

MEETING:	PLANNING COMMITTEE
DATE:	26 April 2017
TITLE OF REPORT:	163445 - PROPOSED DWELLING AT LAND AT EATON HILL, LEOMINSTER, HEREFORDSHIRE, HR6 0DG For: Mrs Thomas per Mr Garry Thomas, Ring House, Fownhope, Hereford, HR1 4PJ
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=163445&search=163445
Reason Application submitted to Committee – Re-direction	

Date Received: 26 October 2016

**Ward: Leominster
East**

Grid Ref: 350536,259544

Expiry Date: 21 December 2016

Local Member: Councillor JM Bartlett

1. Site Description and Proposal

- 1.1 The proposal site is on the southern side of the A44(T). The access road serving the Eaton Hill, an Italianate styled Victorian dwelling is 206 metres east of Easters Mart roundabout. The surfaced access road leading to Eaton Hill also serves six other properties in the same ownership.
- 1.2 An unregistered park and garden extends southwards to a public footpath northwards to Hay Lane Farm and south-eastwards along the tree lined Eaton Hill on the southern end of Eaton Hill. The proposal will entail the applicant moving out of Eaton Hill into a purpose built 2 bedroom bungalow. The second bedroom will provide accommodation for a carer. The bungalow will have be 'L' shaped and will be constructed in yellow brick and render, arched timber casement windows under a slate roof. These are elements taken from the late Victorian house. Parking for two vehicles will be provided in the existing parking area to the north linked to the dwelling by a 48 metres long footpath, comprising a porous material and covered by a loggia
- 1.3 The footpath (KB51) that skirts the southern end of the unregistered park and garden affords northward views of Eaton Hill and the Italianate Walk to the south of it. This public footpath leads eastwards and up to Eaton Hill.

2. Policies

2.1 Herefordshire Local Plan Core Strategy:

- SS1 - Presumption in Favour of Sustainable Development
- SS2 - Delivering New Homes
- SS3 - Releasing Land for New Development

Further information on the subject of this report is available from Mr Andrew Prior on 01432 261932

- SS6 - Environmental Quality and Local Distinctiveness
- L01 - Development in Leominster
- RA3 - Herefordshire's Countryside
- H2 - Rural Exception Sites
- LD1 - Landscape and Townscape
- LD2 - Biodiversity and Geodiversity
- MT1 - Traffic Management and Highway Safety
- SD1 - Sustainable Design and Energy Efficiency
- SD4 - Waste Water Treatment and River Water Quality

2.2 NPPF

Chapter 6: Delivering a Wide Choice of High Quality Homes
 Chapter 7: Requiring Good Design
 Paragraph 14 (Presumption in Favour of Sustainable Development)
 Paragraph 49 (5 Year Housing Land Supply)
 Paragraph 55 (New Housing in the Countryside)

2.3 NPPG

Design (ID26): Form, Scale, Details, Materials

2.4 Neighbourhood Plans

The Neighbourhood Plan area for Leominster is at Regulation 16 stage. However due to outstanding objections and conformity issues with the Core Strategy it can only be afforded limited weight in the decision making process.

2.5 The Core Strategy 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/core-strategy/adopted-core-strategy>

3. Planning History

- 3.1 N12878/F – Conversion of outbuildings into two dwellings – Approved 29 December 2012
 DCNC2004/3727/F – Conversion and extension to form ancillary accommodation (for house keeper) – Approved 17 December 2004.

4. Consultation Summary

Statutory Consultations

- 4.1 Highways England has no objection
- 4.2 The Hereford & Worcester Garden Trust object

The more observant traveller as he turns off the by-pass at the Ridgemoor Service Station will appreciate that this landscape is attached to a dignified late Victorian Italianate villa – Eaton Hill.

This house was the centre of 384 acre estate, which extended southwards along the slopes of Eaton Hill. The landscape at Eaton Hill is discussed in the *Survey of Historic Parks and Gardens in Herefordshire* (2001), p. 146 where it states that 'this is an excellent example of late Victorian landscaping, perhaps by a professional surveyor....(it) is a composition of high quality and every effort should be made to secure its character in the future'.

The pleasure grounds of the house extend to the south along the foot of the hill where on the large-scale OS plans of the late 19th and early 20th centuries there were lawns and flowerbeds either side of a south approach to the mansion. This appears to have turned back upon its self and provided access to the small deer-park above the house. It is on these lawns that the new house is to be sited and, however well designed it will separate Old Eaton Hill from its garden and parkland. This will undoubtedly diminish its amenities and attraction as a country house and lead to further division of the interior for multiple ownership. It is essential that the connection between the mansion and its designed landscape is maintained.

If a new house is required, it should be tucked away to the north of the existing mansion to avoid degrading the setting.

Internal Council Consultations

4.3 Conservation Manager (Ecology)

It is noted that the proposed foul water is managed by a package treatment plant but there are no details on capacities or how the final out fall will be managed. The planning authority has a responsibility to assess this with regard to 'The Conservation of Habitats and Species Regulations:2010' as the proposed development lies within the River Lugg/River Wye SAC catchment. Any direct discharge in to a watercourse is likely to impact both the immediate local hydrology and ecology and an impact downstream through the residual phosphate and suspended solids discharges. To mitigate this impact we would request that the outflow from the PTP is managed through a soakaway system hence managing the direct impact of phosphate levels and reducing the impact over time of the suspended solid settlement. Full details of the **location of the soakaway/spreader system** should be provided in support of any full application so a final HRA screening can be completed before determination of this application.

Once the soakaway/spreader system has been confirmed and hence the HRA screening can conclude that there are NO 'likely significant effects' from this development on the River Lugg/River Wye SAC I can see no ecological objections to this application and I would advise that the following conditions are included to ensure tree protection and biodiversity enhancements are achieved.

Nature Conservation – Enhancement

- 4.4 The recommendations for biodiversity enhancements as identified in section 3.6 of the ecological report by Ecology Services dated September 2016 shall be fully implemented as stated, unless otherwise agreed in writing by the planning authority.

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework. NERC Act 2006.

Nature Conservation – Tree Protection

- 4.5 Before any work commences on site the recommendations for Tree Protection (Root Protection Areas) as identified in Arboricultural Constraints Plan by J P Ross dated October 2016 shall be fully implemented as stated and be maintained and remain in place until all construction works have been completed and all machinery and excess materials have been removed from site, unless otherwise agreed in writing by the planning authority.

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework. NERC Act 2006.

4.6 Conservation Manager (Landscape)

The landscape character of the proposed site is that of Timbered Plateau Farmlands which is predominately woodland. To the south and west where the public right of way footpath KB51 adjoins the southern boundary of the Unregistered Park and Garden the landscape character is that of Riverside Meadows. The main characteristic of this Riverside Meadows landscape is predominately pastoral land with a wetland habitat. The extent of the Eaton Hill Unregistered Park and Garden lies within both of these Landscape Character areas. These landscape characteristics should be where appropriate be restored, enhanced and conserved.

4.7 **The National Planning Policy Framework, Item 12, 132 states:** *'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets or the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.'*

Eaton Hill Unregistered Park and Garden is to be found on maps of this area as far back as 19th Century. The proposal will have an impact on the setting of the Old Eaton Hill house and its surrounding parkland and gardens by visually disconnecting the Old House from the parkland and garden to the south. The house is not a Listed Building. Further information on the impact of this setting can be obtained from our Conservation Officer.

4.8 Other than the Unregistered Park and Garden designation the proposal site has no other landscape designations. The River Lugg to the west and to the south is a SSSI and further information on any potential impacts on the SSSI can be obtained from our ecologist. I have no comments on the architecture of the Italianate Garden Lodge proposal in this Unregistered Park and Garden landscape, but from a landscape perspective the colour proposals for the building should be sympathetic to the Timbered Plateau Farmlands landscape character.

4.9 With future erratic weather predicted due to climate change the risk of flooding is expected to increase. To the west of the proposal site the Unregistered Park and Garden lies within the River Lugg flood plain. Sustainable Urban Drainage proposals for roof rain water run-off should be proposed with this application. Further SUDs information can be obtained from the Herefordshire Council Flood Risk Management Team.

4.10 I have not been involved with the site selection for this proposed dwelling. I appreciate that the views from the proposed dwelling into the Unregistered Park and Garden as seen on the Proposed Block Plan Drawing No 2425 (0) 101, are the best views into the surrounding open landscape. However from a landscape perspective when seen from the Public Right of Way KB51 there will be a visual impact when seen from this footpath. With that in mind the proposed dwelling would have be better situated to the north of the Old Eaton Hall.

Where appropriate native planting associated with this landscape character type should be proposed to provide food and habitat for pollinating insects and wildlife.

Proposed green infrastructure should link into existing green infrastructure to provide appropriate restoration and enhancement to the landscape character type and parkland and garden setting.

With footpath KB51 presently having views in a northerly direction with reasonable dark sky views, the proposal should minimize night sky light pollution.

I have no objections to this application, but I would recommend appropriate landscaping conditions.

5. Representations

5.1 Town Council has no objection

5.2 45 letters of support have been received making the following points:

- Active member of Leominster community
- Applicant has resided at Eaton Hill since 1968
- Well designed and complimentary in landscape
- New dwelling meets needs, including accommodation for carer. More manageable than 4 bedroom dwelling
- 4 bedroom dwelling will be available as family home
- Family nearby
- Not a burden on community providing for own needs

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

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=163445&search=163445

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

6.1 S38 (6) of the Planning and Compulsory Purchase Act 2004 states:

"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise." This means that there is a presumption in favour of the development plan unless material considerations can be considered to outweigh it.

6.2 The Herefordshire Local Plan ('HLP') is the development plan. The Core Strategy (CS) is a fundamental part of the HLP and sets the overall strategic planning framework for the county, shaping future development.

6.3 Paragraph 14 of the NPPF provides a presumption in favour of sustainable development. This is reflected in the strategic Policy SS1 of the CS which sets out a presumption in favour of sustainable development stating: *"Planning applications that accord with the Core Strategy (and where relevant with policies in other development plan documents and Neighbourhood Development Plans) will be approved unless material considerations indicate otherwise"*.

6.4 One such consideration is the NPPF which advises at paragraph 47 that Local Authorities maintain a robust five year supply of housing land. Failure to demonstrate an NPPF compliant housing land supply will render the housing supply policies of the CS unreliable. At present, the Council cannot demonstrate a 5-year supply of housing land and as such the policies of the CS cannot be inherently relied upon.

- 6.5 The delivery of sustainable housing development to meet objectively assessed needs is a central CS theme, reflecting the objectives of the NPPF. Policy SS2 'Delivering new homes' directs that Hereford and the market towns shall be the main focus for new housing. Housing development is also supported in or adjacent to those settlements identified exhaustively in Figures 4.14 and 4.15.
- 6.6 In terms of rural settlements, CS Policy RA2 requires firstly that proposals accord with the relevant Neighbourhood Development Plan ('NDP') or where there is no NDP with the Council prepared Rural Areas Site Allocation Development Plan Document, both of which will prescribe a 'settlement boundary'. The application site is within the Parish of Leominster where the Neighbourhood Development Plan is currently at Regulation 16 stage, however, due to outstanding objections and conformity issues with the Core Strategy it can only be afforded limited weight. The location of the proposal site lies outside of the reasonable limits of the town beyond the River Lugg and with the parkland setting to Eaton Hill extending southwards to public footpath KB51, the proposal site cannot be reasonably be considered to adjoin the main built form of Leominster which is further to the east and beyond the Easters Mart roundabout. Consequently, the proposal is fundamentally contrary to Policy LO1 (Development in Leominster) of the Core Strategy.
- 6.7 The proposal is located outside of Leominster and is located in open countryside where Policy RA3 is relevant in respect of new housing. The proposal does not meet any of the criteria (1-7) in that Policy that would allow for such development at this rural location namely:
- Meets an agricultural or forestry need or farm diversification enterprise;
 - Is for a rural enterprise;
 - Is a replacement dwelling;
 - Proposes a sustainable reuse of redundant or disused building in association with Policy RA5 [This proposal does not involve the re-use of an existing building];
 - Is rural exception housing (Policy H2);
 - Exceptional or innovative design;
 - Site for Needs of gypsies or travellers.
- This proposal does not satisfy any of the criteria set out under RA3 and accordingly does not comply with this planning policy.
- 6.8 In addition, this proposal does not satisfy Policy H2 (rural exception sites) of the CS, which allows for affordable housing schemes where:
- This assists in meeting a proven local need;
 - Affordable housing is made available and retained in perpetuity for local people in need of affordable housing; and
 - The site respect the characteristics of its surroundings, demonstrates good design; and offers reasonable access to a range of services and facilities normally identified in a Policy RA2 settlement or Market Town as in this instance.
- 6.9 Appeal decisions at Leintwardine and Ledbury and a recent Court of Appeal judgment concluded that whilst the council does not have a 5 year supply of housing land 'out of date' policies remain relevant, it is simply that the weight is for the decision maker. The decision overall is one of planning judgment and balance, which includes the weight properly attributable to the NPPF, the housing shortfall and all other relevant policies and material considerations.
- 6.10 The NPPF at paragraph 6 states that the purpose of the planning system is to contribute to the achievement of sustainable development (with its three dimensions to sustainable development - economic, social and environmental aspects), as defined in paragraphs 18 to 219 of the NPPF.

- 6.11 This development is in an open countryside and parkland location outside of Leominster. On balance, the proposal cannot be considered to be in a sustainable location for a new private dwelling, irrespective of the scale, height, design and material finish. It does not satisfy any exception in Policy RA3, as discussed above, which would allow for such development.

Bio-diversity

- 6.12 The advice received from the Conservation Manager (Ecologist) requires that further enhancement as recommended in the submitted ecological appraisal is carried out and therefore there are no grounds relating to bio-diversity that provide substantive grounds for refusal.

Landscape

- 6.13 The proposal will introduce an additional element in to the landscape that whilst having the backdrop of the Italianate Walk will nevertheless with the loggia introduce a new element into this parkland setting. Ideally, as the Council's Landscape Officer and the Hereford and Worcester Garden Trust state on consultation, a dwelling could have been sited to the north of Eaton Hill thereby retaining this setting. Therefore, given the significance of the park and garden it is contended that the erection of a dwelling would not enhance and conserve the setting of the park and garden contrary to the provisions of Policy LD1 of Core Strategy.

Accessibility/Highway Safety

- 6.14 The proposed access does comply with Policy MT1 of Core Strategy by virtue of the position adopted by Highways England whom over a period of time considered the implications of allowing a further dwelling accessed onto the trunk road (A49) given the narrowness of the access point. This process has prolonged the determination period for this application.

Conclusion

- 6.15 As the Council has been found unable to demonstrate an NPPF compliant housing land supply at appeal, paragraph 49 of the NPPF requires that applications are considered for their ability to represent sustainable development rather than for their inherent conformity with the Local Plan. However, and for the reasons explained above, the Core Strategy is considered to accord with the aims and objectives of the NPPF in this instance. Therefore, Policies in the Core Strategy, particularly SS1, SS4 and RA3 are considered to retain significant weight.
- 6.16 The site is located in open countryside some distance from a sustainable settlement as identified in the Core Strategy. This will mean that occupancy of the dwelling will give rise to significant journeys by car to Leominster, for basic day to day shopping, other services and recreation which has overriding economic and environmental implications due to car use reliance. There is not a choice of modes of transport. As such, the location of the proposal is not considered to be sustainable and does not comply with either the NPPF or relevant policies contained in the Core Strategy. The proposal would also detract from the setting of the unregistered park and garden and given it does not conserve or enhance this important landscape feature to Leominster it would also be contrary to the provisions of Policy LD1 of Core Strategy.

RECOMMENDATION

That planning permission be refused for the following reasons:

- 1. The proposal is contrary to Policies SS1, SS4, RA3 and LO1 of the Herefordshire Local Plan: Core Strategy given the proposal site is outside the reasonable limits of Leominster in open countryside such that a choice of modes of transport and the requirement to achieve sustainable development in the National Planning Policy Framework (2012) cannot be achieved.
- 2. The proposal would also not conserve and enhance the setting of an unregistered park and garden and accordingly is contrary to the provisions of Policy LD1 of the Herefordshire Local Plan –Core Strategy.

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 and identifying matters of concern with the proposal and discussing those with the applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which have been clearly identified within the reason(s) for the refusal, approval has not been possible.

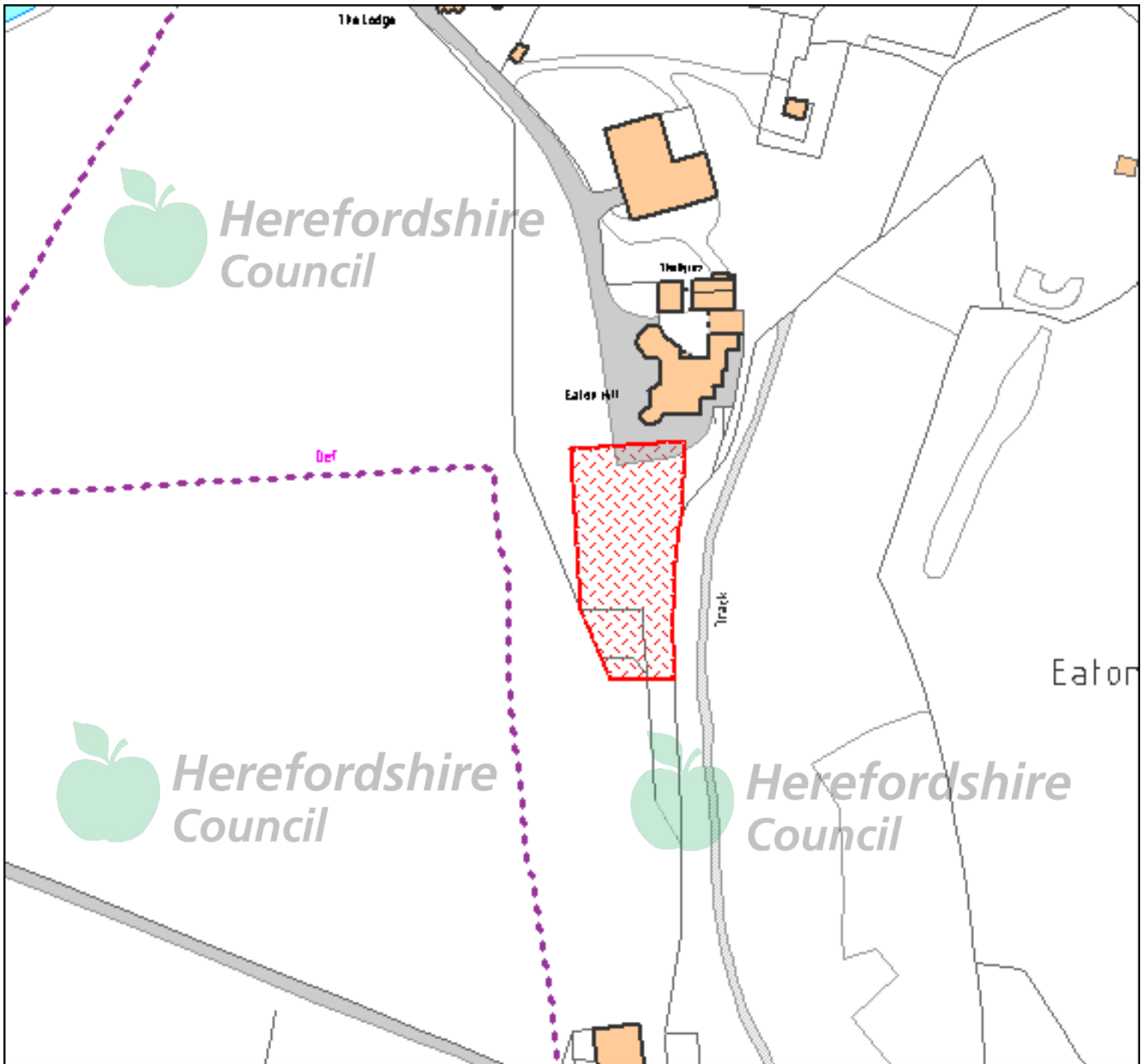
Decision:

Notes:

.....

Background Papers

Internal departmental consultation replies.



This copy has been produced specifically for Planning purposes. No further copies may be made.

APPLICATION NO: 163445

SITE ADDRESS : LAND AT EATON HILL, LEOMINSTER, HEREFORDSHIRE, HR6 0DG

Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005

Further information on the subject of this report is available from Mr Andrew Prior on 01432 261932