

A G E N D A

Southern Area Planning Sub- Committee

Date: **Wednesday, 12th September, 2007**

Time: **2.00 p.m.**

Place: **: The Council Chamber,
Brockington, 35 Hafod Road,
Hereford**

Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

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**County of Herefordshire
District Council**

AGENDA

for the Meeting of the Southern Area Planning Sub-Committee

To: Councillor G Lucas (Chairman)
Councillor PD Price (Vice-Chairman)

Councillors CM Bartrum, H Bramer, PGH Cutter, MJ Fishley, AE Gray, TW Hunt (ex-officio), JA Hyde, JG Jarvis, TMR McLean, RH Smith, RV Stockton (ex-officio), DC Taylor and JB Williams

	Pages
1. APOLOGIES FOR ABSENCE To receive apologies for absence.	
2. DECLARATIONS OF INTEREST To receive any declarations of interest by Members in respect of items on the Agenda.	
3. MINUTES To approve and sign the Minutes of the meeting held on 15th September, 2007.	1 - 6
4. ITEM FOR INFORMATION - APPEALS To note the contents of the attached report of the Head of Planning Services in respect of the appeals received or determined for the southern area of Herefordshire.	7 - 8
REPORTS BY THE HEAD OF PLANNING SERVICES	
To consider and take any appropriate action in respect of the planning applications received for the southern area and to authorise the Head of Planning Services to impose any additional or varied conditions and reasons considered to be necessary.	
Plans relating to planning applications on this agenda will be available for inspection in the Council Chamber 30 minutes before the start of the meeting.	
5. DCSW2007/2543/O - GARDEN OF SANDRIDGE, SANDRIDGE, BARRACK HILL, KINGSTHORNE, HEREFORDSHIRE, HR2 8AY. Site for new dwelling.	9 - 14
6. DCSE2007/1771/G - LAND ADJACENT TO CARADOC, SELLACK, ROSS-ON-WYE, HEREFORDSHIRE, HR9 6LS. Variation of section 106 agreement ref: SH940997PF	15 - 22

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COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

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COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

MINUTES of the meeting of Southern Area Planning Sub-Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday, 15th August, 2007 at 2.00 p.m.

Present: Councillor G Lucas (Chairman)
Councillor PD Price (Vice Chairman)

Councillors: CM Bartrum, H Bramer, PGH Cutter, MJ Fishley, AE Gray, JA Hyde, JG Jarvis, TMR McLean, RH Smith, DC Taylor and JB Williams

In attendance: Councillors TW Hunt

54. APOLOGIES FOR ABSENCE

No apologies for absence were received.

55. DECLARATIONS OF INTEREST

The following declarations of interest were made:

Councillor	Item	Interest
PD Price	Agenda Item 7 DCSW2006/3762/F – Use of land as an occasional airstrip (retrospective application) Byecross Farm, Preston-on-Wye, Herefordshire, HR2 9LJ.	A prejudicial interest was declared and the member left the meeting for the duration of the item.

56. MINUTES

The Democratic Services Officer advised Members of an error in respect of attendance details for the Minutes of the meeting held on 18th July, 2007.

RESOLVED: That the Minutes of the meeting held on 18th July, 2007 be approved as a correct record and signed by the Chairman subject to the amended attendance details.

57. ITEM FOR INFORMATION - APPEALS

The Sub-Committee noted the Council's current position in respect of planning appeals for the southern area of Herefordshire.

58. DCSW2007/1882/F - MILLENNIUM HOUSE, ALLENSMORE, HEREFORDSHIRE, HR2 9BE. (AGENDA ITEM 5)

Councillor MJ Fishley, the local ward member, noted the concerns of the Parish Council in respect of the size of the dwelling but on balance she felt that the sub-

committee had no option but to remove the condition relating to agricultural occupancy.

RESOLVED

That planning permission be granted.

59. DCSW2007/2010/F - UPPER NEWTON FARM, NEWTON ST. MARGARETS, VOWCHURCH, HEREFORDSHIRE, HR2 0QU. (AGENDA ITEM 6)

The Principal Planning Officer reported the following:

- Newton Parish Council make the following observations:

“The Council wish to support this application as it complies with all the criteria for new agricultural dwellings.

The proposed new dwelling is sited near the present farm complex and is well off the road and will not impinge on the landscape. No new access roads are required.

Mr. John Powell has recently had several serious operations which have rendered him unable to undertake any strenuous physical work. It is imperative that his son Mark takes a more active part in the work and management of the farm to make it viable. This can only be achieved if he lives closer to the farm.”

In accordance with the criteria for public speaking, Mr Herdman, representing Newton parish Council and Mr. Howie, the applicant’s agricultural contractor, spoke in support of the application.

Councillor JB Williams, the local ward member, noted the officer’s comments regarding the utilisation of existing buildings but confirmed that all of the existing farm buildings were used for agricultural purposes. He advised members that the access was acceptable and although visibility was limited to the right, a series of bends in the road prior to the entrance would slow vehicles down considerably. He also felt that young farm workers should be encouraged to remain in the area and therefore felt that the application should be approved contrary to the officer’s recommendation.

In response to a question from the Southern Team Leader, the local ward member confirmed that he felt that an agricultural occupancy condition would be beneficial to the application.

Councillor MJ Fishley advised members that the applicant currently resided in her ward and had to commute to the farm on a daily basis, she felt that this was unacceptable and supported the application fully.

Councillor JG Jarvis noted his concerns in respect of the application. He felt that it was contrary to policy H7 and H8 of the Unitary Development Plan and therefore felt that it should be refused. He felt that members were being led by the emotive nature of the application and felt that if they were keen to approve applications of this nature they should consider amending the UDP prior to doing so.

A number of members commented on the application and felt that the current arrangement was unacceptable for the applicant. They also felt that the application was not contrary to policy H7 and H8 of the UDP.

In response to a number of points raised by members the Southern Team Leader confirmed that the applicants parents would be permitted to live in the new dwelling as the agricultural occupancy condition permitted this. He also confirmed that the application was contrary to policy H8 which was based on national planning policy. He felt that there was a functional requirement for an agricultural dwelling on the site but that this requirement could be met by the existing farm dwelling.

RESOLVED

The Southern Area Planning Sub-Committee is minded to approve the application subject to the conditions set out below (and any further conditions felt to be necessary by the Head of Planning Services) provided that the Head of Planning Services does not refer the application to the Planning Committee.

E28 The occupation of the dwelling shall be limited to a person solely or mainly working or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependants.

If the Head of Planning Services does not refer the application to the Planning Committee, officers named in the Scheme of Delegation to Officers be instructed to approve the application to such conditions referred to above.

[Note: Following the vote on this application, the Development Control Manager advised that he would refer the decision to the Head of Planning Services.]

60. DCSW2006/3762/F - BYECROSS FARM, PRESTON-ON-WYE, HEREFORDSHIRE, HR2 9LJ. (AGENDA ITEM 7)

In accordance with the criteria for public speaking, Mr Fenn, the applicant, spoke in support of his application.

Councillor H Bramer noted that the applicant had endeavoured to address the concerns of the local residents and felt that the application should be approved.

RESOLVED

That planning permission be granted subject to the following conditions:

- 1. Except in emergency, the use of the airstrip shall be restricted to that by microlight aircraft (as defined from time to time by the Civil Aviation Authority) first registered in the UK on or after 1st April, 1986.**

Reason: In order to define the terms to which the application relates.

- 2. The number of aircraft movements (with take off and landing counting as separate movements) from the airstrip shall not exceed 8 per week.**

Reason: To enable the planning authority to retain control over the development in the interests of the residential amenity of local residents.

- 3. Except in emergency no touch-and-go activity shall take place.**

Reason: To enable the planning authority to retain control over the development in the interests of the residential amenity of local residents.

4. This permission shall enure for the benefit of Mr. A. Fenn only and not for the benefit of the land or any other persons interested in the land, and only at such time as he occupies Byecross Farm.

Reason: The nature of the development is such that it is only considered acceptable in this location having regard to the applicant's special circumstances.

5. F32 (Details of floodlighting/external lighting) (amended wording)

Reason: To safeguard local amenities.

6. The hedgerow planting set out in the FWAG Report received on 2nd May, 2007 shall be carried out to the satisfaction of the local planning authority in the first planting and seeding seasons following the first use of the runway, any trees/plants which within a period of 5 years from first planting are removed or seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5 years defect period.

Reason: In order to protect the visual amenities of the area and provide mitigation for hedgerow removal previously.

Informative(s):

1. The siting or use of an existing building for storing an aircraft will require separate planning permission.
2. N19 - Avoidance of doubt
3. N15 - Reason(s) for the Grant of Planning Permission

61. DCSW2007/2173/O - FARADAY HOUSE, MADLEY, HEREFORD, HR2 9PJ. (AGENDA ITEM 8)

The Planning Officer reported the following:

- Welsh Water observations:

“We would request that if you are minded to grant planning permission for the above development that the Conditions and Advisory Notes listed below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets”.

Councillor DC Taylor, the local ward member, supported the application but felt that the dwellings should be restricted to single storey buildings to remain in keeping with other properties in the vicinity.

Councillor TMR McLean noted that planning permission had been granted for 20 dwellings to the north of the application site. She felt that as these dwellings would be primarily 2 storey buildings it would be inappropriate to limit the application site to single storey dwellings.

Councillor H. Bramer noted his concerns in respect of the application. He felt that the existing dwelling was in a good state of repair and should therefore not be

demolished tin order to enable a larger number of buildings on the site. He also had concerns in respect of the access to the site.

RESOLVED

That planning permission be granted subject to the following conditions

- 1. A02 (Time limit for submission of reserved matters (outline permission))**
Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
- 2. A03 (Time limit for commencement (outline permission))**
Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
- 3. A04 (Approval of reserved matters)**
Reason: To enable the local planning authority to exercise proper control over these aspects of the development.
- 4. A05 (Plans and particulars of reserved matters)**
Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
- 5. E16 (Removal of permitted development rights)**
Reason: In order to limit the enlargement of such development.
- 6. F18 (Scheme of foul drainage disposal)**
Reason: In order to ensure that satisfactory drainage arrangements are provided.
- 7. F48 (Details of slab levels)**
Reason: In order to define the permission and ensure that the development is of a scale and height appropriate to the site.
- 8. G08 (Retention of trees/hedgerows (outline applications))**
Reason: To safeguard the amenity of the area.
- 9. H03 (Visibility splays)**
Reason: In the interests of highway safety.
- 10. H27 (Parking for site operatives)**
Reason: To prevent indiscriminate parking in the interests of highway safety.
- 11. Notwithstanding the approved plan, the Local Planning Authority requires that the site provides housing in the form of bungalows only and that no other dwelling type be proposed.**

Reason: To protect the character and appearance of the locality.

Informative(s):

- 1. HN01 - Mud on highway**
- 2. HN04 - Private apparatus within highway**
- 3. HN05 - Works within the highway**
- 4. HN10 - No drainage to discharge to highway**
- 5. HN22 - Works adjoining highway**
- 6. N19 - Avoidance of doubt**
- 7. N15 - Reason(s) for the Grant of Planning Permission**

The meeting ended at 3.05 p.m.

CHAIRMAN

ITEM FOR INFORMATION - APPEALS**APPEALS RECEIVED****Application No. DCSE2007/1556/F**

- The appeal was received on 1st August, 2007
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal is brought by J. Thorpe Properties
- The site is located at Land at The Knapp, Knapp Close, Goodrich Herefordshire, HR9 6HU
- The development proposed is Proposed erection of 5 dwellings and 5 detached double garages along with new private road on land at The Knapp. Erection of double garage at The Knapp. Alterations to entrance of Knapp Close.
- The appeal is to be heard by Written Representations

Case Officer: Steven Holder on 01432 260479

Application No. DCSW2007/1091/O

- The appeal was received on 14th August, 2007
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal is brought by DfES Academies
- The site is located at Hereford Waldorf School, Much Dewchurch, Herefordshire, HR2 8DL
- The development proposed is Site for new school buildings to extend existing school facilities and new access.
- The appeal is to be heard by Inquiry

(Please note that this appeal is to be linked with the appeal regarding Refusal of Planning Permission for application DCSW2006/3430/O at the same site. Both appeals will be heard at the same Inquiry, which is due to take place on 13th & 14th November 2007 at Hereford Racecourse)

Case Officer: Mike Willmont on 01432 260612

APPEALS DETERMINED

No appeal decisions to report.

If members wish to see the full text of decision letters copies can be provided

5 DCSW2007/2543/O - SITE FOR NEW DWELLING IN GARDEN OF SANDRIDGE, SANDRIDGE, BARRACK HILL, KINGSTHORNE, HEREFORDSHIRE, HR2 8AY.

**For: Mr R Poole & Mrs G Phillips per Mr C Goldsworthy
85 St Owens Street, Hereford, HR1 2JW.**

Date Received: 3rd August, 2007

Ward: Pontrilas

Grid Ref: 50429, 32276

Expiry Date: 28th September, 2007

Local Member: Councillor RH Smith

1. Site Description and Proposal

- 1.1 The proposal site is reached off the western side of Barrack Hill. It comprises an arbitrary area of garden area to the east of Sandridge, a modern bungalow. Sandridge is at the entrance of a cul-de-sac of development of various dwelling types and materials, i.e. stone, render, slate and concrete tiles, mostly standing in large gardens.
- 1.2 Sandridge fronts onto the unadopted driveway (Eden Lane). A double garage, just under 6 metres away, will remain with the property. The existing access serving the property will also be utilised by the proposed new dwelling. Indicative plans submitted provide for a two-storey four bedroom dwelling with 99.34m² floor area and angled towards the north-west, i.e. at an angle to Barrack Hill. The rear or southern boundary is of evergreen hedging, the eastern roadside boundary is a post and rail one well supplemented by trees and hedging. There is a low stone rubble wall on the northern boundary which provides open views across the otherwise well screened site.
- 1.3 This is a planning application for which only the means of access, i.e. the existing one is to be determined at this stage. The remaining reserved matters or details will be determined at a later stage in the event that planning approval were granted for the principle of developing the site.

2. Policies

2.1 Planning Policy Statement

- | | | |
|-------|---|--|
| PPS.1 | - | Delivering Sustainable Development |
| PPS.7 | - | Sustainable Development in Rural Areas |

2.2 Herefordshire Unitary Development Plan 2007

- | | | |
|------------|---|--|
| Policy S.2 | - | Development Requirements |
| Policy H.7 | - | Housing in the Countryside Outside Settlements |

3. Planning History

- | | | | | |
|-----|-----------------|------------------------|---|------------------|
| 3.1 | DCSW2006/3917/O | New dwelling in garden | - | Refused 05.02.07 |
| | DCSW2007/1087/O | New dwelling in garden | - | Refused 14.05.07 |

4. Consultation Summary

Statutory Consultations

- 4.1 No statutory or non-statutory consultations required.

Internal Council Advice

- 4.2 The Traffic Manager's recommendation is awaited.

5. Representations

- 5.1 The applicants' agent has submitted a Design and Access Statement. The following main points are raised:

- daughter wishes to move to Sandridge to be near her independent and elderly mother
- design of house will be as eco-friendly as possible
- site is flat, bounded by Barrack Hill and private road. Two yew trees at corner of plot will be retained
- garage will be retained
- small 4 bedroom house proposed, two parking spaces and garden area to front and rear
- floor area (99.4m²) consistent with Policy H.6 in the UDP
- percolation tests undertaken
- designed to be life-time home, i.e. 3 bedrooms on first floor and fourth on ground floor for future use
- landscaping, little alteration required.

- 5.2 In a further letter, a copy of which has been sent to all Members, the following main planning issues are raised:

- evident site is in Kingsthorpe, as it was previously
- neither of the previous applications have attracted any objections and the Parish Council fully support the proposal
- policies are for guidance, with regard to 30 metres infill gap and 30 metres infill plot, referred to in Policy H.6 have substantial differences in meaning
- the 30 metres requirement relates to frontage and must be considered in general terms as it cannot be site specific (the site has two frontages)
- each of nine properties (in cul-de-sac) fronts onto the road and not all squeezed into a gap between properties fronting onto Barrack Hill

comments on notes to Policy H.6:

- given client cannot afford dwelling in Kingsthorpe, therefore need and low cost requirements are established (5.4.60)
- states development permissible in the form of small infill opportunities (5.4.61)
- the plot sits comfortably within proposed limitations (5.4.62) meets needs of local people and contributes to housing targets, i.e. making best use of land (PPG.3) (5.4.63) based on assessment of community sustainability better to be larger than smaller, be near facilities described in section 5.4.63
- proposal falls within the remit of policies, for this essential and worthy application.

- 5.3 The Parish Council's observations are awaited.

The full text of these letters can be inspected at Southern Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Sub-Committee meeting.

6. Officer's Appraisal

- 6.1 The main issue relates to the policy framework relating to Kingsthorne.
- 6.2 There are not issues of highway safety nor the infringement of amenity of residents in the vicinity. The site is also comparatively well screened from view. Kingsthorne is the name of a settlement but which does not relate to a parish of that name. It comprises two parishes, Much Dewchurch and Much Birch. Much Dewchurch is on the western side of the C1263 road, the main thoroughfare, and indeed the only classified road in Kingsthorne. Much Birch which contains the proposal site also has a cluster of dwellings along the A49(T) road and is named in Policy H.6, along with Kingsthorne, as being a smaller settlement. Development in smaller settlements, as defined in Policy H.6, is limited to infill plots of no greater than 30 metres between dwellings which are in built up frontages. The objective of the policy is to provide limited infilling in gaps in established frontages for prescribed dwellings, such that those dwellings will provide more affordable dwellings than in the larger settlements.
- 6.3 These smaller settlements as defined in Policy H.6 in the Unitary Development Plan do not have delineated settlement boundaries, as is the case for the larger settlements. Therefore, it is not sufficient for the purposes of what is current Development Plan policy to have regard to the previously identified settlement boundary. The main cluster of dwellings follows the C1263 road on the western side and then follows the Wrigglebrook Valley. The unclassified roads that lead off eastwards and then both turn south-eastwards following the declining topography from the boundaries to the north and south of the sprawling settlement. The proposal site is within a distinct and separate cluster of dwellings that starts some 175 metres from the bottom of Barrack Hill. This cluster of dwellings is separate enough visually to be recognised as the Barrack Hill area which has the village hall in the northern area. It is not considered that this group of dwellings primarily fronting onto Barrack Hill, or just sited off it, as is the case with Sandridge, are within the distinct entity of Kingsthorne.
- 6.4 The second issue relates to the interpretation of Policy H.6 which requires that new plots are no more than 30 metres in frontage and between existing dwellings. It is not possible for this plot to meet this criterion, which has been tested on Appeal to the Secretary of State. Sandridge has no dwelling to the east of it, only Barrack Hill. It is not sufficient to state that there are dwellings across the cul-de-sac entrance to the north-east (Elland Cottage) and south-west (Anfield House). Policy H.6 is clear in not encouraging corner plots; the cornerstone of the policy is the identification of plots between existing dwellings, which in turn are in frontages.
- 6.5 The proposal plot is not within the main cluster of dwellings of Kingsthorne, it is within a distinct and separate grouping of dwellings located around Barrack Hill, therefore the development constitutes development in open countryside as it falls outside the identifiable limits of an identified settlement.

RECOMMENDATION

That planning permission be refused for the following reason:

1. This site does not form part of the smaller settlement of Kingsthorpe, as defined by Policy H.6 of the Herefordshire Unitary Development Plan 2007 and as such it lies within open countryside. The proposal does not satisfy any of the exceptional criteria allowing for housing in the open countryside and it is therefore contrary to Policy H.7 of the Herefordshire Unitary Development Plan 2007 and Planning Policy Statement 7, Sustainable Development in Rural Areas.

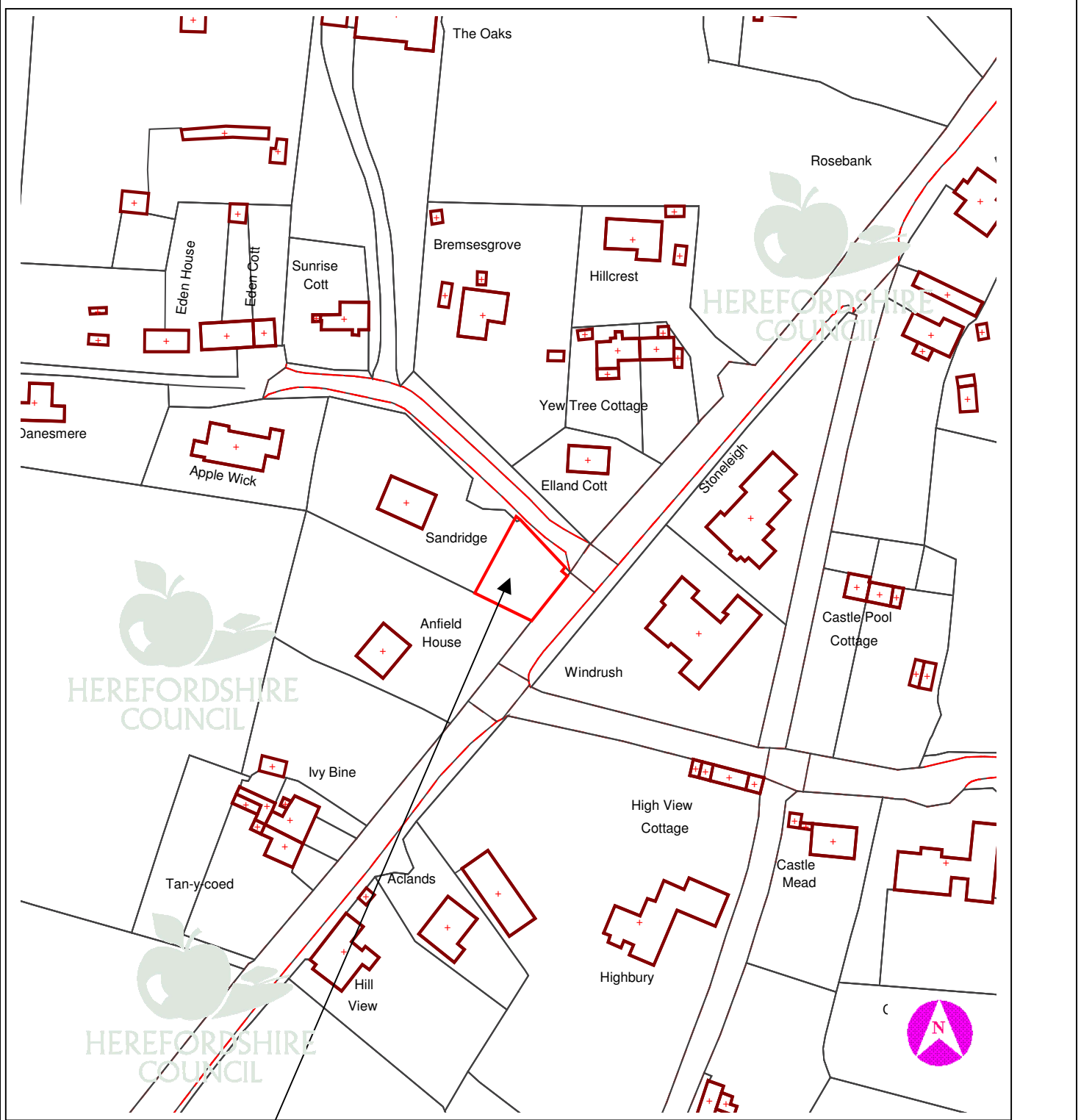
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCSW/2007/2543/O

SCALE : 1 : 1250

SITE ADDRESS : Sandridge, Barrack Hill, Kingsthorpe, Herefordshire, HR2 8AY

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6 DCSE2007/1771/G - VARIATION OF SECTION 106 AGREEMENT REF: SH940997PF AT LAND ADJACENT TO CARADOC, SELLACK, ROSS-ON-WYE, HEREFORDSHIRE, HR9 6LS.

For: K H Brooker per Carr and Company, 9 Broughton Road, Banbury, Oxfordshire, OX16 9QB.

Date Received: 11th July, 2007 Ward: Llangarron Grid Ref: 56091, 27298

Expiry Date: 5th September, 2007

Local Member: Councillor Mrs JA Hyde

1. Site Description and Proposal

- 1.1 Caradoc Court is a Grade II* listed country house built (according to the listing) in the sixteenth and seventeenth centuries but remodelled in the mid-nineteenth century. The front of the house is of ashlar stone construction but timber-framing remains on the rear elevation. The building was seriously damaged by fire during the 1980s. A scheme to restore the building as a single dwellinghouse and to erect 6 houses as enabling development on land about 260 m. east of Caradoc Court was submitted in 1994. The main walls of the house, together with chimney stacks and stone internal walls, remained more or less intact. It was proposed to re-construct the house within this shell as it existed before the fire, subject to minor alterations and to replace some of the later alterations and additions with features present prior to the Edwardian period.
- 1.2 The enabling development comprised 6 houses on plots of about 0.05 ha. to the east of East Cottage. Access would be along a private unmetalled drive (in part a bridle way) which leads from the entrance to the Court by Caradoc Lodge to Sellack Church. To the north of the site is wooded hillside falling to the valley of the River Wye.
- 1.3 A Section 106 Agreement was entered into which required that the restoration of Caradoc Court be completed before works on the first of the new dwellings commenced. The extent of restoration works was specified in a schedule of works and included the full external envelope of the building and roof and their structural support, all main services brought into the building, together with those internal walls and floors essential to the structural integrity of the envelope, reinstatement of main staircase to first floor level. Access roads and landscaping would be laid out and planted following the conclusion of these works. In addition the Agreement required:
- a) the remainder of the approved building works be carried out prior to occupation of the sixth dwelling
 - b) the dwellings were to be of natural stone or traditional timber-frame construction
 - c) no further dwelling should be erected or residential mobile home sited on the land.

Planning permission and listed building consent were granted on 24th February, 1995.

- 1.4 The essential restoration works have been undertaken with one main exception. The west wing has not yet been roofed. The remainder of the building has been made habitable, with occupation of the East Wing commencing about 2000. In order to finance the remaining restoration works the developer has requested a variation of the main requirement of the Agreement so that the schedule of works would be fully carried out prior to works commencing on the sixth house rather than the first. A draft of the proposed variation is included in the Appendix to this report.

2. Policies

2.1 Planning Policy Statements

PPG15 – Planning and the Historic Environment

2.2 Herefordshire Unitary Development Plan 2007

Policy H7	-	Housing in the Countryside outside Settlements
Policy H13	-	Sustainable Residential Design
Policy HBA1	-	Alterations and Extensions to Listed
Policy LA1	-	Areas of Outstanding Natural Beauty
Policy LA4	-	Protection of Historic Parks and Gardens
Policy LA5	-	Protection of Trees, Woodlands and Hedgerows

3. Planning History

3.1	SH890963PF	Restoration and extension to form 20 apartments and erect 5 cottages in walled garden.	-	Not determined.
	SH940997PF	Re-build fire-damaged house to original state as single dwelling and 6 houses on adjacent land.	-	Approved 24.2.95
	SH940998LA	Clear out fire-damaged and derelict element, repair existing walls and replace missing floors, roofs and fillings to form single residence.	-	Consent 24.2.95
	SE2006/1684/V	Certificate of Lawful Development for 6 new houses.	-	Certificate granted 6.12.06
	DCSE2007/0330/U	Use of East Wing as residential unit	-	Not determined.

4. Consultation Summary

Statutory Consultations

- 4.1 No statutory or non-statutory consultations are required.

Internal Council Advice

- 4.2 The Traffic Manager has no objection to the grant of permission. The variation of the Section 106 Agreement would not appear to affect public bridleway SK6.

4.3 The Conservation Manager advises:

"The original 106 agreement, made with a commercial developer, required the shell of the fire-damaged Caradoc Court to be 'complete' before the site could be released for development. However the applicant has instead proceeded with an incremental total restoration and has completed approximately 80% of the building, including the interiors, with only the western-most bay remaining unroofed. I consider that the restoration has achieved sufficient momentum for it to be more than likely that the applicant, a private individual, will complete the work without the sanction of terms of the original agreement."

5. Representations

5.1 One letter has been received from the applicant's agent responding to some of the representations reported in paragraph 5.2 below. In summary it is pointed out that:

- 1) There is a neighbour dispute and a number of attempts to prevent a sale of the residential development land are itemised.
- 2) A number of letters of objection incorrectly suggest there is a problem with vehicle access over the element of access way within a neighbour's (Major Darling) ownership.
- 3) The development land enjoys a full right of way by virtue of a grant contained in a 1987 Conveyance and it has now been accepted by Major Darling that there exists a right of way at all times with or without vehicles and that this track immediately adjoins the boundary of the applicant's and Major Darling's properties.
- 4) We believe this application is straightforward and non contentious.
- 5) Over the past 12 years the Court has been substantially restored to an extremely high standard at very considerable expense and effort – the applicant has no intention whatsoever of not completing the restoration.
- 6) As the great majority of the Court has already been restored, how can there be a real risk that it will remain a ruin?
- 7) The applicant is more than happy for some safeguard to ensure restoration is completed – the application has been made to provide funds to achieve this.

5.2 6 letters have been received from or on behalf of local residents objecting to variation of the Section 106 agreement. The reasons given are:

- 1) To accept modification would mean no safeguard that the agreed works will be carried out by current owner or his successor – the original terms should be rigorously enforced.
- 2) The test to be applied to a modification is whether it would serve the purpose equally well.
- 3) That purpose was set out in the report to Committee in October 1994 viz:
 - it was essential enabling development,
 - only acceptable as enabling development,

- a Section 106 Agreement could ensure the link between restoration of Caradoc Court and the development of houses,
- 4) It is clear that permission was only granted to enable Caradoc Court to be resorted as a single dwelling and the Council properly used a Section 106 agreement to achieve this purpose.
- 5) Current proposal would allow 5 of the 6 houses to be occupied without further work being undertaken to Caradoc Court and Council does not have powers to ensure monies raised are spent for this purpose.
- 6) Clause 1 still serves a useful purpose but a modified agreement would not serve equally well as the Council would have conceded its only means of securing restoration.
- 7) A High Court case is quoted which makes clear that the application cannot be varied by the Council, only approved or refused.
- 8) Proposed modification is not clear and application may not comply with relevant Regulations.
- 9) Monies from development site may not be sufficient to complete restoration.
- 10) Current agreement has not been adhered to; the separate flat contravenes use as single dwelling clause and a very large mobile home at Caradoc Court contravenes Clause 4.

5.3 In addition concerns are raised with regard to the adverse impact of the development, in particular:

- 1) most significant part of the historic landscape garden including famous terrace walk with ravishing views would be bargained away for development – proposal compared unfavourably with Riovaux Terrace and Farnborough Hall (both NT),
- 2) new houses would be in AONB and in middle of old estate,
- 3) access too narrow and no opportunity for passing places, for the significant increase in traffic with no parking/turning areas,
- 4) access to highway dangerous and would be conflict along drive (a bridle way) with walkers and riders,
- 5) harm wildlife and concern expressed for 21 lime trees along the drive and some large oaks,
- 6) for above reasons permission for 6 houses should be re-considered.

The full text of these letters can be inspected at Southern Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Sub-Committee meeting.

6. Officer's Appraisal

6.1 Caradoc Court is an important historic building, being an example of a late Elizabethan country house. English Heritage strongly supported restoration and advised that

enabling development would be justified in view of the extensive restoration works. The house had been fire-damaged 8 years earlier and further deterioration was inevitable unless the building was properly roofed and structurally secured. It was fully appreciated by the Sub-Committee of the former South Herefordshire District Council that the erection of 6 houses would conflict with policies for residential development in the countryside and that there would be harm to the landscape. Nevertheless this was considered to be a cost that was out-weighed by the benefits of ensuring that Caradoc Court was saved and restored. An earlier scheme, which the Sub-Committee was minded to approve, for apartments with enabling development much closer to the Court was in comparison considered to cause more damage. In order to ensure that the Court was re-built prior to the enabling development being undertaken a Section 106 Agreement was made between the applicant/developer and the Council. The Section 106 Agreement requires the full restoration of the house with initial emphasis on securing the long-term future of the building. With the exception of the West Wing this has been achieved.

6.2 The developer has undertaken the restoration works himself and lives in the property. As noted by the Conservation Manager a considerable proportion of the full restoration (interior as well as structure) has been completed, the exception being the West Wing. The current application is to vary the Agreement so that the enabling development can go ahead. The applicant claims that this would release funds to enable completion of this project. The application is not to vary the enabling development (6 houses) as such and changes of this part of the permission are not proposed.

6.3 As pointed out above the basic test for such applications is whether the Section 106 agreement continues to serve a useful [planning] purpose. With regard to modifications this can be refined to whether the proposed modification would serve that purpose equally well. Clause I is the key section of the Agreement which ensures that the main intention of the Council in granting permission for 6 houses, viz to enable rebuilding of the Court, is achieved. Removing this section could, so objectors argue, allow building of 5 houses without ensuring that the West Wing is roofed and glazed. However in terms of the whole project this is a relatively small part and the key aim of securing the structure remaining after the fire and hence the long-term future of the building has been achieved. The applicant’s decision to undertake the work himself and the much greater time taken may be a factor here but these have also contributed to the quality of the restoration/rebuilding works, which the Conservation Manager has noted appreciatively. The Agreement on this basis is therefore as currently worded, an impediment to the Council’s aim and the proposed modification, I consider, would be more likely to ensure this was achieved.

RECOMMENDATION

That the County Secretary and Solicitor be authorised to complete the variation of Planning Obligation no. 1 of the Agreement so that building works be completed before occupation of the sixth of the dwellings.

INFORMATIVES:

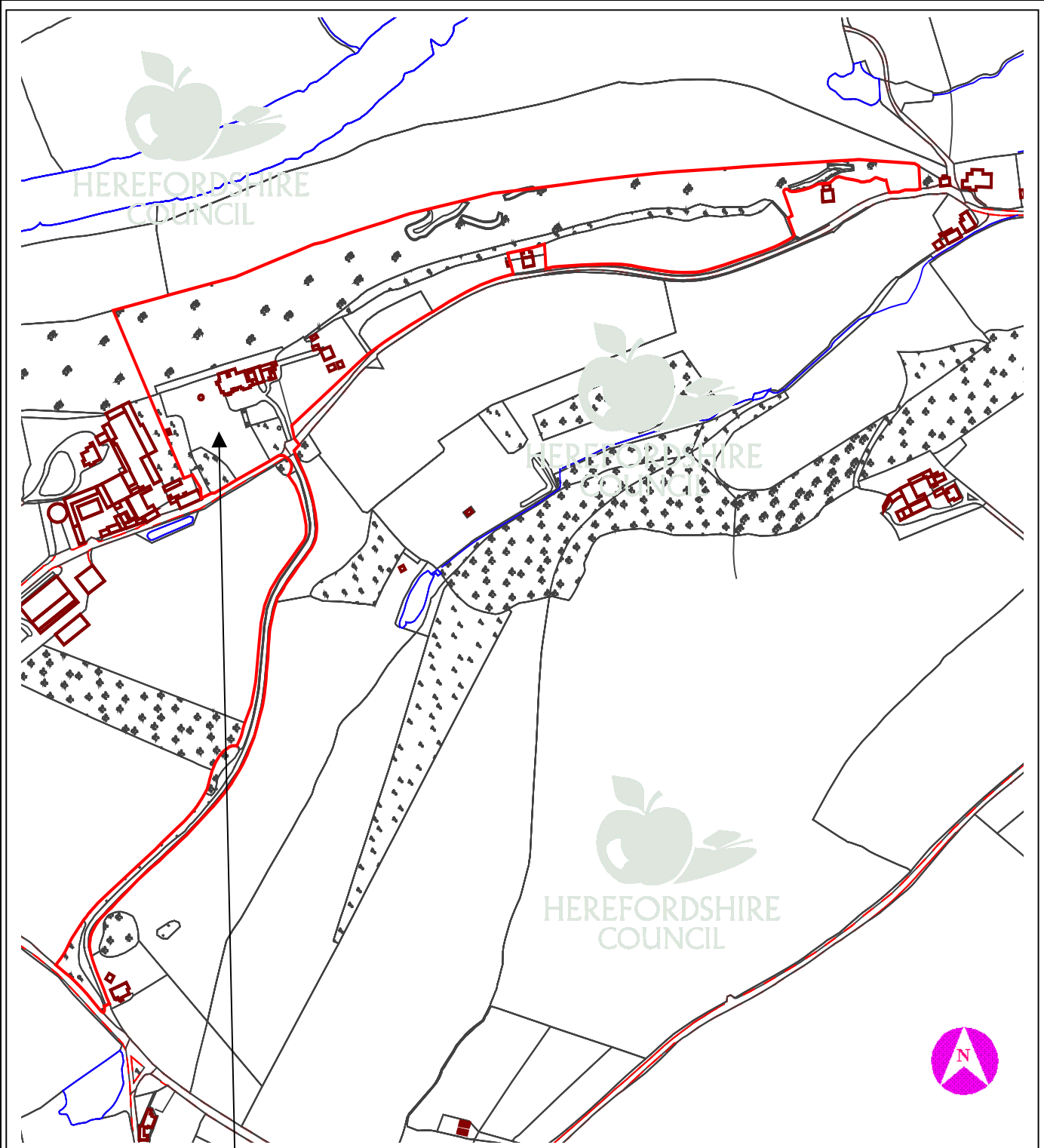
1 N15 - Reason(s) for the Grant of Planning Permission.

Decision:

Notes:

Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCSE2007/1771/G

SCALE : 1 : 5100

SITE ADDRESS : Land adjacent to Caradoc, Sellack, Ross-on-Wye, Herefordshire, HR9 6LS

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A P P E N D I X

DRAFT VARIATION OF PLANNING OBLIGATIONS

1. Prior to occupation of the sixth of the dwellings the restoration of Caradoc Court must be completed to the extent required in the schedule of works attached to this Agreement.
2. The remainder of the building works approved under the Council's Code SH940997PF shall be carried out prior to occupation of the sixth dwelling to be built.
3. The dwellings shall where appropriate be constructed with local natural stone exteriors or be of traditional timber-frame construction to the Council's reasonable satisfaction.
4. No further dwelling shall be erected nor any mobile home intended for permanent occupation sited upon the remaining area of land owned by the Company and shown on the plan attached and hatched green,