants of existing dwellings along the UC71412 to access Garway by foot.
- 6.10 The NPPF, paragraphs 29 & 55, acknowledges that in rural areas use of the private motor vehicle will likely be necessary for some journeys. It is inevitable that in this location this will be the case. However, I find there to be a reasonable level of facilities locally and opportunity to access them in a sustainable manner and as such consider the application site to be sustainably located.

#### Local distinctiveness, design and landscape impact

- 6.11 The application site sits to the north of a solitary dwelling – Gardd y Ffin. Six dwellings are on the opposite side of the lane. The local settlement pattern is of linear development both specific to this cluster of dwellings (north-south axis) and within the village of Garway as a whole (east-west axis). The application site lies immediately adjacent to the road and as such represents an extension to the linear form of development. The application site is located toward Garway from Gardd y Ffin and as such development would not extend into the open countryside. It is also worth noting that given its containment to the north by Garway Common, a Special Wildlife Site, the potential acceptability of this proposal would not give rise to further development along the lane which would potentially erode a historically important gap between this cluster of development and the main mass of development at Garway.
- 6.12 More specifically, development within this cluster of development is characterised by dwellings of modest proportions and vernacular design within relatively large grounds. Keeping the two-storey dwelling as low as possible with a ridge height of just 7 metres and a depth of just 6.5 metres is a conscious attempt to adhere to this principle. The proposed materials are predominantly render and slate which are the main cladding material within this cluster of development and throughout Garway. I consider the scale, mass and detailed design of the proposed dwelling to uphold the characteristics of the locality.
- 6.13 The application site lies immediately adjacent to Garway Common. The southern most section of the common which abuts the site is covered by a dense copse of tall trees and the dwelling is of a modest 7 metre height. As such views of the proposed dwelling from the common would be non-existent. Views from the open agricultural fields to the west of the application site and the road to the east of the site would be more readily available, though still only fleeting due to narrower belts of trees bounding the site at these points. Where views were available they would be well filtered by vegetation. This in conjunction with the modest

rural proportions and design of the dwelling renders the impact on the landscape character and appearance of the wider locality an extremely modest one.

- 6.14 In terms of neighbouring privacy and amenity, the only dwelling which lies within the immediate vicinity of the application site is Gardd y Ffin. Being located 70 metres apart and orientated as to not face each other, I find the dwellings to be afforded a sufficient level of amenity and privacy.

#### Ecology

- 6.15 The Council's Ecologist agrees with the content of the preliminary ecological appraisal submitted with this application. The ecological assessment for bats and great crested newts finds a marginal case for potential disturbance of these protected species. The proposals for ecological mitigation are considered adequate given the potential habitat for them. There is also potential for ecological enhancement of the site. This information has since been submitted in the form of two method statements, the detail of which is considered acceptable. On this basis, the proposal is compliant with the ecological requirements of UDP Policies NC1, NC6 & NC7 and the NPPF.

#### Highways

- 6.16 The Council's Transportation Manager does not object to the application. The road onto which access is required is unclassified and subject to very low volumes of traffic. The nature of the road requires speeds to be low. The driveway is already in situ providing access to a garage but its use will be intensified from approximately 3 movements per day to 7 movements per day. Currently there is a need to reverse out of the garage on to the road a manoeuvre which will be naturally precluded by the turning space to be provided should this application be approved.
- 6.17 Visibility splays are 2.4m x 57.5m to the south and 2.4m x 61.5m to the north. These splays are themselves acceptable however there was some concern as to the applicant's ability to maintain visibility levels in perpetuity given that the splays are across land outside of the applicant's ownership. The land in question is Garway common. Both the existing owner and potential future owner of the common have provided representation to state that they are content for the maintenance of the strip of land at the edge of the common to continue. On this basis I am satisfied that splays are likely to be maintained in perpetuity and the proposal does not have severe highways safety implications and is therefore in accordance with the requirements of the NPPF (paragraph 32).

#### Other matters

- 6.18 A number of concerns were expressed by local residents for the necessity for one to traverse Garway Common to access the proposed dwelling. Although these concerns were initially echoed by the County Land Agent, upon consultation with the applicants, his view was that the access would be immediately adjacent to but not on Common Land. This is consistent with the Council's electronic maps and paper maps submitted by the applicant. It is worth noting that the driveway is already in place as it currently provides access to a garage relating to Gardd y Ffin. Only small alterations would be undertaken to this driveway.
- 6.19 Notwithstanding the above, the issue of whether or not the access would be across the common is a land ownership one and is not itself relevant to the planning process. An informative will however be attached to any permission given informing the applicants of their requirements to adhere to Section 194 of the Law of Property Act 1925 which covers Common Land. What I have considered in the above report is whether or not there would be an ecological or landscape impact as a result of the works; these are planning matters. Given

that the drive is in place, there would be no landscape or ecological impact in relation to the crossing of this land to access the proposed dwelling.

- 6.20 On 4 March 2009, the local planning authority temporarily suspended the requirement for residential development of five dwellings or less to accord with the Authority's 'Planning Obligations' Supplementary Planning Document (February 2008) where development would commence within one year of the date of an outline permission being granted. This submission states a preference for a one year permission and as such the requirement of Section 106 contribution is waived.

### Conclusion

- 6.21 There would be extremely limited environmental harm associated with this application in terms of landscape and biodiversity impacts. In applying the planning balance I find this to be outweighed by the social and economic benefits of the scheme attributed to its modest contribution to the countywide housing supply, the probable increased use of local facilities and the employment of local tradesmen during construction. The application is therefore recommended for approval.
- 6.22 Although each application falls to be determined on its own merits, I do not have concern for this application setting a precedent in terms of further development. The site is bound on two sides by the Common, open fields to the west and existing development to the south so would not give rise to unwelcomed ribbon development further along the lane. Furthermore, the garden within which the application site is located is uncharacteristically large, even for this rural locality.

## **RECOMMENDATION**

**That planning permission be granted subject to the following conditions:**

- 1. A01 Time limit for commencement (full permission)**
- 2. B02 Development in accordance with approved plans and materials**
- 3. F14 Removal of permitted development rights**
- 4. An appropriately qualified and experienced ecological clerk of works shall be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work outlined within the 'Protected Species Working Method Statement in respect of great crested newts, reptiles and nesting birds' and 'Protected Species Working Method Statement in respect of bats' both undertaken by Countryside Consultants dated 15/07/14.**

**Reasons: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6 and NC7 of the Herefordshire Unitary Development Plan**

**To comply with Policies NC8 and NC9 of Herefordshire's Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of the NPPF and the NERC Act 2006**

- 5. I16 Restriction of hours during construction**
- 6. G11 Landscaping scheme - implementation**



7. All demolition works shown on approved plan 678-2 shall be undertaken prior to the first occupation of the hereby approved dwelling.

**Reason:** To protect the visual amenity of the locality in accordance with Unitary Development Plan Policy DR1 and the National Planning Policy Framework.

**INFORMATIVES:**

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

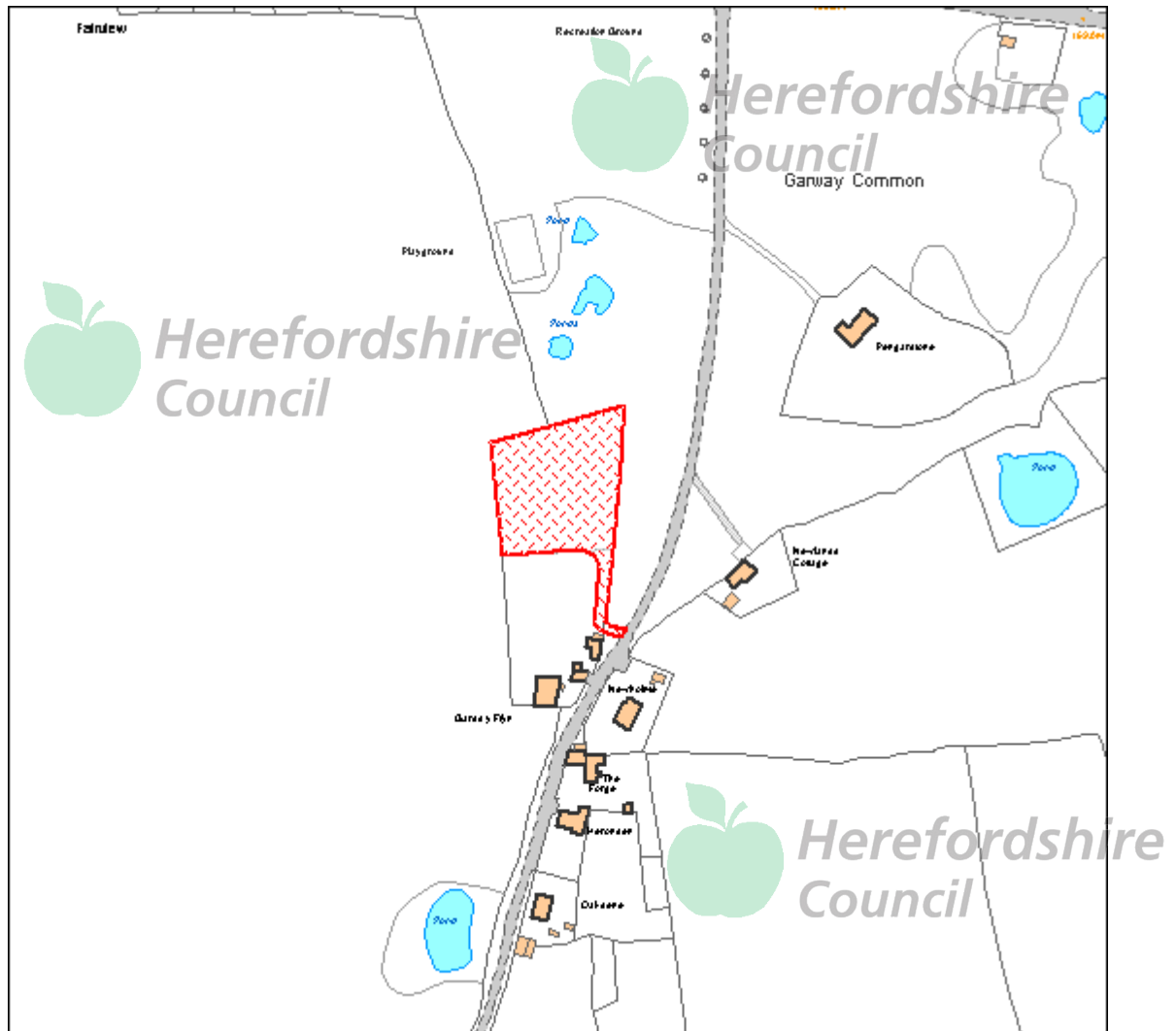
2. **HN20 Common land**

Decision: .....

Notes: .....

**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 141087/F

**SITE ADDRESS :** LAND AT GARDD Y FFIN, GARWAY, HEREFORDSHIRE, HR2 8RE

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