

# AGENDA

## Northern Area Planning Sub-Committee

Date: **Wednesday 18 November 2009**

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Time: **2.00 pm**

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

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

For any further information please contact:

**Ricky Clarke, Democratic Services Officer**

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If you would like help to understand this document, or would like it in another format or language, please call Ricky Clarke, Democratic Services Officer on 01432 261885 or e-mail [rclarke@herefordshire.gov.uk](mailto:rclarke@herefordshire.gov.uk) in advance of the meeting.

# Agenda for the Meeting of the Northern Area Planning Sub-Committee

## Membership

<b>Chairman</b>	<b>Councillor JW Hope MBE</b>
<b>Vice-Chairman</b>	<b>Councillor PJ Watts</b>
	<b>Councillor LO Barnett</b>
	<b>Councillor WLS Bowen</b>
	<b>Councillor ME Cooper</b>
	<b>Councillor JP French</b>
	<b>Councillor JHR Goodwin</b>
	<b>Councillor KG Grumbley</b>
	<b>Councillor B Hunt</b>
	<b>Councillor RC Hunt</b>
	<b>Councillor TW Hunt</b>
	<b>Councillor TM James</b>
	<b>Councillor P Jones CBE</b>
	<b>Councillor PJ McCaull</b>
	<b>Councillor R Mills</b>
	<b>Councillor PM Morgan</b>
	<b>Councillor RJ Phillips</b>
	<b>Councillor A Seldon</b>
	<b>Councillor RV Stockton</b>
	<b>Councillor J Stone</b>
	<b>Councillor JK Swinburne</b>

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## AGENDA

	Pages
<p><b>1. APOLOGIES FOR ABSENCE</b></p> <p style="padding-left: 20px;">To receive apologies for absence.</p>	
<p><b>2. DECLARATIONS OF INTEREST</b></p> <p style="padding-left: 20px;">To receive any declarations of interest by Members in respect of items on the Agenda.</p>	
<p><b>3. MINUTES</b></p> <p style="padding-left: 20px;">To approve and sign the Minutes of the meeting held on 21 October 2009.</p>	1 - 10
<p><b>4. ITEM FOR INFORMATION - APPEALS</b></p> <p style="padding-left: 20px;">To be noted.</p>	11 - 12
<p><b>APPLICATIONS RECEIVED</b></p> <p>To consider and take any appropriate action in respect of the planning applications received for the northern area of Herefordshire, and to authorise the Head of Planning and Transportation to impose any additional and varied conditions and reasons considered to be necessary.</p> <p>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.</p>	
<p><b>5. DCNE0009/1639/F -TACK FARM EQUESTRIAN CENTRE, ULLINGSWICK, HEREFORDSHIRE, HR1 3JQ.</b></p> <p style="padding-left: 20px;">Proposed warm up ménage, extend existing ménage and new site office/public address system</p>	13 - 20
<p><b>6. DCNE0009/1537/F - LAND AT AREA 15 NEW MILLS ESTATE, KINGSMEAD, LEDBURY, HEREFORDSHIRE, HR8 2LS</b></p> <p style="padding-left: 20px;">Proposed 9 no 2 bed bungalows, including the relevant driveways and landscaping.</p>	21 - 30
<p><b>7. DCNW00091880M - LEINTHALL QUARRIES, LEINTHALL EARLS, LEOMINSTER, HEREFORDSHIRE, HR6 9TR.</b></p> <p style="padding-left: 20px;">Continued development without compliance with Condition 8 of Planning Permission Ref DCNW2004/1404/M for the remainder of the permission.</p>	31 - 38
<p><b>8. DCNW0009/1730/F - YATTON HILL COTTAGE, AYMESTRY, LEOMINSTER, HEREFORDSHIRE, HR6 9TP</b></p> <p style="padding-left: 20px;">Single storey extension to existing dwelling.</p>	39 - 42
<p><b>9. DCNW0009/1826/F &amp; DCNW0009/1825/L - ORLETON MANOR, OVERTON LANE, ORLETON, NR LUDLOW.</b></p> <p style="padding-left: 20px;">Proposed alterations and extensions to Orleton Manor. Provision of new garden buildings adjacent to NW Garden Wall, boundary alterations and construction of below ground garage and storage accommodation, access and access road.</p>	43 - 80
<p><b>10. TREE PRESERVATION ORDER - STRETTON GRANGE, STRETTON GRANDISON</b></p>	81 - 86

To consider the representations made in relation to the making of a provisional Tree Preservation Order upon trees at Stretton Grange, Stretton Grandison and determine whether to confirm the order and revoke the Area Order made in 1987 covering trees within the former curtilage of the house.

**11. DATE OF NEXT MEETING**

Provisional site inspection – 1 December 2009

Next meeting - 16 December 2009

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- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
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- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
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## **HEREFORDSHIRE COUNCIL**

**BROCKINGTON, 35 HAFOD ROAD, HEREFORD.**

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HEREFORDSHIRE COUNCIL

**MINUTES of the meeting of Northern Area Planning Sub-Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 21 October 2009 at 2.00 pm**

**Present:** Councillor JW Hope MBE (Chairman)  
Councillor PJ Watts (Vice Chairman)

Councillors: LO Barnett, JHR Goodwin, KG Grumbley, B Hunt, RC Hunt, TW Hunt, TM James, Brig P Jones CBE, PM Morgan, RJ Phillips, RV Stockton and J Stone

**48. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors WLS Bowen, ME Cooper, JP French, PJ McCaull, R Mills, A Seldon and JK Swinburne.

**49. DECLARATIONS OF INTEREST**

There were no declarations of interest made.

**50. MINUTES**

The Assistant Solicitor (Corporate) requested that an additional note be added to the resolution contained within minute 46 to confirm that the application was referred to the Head of Planning and Transportation.

Councillor KG Grumbley requested that the following sentence be added to the end of paragraph three of minute 46:

'He also agreed that the planning status of the ancillary buildings including the stable block needed to be investigated.'

Councillor P Jones CBE noted that his apology for absence had been omitted from the minutes.

**RESOLVED**

**That the minutes of the meeting held on 23 September 2009 be approved as a correct record and signed by the Chairman subject to the three amendments highlighted above.**

**51. ITEM FOR INFORMATION - APPEALS**

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

**52. DCNW0009/1881/F - BANK HOUSE, HIGH TREE BANK, LEINTWARDINE, HEREFORDSHIRE, SY7 0LU.**

*Change of use of agricultural land to agricultural contractor's yard, erection of workshop/storage building, new access road and 1 metre high bund.*

The Senior Planning Officer reported the following updates:

The Council's Planning Ecologist had responded with no objections to the application subject to a condition with regards to additional landscape planting.

A further letter had been received from the applicant's agent in response to letters of objection received to the application.

The letter was summarised as stating:

- Protection of view is not a planning issue.
- Building has now been positioned further away from the site boundary.
- No alterations are proposed to the existing public highway access.
- The site has been recently visually improved by removal of derelict buildings and hard standing.
- Issues with regards to light, noise and dust can be addressed through imposition of conditions to any approval notice issued and is also controlled by other legislation.
- The chosen site is the least visible from the surrounding substantial viewpoints and is already screened by substantial hedgerows.

The Senior Planning Officer reported the following comments which were included in the update sheet circulated to Members at the meeting:

The response received from the Council's Planning Ecologist was noted and a condition, (No. 6), was recommended as attached to the report for Committee consideration. This can incorporate the requirements of the Ecologist.

The comments as outlined in the applicant's agent's letter were noted. However they raise no additional issues of concern in respect of the application. Conditions as suggested have been attached to the report for Committee consideration.

Councillor LO Barnett, the local ward member, noted the comments of Leintwardine Parish Council and felt that the recommended conditions addressed their concerns. She felt that it was important for the applicant to be able to operate his business from one site and therefore she supported the application.

## **RESOLVED**

- 1 A01 Time limit for commencement (full permission)**
- 2 B01 Development in accordance with the approved plans**
- 3 C07 Dark roof colouring (agricultural buildings)**
- 4 F01 Restriction on hours of working**
- 5 F06 Restriction on Use**
- 6 G10 Landscaping scheme**
- 7 G11 Landscaping scheme – implementation**
- 8 I02 Scheme of measures for controlling noise**



- 9      **None of the land in the control of the applicant other than that as indicated within the red line on the site location plan, submitted in support of the application shall be used for storage or parking of any vehicles, machinery or equipment.**

**Reason:** In order to protect the amenity of occupiers of nearby properties so as to comply with Policy DR13 of the Herefordshire Unitary Development Plan.

- 10     **I15 Scheme of noise insulation**

- 11     **I33 External lighting**

**INFORMATIVES:**

- 1      **N15 Reason(s) for the Grant of PP/LBC/CAC**

- 2      **N19 Avoidance of doubt - Approved Plans**

53.    **DCNW0009/1663/F - BANK HOUSE, HIGH TREE BANK, LEINTWARDINE, HEREFORDSHIRE, SY7 0LU.**

*Variation of condition 2 of planning permission 760298 for continued use as rural workers dwelling.*

The Senior Planning Officer reported the following:

A further letter had been received from the applicant's agent in response to letters of objection received to the application.

The letter stated in reference to this application that agricultural occupancy guidance in Annex A of PPS7 allowed occupancy conditions to be varied to reflect the changing nature of the rural economy.

The Senior Planning Officer advised Members that it was considered necessary to amend the wording of the occupancy condition to provide control over the future use of the site

Councillor LO Barnett, the local ward member, felt that the applicant's business was an asset to the local community. She noted that agriculture was changing and that people needed to diversify and therefore she supported the application.

**RESOLVED**

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

- 1      **The occupation of the dwelling shall be limited to a person solely, mainly, or last working in agriculture or forestry employment in the locality, or otherwise by the applicant (or by his widow or resident dependents) in connection with the agricultural contractor business operating from within the land edged red on the attached plan and in accordance with the submissions of the applicant contained in the supporting application dated 21 July 2009.**

**Reason:** The Local Planning Authority wish to restrict occupancy in accordance with policy H8 of the Herefordshire Unitary Development Plan.

**54. DCNW0009/1774/F - THE WHITTERN, LYONSHALL, KINGTON, HEREFORDSHIRE, HR5 3JA.**

*Proposed extensions to three poultry houses and ancillary works.*

The Senior Planning Officer reported the following:

The Council's Planning Ecologist raised no objections subject to a condition with regards to a detailed landscape planting scheme.

Councillor RJ Phillips, the local ward member, advised Members that the application requested an extension to the existing poultry sheds and was a necessary upgrade in order to meet current animal welfare standards. He noted that the proposal would result in an extra 30 HGV movements per year but felt that this was acceptable. He also noted that the concerns regarding running water but felt that these had been addressed through appropriate conditions.

**RESOLVED**

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

- 1 A01 Time limit for commencement (full permission)**
- 2 C09 Details of cladding (agricultural and industrial buildings)**
- 3 All waste to be transported from the site shall be removed off site in covered containers.**

**Reason: In the interest of the amenity of the surrounding area and to comply with Policy DR4 of the Herefordshire Unitary Development Plan.**

- 4 H21 Wheel washing**

**Development shall not begin until wheel cleaning apparatus has been provided in accordance with details to be submitted to and approved in writing by the local planning authority, and which shall be operated and maintained during and after construction of the development hereby approved. Details will also include the method of drainage from the site of the used water from the wheel washing of vehicles visiting/leaving the site.**

**Reason: To ensure that the wheels of vehicles are cleaned before leaving the site in the interests of highway safety and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan.**

- 5 G10 Landscaping scheme**
- 6 G11 Landscaping scheme - implementation**

**INFORMATIVES:**

- 1 N15 Reasons(s) for the Grant of Planning Permission**
- 2 N19 Avoidance of doubt – Approved Plans**

**55. DCNC0009/1782/F - CASTLE FARM, COLLINGTON, BROMYARD, HEREFORDSHIRE, HR7 4NB.**

*Conversion of farm buildings to five houses.*

In accordance with the criteria for public speaking Mr Webb, residing at 1 Underhill Cottage, spoke in objection to the application and Mr Burton, the applicant's agent, spoke in support.

Councillor TW Hunt, the local ward member, welcomed the proposed improvements to the site and felt that the application was sympathetic and well thought out. He noted the concerns raised by the local residents and felt that these could be addressed through a drainage condition. He also noted the objection raised in respect of the access to the site and requested that further discussions take place between the applicant and the planning department in order to resolve the issue.

**RESOLVED**

**That subject to further officer discussions with the applicant, regarding the position of the access, officers named in the Scheme of Delegation to Officers be authorised (in consultation with the Chairman and local ward member) to approve the application, subject to the following conditions, and any further conditions that may be required in relation to the access:**

- 1 A01 Time limit for commencement (full permission) (12 months)**
- 2 B01 Development in accordance with the approved plans**
- 3 C01 Samples of external materials**
- 4 D04 Details of window sections, eaves, verges and barge boards**
- 5 D05 Details of external joinery finishes**
- 6 D09 Details of rooflights**
- 7 D10 Specification of guttering and downpipes**
- 8 F07 Domestic use only of garage**
- 9 F14 Removal of permitted development rights**
- 10 G10 Landscaping scheme**
- 11 G11 Landscaping scheme - implementation**
- 12 H10 Parking - single house**
- 13 H13 Access, turning area and parking**
- 14 H29 Secure covered cycle parking provision**
- 15 No development shall take place until the following has been submitted to and approved in writing by the local planning authority:**
  - (a) a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources,**

pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice.

(b) if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors.

(c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

16 The Remediation Scheme, as approved pursuant to condition no. (1) above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken

17 B01 Development in accordance with the approved plans

18 I18 (Scheme of foul drainage disposal)

#### INFORMATIVES

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 HN28 Highways Design Guide and Specification

7 HN02 Public rights of way affected

8 N19 Avoidance of doubt - Approved Plans

9 N15 Reason(s) for the Grant of PP/LBC/CAC

56. DCNE0009/1672/F - NETHERGREEN, RIDGEWAY CROSS, CRADLEY, MALVERN, WORCESTERSHIRE, WR13 5JS.

*Proposed erection of 2 timber-framed craft studios to provide workshop and training facilities.*

The Senior Planning Officer reported the following comments made by the Council's Ecologist, these are reproduced in full below.

'I note that the site has potential to support reptiles and there are records of adders within 350 metres of the site. A survey of the site will need to be carried out at an appropriate time of year to determine whether reptiles are present and what mitigation may be required.

Herefordshire Council can refuse permission if the applicant does not provide adequate information on protected species, as it will be unable to assess the impacts on the species and thus meet the requirements of PPS9 or the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended). Herefordshire Council has the power to request information under Article 4 of the Town and Country (Planning Applications) Regulations 1988 (SI1988.1812)(S3) that covers general information for full applications.

The applicant will therefore need to commission an ecological survey to establish the potential impacts on habitats and protected species that may be present. As protected species are a 'material consideration', Herefordshire Council cannot determine this application until all the necessary survey, mitigation, compensation and enhancement information are received.

In addition I have some concerns regarding the proposed tree planting and some of the species identified. I would question the inclusion of Alder and Sweet Chestnut and the species of cherry would need to be clarified. This could be dealt with by a planning condition requiring a detailed planting scheme identifying the species mix, provenance of plants and percentages of each species to be planted to be submitted and approved by the LPA'.

The Senior Planning Officer reported the following comments which were included in the update sheet circulated to Members at the meeting:

The representation raises a further reason for refusal, namely the inadequacy or lack of an ecological survey. The full refusal reason following this comment is outlined.

In respect of the proposed planting scheme, in the event of approval, a detailed planting scheme including species, number, planting position and management scheme would be required by a condition.

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

Councillor RV Stockton, the local ward member, advised members that the existing barns on the site were not in the ownership of the applicant as they were owned by his father. Therefore conversion of these buildings was not an option. He noted the representation received by the Council's ecologist and felt that this was the only valid reason for refusing the application.

The Southern Team Leader advised members that the Ecologist's survey could not take place until May 2010 and therefore prevented the application from being approved immediately. He advised Members that they could support the application in principle and refuse it solely on the grounds of the lack of an ecological survey. The application could then be resubmitted once the ecological survey was received and could then potentially be approved under delegated powers. He felt that it was unreasonable to defer consideration of the application for such a long period of time.

Councillor RV Stockton advised members of the applicant's background and noted that he offered a sustainable ecological business which should be supported by the Council.

In response to a question the Southern Team Leader advised members that by refusing the application solely on the grounds of a lack of an ecological report they would be accepting the principle of the proposed development and use on the site. In response to a further question he stated that case law stated that it was unacceptable to approve an application subject to a condition in respect of the mitigation of an ecological survey's findings.

Members discussed the application thoroughly and were unanimous in their support. They were disappointed that they could not approve the application at this stage but made it clear that it was being refused solely on ecological reasons and that they were in support of the principle and use proposed for the site.

## **RESOLVED**

**Members are minded to accept the principle of development but refuse the application solely on the ground of a lack of an ecological survey. Therefore planning permission to be refused for the following reason:**

- 1. The application has not addressed the potential impact of the proposal on habitats and protected species The proposal is therefore contrary to Policies NC1, NC5, NC6, NC7 and NC8 of the Herefordshire Unitary Development Plan and the guiding principles of PPS9 ( Biodiversity and Geological Conservation**

**57. DCNW0009/1690/F - PAUNCEFORD COURT FARMHOUSE, MUCH COWARNE, BROMYARD, HEREFORDSHIRE, HR7 4JQ.**

*Proposed single storey side extension, alterations and repairs to existing outbuildings to create additional accommodation.*

The Senior Planning Officer reported the following:

The Parish Council raises concern that the extension will bring Pauceford Court 6 metres closer to the adjacent converted buildings and there will be direct overlooking possible between living rooms (or habitable rooms if it is a bedroom that is overlooked)

The applicant requests that the time restrictions on hours of working outlined in Condition 5, page 44, are relaxed to stipulate either an 8.30 or 9.00 am start time in the week rather than the proposed restrictions.

The Senior Planning Officer also made the following comments, reported to members in the update sheet:

The distance between the proposal and the nearest dwelling is 17 metres. An existing first floor window is proposed to be removed as part of the proposal and the extension only has windows at ground floor level.

This issue is commented in the report, paragraph 6.4.

Condition 3 which stipulates a landscaping condition, should be reworded to 'Within one month of the commencement of the development, rather than 'prior to the commencement of the hereby permitted development'.

This is to allow flexibility in view of the applicants' stated intention to make an immediate start subject to planning permission being granted.

Concern is raised over the nuisance and impact upon adjoining residential amenity however a variation to a start time of 9.00 Monday to Friday is considered acceptable.

Councillor PM Morgan, the local ward member, felt that the officer's report addressed all of the concerns raised by the Parish Council and the neighbouring residents and therefore she supported the application.

## **RESOLVED**

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

- 1 A01 - Time limit for commencement (full permission)**
- 2 Prior to the commencement of the hereby permitted development, full written details and samples of the following items and finish shall be submitted to the Local Planning Authority for written approval:**
  - **External materials**
  - **Roof tiles**
  - **Joinery details**
  - **Rainwater goods**
  - **Rooflights**

**The proposal shall be carried out in strict accordance with the approved details and thereafter be maintained as such.**

**Reason: To ensure the proposal is of a satisfactory finish, in order to ensure the character and appearance of the building and the wider open countryside location are preserved and maintained, in accordance with Herefordshire Unitary Plan policies DR1 and H13.**

- 3 Within one month of the commencement of the development full written details and appropriate scaled plans of the landscaping and boundary treatments, including planting scheme and species and the removal of any trees or hedges shall be submitted to the Local Planning Authority for written approval.**

**The proposal shall be carried out in strict accordance with the approved details and thereafter be maintained as such.**

**Reason: To ensure the proposal is of a satisfactory finish, in order to ensure the character and appearance of the building and the wider open countryside location are preserved and maintained, in accordance with Herefordshire Unitary Plan policies DR1 and H13.**

- 4 The hereby permitted extension shall not be sold separately or sub-let from the property known as Paunceford Court Farmhouse, Much Cowarne, Herefordshire, HR7 4JQ.**

**Reason: To prevent the introduction of a new residential unit in an unsustainable open countryside location, in accordance with Herefordshire Unitary Development Plan policies S1, DR1 and H7.**

**5 Works relating to the commencement and implementation of the hereby permitted development are restricted to the following times:**

- **Monday – Friday, 09.00 to 17.00 hours**
- **Saturday, 10.00 to 16.00 hours**
- **No work on Sundays or Bank Holidays**

**Reason: To protect the amenity of adjoining residential properties and the use of the Church.**

**6 F14 - Removal of permitted development rights.**

**INFORMATIVES**

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

**2 N19 - Avoidance of doubt - Approved Plans**

**58. DATE OF NEXT MEETING**

Members noted the dates for the next meeting of the Southern Area Planning Sub-Committee.

The Southern Team Leader noted that the next provisional site inspection was scheduled for 3 November 2009. He advised Members that an application had been submitted in respect of Orleton Manor, and that the local ward member had advised the case officer that he would be requesting a site inspection. In the interests of expedience the Team Leader requested that the site be inspected prior to the next meeting of the Northern Area Planning Sub-Committee. Members agreed that the site should be visited on 2 November 2009 at 10.00 am.

The meeting ended at 3.50 pm

**CHAIRMAN**



<b>ITEM FOR INFORMATION - APPEALS</b>
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**APPEALS RECEIVED****Application No. DCNC0009/1515/A**

- The appeal was received on 28 October 2009
- 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 Mr M Swindles
- The site is located at Saffrons Cross Garage, Bodenham, Hereford, Herefordshire, HR1 3LE
- The development proposed is Proposed erection of one internally illuminated double sided pole
- The appeal is to be heard by Written Representations

**Case Officer: Nigel Banning on 01432 383093**

**Application No. DCNE2009/0103/F**

- The appeal was received on 29 October 2009
- 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 Mr David Millington
- The site is located at The Old Sawmills, Millfields, Canon Frome, Ledbury, Hereford, HR8 2TH
- The development proposed is Retrospective application for retention of garage different from
- The appeal is to be heard by Written Representations

**Case Officer: Carl Brace on 01432 261795**

**APPEALS DETERMINED****Application No. DCNC2009/0562/O**

- The appeal was received on 6 July 2009
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Dr Anna Blair
- The site is located at Flaggoner's Green House, Panniers Lane, Bromyard, Herefordshire, HR7 4QR
- The application dated, was refused on 6 May 2009
- The development proposed was Proposed dwelling.
- The main issue is whether the proposed development would unacceptably conflict with the policies relating to the control of housing development in the countryside and, if so, whether there are other material considerations that outweigh this.

**Decision:** The appeal was Dismissed on 9 October 2009.

**Case Officer: Nigel Banning on 01432 383093**

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

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Further information on the subject of this report is available from the relevant Case Officer



**11 DCNE0009/1639/F - PROPOSED WARM UP MENAGE, EXTEND EXISTING MENAGE AND NEW SITE OFFICE/PUBLIC ADDRESS SYSTEM AT TACK FARM EQUESTRIAN CENTRE, ULLINGSWICK, HEREFORDSHIRE, HR1 3JQ.**

**For: MR & MRS PEDRO per MR JERRISON, 163 HALL GREEN ROAD, WEST BROMWICH, WEST MIDLANDS, B71 2DZ.**

Date Received: 29 June 2009

Ward: Frome

Grid Ref: 359789,249390

Expiry Date: 11 September 2009

Local Member: Councillor PM Morgan

**1. Site Description and Proposal**

- 1.1 Tack Farm lies to the south of the C1118 approximately 6 miles south west of Bromyard. It lies within an undulating pastoral landscape with large open fields demarcated by mature hedgerows.
- 1.2 The proposal is to extend the existing menage area used for show jumping by 22.5m, and to create a new warm up area adjacent to this, measuring approximately 63.6m x 29.5m. These would be fenced with post and rail fencing. The new site office and PA system is already in place at the north end of the menage.

**2. Policies**

2.1 Herefordshire Unitary Development Plan

- |      |   |   |
|------|---|---|
| S1   | - | Sustainable development                                 |
| S2   | - | Development requirements                                |
| S8   | - | Recreation, sport and tourism                           |
| DR1  | - | Design  |
| DR4  | - | Environment   |
| LA2  | - | Landscape character and areas least resilient to change |
| RST1 | - | Criteria for recreation, sport and tourism development  |

**3. Planning History**

NE08/1244/F Retrospective application for creation of surfaced show jumping area and change of use of saddlery to dormitory. Approved July 2008.

NE05/2774/F Erection of cross country jumps to include additional use of land. Approved October 2005.

NE04/4231/F As above – withdrawn April 2005.

NC03/3755/F Upgrade of access track to a stone surface. Approved March 2004.

NC01/2391/F Conversion of existing farm buildings to formation of schooling area, 40m x 20m. Approved November 2001.

#### 4. Consultation Summary

##### Statutory Consultees

4.1 None

##### Internal Council Advice

4.2 Environmental Health and Trading Standards – No objection to proposed development. I understand that the existing public address system is being moved so as to reduce any nuisance to neighbours. The PA system is of very low power and does not need to be used at any great volume as the events attract quite a small audience and no one needs to be any great distance from the speaker. I do not consider that there is sufficient justification for any conditions limiting the noise from the system, except possibly that “the prior consent of the LPA should be sought before replacing the PA system”. This would give us the opportunity to ensure that the system is not upgraded to something more powerful.

In any case, any complaints can be investigated with a view to enforcement action as a statutory nuisance (Environmental Protection Act 1990).

There have been no complaints since the original planning approval.

4.3 Transportation Manager- No objection, but would have concerns about any intensification which would increase the volume of traffic and/or the frequency of events at this location. If this were to be the case advise submission of Transport Assessment to consider this in further detail. Hedges should be trimmed back to improve visibility and surface bound to prevent gravel and loose material being displaced onto the highway.

#### 5. Representations

5.1 Much Cowarne and Moreton Jeffries PC comment:

*“Tack Farm is in Moreton Jeffries which is part of the Much Cowarne Group Parish Council.*

*We commend Mr and Mrs Pedro who are trying to build up a successful business and we do not object to the construction of the proposed ménages.*

*However, we believe the proposed additions in the planning application will attract more customers to Tack Farm and we are concerned about the impact this may have on their neighbours.*

*At present there are problems with traffic attending events and noise from the existing public address system.*

- *The majority of the surrounding lanes are ‘single track’ with limited passing places. Mrs Pedro has previously suggested a voluntary ‘one way’ system for her customers*

*using the site, but this has not happened. In reality we think a voluntary system is unlikely to ever succeed.*

- *If this application is passed we believe there should be a condition that more passing places are constructed on the lanes. This should not only help local traffic, but will also allow horseboxes and trailers to pass as they come and go from sequential events.*
- *The present public address system is very intrusive to neighbours. The address system is used at events which tend to coincide with when neighbours are having their leisure time. The public address system has only two speakers which are mounted high. The commentary not only disturbs immediate neighbours but can also be heard word for word at Moreton Jeffries about 1 mile away. We wonder if more lower wattage speakers mounted at ground level would reduce the sound travelling. Just measuring the decibels is useless in this case.*
- *If this application is passed we believe there should be a condition that before any public address system is used there should be a professional assessment by sound engineers to minimise the noise on Tack Farm's neighbours.*

*In summary we do not object to this application if steps are taken to ease the impact on Tack Farm's neighbours. They have suffered with little complaining, but this application has brought things to a head. The thought of an unacceptable situation made worse cannot be allowed to happen. Hereford Council needs to consider the effect of this noise onslaught on an otherwise sleepy hollow tranquil location which some people have carefully chosen to live in, paid a lot of money for their properties and probably many now wish they had not!*

*We understand that if this is not resolved some of the local are talking of forming a group to go to Court."*

## 5.2 Ocle Pychard GPC comment:

### **"Background**

*In view of the significant local disquiet and a history of disruption and complaint resulting from activities at Tack Farm, a public meeting was held on Friday August 28<sup>th</sup> to enable councillors to measure local opinion and to facilitate an exchange of understanding between the applicant and the local community.*

*The meeting was attended by Parish Councillors, the applicant, and in excess of 30 local residents and the application was discussed at great length. It was made plain by residents that they had no objections to the Equestrian Centre itself, or to the physical location of the new menage, and they accepted that if too many restrictions were placed on the business there was a possibility that it might fail. Nonetheless it soon became apparent, as at previous discussions, that the lives of many Villagers are being seriously affected by noise and light pollution, and by serious traffic congestion.*

***The Parish Council fully supports those Villagers and would ask that the whole of Herefordshire Council does everything it can to improve their quality of life.***

*The principle issues of concern were as follows:*

### **Application errors:**

*The application itself is inaccurate in as much as there are errors relating to the description of the site, there are errors as to the number of parking spaces and vehicles using the site, there are errors as to the number of pre-existing and new buildings and their locations, and there is no provision for the removal of the inevitable waste products that will follow from the new and extended ménages.*

*The applicant has applied for permission to install a new PA system, but stated at the public meeting that this was not her intention and that she actually wanted to improve the existing arrangements.*

*The feeling of those who attended the meeting was that this particular application should be withdrawn, and that a more accurate submission should follow in due course.*

***The New PA System:***

*As regards the proposal for a PA system, past experience has demonstrated that the local environment will not sustain the use of the current system without significant intrusion of noise into the surrounding area. This severely compromises the amenity of immediate neighbours and, due to the local topography, to people living within a distance of more than a mile radius under certain conditions. This is unacceptable, particularly as its use is primarily at weekends when personal amenity is at optimal value. This has been the subject of various complaints to the owners, the Parish Council and the Environmental Health department. Environmental tests have been carried out in response to earlier complaints, however these only measured noise levels in the immediate vicinity. The problem is associated primarily with those dwellings above the level of the site, and thus affects the majority of local homes.*

*It was suggested that the noise problem could be addressed by having an acoustic specialist visit the site and make appropriate recommendations as to the numbers and locations of loudspeakers being used. The applicant has agreed to have such a review carried out, and the Parish Council feels that this should be made a pre-requisite of any permissions that might be granted. It is understood that similar difficulties arose at the Three Counties Show at Malvern, and that they were solved once a sound engineer had been called in to assist.*

***Traffic Matters:***

*The excess traffic experienced as a consequence of past planning approval far exceeds anticipated volumes. The road, which is also used by agricultural vehicles, is frequently blocked by horse transports which are often unable to reverse, and is an impediment to domestic and rural activities as well as emergency services. This is costly to the Council as the frequent refurbishment of ditches and culverts is becoming more and more necessary. As an indication of the problems faced by residents it should be noted that a recent refurbishment and placement of bollards was damaged by a farm vehicle within twenty four hours of completion. The additional ménage will facilitate an increase in activity and consequent road congestion. Emergency vehicles have already been compromised in access due to traffic problems. In addition, recent use of paramedics and the air ambulance has increased, following several incidents on Tack Farm.*

*The road through Ullingswick from the A417 on one side, and the A465 on the other, is not wide enough for two-way traffic when the vehicles concerned are 4 x 4s or horse boxes and trailers or agricultural vehicles. It has long been suggested that*

*event traffic should be operated on a one way system to eliminate the problems that arise when events are being held. It is understood that the need for such a system has been accepted by the applicant but she has failed to gain compliance from site visitors.*

*It is inconsistent for the Unitary Development Plan to determine that Ullingswick has insufficient infrastructure to be suitable for housing development and then to allow significant expansion of a business development like Tack Farm, which creates similar demands without addressing the environmental and human issues.*

**Waste Disposal:**

*The proposal makes no provision for additional waste disposal and yet the disposal of waste from Tack Farm has been a major issue and has been the subject of repeated calls from the Parish Council to the District Council*

**Visual Considerations:**

*The visual aspect of the development is a lesser issue but also of concern. The ménage and buildings are visible beyond the environs of Tack Farm. This is contrary to the recommendations of the former environmental report in respect of planning application ref: DCNE2005/2774/F. The issue of light extrusion from the permitted ménage and training arc lights is intrusive to dwellings in the vicinity. Herefordshire Council having endorsed our Village Plan, will be aware of the expressed desire to promote Ullingswick Village as an area of natural beauty. This has been the subject of discussion in the progressive development of the plan, notwithstanding that part of the village is already designated as a conservation area.*

*As stated above, the view of those attending the public meeting and the views of the wider community, are endorsed by the Parish Council. It is strongly felt that given the extensive level of development permitted in recent years this must now be the subject of control and the intrusion into the living and amenity of the public in general is unacceptable and must be addressed with appropriate controls on noise and traffic. Such action can be taken without compromise to the current business activity of Tack Farm, and would be of significant benefit to the local community in restoring their amenity."*

5.3 Objections have been received from the following residents of Ullingswick,

Mr. Alastair J. Telford, Dip.Arch.(Birm.)ARIAS, Blest Acre, Ullingswick, Herefordshire HR1 3JQ  
 Mrs. S. Dalton, Upper Court, Ullingswick, Hereford HR1 3JQ  
 Mr and Mrs Wilson, The Old Rectory, Ullingswick HR1 3JQ  
 Mr and Mrs. Spencer, Dora Cottage, Ullingswick, Herefordshire HR1 3JQ  
 Mr and Mrs E. R. White, Lower Court, Ullingswick, Herefordshire, HR1 3JQ  
 Mrs. J. M. Bridges, Townsend House, Ullingswick, Herefordshire HR1 3JQ  
 Dr. A. K. Barlow, Hill View, Ullingswick, Herefordshire HR1 3JQ  
 Mr. N. G. Stevens, Fair View, Ullingswick, Herefordshire HR1 3JQ  
 Dr. J. Stevens, Fairview, Ullingswick, Herefordshire HR1 3JQ  
 Mr and Mrs. D. Bedwell, Greencroft, Ullingswick, HR1 3JQ

The objections are summarised as follows;

1. The proposal represents over development in terms of the impact upon the local highway network. The combination of larger vehicles/trailers on narrow roads with limited passing places has increased the risk of accidents and lead to damage of both the verges and ditches.
  2. The public address, particularly at weekends and bank holidays is detrimental to the amenity of local residents. It is considered that the requirement of condition 4 of the previous permission NE08/1244/F have been breached. The present system is intrusive and can be heard up to a mile away.
  3. The need to extend the facilities to meet British Show Jumping Assoc requirements suggests events will differ from now, attracting more visitors. There are currently 8/10 events per month and whilst the numbers of vehicles attending each one may not increase , the number of events may.
  4. There a has been an increase in parking provision over a number of applications
  5. Critical of answers/comments in application form and Design/Access statement
  6. Light pollution.
  7. There is retrospective development not applied for.
  8. Waste disposal problems.
- 5.4 The Design/Access statement advises that the application is required to meet BSJ Assoc health and safety requirements and minimum standards. The new PA system/office is located on the north end of the arena facing speakers away from the nearest neighbours. The maximum number of vehicles at any given time will be 35, made up of private cars and horse boxes.
- 5.5 The full text of these letters can be inspected at Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Committee meeting.

## **6. Officer's Appraisal**

- 6.1 There appear to be three main issues for consideration in this case, the traffic issue, noise issue and landscape impact.
- 6.2 The application is for the extension of facilities to comply with minimum standard requirements of the British Show Jumping Assoc. There is no intention to increase the frequency of events nor the nature of the events. Notwithstanding that, there is currently no limit on these. Whilst the transportation manager would be concerned, as would many local residents, if traffic volumes increased, this application of itself would not necessarily result in this.
- 6.3 The office building has already been positioned at the north end of the jumping area and the PA system is in place. Although the description of development includes the PA system, it does not amount to development and does not therefore require planning permission. Control of this, should nuisance occur, would be via the Environmental Protection Act 1990. The Environmental Health Officer has no objection to the proposal.



- 6.5 In landscape terms the additional coverage with riding areas does not have a materially different impact such that it is considered to be contrary to policy LA2.
- 6.6 Given the general support for equine development contained within PPS7, the criteria in policy RST1 and the lack of restriction on number of events, the proposal is considered to comply with relevant policies and is therefore recommended for approval.

**RECOMMENDATION**

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

- 1 A01 Time limit for commencement (full permission)**

**INFORMATIVES:**

- 1 The applicants are advised to operate the on-site PA system in such a manner as to avoid a statutory nuisance to occupiers of nearby residential properties. Failure to do so could lead to action under the Environmental protection Act 1990. Similarly any proposal to change the system should be discussed with an Environmental Health officer before hand to avoid such occurrence.**
- 2 N15 Reason(s) for the Grant of PP/LBC/CAC**
- 3 N19 Avoidance of doubt - Approved Plans**

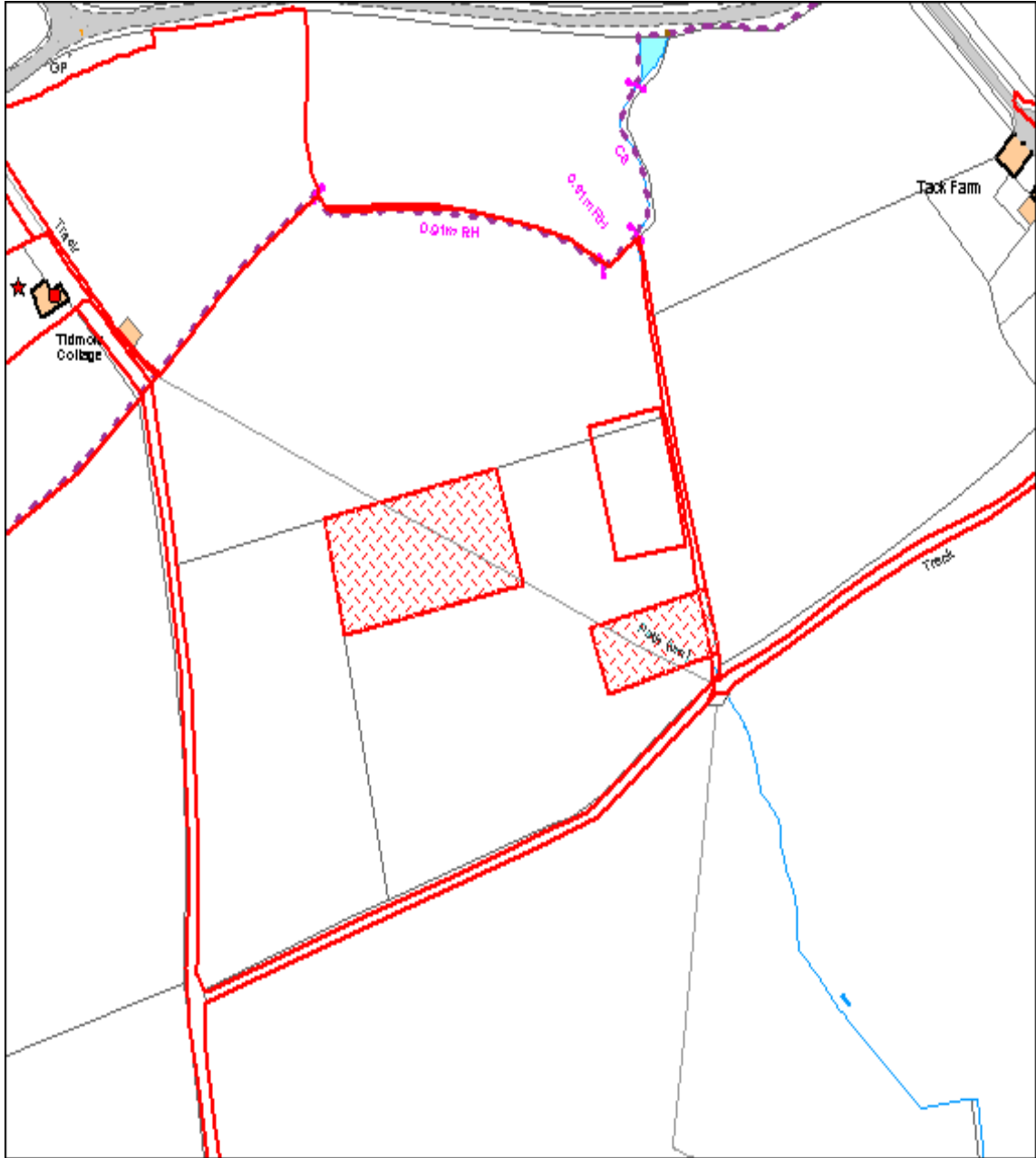
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION : DCNE0009/1639/F**

**SITE ADDRESS : TACK FARM EQUESTRIAN CENTRE, ULLINGSWICK, HEREFORDSHIRE HR1 3JQ**

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**6 DCNE0009/1537/F - PROPOSED 9 NO. 2 BED BUNGALOWS INCLUDING THE RELEVANT DRIVE WAYS AND LANDSCAPING AT LAND AT AREA 15 NEW MILLS ESTATE, KINGSMEAD, LEDBURY, HEREFORDSHIRE, HR8 2LS.**

**For: MR HOLTON per ADRIAN HUTT ARCHITECTS  
TURNPIKE CORNER, 50 LONDON ROAD, WORCESTER,  
WR5 2DL.**

**Date Received: 29 June 2009    Ward: Ledbury    Grid Ref: 370461,238253**

**Expiry Date: 4 September 2009**

Local Members: Councillor ME Cooper, PJ Watts and JK Swinburne

**1. Site Description and Proposal**

- 1.1 The application site lies within the New Mills residential estate that is situated in Ledbury. The New Mills estate is a typical late twentieth century residential development with a distributor road and a series of cul-de-sacs. The land the subject of this application is on the south-eastern side of 'Kingsmead' a cul-de-sac comprising of modest single storey bungalows. To the south of the site is an area of open space including a children's play area. To the east of the site is an important footpath link through the estate that is orientated in a north to south direction. Further east beyond that footpath are the two storey houses of Preston Brook Close. To the north of the site on the opposite side of Frome Brook Road, fronting both Poplar Close and Kempley Brook Drive are two storey houses.
- 1.2 The land the subject of this application undulates as it was used to deposit soil when the surrounding residential development took place. However, it still slopes from north to south and from west to east.
- 1.3 The proposal under consideration is a full application to erect nine modest two bedroomed bungalows arranged around two cul-de-sacs. The design of these bungalows reflect that of the existing bungalows in 'Kingsmead' with a ground floor to eaves height of 2.1 metres and a ground floor to ridge height of 4.7 metres. Each bungalow would have two car parking spaces within their curtilage including one within an integral garage. Negotiations during the course of the application have secured a landscaping strip to the east of the site adjacent to the footpath link and a beech hedge adjacent to the southern boundary adjacent to the open space/equipped children's play area.
- 1.4 The applicant is willing to enter into a legal agreement to comply with this Authority's Planning Obligations Supplementary Guidance. The Draft Heads of Terms are attached as an Annex to this report.

**2. Policies**

- 2.1 The following Central Government advice is of relevance to consideration of this case:-

Planning Policy Statement 1 – 'Delivering Sustainable Development'  
Planning Policy Statement 3 – 'Housing'

Herefordshire Unitary Development Plan 2007

S1	–	Sustainable Development
S2	–	Development Requirements
S3	–	Housing
S6	–	Transport
S7	–	Natural and Historic Heritage
DR1	–	Design
DR2	–	Land Use and Activity
DR3	–	Movement
DR5	–	Planning Obligations
H1	–	Hereford and market towns: settlement boundaries and established residential areas
H13	–	Sustainable residential design
NC1	–	Biodiversity and development
NC5	–	European and nationally protected species
NC6	–	Biodiversity Action Plan priority habitats and species
NC7	–	Compensation for loss of biodiversity
NC8	–	Habitat creation, restoration and enhancement
NC9	–	Management of features of the landscape important for fauna and flora

**3. Planning History**

3.1 The original Section 106 Agreement relating to the New Mills Estate dates from 28<sup>th</sup> March 1986. That Agreement included provisions for the transfer of the ‘Second Area of Social Housing’, which was completed. This was done on 18<sup>th</sup> November 2003. From this date there was a five year option (until 19<sup>th</sup> November 2008) for the Council to acquire the Community Site / Neighbourhood Centre, failing which the site would be available for ‘General Needs Housing’ (not social housing) subject to planning permission. The Council has not exercised the option and as such the land is potentially available for general needs housing subject to planning permission being granted.

**4. Consultation Summary**Statutory Consultations

4.1 Severn Trent Water has no objection to the proposal subject to a condition.

Internal Council advice

4.2 The Landscape Officer has no objection to the proposed development.

4.3 The Transportation Section has no objections to the proposed development.

**5. Representations**

5.1 Ledbury Town Council recommends approval of the application – Members ask that consideration be given to extending the width of the footpath and the verge on the roadside boundary to allow ease of movement.

5.2 Five local residents object to the proposal on the following summarised grounds:-

- The site has ecological value;

- The vehicular means of access and parking provision is inadequate;
- The pathway to the east would appear as a corridor with a fence directly abutting it – *this issue has been addressed by way of the amended plan showing a 2 metre wide landscaped strip*;
- Loss of view;
- Lack of a pedestrian footway; and
- Flood Risk.

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

## 6. Officer's Appraisal

6.1 The application site lies within the built-up boundary of Ledbury. Policy H1 of the Herefordshire Unitary Development Plan allows for residential development within the settlement boundary of market towns, including Ledbury. The site has an area of some 0.38 hectares which means that the density of the proposal is equivalent to 24 dwellings to the hectare, well below the 30-50 dwellings to the hectare recommended in Central Government advice. Clearly in the long-term by developing sites within towns reduces the need for releasing land in the open countryside for housing. Therefore there is no objection to the principle of the development.

6.2 The proposed residential development reflects that which already exists off Kingsmead. The pattern of development is a series of bungalows served off private drives. The design and external appearance reflects that of the immediately adjoining development. It is considered that the proposal would not have any adverse impact upon the occupiers of adjoining residential properties.

6.3 The scheme has been amended to ensure that there is a landscaped margin between the footpath link to the east and the rear boundaries of proposed plots 1-4.

6.4 With regard the highway matters specifically raised by local residents the following comments are made:-

- Kingsmead is wide enough for two cars to pass, and is built in accordance with the "shared surface" standards;
- The private driveways from Kingsmead to the proposed new dwellings are not required to be able to pass two cars. The short length of these accesses means that the infrequent need to wait for another vehicle to pass will generate negligible inconvenience;
- The accesses to Kingsmead are satisfactory in design terms;
- The principle of shared surfaces is that pedestrians and vehicles share the space. There is no evidence of increased danger either to pedestrians or vehicles from shared surface schemes – in fact, there is some evidence to show that shared spaces are safer, particularly in cul-de-sacs such as Kingsmead. Because of this there is no need for separate pedestrian footways;

6.5 The proposed access and vehicle parking arrangements are considered to be satisfactory.

6.6 The site is not on land liable to flood. However, the issue of surface water drainage arrangements is dealt with by way of a recommended condition.

6.7 A full ecological assessment has been carried out since the application was submitted. This revealed that there is no evidence of reptiles or other protected species. Nevertheless there is scope for ecological enhancement.

6.8 In terms of impact upon the wider infrastructure the applicant has agreed to make the following commuted sums:-

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Further information on the subject of this report is available from Mr R Close on 01432 261803

- £26,559 (index linked) towards education provision within the Ledbury Town Council area;
- £15,488 (index linked) towards sustainable transport initiatives;
- £2,115 (index linked) towards children's play equipment and / or open space an within the Ledbury Town Council area;
- £4,464 (index linked) to provide / enhance sports facilities within the Ledbury Town Council area or if no suitable scheme is identified the Herefordshire Council area;
- £1,314 (index linked) towards library provision within the Ledbury Town Council area;
- £999 (index linked) monitoring costs of the Agreement

6.9 These contributions fully meet the requirements of the Education, Transportation, and Library Services.

6.10 The policies within the Herefordshire Unitary Development Plan 2007 only require the provision of affordable housing within the market towns on developments of 15 dwellings (or more) or sites of more than 0.5 hectare. Neither threshold is reached in this case.

6.11 In conclusion, it is considered that the proposed development is acceptable in principle, that the density of the scheme and its detail fully respects the adjoining development, fully complies with the provisions of the Herefordshire Unitary Development Plan 2007 and fully meets the Requirements of the Council's Supplementary Planning Document entitled 'Planning Obligations'.

## RECOMMENDATION

**The Head of Legal Services be authorised to complete a planning obligation under Section 106 of the Town and Country Planning Act 1990 as set out in the Heads of Terms Agreement and deal with any other appropriate terms, matters or issues;**

**Upon completion of the above-mentioned planning obligation, officers named in the Scheme of Delegation be authorised to issue planning permission subject to the following conditions:-**

1. **A01 Time limit for commencement (full permission)**
2. **Prior to commencement of the development hereby permitted, written details and samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted shall be submitted to the Local Planning Authority for their written approval. The development hereby permitted shall be submitted to the Local Planning Authority for their written approval. The development hereby permitted shall not commence until the Local Planning Authority has given such written approval. The development shall be carried out in strict accordance with the approved materials and thereafter maintained as such.**

**Reason: To ensure a satisfactory appearance to the development.**

3. **All planting, seeding and turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of any of the dwellings hereby permitted or the completion of the development (whichever is the sooner). Any trees or plants which within a period of five years from the completion of the development die, are removed or become 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.**

Reason: To ensure that the development is satisfactorily integrated into the locality.

- 4. Prior to the first occupation of any of the dwellings hereby permitted the vehicular means of access, car parking, turning / manoeuvring area(s) for vehicles shall be fully implemented. Thereafter these areas shall be kept available for such use.

Reason: In the interests of highway safety.

- 5. Prior to commencement of the development hereby permitted the following matters shall be submitted to the Local Planning Authority for their written approval:-

- Full details of surface water drainage arrangements

The development shall not commence until the Local Planning Authority has given such written approval. The development shall be carried out in full accordance with the approved details and thereafter maintained as such.

Reason: To ensure adequate surface water drainage arrangements.

- 6. The recommendations set out in the ecologist’s report dated October 2009 should be followed in relation to the identified protected species [bats, great crested newts etc], unless otherwise agreed in writing by the local planning authority. The work shall be implemented as approved and maintained thereafter.

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 Policies NC1, NC5, NC6, NC7, NC8 and NC9 of Herefordshire Council’s Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of PPS9 Biodiversity and Geological Conservation and the NERC Act 2006.

- 7. Prior to development, an ecological and wildlife enhancement strategy shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the Local 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 Policies NC1, NC5, NC6, NC7, NC8 and NC9 of Herefordshire Council’s Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of PPS9 Biodiversity and Geological Conservation and the NERC Act 2006.

**INFORMATIVES:**

**N15 Reason(s) for the Grant of Planning Permission**

**N19 Avoidance of doubt - Approved Plans**

Decision: .....

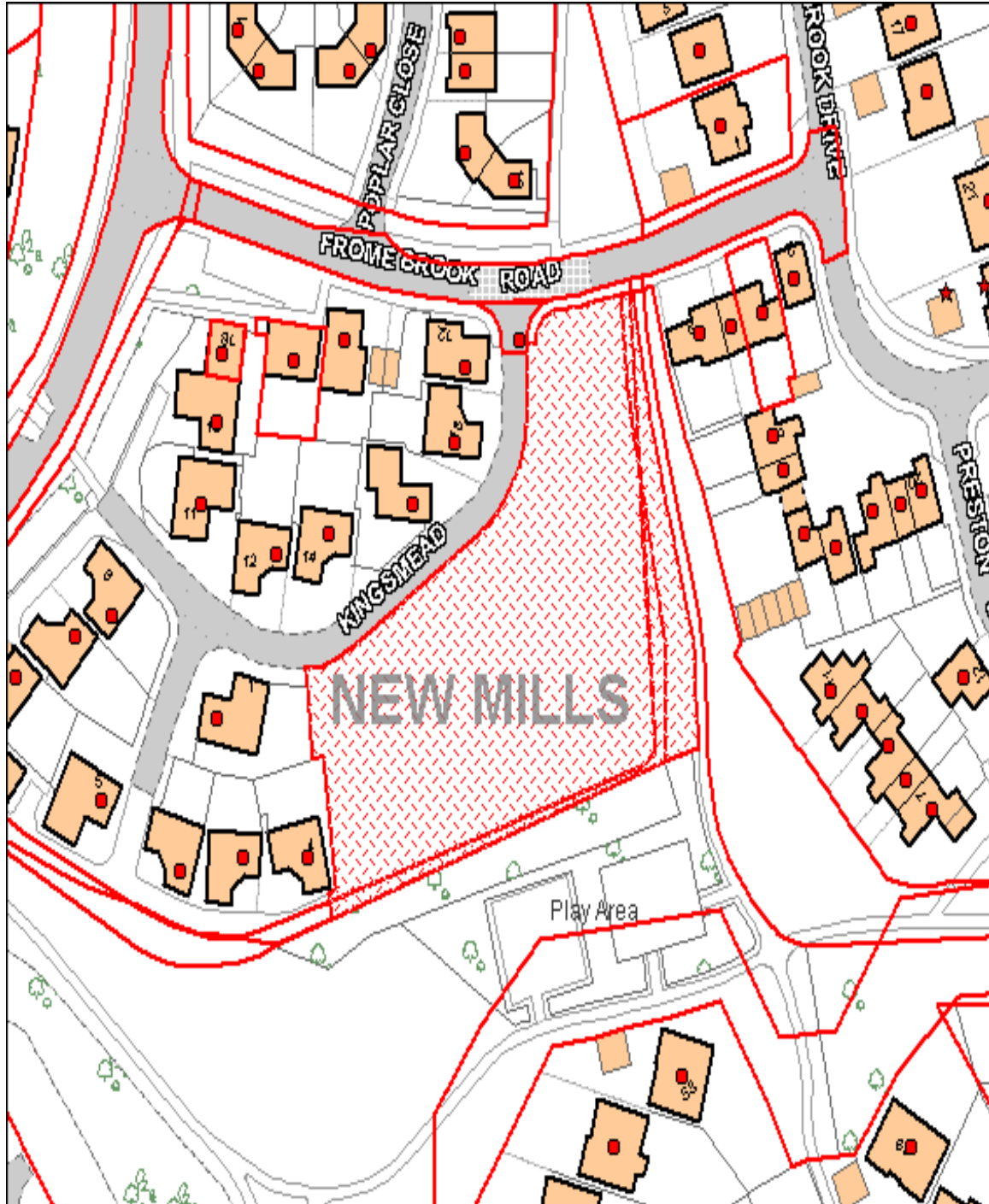
Notes: .....

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**Background Papers**

Internal departmental consultation replies.





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**APPLICATION NO:** DCNE0009/1537/F

**SITE ADDRESS :** LAND AT AREA 15 NEW MILLS ESTA, KINGSMEAD, LEDBURY, HEREFORDSHIRE, HR8 2LS

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Further information on the subject of this report is available from Mr R Close on 01432 261803

ANNEX 1

NE0009/1537/F

DRAFT HEADS OF TERMS

**PROPOSED PLANNING OBLIGATION AGREEMENT  
SECTION 106 TOWN AND COUNTRY PLANNING ACT 1990 (as amended)**

- **Planning Application**
- **Part of area 15, New Mills Estate, Ledbury**
- **Proposal 9 x 2 bed units**

1. The developer will pay Herefordshire Council the sum of £2,115 (index inked) to provide/enhance children's play space and/or children's play equipment and/or amenity green space/open space within the Ledbury Town Council area prior to the first occupation of any of the new dwellings.
2. In the event that Herefordshire Council does not, for any reason, use the contributions in clause 1 for the purposes specified in the Agreement within 10 years of the date of the Agreement, the Council shall repay to the developer the sum or such part thereof, which has not been used by that date.
3. The developer will pay Herefordshire Council the sum of £4,464 (index inked) to provide/enhance sports facilities within the Ledbury Town Council area or if no suitable scheme is identified the Herefordshire Council area prior to the first occupation of any of the new dwellings.
4. In the event that Herefordshire Council does not, for any reason, use the contributions in clause 3 for the purposes specified in the Agreement within 10 years of the date of the Agreement, the Council shall repay to the developer the sum or part thereof, which has not been used by that date.
5. The developer will pay Herefordshire Council the sum of £15,488 (index linked) towards sustainable transport initiatives within the Herefordshire Council area prior to the first occupation of the any of the new dwellings.
6. In the event that Herefordshire Council does not, for any reason, use the contributions in clause 5 for the purposes specified in the Agreement within 10 years of the date of this Agreement, the Council shall repay to the developer the sum or such part thereof, which has not been used by this date.
7. The developer will pay Herefordshire Council the sum of £26,559 (index linked) towards enhanced education provision within the catchment area of the development area prior to the first occupation of any of the new dwellings.
8. In the event that Herefordshire Council does not, for any reason, use the contributions in clause 7 for the purposes specified in the Agreement within 10 years of the date of the Agreement, the Council shall repay to the developer the sum or such part thereof, which has not been used by that date.
9. The developer will pay Herefordshire Council the sum of £1,314 (index linked) towards library provision (including the purchasing of books) within the catchment area of the development prior to the first occupation of any of the new dwellings.

10. In the event that Herefordshire Council does not, for any reason for any reason, use the contributions in clause 9 for the purposes specified in the Agreement within 10 years of the date of the Agreement, the Council shall repay to the developer the sum or such part thereof, which has not been used by that date.
11. The developer will pay Herefordshire Council the sum of £999 (index-linked) towards the monitoring of the Agreement.
12. The developer shall pay to the Council on or before completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.



**7 DCNW0009/1880/M - CONTINUED DEVELOPMENT WITHOUT COMPLIANCE WITH CONDITION 8 OF PLANNING PERMISSION REF DCNW2004/1404/M FOR THE REMAINDER OF THE PERMISSION AT LEINTHALL QUARRIES, LEINTHALL EARLS, LEOMINSTER, HEREFORDSHIRE, HR6 9TR.**

**For: LEINTHALL QUARRIES per ENNSTONE JOHNSTON LIMITED, BREEDON QUARRY, MAIN STREET, BREEDON ON THE HILL, DERBY, DE73 8AN.**

**Date Received: 21 August 2009    Ward: Mortimer    Grid Ref: 344070,268313.5**

**Expiry Date: 28 October 2009**

Local Members: Councillor LO Barnett

**1. Site Description and Proposal**

- 1.1 Leinthall Earls quarry lies approximately 3 km north-east of Aymestrey and 0.5 km north of Leinthall Earls village. The nearest houses are between 150 and 250 metres of the site, with further houses within 400 metres.
- 1.2 The quarry has been worked since before 1955. At present, limestone is extracted and processed to supply coated or un-coated roadstone, using plant available at the site. Planning permission DCNW2002/0573/M approved an extension to the quarry. This and the current permission (DCNW2004/1404/M) allow extraction to continue until 2027.
- 1.3 The tarmac coating plant has operated since 2002. Orders require delivery of coated roadstone to roadworks early in the day. The plant takes an hour to warm up before operating, and the permission allowed it a 5 a.m. start so that products could be moved from 6 a.m. Condition 9 of the 2002 permission trialled this early start-up for the plant for two years. The 2004 permission extended this for a further five years.
- 1.4 The 2002 permission also allowed Sunday working on a maximum of 6 occasions each year, again initially for 2 years and later extended for a further 5 years. This was granted to allow the applicant to supply roadworks which are undertaken at weekends to alleviate traffic congestion.
- 1.5 The application seeks to vary Condition 8 of the 2004 permission, which reads as follows:

No machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times 0600-1800 Monday to Friday and 0600-1200 on Saturdays, nor at any time on Sundays, Bank or Public Holidays, except that until 10 August 2009

- i) the tarmac coating plant shall be allowed to commence at 0500 Monday to Saturday,

ii) on up to 6 occasions in each calendar year the operation and the use of the tarmac coating plant and loading and despatch of vehicles on Sundays may be undertaken. A record of the date of such Sunday working shall be forwarded in writing to the Local Planning Authority within 3 working days of each and every occasion of Sunday working.

1.6 The application is to enable the plant to continue to operate in the same way until the end of the permission in 2027. Proposed new wording of the condition can be found at condition 3 in the recommendation below. It includes working times for Sundays but no other changes are proposed.

## 2. Policies

### 3. Herefordshire Unitary Development Plan 2007

**Planning History**  
S1 – Sustainable development  
S2 – Development requirements  
S9 - Minerals  
DR2 – Land use and activity  
DR4 - Environment

#### 3.1 West Midlands Regional Spatial Strategy

NW  
2002  
01/1013/M - Policy M2 – Minerals Aggregates

20  
01/1013/M - National Policy Guidance – Minerals Planning Statement 1

approved 15<sup>th</sup> June 2001.

3.2 NW2002/0573/M - Extension to quarry, approved 27<sup>th</sup> August 2002.

3.3 NW2004/1404/M – Continued development without compliance with conditions 9 and 10 of NW202/0573/M, approved 14<sup>th</sup> July 2004.

## 4. Consultation Summary

### Statutory Consultations

4.1 Environment Agency - no objections, no conditions recommended.

4.2 Forestry Commission - no comments; there will be no effect on the woodland.

### Internal Council Advice

4.3 Environmental Health Officer - Site operations are regulated by the Environment Agency under the Environmental Permitting regime. I am not aware of any complaints received by Environmental Health. No objection to the quarry continuing to operate as it has since 2002.

4.4 Transportation Manager - No objections; no highway implications.

## 5. Representations

5.1 Aymestrey Parish Council – Request for other changes to the permission. These are summarised as follows:

- Permission to operate the quarry and tarmac plant should be granted for a further 7 years only.
- Operating hours should be changed from a 6 am start to 7 am.
- Sunday working times should be restricted.
- The operators should provide a fund for soundproofing dwellings along the route used by lorries.

The response also refers to vehicles exceeding the 30mph speed limit on the A4110 through Aymestrey and comments on the condition and/or failure of some of the tree planting.

- 5.2 Two letters from residents have been received; Mr K Johnston, Wits End Cottage, Aymestrey, Leominster, HR6 9ST, supports the Parish Council's comments but has not expressed any specific objection. He comments on the need for clarity as to the number of Sunday working occasions that are permitted and on traffic issues on the A4110, including excessive speed. Mr K Holland, The Cottage, Aymestrey, Leominster, HR6 9ST, has written to express his concerns about traffic using the A4110 and the quarry's working hours, but the points he has raised do not relate to the two clauses in condition 8 of the 2004 permission that this application seeks to vary. These other matters of concern will be discussed in the appraisal below.
- 5.3 The full text of these letters can be inspected at Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Committee meeting.

## **6. Officer's Appraisal**

- 6.1 Applications made under Section 73 of the Town and Country Planning Act 1990 must be treated as for any other planning application, with due regard being paid to the development plan and other material considerations. However, case law confirms that an application to vary a condition does not present an opportunity to amend anything other than what has been applied for. Circular 11/95 states that the original permission will subsist regardless of the outcome of a s73 application, and also that a condition should not be retained unless there are sound and clear-cut reasons for doing so.
- 6.2 The key issue in this instance is whether the permitted arrangements for starting up the tarmac coating plant and working on up to 6 Sundays per year have, in themselves, caused any harm to amenity over the last 7 years. The period limit is understood to have been initially imposed for two years as an experiment, due to some concern that the start-up of the new tarmac plant, and/or the Sunday working arrangements, might adversely affect the amenity of the quarry's closest neighbours. The 2004 permission extended the period for a further five years. For each Sunday working occasion, the operators are required to give written notice to the local planning authority. According to the case files, only two or three Sundays have ever been worked in any year, and so far only one in 2009. No complaints have been received relating to the operation of the tarmac coating plant or the Sunday working since these were approved.
- 6.3 Clause (ii) of Condition 8 of the 2004 permission does not specify any operational times for Sunday working; apparently this was an omission. To rectify this, the applicant has given written agreement that the hours indicated in the recommendation below would be reasonable and adequate. There is no proposal to alter any existing arrangements, and there would be no increase in noise or traffic, or any changes to current practices. As noted above, consistently less than half the annually permitted Sundays have been worked.
- 6.4 The concerns raised by Aymestrey Parish Council and two residents generally do not relate to the application. The quarry has a legitimate permission; any attempt to restrict existing rights

such as working hours would be regarded as unreasonable. It could result in legal challenge with claims for both costs and compensation which would be very likely to succeed.

- 6.5 Nonetheless the existence of some local disquiet, mostly about traffic through Aymestrey, is recognised. It should be noted that this road is a main route for HGVs of which quarry vehicles represent a small proportion. The quarry's existing permission includes 22 conditions, and any operational issues (if substantiated) may be addressed through negotiation and enforcement procedures if necessary. This application has no implications for traffic on the A4110 through Aymestrey, because no operational changes are proposed. Speeding is a police matter not relevant to planning, but the quarry operator has agreed to remind all drivers under their control of the need to observe speed limits at all times.
- 6.6 Under the Environment Act 1995, all minerals permissions are reviewed every 15 years, to reflect changing environmental circumstances. This takes the form of an application for updated conditions, for which no fee is due. Generally the applicant will submit a proposed set of modernised and revised conditions, which the local planning authority may approve, or otherwise impose its own conditions. However such applications may not be refused or used to limit the operator's established rights for the winning and working of minerals without liability for payment of compensation. Under current legislation, the 2002 permission at Leinthall will be due for review in 2017. At that time an opportunity will arise to reassess the operational terms, and the proposals for final restoration of the site, subject to the limitations noted above.
- 6.7 There are no policies that would prevent continuation of established practice until the end of the permission in 2027. National and regional guidance broadly supports the need for operators to meet market conditions, which would include the timely delivery of necessary infrastructure materials to roadworks. Herefordshire currently has only three operational aggregate sites, including Leinthall Quarry. Together these provide aggregate in accordance with the obligatory regional apportionments detailed in the Regional Spatial Strategy. The tarmac plant at Leinthall is a regionally important facility which contributes to the provision of essential materials for road-making and repairs. The quarry's continuing commercial viability is dependent upon efficient operation, directly and indirectly contributing to local employment. The lack of any complaints arising from either the 5 a.m. start-up for the tarmac plant or the Sunday working supports the view that there are no longer any sound and clear-cut reasons to control the period for these allowances. The proposal is therefore recommended for approval.

## RECOMMENDATION

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

- 1. The development shall continue to be carried out in all respects strictly in accordance with the approved details and plans [drawing nos. NL 04808/06; NL 04808/phs 1, Phase 1; NL04808/phs 2, Phase 2; NL 04808/phs 3, Phase 3; NL 04808/phs 4, Phase 4; PA7 (Final Restoration, A3 coloured), PA8 (Sections 'A-A' to 'E-E')] as submitted under planning applications reference DCNW2002/0573/M and DCNW2004/1404/M, except where otherwise stipulated by conditions attached to this permission.**

**Reason: To ensure adherence to the approved plans in the interests of a satisfactory form of development, in the interests of the amenities of local people, the landscape, pollution control, nature conservation, the control of nuisances and to ensure a satisfactory reclamation of the site, in accordance with policies S1, S2 and S9 of the Herefordshire Unitary Development Plan 2007.**

- 2. B04 Amendment to existing permission**

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Further information on the subject of this report is available from Mr D Klein on 01432 260136



3. No machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times: 0600-1800 Monday to Friday and 0600-1200 on Saturdays, nor at any time on Sundays, Bank or Public Holidays, except that until 10 August 2027:
- a) The tarmac coating plant shall be allowed to commence at 0500 Monday to Saturday;
  - b) or up to and including six occasions in each calendar year, the operation and use of the tarmac coating plant, and loading and despatch of vehicles on Sundays may be undertaken. On such Sunday working days, no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside 0700 - 1600 hours, except that the tarmac plant shall be allowed to commence at 6 am. Written notification of the date of such Sunday working shall be forwarded to the Local Planning Authority within 3 working days of each and every occasion of Sunday working.

Reason: In order to protect the amenity of occupiers of nearby properties in accordance with policies S1, S2 and S9 of the Herefordshire Unitary Development Plan 2007.

4. Copies of:
- a) This planning permission;
  - b) All other permissions currently in force;
  - c) All current approved plans;
  - d) All other documents subsequently approved in accordance with any current permission, conditions or amendments approved pursuant to any or all;

Shall be held in the site office at Leinthall Quarry and be made available to any person to read on request during the permitted hours of opening.

Reason: To ensure that employees, members of the public and officers of the Council may readily make themselves aware of the requirements of the planning permission and approved plans and schemes and to ensure that all aspects of the proposal are complied with in accordance with policies S1, S2 and S9 of the Herefordshire Unitary Development Plan 2007.

#### INFORMATIVES:

- 1 The decision to grant planning permission has been taken having regard to the provisions of the Development Plan: in particular policy M2 of the West Midlands Regional Spatial Strategy and the relevant policies of the Herefordshire Unitary Development Plan 2007 set out below. In reaching this decision, the local planning authority was mindful of the particular circumstances of the case, namely the acknowledged need to continue to provide an adequate and steady supply of aggregates, the applicant's existing and established rights for the winning and working of minerals, the fact that there are no traffic implications and no proposed operational changes to current practices, and because no complaints have been

received or substantiated relating to the operation of the tarmac coating plant or Sunday working during the period within which these have been permitted.

The local planning authority has concluded that there are no clear-cut or sound reasons for retaining the period time limits for starting up the tarmac coating plant and working the quarry on Sundays for up to 6 occasions in each year. On this basis there would be no adverse environmental effects that would justify refusal

**Policies: Herefordshire Unitary Development Plan 2007:**

**S1 - Sustainable development**

**S2 - Development requirements**

**S9 - Minerals**

**DR2 - Land use and activity**

**DR4 - Environment**

**2** Conditions 1, 4, 5, 6, 9, 10, 16, 17 and 19 of permission DCNW2002/0573/M granted 27 August 2002 were amended under planning permission DCNW2004/1404/M in order to reflect the fact that that permission had been commenced and that the wording of some conditions was no longer appropriate. Permission DCNW2004/1404/M continues to subsist and those amendments are not negated by this new permission.

**3** Condition 21 of planning permission DCNW2004/1404/M states that it should be implemented in lieu of, and not in addition to, DCNW2002/0573/M. Condition 8 of planning permission DCNW2004/1404/M is now superseded by condition 3 of the permission hereby granted. Otherwise, this new permission does not supersede permission DCVW2004/1404/M, and should be regarded as additional to it, subject to the amendments detailed above.

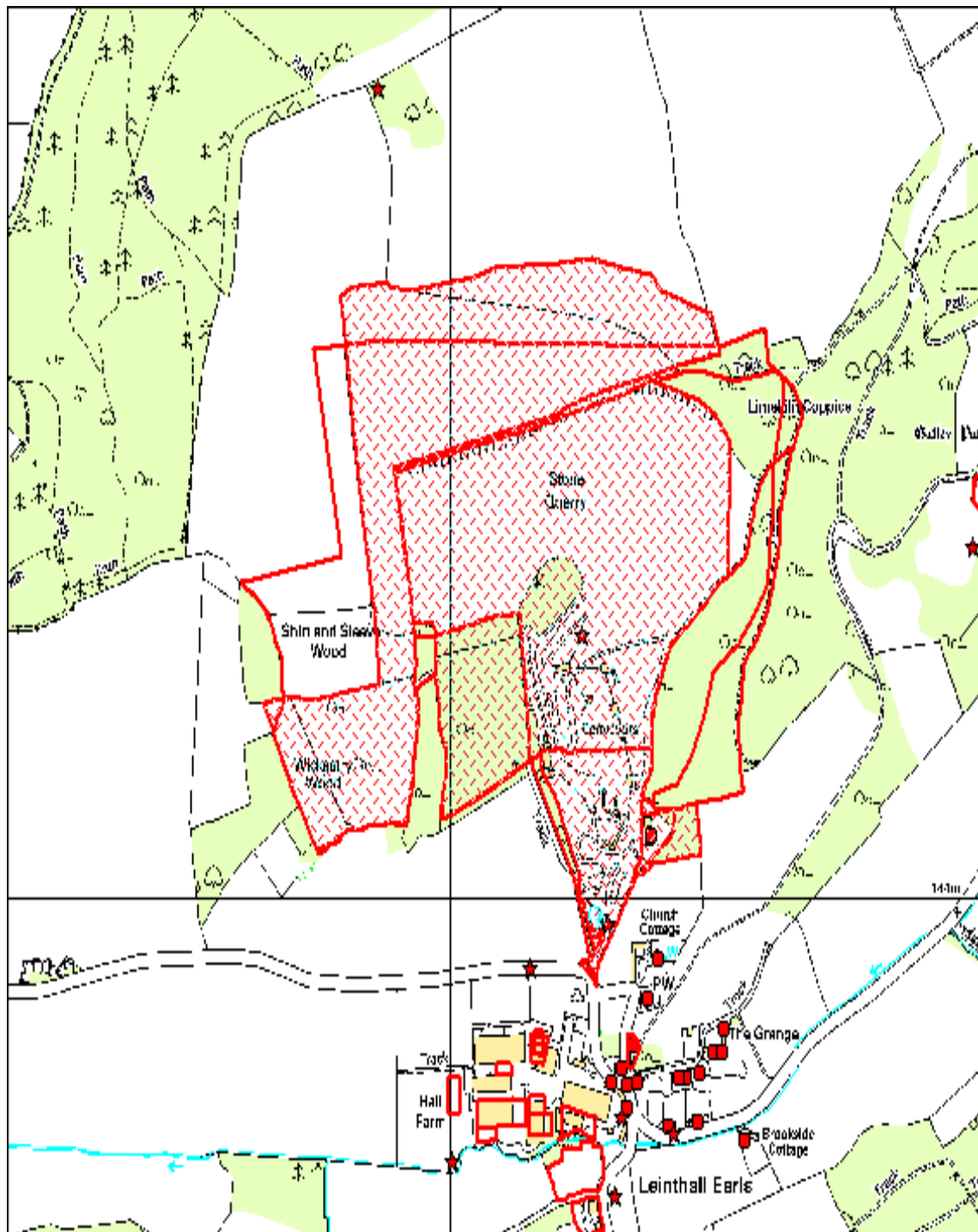
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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** DCNW0009/1880/M DMDCN/092330/M

**SITE ADDRESS :** LEINTHALL QUARRIES, LEINTHALL EARLS, LEOMINSTER, HEREFORDSHIRE, HR6 9T

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Further information on the subject of this report is available from Mr D Klein on 01432 260136



**8 DCNW0009/1730/F SINGLE STOREY EXTENSION TO EXISTING DWELLING AT YATTON HILL COTTAGE, AYMESTRY, LEOMINSTER, HEREFORDSHIRE, HR6 9TP**

**For: MR DAVIES per MR JOSEPH HOLDEN, SYCAMORE COTTAGE, HEYOPE, KNIGHTON, POWYS, LD7 1RB**

**Date Received: 17 July 2009      Ward: Mortimer      Grid Ref: ,**

**Expiry Date:**

Local Member: Councillor LO. Barnett

**1. Site Description and Proposal**

- 1.1 The dwelling is located in open countryside in an isolated rural position and is mainly of stone construction under a slate roof. The cottage was extended during the 1990s by about a third with the addition of a two-storey rendered extension to the western side elevation
- 1.2 Within close proximity to the eastern side of the dwelling's curtilage is another cottage of similar scale and construction. To the west of the application site (but not adjoining) is another cottage of stone construction which remains intact as originally built. Otherwise the surrounding area is farmland and open "Common".
- 1.3 The proposal is for a single-storey extension onto the western elevation to be used as a living room, externally constructed of timber cladding under a slate roof. The application also proposes timber cladding of the previous extension to replace the existing render.
- 1.4 The original dwelling on the site has an internal floor space of approximately 22 square metres. The previous extension amounts to approximately 33.6 square metres (all over two floors). The proposed single-storey extension has a floor space of approximately 24.75 square metres. (all measured externally).

**2. Policies**

2.1 Herefordshire Unitary Development Plan

- |               |  |   |  |
|---------------|--|---|--|
| <b>3.</b>     | S1   | - | Sustainable development  |
|               | S2   | - | Development required   |
|               | DR1  | - | Design   |
| <b>Planni</b> | DR2  | - | Land use and activity  |
| <b>ng</b>     | DR3  | - | Movement   |
| <b>Histor</b> | DR4  | - | Environment  |
| <b>y</b>      | H7   | - | Housing in the countryside outside settlements   |
|               | H18  | - | Alterations and extensions   |
|               | LA2  | - | Landscape character and areas least resilient to change                                      |
| 3.1           | DCNW2008/1939/F  | - | Extension to existing dwelling – refused planning permission 11 <sup>th</sup> September 2008 |
|               | NC1  | - | Biodiversity and development   |
| 3.2           | 91/0114 – Extension to cottage – approved 5 <sup>th</sup> April 1991.  |   |  |
| 3.3           | 75/0709 – Continued use of land as a site for existing garage for private use – Approved 8 <sup>th</sup> March 1976. |   |  |

**4. Consultation Summary**

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Further information on the subject of this report is available from Mr P Mullineux on 01432 261808

Statutory Consultations

4.1 None required.

Internal Council advice

4.2 The Planning Ecologist raises no objections.

**5. Representations**

5.1 Aymestrey Parish Council has no objections to the proposal.

5.2 One letter of objection has been received from A & J Watkins, Silver Birch Cottage, Yatton Hill, Aymestrey (dwelling that adjoins the eastern boundary to the application site).

5.3 The objections raised can be summarised as follows:

- Amount of development on site that has already taken place in the form of an existing extension to the dwelling and outbuilding.
- Proposed extension will be overbearing in scale on the character of the original cottage on site and out of keeping with the rural setting.
- Reference is made to the previous application on site, refused planning permission and late dismissed on appeal.

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

**6. Officer's Appraisal**

6.1 The main issues with regard to this application are:

- Scale and character of the proposed development
- Planning history of the site.

Scale and character of the proposed development

6.2 The proposal is for a single-storey extension onto the western gable elevation of the existing dwelling on site, in order to provide additional living space in the form of a living room.

6.3 The proposal is for an externally timber clad constructed extension under a slate roof, as well as timber cladding to a previous extension added to the property.

6.4 The proposed extension has a floor space of approximately 24.75 square metres and, as such, is considered acceptable in scale and character, in consideration of the existing dwelling on site, as well as the surrounding landscape and privacy and amenity of surrounding dwellings.

Planning history of the site.

6.5 The original dwelling has had a two-storey extension attached to its western elevation. This has a floor space of approximately 33.6 square metres. The original dwelling's floor space being approximately 72 square metres.

- 6.6 As such, both extensions added together do not result in a 100% increase in floor space, to what was previously a very modest cottage of small proportions.
- 6.7 Within the garden curtilage is an outbuilding. This building is used by the applicant for domestic storage/workshop and is situated alongside the eastern boundary of the site by the neighbouring objectors to this application. This structure was considered by the local planning authority to be permitted development and, as indicated, is not used as domestic accommodation.
- 6.8 The previous application refused planning permission and later dismissed on appeal, was for an extension to the same gable end as the one subject to this application.
- 6.9 The Inspector appointed by the Planning Inspectorate to decide the appeal, reasoned that the development, subject to the appeal would dominate the original dwelling and be disproportionate to it, when taken together with the earlier extension, in consideration of the length of the proposed extension.
- 6.10 Officers are of the opinion that the development, subject to this application, overcomes this issue, in that the overall length of the proposed extension is 2.5 metres shorter, and this addresses the overall key concern as discussed by the Inspector in his appeal decision.

**RECOMMENDATION**

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

- 1. **A01 Time limit for commencement (full permission)**
- 2. **D04 Details of window sections, eaves, verges and barge boards**
- 3. **D05 Details of external joinery finishes**

**INFORMATIVES:**

- 1. **N19 Avoidance of doubt - Approved Plans**
- 2. **N15 Reason(s) for the Grant of PP/LBC/CAC**

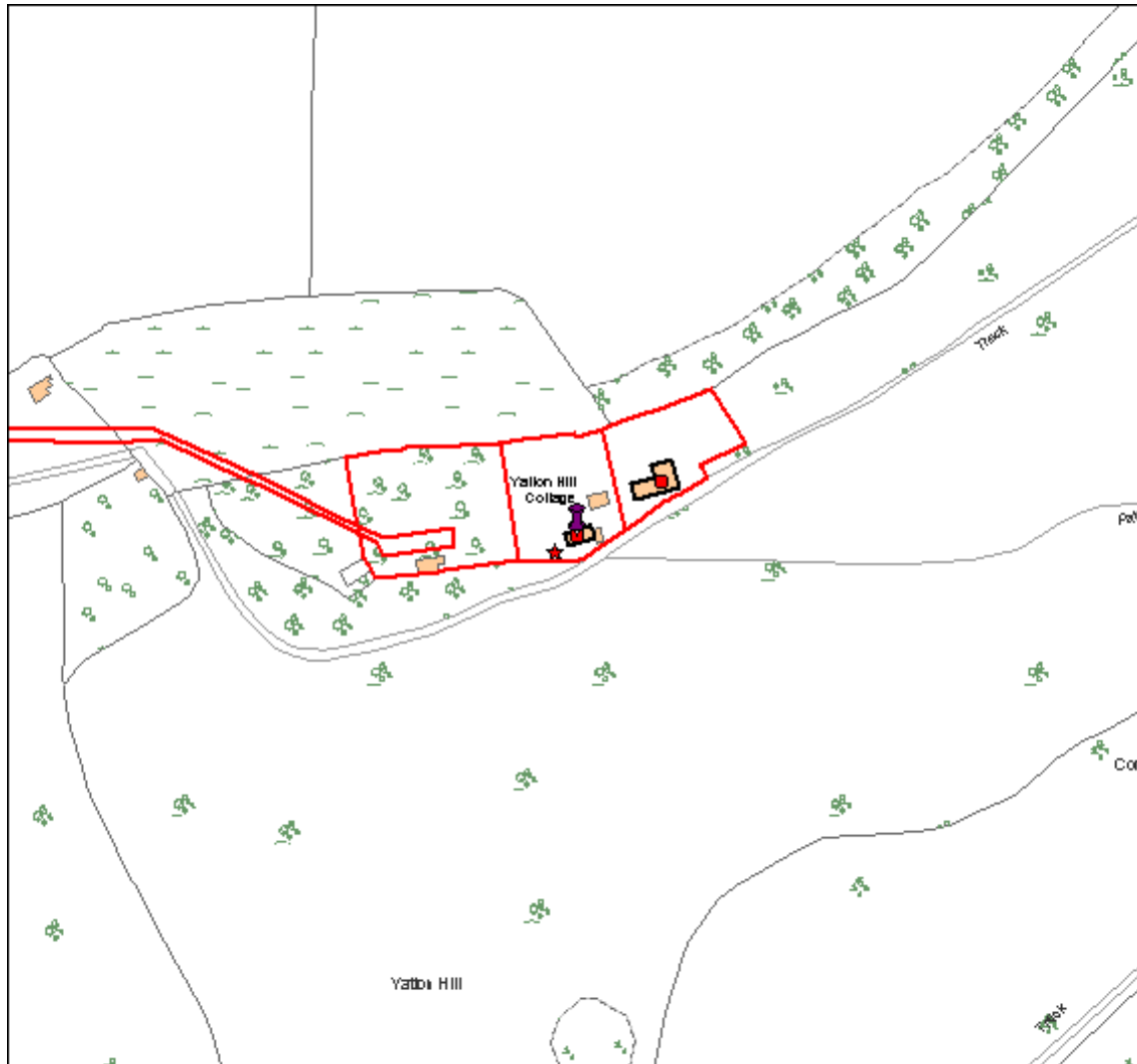
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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** DCNW0009/1730/F DMNW/091530/F

**SITE ADDRESS :** YATTON HILL COTTAGE, LOWER YATTON, YATTON, HEREFORDSHIRE, HR6 9TN

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**9 DCNW0009/1826/F & DCNW0009/1825/L - PROPOSED ALTERATIONS AND EXTENSIONS TO ORLETON MANOR. PROVISION OF NEW GARDEN BUILDINGS ADJACENT TO NW GARDEN WALL, BOUNDARY ALTERATIONS AND CONSTRUCTION OF BELOW GROUND GARAGE AND STORAGE ACCOMMODATION, ACCESS AND ACCESS ROAD AT ORLETON MANOR, OVERTON LANE, ORLETON, NR LUDLOW.**

**For: EUSTON PARK DEVELOPMENTS LTD C/O HARRIS LAMB LTD, GROSVENOR HOUSE, 75-76 FRANCIS ROAD, EDGBASTON, BIRMINGHAM, B16 8SP**

**Date Received: 24 August 2009    Ward: Bircher    Grid Ref: 349084,266912  
Expiry Date: 19 October 2009**

Local Member: Councillor WLS Bowen

A Committee site visit took place on 3 November 2009 at 9.30am.

**1. Site Description and Proposal**

- 1.1 The site comprises a Grade II\* Listed dwelling located to the south of the village of Orleton and accessed via Overton Lane. The dwelling is a timber framed house set in an elevated position within mature grounds, overlooking the agricultural land to the south, which forms part of the application site.
- 1.2 The dwelling is sited within the Conservation Area and Settlement Boundary of the village of Orleton.
- 1.3 The proposal has several elements proposed as follows:
- Underground garage and storage building*
- 1.4 It is proposed that an underground structure be constructed by open excavation on land to the west of the dwelling and within the existing garden. The structure would be 24m by 24m and have an approximate depth of 4m (5m below Overton Lane). The structure would be comprised of reinforced concrete walls supporting a roof slab and overlaid by 780 mm of a substrate soil. The structure would be vented with above ground ducts within the garden and lit by means of circular sky lights set into the designed garden and lawn level.
- 1.5 The underground garage block will comprise of:
- 5 car parking spaces
  - 2 store areas
  - 1 bin store and stairwell to garden building
  - Lobby, stairwell and lift to side extension

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Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

- Turning space

- 1.6 The underground garage will be accessed via a single garage door, set into the bank facing south east. The access would be 3.6m below ground level and would form a door that would be 4.4m by 2.4m and would be set into a stone faced wall, with banks to either side graded up to the ground level above. A glass balustrade is proposed as a boundary above the access point.
- 1.6 A landscaping plan has been submitted detailing the trees to be retained and removed.

#### Garden Building

- 1.7 The proposed building would be sited along the north-western perimeter boundary of the site adjoining the existing stone wall (that is 2.4m high at this point) and would involve the removal of the existing smaller shed and greenhouse. The building would provide a home office, small studio accommodation for occasional use (overspill accommodation) a pool and small sauna area.
- 1.8 The building is single storey, and would be set down 1m from existing ground level (1m below the ground level on Overton Lane). The building would be 3.4m high (its highest point sitting just below the height of the wall) with circular rooflights and a lead covered shallow pitch roof. The building would be 21m wide with a depth projecting from the wall by 6.7m. The front of the building would be predominantly glazed, the side elevations using brickwork to match the existing wall.

#### Access and Driveway (including extension of agricultural track)

- 1.9 The proposal includes the alteration of the existing agricultural access track to create a vehicular access from Overton Lane. The application was submitted with plans (05489-D1 Rev H) showing visibility splays of 25m that would involve removing 14.2m of hedge in each direction and regarding the bank. After querying the possibility of enlarging the visibility splays to improve visibility and highway safety an amended plan was submitted (O5489/D1 rev J) achieving visibility splays of 33m in each direction and requiring approximately 17.5m of hedge to be removed and replanted to the west and 22m to the east. This would be replanted 0.5m behind the splay allowing for growth. The bank would be re-graded.
- 1.10 The driveway would sweep around to the entrance to the garage (as per drawing number 05489-D19 Rev C) and would be 4.5m wide, with a conservation kerb. The external surface would be Hereford Gravel Chippings laid on a hot bitumen emulsion.
- 1.11 The application also includes the extension of an existing agricultural track, approved under an Agricultural Notification, for use to maintain and service the planted orchards. This track extension would join the driveway and track. The extension would be surfaced to match the existing agricultural track in a granular material and would be 3m in width. It is required to allow the applicant access direct to the land from his domestic garage.

#### Alteration to boundary walls

- 1.12 The proposal includes an increase in height to the boundary wall that fronts Overton Lane. Clarification has been sought on this matter and the proposal has been confirmed as being as per drawing number 840/01/504 (2). This shows the height of the wall to the east of the gate to be 1.5m in height. As the road level drops the height will rise to 1.7m at the far end and will then return along the boundary with the existing private drive/access to Manor Barn meeting

with the existing Ha Ha. The height would average at 1.5m and be measured from the ground level on the Overton Lane side of the wall.

#### Extension to Dwelling

- 1.13 The proposal is for a single storey extension to the south west elevation of the dwelling replacing an existing lean-to game store and smaller lean-to store. An extension was approved as part of the appeal and this is a revised submission. The extension will be of timber frame construction, with a slightly altered roof pitch and hipped design. The extension would project 4.2m from the side of the dwelling and would have a length of 12.3m
- 1.14 The extension would provide an entrance hall, lobby, storage, lift shaft and garden sitting room.

#### Landscaping details and plans

- 1.15 The application includes substantial landscaping details, detailing how the areas are compartmentalised and how this would work to integrate the various elements of the scheme. These plans also detail a small summer house and provision of oil storage tanks within a timber enclosure as well as the areas of hard surfacing.

## 2. Policies

### Herefordshire Unitary Development Plan

<b>3.</b>	<b>Planning History</b>	S1	- Sustainable Development
		S2	- Development Requirements
		S7	- Natural and Historic Heritage
		DR1	- Design
		DR3	- Movement
		DR4	- Environment
		DR11	- Soil Quality
		H18	- Alterations and extensions
		LA2	- Landscape Character and areas least resilient to change
		LA5	- Protection of trees, woodland and hedgerows
		LA6	- Landscaping Schemes
		HBA1	- Alterations and extensions to Listed Buildings
		HBA4	- Setting of Listed Buildings
		HBA6	- New development within Conservation Areas
		ARCH1	- Archaeological assessments and field evaluations
		HBA9	- Protection of Open Spaces
		W11	- Development Waste Implications

Insertion of door into breeze block wall, to provide access to/from all bedrooms to both staircases – Approved with Conditions 2<sup>nd</sup> October 1994

94/0348/L Replace one upstairs window – Approved with Conditions - 15<sup>th</sup> November 1994

NW2001/1810/L replacement guttering and downpipes – Approved with Conditions – 14<sup>th</sup> September 2001

NW2008/0034/F Restoration of pond, provision of fishing lake and associated access, driveway, footpaths, 2 boat houses, 2 fishing lodges and fishing decks – Withdrawn 24<sup>th</sup> January 2008.

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Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

DCNW2008/1336/S	Proposed agricultural access track – Planning Permission is required – 5 <sup>th</sup> June 2008
DCNW2008/1621/S	New access track for orchard - Prior Approval Not required – 8 <sup>th</sup> July
DCNW2008/0105/F	Proposed garages, estate offices, stores and visitors lodge. Greenhouse and spa building – Appeal Dismissed
DCNW2007/3948/F	Proposed alterations, repairs and extension to existing Manor House – Split Decision on Appeal
DCNW2007/3949/L	Proposed alterations, repairs and extension to existing Manor House – Split Decision on Appeal

These applications were the subject of an appeal, held by public inquiry over 6 days in October 2008. The appeal decisions are appended to this report.

#### 4. Consultation Summary

##### Statutory Consultations

##### 4.1 English Heritage makes the following comments:

*“The scheme now presented has been the subject of extensive negotiations with the applicants. Your authority has invested considerable efforts in negotiating the scheme to the current state.*

*In broad terms the scheme is acceptable, with the concealment of much of the new facilities underground. There will be a new garden building adjacent to the boundary wall of the site, the design of which has been scaled down from earlier proposals, and is a much simpler more elegant design than originally proposed.*

*The extension to the house has been improved by simplification and is now an acceptable alteration to the grade II\* listed house.*

*The main impact of the underground works will, of course, be archaeological, and I am sure that you will be taking appropriate advice on this matter from your colleagues and imposing the relevant conditions*

##### *Recommendation*

*Overall, subject to any final minor revisions negotiated by your authority, the scheme should now be approved.”*

##### Internal Consultees

##### 4.2 The Conservation Manager makes the following comments:

##### Historic Buildings Conservation Officer

##### 4.3 *“These new proposals are a great advance on those rejected by the Inspector in the Inquiry into previous applications.*

*The proposed extension now takes a more coherent and practical roof form and the articulation of the walls is simpler and more visually pleasing.*

*The new garden building is tucked against the high garden wall. The elevation is reminiscent of an orangery. We pressed for a building of somewhat smaller scale, but do not consider this submission to be so inappropriate as to warrant a recommendation of refusal.*

*The proposed underground car park is unusual, but it is difficult to see how it can be rejected in principle given the lack of important archaeology and the plain fact that it has no visual impact beyond that of the entrance and protective balustrade. These last two are rather hard elements and the balustrade is incongruous. A condition requiring approval of the details of these elements is required.*

*We have reservations about the raising of the lower section of the boundary wall, particularly in the light of the old illustrations in the landscape study. Clearly the frontage has had an open aspect for at least a century which is an important feature of the character and appearance of the conservation area.*

*On balance, our previous objections, which were upheld at the Inquiry have led to a far more coherent, sympathetic and well-integrated scheme with much greater visual quality all round. Attention to the details noted above would make fully appropriate scheme.*

*Approval recommended subject to amendments to respond to the points above and to standard conditions as to materials and details”.*

#### **Comments on additional information:**

*“Thank you for the revised plans. I have nothing to add to my comments but conditions are required:*

- 1 Method statement and details for the protection, repair and retention of the garden wall during construction of the basement.*
- 2 Sample panels of new masonry and brickwork for areas of rebuilding or raising the wall.*
- 3 Conditions as to materials and working details for all aspects of the approval”.*

#### Landscape Officer

- 4.4 *“The proposed scheme of landscaping submitted with this application is exemplary and provides the manor house with a new and suitable setting. This, in part, off-sets the impact of the proposed new structure in the garden, which by necessity, is a bland addition to the setting of the principal building. The proposed landscaping scheme goes some considerable way toward reinstating the significance of this building in the local context. I would recommend the application of standard conditions requiring the implementation of the landscaping scheme within the first planting season after substantial completion.*

*With regards to the excavation for the proposed garage it will be necessary to obtain specific details of quantities of excavated material and how it is to be stored and managed. The retention and re-use of all topsoil within the development site should be secured.*

*With regard to the protection of trees on the site it will be necessary to attach a condition to any permission given requiring the submission and approval of details describing the exact position and type of protective fencing to be used. Further, I would require a condition*

*preventing any plant machinery or materials to be placed on site before we have confirmed in writing that all tree protection measures have been erected to our satisfaction.*

*Lastly, I would seek clarification as to the exact proposed height of the north wall to the front 'compartment' of the garden."*

**Additional comments following receipt of waste management plan:**

*"I would reiterate the point that we do need sections or some indication of how the landform will look/be changed as even a 300mm change in level can significantly alter the character of the landscape.*

*With regards to tree protection, the information that we have indicates the general proposed tree protection zones and suggests types of protective fencing, but we need to know the precise location of the fencing and how it is to be erected; it comes in straight lengths, not curves. We will also need to be satisfied that the fencing is in place before any plant, materials or equipment are delivered on site. Both issues can be covered by condition, but we need to be certain that the standard conditions are fit for purpose; G02, G03 (needs appropriate amendment) & G04, a condition requiring our acceptance of the provisions installed, G10 & G11 (I would also consider the use of G15 & G16)."*

Ecologist

- 4.5 *"We had a long and difficult public inquiry at the site last autumn in which we successfully argued for great crested newt and bat surveys to be undertaken - initial bat surveys had been done, but further information was required.*

*We now have the survey reports identifying the presence of great crested newts in water bodies on and adjacent to the site.*

*The current applications include a major amount of earth works to construct a new garage under the garden to the west of Orleton Manor as well as construction of a new access that involves some hedgerow removal. The inspector agreed to this in principle at the appeal so it would be difficult to oppose, but we are concerned that there is insufficient mitigation for the GCNs..*

**Additional comments following submission of additional details:**

*"I am satisfied with the amended plans identifying that my concerns regarding the loss of connectivity between hedgerows due to the proposed new access has been addressed through the inclusion of a great crested newt tunnel under the proposed driveway.*

*I still have concerns regarding the movement of soil from the underground garage development to the proposed orchard site. It needs to be demonstrated that any potential terrestrial habitat for great crested newts will not be negatively impacted upon i.e. a scheme will need to be proposed to ensure that the soil is not put right up to the base of the adjacent hedgerows. Measures to protect the ditch that runs between the proposed orchard site and the existing orchard will also need to be clarified.*

*The letter also identifies that the methodology of works to the hedgerow is still to be finalised and proposes 2 options. Measures will need to be identified to ensure no great crested newts are present in or around the hedgerow prior to the hedge being moved."*

Archaeologist

- 4.6 *“Just to confirm that no further information is required, and that I have no objections to the most recent proposals.*

*However, particularly given the significant amount of earth-moving proposed, it will be important to ensure the attachment of suitable archaeological conditions to any permission granted. I would suggest either our standard E01, or the style of condition favoured by the Planning Inspectorate, as appropriate”*

Principal Minerals and Waste Officer has made the following comments:

- 4.7 *“I have not found any reference to waste in the submission. However, the underground car parking would generate considerable quantities of excavated soil and stone. Under recent Defra regulations a project of this scale would require a Site Waste Management Plan. UDP policy S10 supports this, under the terms of PPS10.*

*Policy W11 requires a Waste Audit; as this has not been submitted the proposal does not comply. There needs to be an accurate calculation of the volume (in cubic metres) of excavated material. It will not be acceptable for this material to be taken off-site, and measures are needed for accommodating it within the landholding. I should also point out that if this involved significant alterations to existing landforms (raising or infilling by, say more than 0.5m) then that would need planning permission as an engineering operation in its own right. Wherever the excavated material goes, this principle would apply. I could not support any proposal to simply dispose of this material to landfill.”*

#### Drainage

*The application does not seem to include any drainage appraisal for the underground car parking. There needs to be a hydrological assessment of existing groundwater, and any possible adverse effects that the development might have. I would recommend that Land Drainage advice is sought, and/or consult the Environment Agency.”*

#### **Additional comments following the submission of the waste management plan:**

*I note the additional areas indicated for spreading excavated material, and the re-use of material for topping off the proposed works. This makes more sense in terms of the amount of spoil. However I don't see any reference to the receiving areas in terms of existing topography and ecology. It is possible that this amendment may be more acceptable, but still does not include enough information.*

*I anticipate that my colleagues in Conservation will comment on ecological issues. On the principle of soil spreading we would need (as a minimum) a plan showing existing and proposed levels or contours for all the receiving areas. The notation still refers to an average fill of 295 mm - these amounts might be more acceptable than the previous version, but the calculation does not appear to take account of the need to feather out and vary depths. If this has been taken into account, the calculations need to be stated.*

*The need for sections will remain unless the proposed modeling and/or landform can be otherwise demonstrated. As mentioned previously, for this type of project there is no threshold for soil spreading below which planning permission would not be needed. The quantities indicated are still substantial, and the combined area for spreading would be more than a hectare. The proposal needs to present an evidence base that demonstrates that there would be no adverse environmental effect, and an acceptable final landform. If these points, and these minimal soil depths, can be satisfactorily demonstrated, there would be less likelihood that the receiving areas would have to be included in a planning application.*

Therefore, in order to demonstrate that the proposal can be achieved and the form of the works I would require that plans detailing the existing and proposed topography be submitted for further consideration. If this is satisfactory then I would be able to recommend planning conditions:

- To prohibit the removal of any excavated material from the landholding [UDP policies S1, S2, S9, DR1, DR11];
- To require all soil movements to take place in accordance with a Method Statement to be submitted and approved, which should conform to Defra Soil Handling guidelines and undertaken at the correct time of year (not between November and February or during wet weather) [to protect soil structure and quality, in accordance with UDP policy DR11]

The Transportation Manager makes the following comments:

- 4.8 “28/10/09. Received amended plans and letter dated 22/10/09. I now consider the proposal acceptable if constructed in accordance with the amended plans. Conditions and informatives recommended as detailed below. This comment supersedes those below.

*I would prefer if the applicant lengthens the “y” distance to 33 metres from the 25m stated on the plans, at the sub-standard access onto Orleton Lane. Reason is that 25m is too short for vehicles travelling at 25 mph, which I estimate is the appropriate speed for the lane. If the applicant submits evidence the 85<sup>th</sup> percentile speeds are below 20mph, then 25m is acceptable.*

*I acknowledge that the Inspector considered 25m to be adequate. I also would want to see a Condition that limited use to personal activities. The width of Overton Lane is such that any commercial or business activities and the traffic they would generate would compromise highway safety on the lane.*

*Otherwise, conditioned as below if you are minded to approve this element of the scheme.*

**1/10/09. More information received.**

- 1) *I have some concerns about the extension upwards of a wall adjacent to the access to Manor Barn’s driveway. The higher wall will partly interfere with the visibility splay for Manor Barn, and is detrimental to highway safety.*
- 2) *The internal road shown running to the south-east from the new driveway from Overton Lane is not justified anywhere in the accompanying documentation. I expect colleagues in landscape will want justification for such an intrusive feature. The radius where it joins the driveway appears too tight to accommodate farm machinery, and in any case, agricultural traffic could use the Tunnel Lane access, which would be safer than the Overton Lane access.”*

## 5. Representations

- 5.1 Orleton Parish Council makes the following comments:

“Overall the Parish Council supports this part of the application with the following provisions:-

- *The materials to be used are part of the conditions*
- *The specific paving referred to in the Planning Inspector’s report be retained*



- *The relevant EPS licence from Natural England referred to in the Bat Survey be obtained prior to any work being carried out*
- *HC take measures to ensure that conditions are adhered to*

***Provision of new garden buildings adjacent to NW garden wall***

*Although a large building the Parish Council has no valid reason for objection. The Parish Council suggests that the construction materials used include hard wood and be in keeping with the Grade II\* listed Manor to lessen the visual impact on it. It should also be a condition that the living accommodation is only for occasional use.*

***Boundary alterations***

*The Parish Council objects to the proposed raising of the boundary wall but does support the continuation of the wall at the existing height of the original wall.*

***Construction of below ground garage and storage accommodation***

*The construction of the garage building underground does answer the need for the building not to be visible. The hard landscaping at the garage entrance needs to be softened. Due to the size of the building there is a vast amount of earth to be moved which the Parish Council believes is to be managed on site. It is, therefore, suggested that conditions to working times and no weekends be imposed for the consideration of neighbouring residents. The glass balustrade is not in keeping and the Parish Council would prefer to see stone, wood or iron railings in its place.*

***Access and access road***

*The Parish Council objects to the proposed access off Overton Lane. This is a traditional, narrow, high banked lane with poor visibility. (Appeal C decision). Access to the property would be better served using the existing vehicle access on the north eastern side of the Manor. There is also an agricultural access to the property from Tunnel Lane.*

***Trees***

*Would Herefordshire Council consider Tree Preservation Orders on the two Lime trees at the pedestrian entrance to the Manor?"*

***Further to amended plans the Parish Council have made the following comments:***

*All the documentation and plans are stamped NW09/1285/L & NW09/1286/F.*

*The Parish Council still objects to the proposed entrance off Overton Lane. Also one more tree will be removed.*

*The new tunnel is not shown on the plan.*

*The Parish Council still objects to the boundary wall alterations at a height of 1.7 metres as this would restrict the view of the Manor House.*

*The Parish Council is pleased to note that consideration to a more traditional railing design could be given to the glass balustrade.*

- 5.2 11 letters of objection have been received  
4 Letters raising concern or observations have been received

These letters raise the following points:

Proposed Outbuilding

Detrimental to the character of the Grade II\* Listed Building  
Object to the architecture (architectural abomination) of the building as it would not enhance the Listed dwelling

That the use of the accommodation is restricted by a unilateral undertaking

#### Raising of Boundary Wall

The dwelling is of architectural and historic importance and can be seen and would be hidden away;

How would this impact on visibility / highway safety to users of Manor Barn (and access to / from)

It would be difficult to match the wall (materials)

#### Access onto Overton Lane

Within the Conservation Area and is a narrow sunken lane (ancient hollow lane) and is part of our heritage

The proposal is out of keeping and would damage the character and history of the lane  
Highway Safety - Will be a substantial danger to pedestrians and vehicles using the lane.  
There are no footpaths and the land has a number of narrow bends.

The lane is widely used by village residents as a recreational route

No valid reason or justification for this access when there are two other alternatives

The access will join up with the existing agricultural track and is a hard surface network

Can weight limits be imposed to ensure heavy traffic does not use this lane

#### Construction of Underground garage and stores

It would have a footprint that seems bigger than the dwelling – above and beyond what is required for a family house. The scale is not ancillary to the dwelling and far outweighs the needs of a domestic property and seems more suited to that of a small prestigious hotel

Fearful that this would undermine the structure of the house

Possible noise nuisance from any ventilation systems to garage

The balustrade looks dreadful and is totally out of keeping with the surroundings

#### General comments

Possibility of months of more noise and disturbance to nearby residents. Restrictions should be imposed to prevent weekend / out of hours working.

Impact of the development on the protected species that have been identified

The environmental impact of the development on ecology and landscape.

Assurance is sought that the Council will carefully monitor the works in relation to ecological damage / works

Concern about the rooflights and harm to bats?

Appeal C was dismissed and therefore the inspectors comments cannot be taken into account.

Letter detailing each policy and highlighting the requirements to protect the Conservation Area and ecological interests

Request that the two lime trees are the subject of a TPO to avoid the loss of anymore trees in the area.

Concerns regarding the disposal of waste soil?

5.3 CPRE (campaign to Protect Rural England) makes the following comments:

1. Altered access and new access road from Overton Lane.

Although there is already an access gate onto the property at the designated point, at present it consists of a metal farm gate onto grassland.

Overton Lane is an old single track sunken lane, a characteristically historic narrow thoroughfare used only by pedestrians and sparse local traffic. A new access accompanying an application for garaging space for 8 vehicles is clearly intended for use by traffic to and

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Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

from the Manor. The consequential increase in traffic in the lane will be unacceptable to local residents, raise pollution levels and create a hazard for pedestrians.

There are already at least three other access points onto the property, all onto hard surfaced roads; a further addition must be surplus to requirements, and if allowed, will result in yet more degradation of the landscape that has occurred recently on this property. HBA6 provides grounds for refusing this part of the application.

2. Boundary wall alterations.

The wall is old, as evidenced by the type of brick construction. There is no evidence that the wall has been changed in height, if at all, during many decades. It forms part of the curtilage of a listed building that lies within the designated Conservation Area of the village. No acceptable argument is offered by the applicant that the visual impact of the site should be so altered.

3. Underground garage.

We understand that permission in principle was allowed on appeal.

The construction will require the removal of a large quantity of earth; no indication is given as to its dispersal. Since some previous quantities generated by landscape changes on the property have been dumped near the old canal, the final destination of any new waste material should be specified as a condition of approval.

4. Additional comment.

CPRE is extremely perturbed at the extent to which the land to the south of the Manor has been changed in character and appearance by the present owner. There has been a large-scale reconfiguration, by moving many tons of soil, felling a great many trees and installing at least three hard core metalled roads across the land. The Manor and its curtilage is a listed property, lying in a designated Conservation Area.

The research undertaken indicates that the land has hitherto always been used for grazing, orchards, arable land and some pools. A few years ago it was a species rich area with a wide variety of natural habitats. It has been fundamentally changed, degraded, by the present owner, appearing now as barren close-mown grassland with the inevitable deleterious impact on its previous level of biodiversity. There is no evidence of any significant agricultural activity.

CPRE strongly objects to what has happened. It is obvious that HBA6 has been repeatedly breached. Far from preserving and enhancing the character and appearance of an old landscape the opposite has occurred.

We question whether or not any or all of the work has had Planning consent.

5.4 4 Letters of Support have also been received that make the following points:

The have already been vast improvements o the land surrounding the manor with the Planting of Trees and re-instating the lake. The proposed development will have little impact on the surrounding area and it will be wonderful to see a beautiful house which has been seriously neglected in the past restored to its former glory.

5.5 On the 23<sup>rd</sup> October additional information was sent out for re-consultation as detailed in section 1 of this report. Updates will be given at committee if additional representations are received. The consultation period expires on the 6<sup>th</sup> November 2009.

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

**6. Officer's Appraisal**

6.1 The applications, as detailed above can be considered having regard to the following issues:

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- 1 History and principle of development
  - 2 Impact on the setting of the Grade II\* Listed Building
  - 3 Impact on the character and appearance of the Conservation Area
  - 4 Design and relationship with the dwelling
  - 5 Highway Safety
  - 6 Landscape impact and proposals
  - 7 Ecological impact, mitigation and enhancement
  - 8 Waste Management
- 6.2 The application site has been the subject of an extensive Public Inquiry into the non-determination of the applications as detailed in section 3 of the report. The appeal decisions are annexed to this report and have significant weight in the consideration of this application. The proposal has sought to address the concerns and objections raised by the inspector.
- 6.3 The proposal to extend the building has been carefully considered having regard to the previously approved scheme. The principle of removing the existing lean to extensions has previously been accepted (see paragraphs 20-21 of the attached appeal). The scale of the extension is very similar and the revised design is considered to be an improvement on the approved scheme. Subject to the agreement of details, this element of the proposal is considered to be acceptable when having regard to the requirements of policies HBA1 and HBA4 of the Herefordshire Unitary Development Plan.
- 6.4 The application has sought to minimise the impact on the setting of the listed building and on the Conservation Area by siting the large garage structure below ground, therefore allowing the retention of the important historic garden space and preserving the setting of this important building. It is acknowledged that the building is still significant in scale in relation to the size of the dwelling, but it is an innovative way of providing the garaging and domestic outbuilding accommodation desired by the applicant with minimal impact on the setting of this important building.
- 6.5 The planning Inspector clearly identifies that the relationship of the House to the countryside, as well as to the village, is an important aspect of its setting. There are clear views of Orleton Manor from the land and Public right of way to the South West. The introduction of an access drive (domestic), garage door, wall, surround and balustrade will alter this appearance. However, when coupled with the inclusion and retention of landscaping and the careful control of materials this proposal is not considered to harm the setting of the Grade II\* listed building and as such would comply with policy HBA4 of the Herefordshire Unitary Development Plan and with guidance contained within PPG15 – Planning and the Historic Environment.
- 6.6 There are elements of this scheme which are important to ensure its success. Landscaping plans carefully detailing tree retention are provided and conditions can be imposed to ensure that they are protected during excavation and construction and retained thereafter. With such significant earthworks so close to the important boundary wall, a condition is also suggested requiring a methodology or structural report to again ensure its protection and retention during building works.
- 6.7 The proposed garden building, is again significant in size with a floor area of approximately 140 sq metres and is of a design that has a dominant architectural style. The building is proposed to sit directly behind the existing high boundary wall, and is proposed to be set down approximately 1m below the existing ground level of this area of the garden (partially on top of the underground garage structure allowing access between the two). Objections have been raised in representations to the Council on this building regarding the design and size of the building and whilst a smaller building was sought by officers at the pre-application stage, the building that is now the subject of this application is considered to be sited sympathetically and

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is of design and scale that would not cause harm to the setting of the Listed Building or the character and appearance of the Conservation Area and as such can be supported by officers.

- 6.8 The raised boundary wall has also been cause for some concern. Officers and local residents acknowledge the positive contribution that the views of the dwelling along Overton Lane make. These views may only have been clear since the 1970's but nonetheless there significant and retaining views of this important building from Overton Lane is important. Some correspondence submitted with the application related to the wall being a continuous 1.7 whilst the submitted plans showed the wall to be 1.5m adjacent to the gates but fluctuating slightly as the road level fell away towards the East. It has been clarified that the wall would be an average of 1.5m as detailed by the plans. This would allow views of the dwelling to be retained. Subject to agreement of materials (by way of sample panels) this is considered by officers to represent an acceptable form of development that would protect the setting of the listed building and its preserve its important position and feature within the Conservation Area in accordance with policies HBA4 and HBA6 of the Unitary Development Plan and guidance contained within PPG15 – Planning and the Historic Environment.
- 6.9 The proposed access onto Overton Lane raises a number of key considerations and appears to be a significant cause for concern locally. It is important to consider the fact that this proposal was considered as part of the appeal in 2008. Paragraph 48 of the attached appeal document relates to the impact of the proposal on the character of the conservation and concludes that “subject to suitable conditions, I do not consider that the proposed access arrangements would harm the conservation area or the setting of the listed building”
- 6.10 These comments were based upon plans that showed a 25m visibility splay in each direction and involved the removal of 14.5m of hedge in each direction. This visibility splay is considered to be substandard and officers requested that improved visibility be achieved to address the issue of highway safety unless it could be demonstrated that the speed of vehicles using the lane were generally below 25mph. In response to this request a revised plan was submitted, achieving visibility of 33m in each direction but entailing the removal of more hedge.
- 6.11 The character of the lane is that of a sunken ancient lane and it is acknowledged that it is a welcomed feature in the conservation area and that it contributes the special rural character of the area. The arguments are finely balanced but it is considered that significant weight needs to be attributed to the views expressed by the inspector at the appeal. The Council has also noted the concerns regarding highway safety and has improved this by increasing the visibility splays. With a careful landscaping scheme (including methodology for potential translocation or replanting of the hedge) and with details of the grading of the bank, the impact can be minimised and character retained as much as possible. Details of any additional boundary treatments, wall, gates or gate pillars as well as driveway materials can also be conditioned to ensure that they do not detract from the character of the lane, conservation area or setting of the listed building and so that the access is as unobtrusive as possible. Having regard to this officers are minded to support this element of the proposal, subject to detail and would consider them to comply with policies DR3, HBA4 and HBA6 of the Unitary Development Plan.
- 6.12 Part of the proposals are to extend the existing agricultural track that stops short of the smaller pond to the South west of the dwelling (adjacent to the small orchard area it was intended to serve). Officers had requested the removal of this element of the scheme as it did not appear to be necessary or justified to require further hardsurfacing and quite urban feature in the landscape to link what is a domestic garage to the agricultural land. The applicants have not agreed to the request to remove this track extension citing it as necessary to allow direct access from the dwelling to the associated land. Assurances have been made that the access onto Overton Lane is not intended to be used for agricultural traffic. Whilst its inclusion is not welcomed it is not considered to be so onerous or detrimental to warrant refusal of the scheme as a whole. As before a condition ensuring any means of gating / enclosure other structure

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can be imposed to ensure that this access track does not harm the setting of the listed building or further urbanise the countryside.

- 6.13 The creation of the underground garage would involve the excavation of a significant amount of soil ( 2852 cubic metres) which would then be distributed to three sites within the holding. These sites are an area adjacent to the disused canal to the South East of the holding. This area would be 2068 sq metres with an average thickness fill of 295mm. The other two areas are to the South West of the Bottom pond and would be fill areas of 5080 sq metres and 3077 sq metres both with an average fill of 295mm. To ensure that the form and character of the area is suitable and therefore protected, topographical surveys and a soil handling methodology have been requested in addition to the waste management plans submitted and these are being prepared in accordance with Policy W11 of the Unitary Development Plan. This also aims to protect the integrity of the soil structure in accordance with policies DR11. Conditions will be required to ensure that works are carried out in accordance with the submitted details and an appropriate form of works for this condition will be provided to members at the committee meeting.
- 6.14 When previous works were undertaken on this site there was significant objection and concern relating to noise and disturbance of plant and machinery. It is therefore considered appropriate and reasonable to impose a condition restricting the hours of working during construction.
- 6.15 The sites is of interest ecologically and were thoroughly discussed at the public Inquiry. As a result of this the application includes ecological surveys and mitigation strategies. The Councils Ecologist is satisfied that in principle these works can be undertaken, but there is ongoing discussion with Natural England, The applicants' ecologist and the Council ecologist in relation to some elements including the hedge removal and waste and soil management strategies. It is anticipated that these issues will be resolved prior to committee but these would need to be resolved prior to determining the application. An appropriately worded condition relating to the agreed details will be required and the wording of this will be provided at the committee meeting.
- 6.16 To conclude, the proposals have been assessed having regard to their sensitive location within the Conservation Area and in relation to the impact on the fabric of and setting of the Grade II\* Listed Building. Subject to agreeing details, the proposals are considered to be acceptable and in accordance with policies HBA1, HBA4 and HA6 of the UDP. Highway safety issues have also been carefully considered and balanced with the impact on the Conservation Area and character of the lane and are considered acceptable. The impact of the development in relation to retaining and enhancing the trees and landscape and well as ecology and waste management are all significant and reliant upon conditions as recommended below and to follow on receipt of additional satisfactory plans and methodologies. ON balance, although the scheme is quite significant in scale it is considered acceptable subject to detail and can be recommended for approval.

## RECOMMENDATION

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

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans**
- 3. C01 Samples of external materials (including sample panels)**
- 4. D04 Details of window sections, eaves, verges and barge boards**

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Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

5. D05 Details of external joinery finishes
6. D10 Specification of guttering and downpipes
7. E01 Site investigation - archaeology
8. F07 Domestic use only of garage (and access and driveway)
9. F08 No conversion of garage to habitable accommodation
10. F28 Occupation ancillary to existing dwelling only (granny annexes)
11. G02 Retention of trees and hedgerows
12. G03 Retention of existing trees/hedgerows
13. G04 Protection of trees/hedgerows that are to be retained
14. G10 Landscaping scheme
15. G11 Landscaping scheme - implementation
16. G15 Landscape maintenance arrangements
17. G16 Landscape monitoring
18. H03 Visibility splays
19. H13 Access, turning area and parking
20. H27 Parking for site operatives
21. I16 Restriction of hours during construction
22. I20 Scheme of surface water drainage
23. I32 Details of floodlighting/external lighting
24. I51 Details of slab levels ( in relation to baoundary wall)
25. **Prior to the commencement of development, a detailed method statement including details for the protection, repair and retention of the boundary wall (Overton Lane) during construction shall be submitted to and approved in writing by the Local Planning Authority. Works shall be carried out in accordance with the approved details unless otherwise agreed in writing.**

**Reason: To ensure that this important feature is protected given its relationship with the Listed Building and within the Conservation Area in order to comply with polices HBA4 and HBA6 of the Herefordshire Unitary Development Plan.**

**Ecology Condition – To follow  
Waste Management Conditions – To follow**

**INFORMATIVES:**

- 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        **HN28 Highways Design Guide and Specification**
- 7        **N15 Reason(s) for the Grant of PP/LBC/CAC**
- 8        **N19 Avoidance of doubt - Approved Plans**

**That planning permission be granted subject to the following conditions for the Listed Building Consent:**

**That: Subject to the Secretary of State confirming that he does not intend to call it in, Listed Building Consent be granted, subject to the following conditions and any additional conditions considered necessary by officers:**

- 1.        **A01 Time limit for commencement (full permission)**
- 2.        **B01 Development in accordance with the approved plans**
- 3.        **C01 Samples of external materials**
- 4.        **D04 Details of window sections, eaves, verges and barge boards**
- 5.        **D05 Details of external joinery finishes**
- 6.        **D10 Specification of guttering and downpipes**

**INFORMATIVES:**

- 1        **N19 Avoidance of doubt - Approved Plans**
- 2        **N15 Reason(s) for the Grant of PP/LBC/CAC**

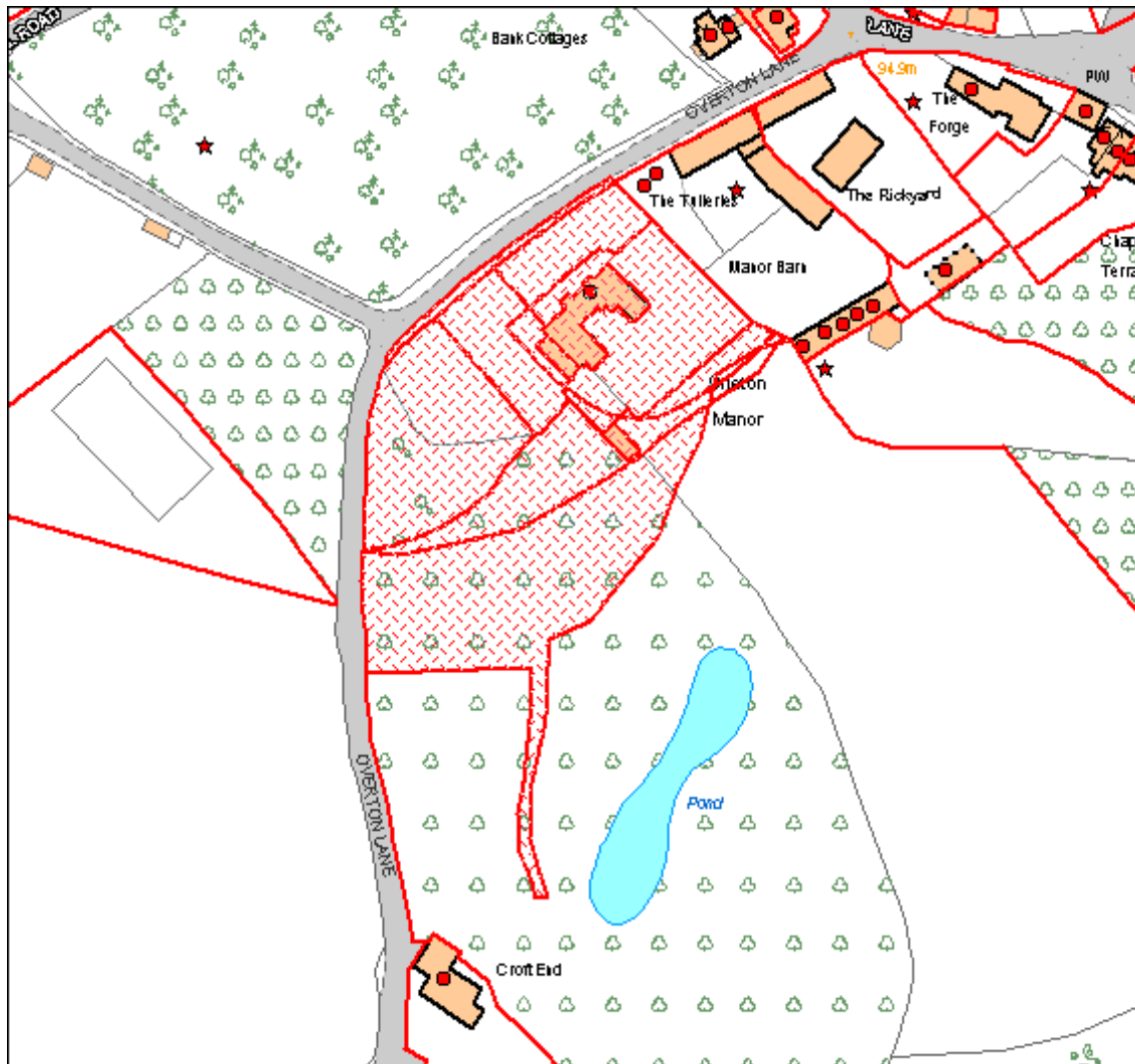
Decision: .....

Notes: .....

**Background Papers**

Internal departmental consultation replies.





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**APPLICATION NO:** DCNW0009/1826/F

**SITE ADDRESS :** ORLETON MANOR, OVERTON LANE, ORLETON, NR LUDLOW

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# Appeal Decisions

Inquiry held on 21 to 24 October,  
31 October and 14 November 2008  
Site visits made on 20 October and  
14 November 2008

by **David Prentis** BA BPI MRTPI

an Inspector appointed by the Secretary of State  
for Communities and Local Government

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**Decision date:**  
**10 December 2008**

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## **Appeal A: APP/W1850/E/08/2072525** **Orleton Manor, Orleton, Ludlow SY8 4HR**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
- The appeal is made by Euston Park Developments Limited against Herefordshire Council.
- The application Ref DCNW2007/3949/L is dated 21 December 2007.
- The works proposed are alteration, repairs and extension to existing manor house.

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## **Appeal B: APP/W1850/A/08/2072529** **Orleton Manor, Orleton, Ludlow SY8 4HR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Euston Park Developments Limited against Herefordshire Council.
- The application Ref DCNW2007/3948/F is dated 21 December 2007.
- The development proposed is alteration, repairs and extension to existing manor house.

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## **Appeal C: APP/W1850/A/08/2072531** **Orleton Manor, Orleton, Ludlow SY8 4HR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Euston Park Developments Limited against Herefordshire Council.
- The application Ref DCNW2008/0105/F is dated 21 December 2007.
- The development proposed is creation of building comprising garages, estate offices, stores and visitors lodge, greenhouse and spa building.

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### **Application for costs**

1. At the Inquiry an application for costs was made by Herefordshire Council against Euston Park Developments Limited. This application is the subject of a separate decision.

### **Decision – Appeal A**

2. I dismiss the appeal insofar as it relates to works to the ground floor rooms shown on drawing 840/01/100 as living room, hall and stairway to first floor
-

(adjacent to living room), boiler room, stairway to cellar and study, to the oak settle alcove in front room 1 and also to first floor rooms shown on drawing 840/01/101 as bedroom 1 and the stairway to ground floor (adjacent to bedroom 1), together with any external alterations associated with the said rooms and any alterations to external paving.

3. I allow the appeal insofar as it relates to demolition of lean-to extensions and construction of new extension and works to ground floor rooms shown on drawing 840/01/100 as kitchen, utility room, stairway to first floor (adjacent to front room 2), front room 2, hall leading from front porch and front room 1 (other than the oak settle alcove) and to all first floor rooms shown on drawing 840/01/101 other than bedroom 1 and stairway to ground floor (adjacent to bedroom 1), together with any external alterations associated with the said rooms and I grant listed building consent for alteration, repairs and extension to existing manor house at Orleton Manor, Orleton, Ludlow SY8 4HR in accordance with the terms of the application Ref DCNW2007/3949/L, dated 21 December 2007, and the plans submitted with it insofar as relevant to those elements of the works hereby permitted and subject to the conditions attached at Schedule 1.

### **Decision – Appeal B**

4. I dismiss the appeal insofar as it relates to alterations to the ground floor rooms shown on drawing 840/01/100 as living room, hall and stairway to first floor (adjacent to living room), boiler room, stairway to cellar and study, to the oak settle alcove in front room 1 and also to first floor rooms shown on drawing 840/01/101 as bedroom 1 and the stairway to ground floor (adjacent to bedroom 1), together with any external alterations associated with the said rooms and any alterations to external paving.
5. I allow the appeal insofar as it relates to demolition of lean-to extensions and construction of new extension and alterations to ground floor rooms shown on drawing 840/01/100 as kitchen, utility room, stairway to first floor (adjacent to front room 2), front room 2, hall leading from front porch and front room 1 (other than the oak settle alcove) and to all first floor rooms shown on drawing 840/01/101 other than bedroom 1 and stairway to ground floor (adjacent to bedroom 1), together with any external alterations associated with the said rooms and I grant planning permission for alteration, repairs and extension to existing manor house at Orleton Manor, Orleton, Ludlow SY8 4HR in accordance with the terms of the application Ref DCNW2007/3948/F, dated 21 December 2007, and the plans submitted with it insofar as relevant to that part of the development hereby permitted and subject to the conditions attached at Schedule 2.

### **Decision – Appeal C**

6. I dismiss the appeal.

### **Preliminary matters**

7. At the Inquiry the appellant requested that works to the attic storey be deleted from Appeals A and B. It was explained that the appellant intended to carry out further ecological surveys in relation to bats and to return to this aspect of the scheme at a later date. The appellant also requested that a proposed door

between a bedroom and an adjoining bathroom be deleted (Note 42 on drawing 840/01/151). The Council did not object to these amendments and I shall determine the appeals on this basis. I shall treat drawings 840/01/152 and 840/01/153 as having been withdrawn and shall disregard information on the remaining drawings relating to a staircase from the first floor to the attic, the formation of a "bridge link" at attic floor level, rooflights in the main roof and the door to the bathroom.

8. It emerged that there was a minor error in the drawing showing the north west elevation of the proposed extension. This could be covered by a condition.
9. Turning to Appeal C, the appellant requested that I accept a revised layout drawing 840/01/158A in addition to the submitted layout drawing 840/01/004B. The revised drawing is to be taken as superseding the submitted drawing insofar as it shows the siting of the proposed garage complex, greenhouse and spa buildings. The submitted layout defines the site boundary and shows the route of the proposed access. This amendment results in a slight adjustment to the siting of the proposed garage complex. I do not consider that anyone would be prejudiced by this change and I shall consider Appeal C on this basis.
10. A further layout, 840/01/158B, was submitted during the Inquiry. This drawing shows a proposal to set the floor level of the garage complex below existing ground level. I shall treat this as illustrative information.
11. The front boundary wall of the property lies outside the appeal site boundaries. Any proposal to raise the height of the wall is therefore not a matter which is before me. The proposed greenhouse building is designed to back onto a wall but no details of such a wall are included in the scheme drawings. This is a matter which could be covered by a condition if Appeal C were to be allowed.
12. The appellant submitted a Unilateral Undertaking (UU) providing that a proposed flat within the garage complex would only be occupied on a temporary basis, ancillary to the main house. The Council confirmed that the UU overcame a concern about potential new residential accommodation outside the village planning boundary. I consider that the UU is necessary, having regard to development plan policy, and I shall take it into account in my decision.
13. The appellant also submitted further information on archaeology and the Council stated that, subject to appropriate conditions, this issue was resolved. I share that view.

### **Main issues**

14. For Appeal A the main issue is the effect of the proposed works on the special historic and architectural interest of the building and its setting.
15. For Appeal B the main issues are the effects of the proposals on:
  - the special historic and architectural interest of the building and its setting within the Orleton Conservation Area; and
  - protected species.

16. For Appeal C the main issues are the effects of the proposals on:

- the character and appearance of the Orleton Conservation Area, including any effect on the setting of the listed building;
- protected species;
- highway safety; and
- trees.

## **Reasons**

### Listed building and its setting – Appeals A and B

#### *Background*

17. Orleton Manor dates from the late C16 to early C17 and the importance of the building is reflected in its II\* grading. To my mind it is a fine example of a timber framed manor house which has survived in a relatively complete and unspoilt form. The U shaped plan, design and materials all contribute to the architectural interest of the building. The age of the building and its status as the manor house to the village of Orleton also give it considerable historic interest. It stands on the edge of the village, within the Orleton Conservation Area, and is prominent in views from Overton Lane. To the south east there is extensive open land, associated with the house but outside the appeal site boundaries, which contains ponds and areas of newly planted fruit trees.
18. It appears that the house has been patched up over many years and I saw examples of poor repairs to defective sole plates, mortise and tenon failures repaired with filler and inappropriate softwood tie beams. In my view the frame is now in need of fairly extensive repairs. In practice these are most likely to be carried out by an owner who wishes to renovate the whole house with a view to creating a reasonably comfortable dwelling. Planning Policy Guidance Note 15: *Planning and the Historic Environment* (PPG15) states that the best way of securing the upkeep of historic buildings is to keep them in active use and even continuing existing uses will often necessitate some degree of adaptation. That said, the building does not appear to me to be in imminent danger of going into rapid or serious decline. It is not in such a perilous state that harmful alterations should be accepted as the only means of securing necessary repairs.
19. The proposals include an extensive schedule of works and there are many items where the Council has no objections in principle, subject to appropriate conditions. I see no reason to disagree with the Council's assessment of these aspects of the proposals and shall confine my comments to those matters which are in dispute.

#### *Replacement of lean-to and game larder*

20. A lean-to extension and a small game larder, attached to the south west elevation, would be demolished and replaced by a new extension. Historic maps indicate that some form of extension has existed here for many years. Nevertheless, the current lean-to is of rough and ready construction. Its form and materials differ markedly from the main house and in my view it is not a feature which contributes to the special interest of the listed building. The

game larder is relatively modern, constructed of horizontal boarding over a brick base, and is of no interest.

21. The replacement extension would have a larger floor area than existing but this is largely due to the fact that it would fill the space between the lean-to and the game larder. Importantly, it would have a very similar roof pitch to the lean-to and would be set back a similar distance from the main south east elevation. The massing of the proposed extension and its relationship to the house would therefore reflect that of the existing lean-to. It would plainly be seen as a modern addition to the historic building, in particular because of the proposed full-height glazed doors. However, these would be set behind oak posts, under overhanging eaves, and contained between sections of stone walling. In my opinion the glazed elements would not be unduly dominant and the proposed design and materials would be sympathetic to the listed building.
22. The design incorporates 5 rooflights which would clutter the roof of the extension and sit uncomfortably with the historic fabric above at first floor level. The appellant's conservation architect stated that these could be omitted if necessary. I consider that this would be necessary, in order to protect the setting of the listed building, and that this matter could be covered by a condition. (I deal separately with the implications of these rooflights for bats).

#### *Division of front room 2*

23. The Council argued that the division of this room into 2 would lead to a loss of historic character. The presence of a bread oven at the south west end of the room indicated that it has historically formed part of the service wing of the house. This part of the room has been much altered by modern works around the fireplace. A finely-moulded beam, which spans the centre of the room, is an important feature. The appellant stated that the proposed partition would be on the line of the beam and would be installed in a way which would not conceal it. I see no reason why this should not be achievable. I consider that the insertion of the partition would not result in the loss of historic fabric. It would be seen as a modern intervention, which would not prevent the former floor plan from being understood, and is an acceptable degree of adaptation.

#### *Front elevation bay*

24. The proposals include the opening out of the ground floor of a projecting bay on the north west elevation, forming a new entrance at this point. There is ample evidence that there was an entrance here in the past, including a sketch from 1892, the sales particulars of 1908 and later photographs of the building. Consequently, I do not regard the proposed re-instatement of this feature as speculative. I saw that the only fabric to be removed would be relatively modern. I agree with the Council that further details of the works would be required and consider that this could be covered by a condition.

#### *Panelled living room and associated works*

25. The listing description notes that the end wall of the living room has been "...moved about one metre south, leaving the fireplace in a cupboard". The appellant proposes to reverse that change, reinstating the original dimensions of the room and restoring the original fireplace as its focal point. Various works would be associated with this, including the removal of a fireplace on the

north east wall, removal of a C19 chimney stack on the north east elevation, introduction of windows to the north east elevation, removal of curved stairs within the Oriel tower and replacement of the cellar steps. Illustrative plans were submitted showing how sections of the panelling could be re-set, with some new panels, to create an enlarged panelled room.

26. The listing description notes that the living room has re-set C17 panelling and it appears that the panelling was installed during the C19. Where it came from is not known. The room has seen some alteration since that time, including the installation of modern French windows in the south east wall, a window in the south west (courtyard) wall and changes to the fireplace. Nevertheless, it is my view that the panelled room as a whole has survived in a relatively intact state since the time it was created. It is an important feature which contributes to both the historic and the architectural interest of the building. Its importance lies in both the age and quality of the historic fabric and also in what it shows about the historical development of the house. I consider that the extensive changes proposed to the panelling, and to the room as a whole, would fail to preserve the special interest which it possesses.
27. The appellant pointed out that, in the past, it was not uncommon for panelling to be moved from building to building. It was argued that the panelled room does not represent a "polite" design but was merely a pragmatic response to the needs of the time. Close inspection of the panelling bears this out – it is by no means in a regular pattern and some sections do not line up properly. To my mind this understanding of the panelling adds to its interest – both as an example of ingenious craftsmanship, no doubt seeking to make best use of the available resource, and as an illustration of social history.
28. Any harm that would arise from the proposed changes must be balanced against the potential benefits of restoring the original fireplace and its position in the room. There is no dispute that the fireplace is part of the primary fabric of the building. Moreover, it is hard to appreciate it in its current confined location. However, in my view the proposals would not amount to an evidence-based reconstruction of the room as a whole. There is no evidence that there was previously a panelled room of these dimensions. The proposed room would include C17 panelling installed in the C19, re-set panelling, some new panelling, modern French windows and a modern courtyard window, and new windows to former openings in the north east elevation. I consider that it would be less coherent than the room which currently exists.
29. In striking this balance I also take into account the associated proposals to remove the Oriel tower stairs and to replace the cellar steps. The appellant stated that the Oriel tower stairs date from the early C20 and represent an unfortunate modern intervention. They were also said to be dangerous. Although the stairs are relatively modern they are well-crafted and add something to the history and development of the building. Whilst they are steep and winding, I do not consider that they are any more hazardous than many stairs found in historic buildings. Failure to meet contemporary design standards is not sufficient justification, in historic buildings terms, for their removal. The cellar steps are part of the older historic fabric of the building and are a feature of some interest. I consider that the loss of these stairways adds to the case against accepting the degree of change which is proposed for the living room.



30. PPG15 states that the reinstatement of features that were deliberately superseded by later historic additions should be avoided. I consider that this advice is pertinent to the living room proposals in that the original fireplace appears to have been deliberately superseded by the C19 changes. In my opinion the C19 panelled room is a feature of significant historic and architectural interest in its own right which would be harmed by the proposed alterations.

*South east elevation – right hand gable*

31. One of the most striking features of the exterior of the building is the regular pattern of vertical close-studding. This is absent from the right hand gable elevation where only the corner posts, (and some timbers high on the gable), appear to be primary. Softwood studwork with diagonal bracing has been introduced, the timbers here being of smaller size than elsewhere. The appellant proposes to rebuild this gable elevation, using oak framing, to match the rest of the building. The Council argued that this would be an unnecessary cosmetic alteration to the building.
32. I have some sympathy with the appellant's view because the gable is of an inferior form of construction which is out of character with the building as a whole. There is some evidence of the original spacing of studwork in the surviving primary timbers. As this evidence accords with the pattern found throughout the rest of the building I am satisfied that the proposed reconstruction should not be regarded as speculative. However, the appellant's conservation architect accepted in cross-examination that the proposals could involve taking down this gable entirely. I am concerned that this could have serious implications for the interior of the panelled living room and also for the interior of bedroom 1 which also contains re-set panelling. I do not consider that there is sufficient information to conclude that this gable could be replaced without consequential harm to these important interiors.

*Other alterations*

33. The Council had no objection in principle to the replacement of the modern main staircase and I see no reason to disagree. The widening of this stair would have only a minor impact on the historic fabric of the building and further details of the works, together with joinery details of the new stair, could be required by a condition.
34. Whilst I am satisfied that, in general, there is sufficient detail for the appeals to be determined, I agree that further details would be required in relation to timber frame repairs, joinery details, the provision of plumbing and electrical services and any alterations to floors in order to protect the special interest of the building. All of these matters could be covered by conditions.
35. There is an assortment of stone paving adjoining the building which contributes to its setting. I do not consider that the wholesale replacement of this paving is justified and therefore in my opinion these external works should not be approved.
36. I have not identified any objection to the proposed removal of the settle alcove and adjoining partition in front room 1, to a replacement window in the south east elevation of bedroom 1 or to works in the study adjacent to the chimney.

However, these works are closely associated with other works which I do not consider to be acceptable and they should not therefore be approved unless as part of a satisfactory scheme for this part of the building.

*Conclusions on first main issue – Appeals A and B*

37. I consider that the proposed alterations to the panelled living room, together with closely related works to the Oriel tower stairway, cellar steps and south east elevation right hand gable would fail to preserve the special historic and architectural interest of the listed building. They would be contrary to Herefordshire Unitary Development Plan 2007 (UDP) Policy HBA1 which seeks to preserve the special interest of listed buildings. The replacement window to bedroom 1, the removal of the settle alcove in front room 1 and works in the study are too closely associated with these works to be severed from them. The replacement of the external paving is not justified.
38. I conclude that the replacement of the lean-to extension and game larder, division of front room 2 and alterations to the front elevation bay, (together with other works detailed in the applications which were not contentious), would preserve the special interest of the listed building and its setting. Insofar as these alterations would affect the exterior of the building, they would preserve the character and appearance of the conservation area. These elements of the proposals would accord with UDP Policy HBA4, which seeks to protect the setting of listed buildings, Policy HBA6, which seeks to preserve or enhance conservation areas, Policy S7, which seeks to protect or enhance areas of historic importance, Policy DR1, which seeks to promote the distinctive character and appearance of the locality and Policy H18 which states that the scale and design of extensions should be in keeping with the existing dwelling.
39. Those aspects of the proposals which I have found to be acceptable together form a coherent scheme for distinct parts of the building which could be separated from those works I consider to be unacceptable.

Conservation area and setting of listed building – Appeal C

*Context*

40. Orleton Manor lies on the edge of the village with open land to the south east and south west and woodland on the opposite side of Overton Lane, to the north west. Adjoining, to the north east, is a group of former farm buildings, now converted to other uses, which were once attached to Orleton Manor. The Orleton Conservation Area covers the whole of the village together with adjoining agricultural land. It is characterised by sunken lanes and by an informal pattern of development, with many dwellings set in gardens, resulting in a distinctive rural character. A draft conservation area appraisal has been prepared but this has not been adopted and I shall give it limited weight.
41. The immediate setting of the listed building is rural and agricultural. There is no evidence that the house ever had extensive formal gardens and only a small area close to the building has that character today. I consider that the relationship of the house to the countryside, as well as to the village, is an important aspect of its setting and its contribution to the conservation area.

### *Garage complex*

42. The proposed site of the garage is bounded by a wall to Overton Lane and a line of trees to the south east. A mature yew hedge divides the site from that part of the garden which is closest to the house. The proposed garage complex would have a linear plan, the length and depth of which would, in my opinion, generate an excessively large and bulky roof form. The use of timber posts and boarding to the ground floor, and the insertion of roof lights and a gable, would do little to articulate the bland expanse of the roof. The resulting building would be out of scale and out of keeping with its rural surroundings.
43. I consider that the building would have a substantial and harmful impact on views across the front elevation of the listed building. At present the house is seen in the context of garden and a backdrop of trees. The proposals would result in these views being dominated by the garage complex which would extend out in front of the house almost to the site boundary. I note that there would be an intervening space between the garage and the house and that the yew hedge would partially screen the garage. I also note the proposal, shown on the illustrative drawing (Document 37), to set it down into the ground. These factors would provide some mitigation but to my mind would not overcome the harm which would be done to the setting of the listed building.
44. The boundary wall and hedging would provide some screening from Overton Lane. Even so, the building would be seen above this screening and its north western end would be very close to the boundary. I consider that it would have a significant adverse impact on views from the lane, even if the levels were to be reduced as shown on the illustrative drawing.
45. Overall, I consider that the scale and bulk of the garage complex would be too great. Rather than being seen as an adjunct to the house it would appear as a substantial building in its own right. It would dominate the area to the south west of the house, harm the setting of the listed building and erode the rural character of the conservation area.

### *Greenhouse and spa building*

46. The greenhouse would back onto the site boundary in a position where an agricultural building once stood. That building was demolished in the 1970s or thereabouts and the area is now used for vehicle parking. The open nature of this part of the site affords fine views of the house from Overton Lane. These are only slightly impaired by the presence of parked vehicles. The views have only been available for around 30 – 40 years but, nevertheless, they make a positive contribution to the conservation area today.
47. The detail of the north west elevation of the proposed greenhouse is not before me. However, it seems very likely that any greenhouse here would curtail the views I have described. Moreover, the greenhouse would “turn its back” on the lane and offer little to the street scene as an alternative to the views currently enjoyed. This element of the proposals would therefore detract from the character and appearance of the conservation area.
48. The spa building would be larger than the garden shed it would replace. Nevertheless, it would still be a relatively minor structure which could be set down into the ground slightly so that it would not protrude above the existing

boundary wall. Whilst I see no objection to this building in isolation, I agree with the Council that it would add to a cumulative impact. The spa building would be close to the garage complex and associated parking area. The combined effect would result in a more intensively developed character in this part of the garden, to the detriment of the setting of the listed building.

#### *Access*

49. The proposed access would join Overton Lane at a point where there is an existing field gate. The lane is single track with banks and hedges on either side. The proposed access and visibility splays would result in the loss of about 29m of hedgerow. This dimension would increase if the Council's approach to visibility were followed (see below). In either case, the landscape impact could be compensated for by planting a new hedgerow behind the visibility splay – a matter which could be controlled by a condition. The formation of entrance radii and excavation to accommodate the change in levels would result in some visual impact but in my opinion this would be minor and localised. The appellant stated that the access drives within the site could be set into the ground slightly in order to minimise their visual impact. This matter, together with appropriate choice of surface materials, could be covered by a condition. Subject to suitable conditions, I do not consider that the proposed access arrangements would harm the conservation area or the setting of the listed building.

#### *Conclusions on first main issue – Appeal C*

50. I conclude that the Appeal C proposals, as a whole, would be harmful to the setting of the listed building which would not, therefore, be preserved. This is a fundamental objection, particularly having regard to the importance of the listed building. Moreover, the proposals would also be harmful to the character and appearance of the conservation area, which would not be preserved, and would be contrary to UDP Policies HBA4, HBA6, S7, DR1 and H18.

#### Protected species – Appeals B and C

##### *Great Crested Newt*

51. An ecological report prepared for the appellant in relation to adjoining land identified a pond to the south east of the proposed access with the potential to support Great Crested Newt (GCN). The report recommended that surveys be carried out on this pond and on others within 500m. The Council drew attention to the presence of GCN in another pond in the vicinity which is a further indicator of potential for GCN. No survey work for GCN has been carried out at the appeal site.
52. Circular 06/2005 *Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System* gives advice on protected species. It states that it is essential that the presence or absence of protected species, and the extent to which they are affected, is established before planning permission is granted. It goes on to say that the need to ensure ecological surveys are carried out should only be left to coverage under planning conditions in exceptional circumstances.

53. The Council's ecologist gave evidence, which was not challenged, that the locations of the proposed access, visibility splays, drive and garage complex have the potential to be terrestrial habitat for GCN associated with nearby ponds and that this habitat could be harmed by the proposals. The appellant argued that the requirement for surveys and, if needed, mitigation could be covered by a planning condition. It was suggested that the appellant controlled an extensive area of land within which mitigation could be provided. However, in my view this approach would be contrary to the advice of Circular 06/2005. I am not persuaded that the fact that land is available amounts to the exceptional circumstances contemplated in the Circular. Given the potential for GCN to be present at the site I consider that allowing the appeal in the absence of the necessary surveys would result in a risk of harm to GCN.

#### *Bats*

54. An initial bat survey carried out for the appellant in March 2008 found evidence of bats roosting in the roof space of the house. Further surveys were recommended to establish the type of roost, species and population size. A survey was carried out in September 2008 and this confirmed that at least 2 species of bat were roosting in the roof. The report of this survey (Document 21) also recommended that further surveys were needed in order to design a mitigation strategy - 2 further emergence surveys and one dawn survey, to be carried out in May/June 2009. The deletion of works to the attic from Appeal B resolved some of the Council's concerns in relation to bats. Two matters remained - potential disturbance from proposed rooflights in the extension and disturbance arising from the introduction of a window, (albeit a "blind" window), in the south east elevation right hand gable.

55. Initial data on bat movements from the second survey indicates foraging activity in the vicinity of the proposed extension. Until such time as the population, species and emergence/activity patterns have been better understood, following the necessary survey work, I consider that the rooflights should be regarded as having the potential to disturb bats. I have already concluded, under the first main issue, that the rooflights should be omitted. In my view the potential for disturbance to bats is an additional reason for omitting them. The blind window would not result in any significant impact on bat habitat, subject to appropriate timing of the works which could be controlled under the licensing regime.

56. Turning to Appeal C, the garage complex would have numerous rooflights in an area where there is evidence of bat foraging activity. These would also have the potential to disturb bats. The rooflights would be the sole means of light to the upper floor so could not be omitted by way of a condition. Other mitigation strategies may be available but the design of these depends on the outcome of the further surveys. I conclude that the garage complex has the potential to disturb bats and should not be permitted in advance of the necessary surveys.

#### *Conclusions - protected species*

57. I conclude that, subject to a condition relating to the rooflights, the amended Appeal B proposals would not be harmful to bats. However, the Appeal C proposals have the potential to harm GCN habitat and to disturb bats. They should not be permitted in the absence of the necessary surveys. The

Appeal C proposals are therefore contrary to UDP Policy NC1 which states that proposals should demonstrate that there would be no adverse effect on protected species.

#### Highway safety – Appeal C

58. The access would be moved to a point on Overton Lane south west of the house. The approach from the village would be via a lightly trafficked single track lane with infrequent passing bays and limited forward visibility. The Council and the appellant agreed that 25m visibility splays would be required. No detailed design of the access was submitted with the application but an illustrative scheme was presented to the Inquiry which showed that these splays could be achieved on land in the control of the appellant. There was disagreement as to whether the 25m should be measured to the edge or the centre of the carriageway but in my view either is achievable. (The Council's approach would result in the loss of more of the hedgerow but the difference would not be so significant as to affect my conclusions on landscape impact or GCN habitat). The illustrative details show how the access could join the lane at the correct level with an acceptable gradient. All of these matters could be covered by a planning condition.
59. The proposals would have the effect of adding to the traffic on the section of lane between the existing and proposed access points. However, the house does not generate a great deal of traffic. While there would be a large proportionate increase in traffic the total traffic flow would still be at a low level. I recognise that traffic would share the lane with pedestrians and cyclists but this is already the case because the lane serves a group of houses further along. I consider that the restricted width and limited forward visibility would cause drivers to travel slowly.
60. There was disagreement between the Council and the appellant as to the safety of the existing access. I note that it does not meet the visibility standards set out in *Manual for Streets*. However, the lane here is wider than elsewhere, it is lightly trafficked and vehicles are unlikely to be travelling at speed. The access appears to have operated for many years without difficulty. In practical terms I do not consider that it is unduly hazardous. Consequently, I do not think that the new access would result in a significant improvement in highway safety, rather it would have a neutral effect.
61. I conclude that the proposals would not conflict with UDP Policy DR3 which states that development should incorporate adequate vehicular access without detriment to highway safety.

#### Trees – Appeal C

62. The Council was initially concerned about a Yew (T15) and a Horse Chestnut (T8). At the Inquiry the Council and the appellant agreed that T8 would retain an adequate rooting area, subject to a detailed method statement being agreed. I consider that this matter could be covered by a condition. With regard to T15, the appellant's tree protection plan shows only a minor incursion of the proposed drive into the root protection area of this specimen. I therefore consider that this tree would not be significantly affected and conclude that the proposals would accord with UDP Policy LA5 which seeks to resist the loss of trees which are worthy of retention.

### **Other material considerations**

63. The appellant drew attention to the outbuildings adjoining the site, which are no longer in the same ownership as Orleton Manor, and was critical of the Council's role in the process by which ownership became separated. However, those circumstances are not for me to comment on. The current position is that the house has no outbuildings, other than a small garden shed.
64. I have commented above that repairs to the house are most likely to be carried out by an owner who wishes to renovate it with a view to creating a reasonably comfortable dwelling. In my view that approach extends to the reasonable provision of outbuildings. Taken individually, I see no objection in land use terms to the various ancillary uses proposed in Appeal C. However, I am not persuaded that the totality of what is proposed is so essential that, without it, the listed building would be at risk. I consider that there is scope to provide ancillary buildings in a way which would avoid harm to the setting of the listed building and the conservation area. I conclude that the needs of the listed building do not provide a justification for the scale of ancillary development promoted in Appeal C.
65. The appellant proposes to re-introduce apple production on adjoining agricultural land and to acquire more land. I saw that a start has been made on this enterprise by planting fruit trees and I acknowledge that this demonstrates a commitment by the present owner to improve the estate as a whole. I also acknowledge that the revival of apple production would bring benefits to the rural economy. However, in planning terms there is little linkage between the apple enterprise and the 3 appeals which are before me. Consequently, I place only limited weight on these matters in reaching my decisions.
66. At the Inquiry the appellant submitted an illustrative concept design for the garden. There is, no doubt, scope for some improvement to the garden. However, it does not appear to me to be in need of major intervention and there is no evidence that Orleton Manor ever had extensive pleasure grounds or formal gardens. I take account of the opportunity to secure new planting by a planning condition but place only limited weight on this factor.
67. I have considered all other matters raised, including the various comments made on behalf of English Heritage, the regional planning policies identified by the appellant, the views of third parties, the petition in support of the appeals and the examples of other extensions and outbuildings in the vicinity which were drawn to my attention but find nothing to alter my conclusions on the main issues.

### **Conditions**

68. I have referred above to the need for conditions relating to omission of rooflights and to details of the north west elevation of the extension. I agree with the Council's suggested conditions relating to archaeology and foundation design because construction of the extension might disturb archaeological remains. The Council and the appellant agreed on a schedule of further details required and I also agree. I have adjusted the detailed wording of the suggested conditions, having regard to the advice of Circular 11/95 *The use of conditions in planning permissions*. I do not think a condition requiring works

to be in accordance with the plans is needed as the works must accord with the plans in any event. I do not think it is necessary to control construction hours as construction impacts are dealt with under other legislation.

### **Conclusions**

69. For Appeal A, I have identified a group of works which would preserve the special interest of the building and its setting which should therefore be permitted. These may be separated from those works that I consider would be harmful to the listed building. Any wider benefits the appellant's overall plans may have for the garden, the estate and the rural economy are not sufficient to outweigh this harm, so the harmful elements should not be permitted. I shall therefore issue a split decision in this case.
70. For Appeal B, I have reached similar conclusions in relation to the listed building and the weight to be applied to the benefits I have identified. In addition, I have concluded that those operations which I have found to be acceptable in listed building terms would not harm either the character or the appearance of the conservation area. Moreover, subject to appropriate conditions, they would not be harmful to protected species. I shall therefore issue a split decision in this case as well.
71. For Appeal C, I have concluded that the proposals would harm the setting of the listed building and the character and appearance of the conservation area. In addition, they would be harmful to protected species. I take account of the fact that the proposals would not be harmful to highway safety or to trees, that they would support the continued use of the house, and that the appellant's overall plans may bring benefits to the garden, the estate and the rural economy. However, for the reasons given above, these factors do not outweigh the harm I have identified. Appeal C should therefore fail.

*David Prentis*

Inspector



### **Schedule 1 – conditions for Appeal A**

- 1) The works hereby permitted shall begin not later than three years from the date of this decision.
- 2) Notwithstanding the details shown on the submitted drawings, no rooflights shall be installed in the roof of the extension hereby permitted.
- 3) Notwithstanding the details shown on the submitted drawings, no works shall take place until details of the north west elevation of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details.
- 4) No works shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.
- 5) No works shall take place until a detailed design and method statement for any new foundations or groundwork has been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details.
- 6) No works shall take place until details of the following matters have been submitted to and approved in writing by the local planning authority. Drawings shall be at a scale no less detailed than 1:5 in the case of joinery or 1:20 otherwise. The details shall include specifications and an assessment of how the alterations will affect the fabric of the listed building. The works shall be carried out in accordance with the approved details.
  - i. Doors, windows, roofs and staircases.
  - ii. Alterations to north west elevation bay to form porch.
  - iii. Plumbing and electrical services.
  - iv. The location and condition of every member of the timber frame, the nature and condition of the infill panels, any replacements, alterations or repairs to the timber frame or infill panels, and details of any structural repairs below the sole plates. These details are to be accompanied by a structural engineer's report identifying any structural defects and a schedule of works to remedy those defects, including a method statement.
  - v. Any alterations to masonry walls and chimney stacks.
  - vi. The condition of all internal floors and details of any alterations or repairs, including alterations to the sub-structure and any damp-proofing measures.
  - vii. Samples of the materials to be used on the external surfaces of the building.

## **Schedule 2 – conditions for Appeal B**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Notwithstanding the details shown on the submitted drawings, no rooflights shall be installed in the roof of the extension hereby permitted.
- 3) Notwithstanding the details shown on the submitted drawings, no development shall take place until details of the north west elevation of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.
- 5) No development shall take place until a detailed design and method statement for any new foundations or groundwork has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) No development shall take place until details of the following matters have been submitted to and approved in writing by the local planning authority. Drawings shall be at a scale no less detailed than 1:5 in the case of joinery or 1:20 otherwise. The details shall include specifications and an assessment of how the alterations will affect the fabric of the listed building. The development shall be carried out in accordance with the approved details.
  - i. Doors, windows, roofs and staircases.
  - ii. Alterations to north west elevation bay to form porch.
  - iii. Plumbing and electrical services.
  - iv. The location and condition of every member of the timber frame, the nature and condition of the infill panels, any replacements, alterations or repairs to the timber frame or infill panels, and details of any structural repairs below the sole plates. These details are to be accompanied by a structural engineer's report identifying any structural defects and a schedule of works to remedy those defects, including a method statement.
  - v. Any alterations to masonry walls and chimney stacks.
  - vi. The condition of all internal floors and details of any alterations or repairs, including alterations to the sub-structure and any damp-proofing measures.
  - vii. Samples of the materials to be used on the external surfaces of the building.

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mr T Jones	of Counsel, instructed by Legal Services, Herefordshire Council
He called	
Miss K Gibbons	Principal Planning Officer, Herefordshire Council
BA(Hons) BPI MRTPI	
Mr J Stagg	Team Leader, Building Conservation, Herefordshire Council
DipTP MRTPI IHBC	
Mr D Davies BSc	Area Engineer (Development Control) North, Herefordshire Council
DipGeog&Env AAusIMM	
Miss B Symons	Senior Ecologist, Herefordshire Council
BSc (Hons) ALGE	
Mr C Mayes (Dip Countryside&EnvMan)	Senior Landscape Officer, Herefordshire Council

### FOR THE APPELLANT:

Mr J Cahill	Queens Counsel, instructed by Harris Lamb
He called	
Mr A Arrol	Arrol and Snell Ltd, St Mary's Hall, St Mary's Court, Shrewsbury SY1 1EG
RIBA ABC	
Mr P Downes	Harris Lamb, Grosvenor House, 75-76 Francis Road, Edgbaston, Birmingham B16 8SP
BSc(Hons) MRICS	
Mr T Moya CEnv	Tim Moya Associates, Unit 96 Greenway Business Centre, Harlow Business Park, Harlow CM19 5QE
MArborA PgDip(Arb)	
Mr R Myers MA(Cantab)	Robert Myers Associates, Hergest Estate Office, Ridgebourne Road, Kington, Herefordshire HR5 3EG
DipLA MLI	
Mr S Parfitt MSc BA	David Tucker Associates, Forester House, Doctor's Lane, Henley-in-Arden, Warwickshire B95 5AW
MCIT MILT MIHT	
Mr J Pattenden BSc	RSK Carter Ecological, Edmunds House, 40 The Green, South Bar, Banbury OX16 9AE
MSc MIEEM	

### INTERESTED PERSONS:

Dr R Jack, on behalf of Orleton Parish Council	The Forge, Orleton, Ludlow SY8 4HR
Mr D Lewis	Lime Farm, Tunnel Lane, Orleton, Ludlow SY8 4HY
Mr R Sparey	Portway House, Orleton, Ludlow SY8 4HG
Mr G Jenkins	Molly's Cottage, Orleton, Ludlow SY8 4HJ
Mr C Marsden	Tumbledown, Headbrook, Kington HR5 3DZ

## DOCUMENTS

- 1 List of appearances for the appellant
- 2 Letter from Mrs James and Mr Jukes (20 October 2008)
- 3 Petition in support of the appeals
- 4 Letter from English Heritage (17 October 2008)
- 5 E-mail from English Heritage (20 October 2008)
- 6 Draft Unilateral Undertaking
- 7 Supplementary proof of evidence of Mr Arrol
- 8 Supplementary proof of evidence of Mr Stagg
- 9 Summary proof of evidence of Mr Davies
- 10 Summary proof of evidence of Mr Mayes
- 11 Summary proof of evidence of Miss Symons
- 12 Summary proof of evidence of Mr Stagg
- 13 Summary proof of evidence of Miss Gibbons
- 14 Plan 05489/D1 rev E – Location and details of proposed entrance
- 15 Survey drawing 840/01/157
- 16 Survey drawing 840/01/157 rev A – garage position added
- 17 Concept design for gardens submitted by appellant
- 18 Opening statement for the appellant
- 19 Opening statement for the Council
- 20 Schedule of additional information
- 21 Initial Bat Survey Report by RSK Carter Ecological
- 22 Note on bat records by Miss Symons
- 23 Statement of Common Ground – arboricultural matters
- 24 Statement of Common Ground
- 25 E-mail from Harris Lamb (3 March 2008)
- 26 Plans and photographs of panelling submitted by appellant
- 27 Supplementary report on existing access by Mr Davies
- 28 Extract from report by Richard Morriss and Associates
- 29 Letter from Mrs Mark (23 October 2008)
- 30 Photographs submitted by Mr Marsden
- 31 Photographs submitted by appellant
- 32 Correspondence regarding Statement of Common Ground
- 33 Plan from Orleton Conservation Area Appraisal
- 34 Archaeological Evaluation by Archenfield Archaeology
- 35 Drawing 6529-2 submitted by Mr Moya
- 36 Plan showing location of appellant's photographs
- 37 Drawing 840/01/158 rev B – amended garage details
- 38 Mr Stagg's supplementary comments regarding panelled room
- 39 Unilateral Undertaking dated 24 October 2008
- 40 Bundle relating to ecology conditions submitted by appellant
- 41 Natural England letters of 3 April 2007 and 1 June 2007
- 42 Mr Arrol's location diagram of timber frame repairs
- 43 Revised photomontages submitted by Mr Myers
- 44 Note on photomontages submitted by Mr Myers
- 45 E-mail from English Heritage (30 October 2008)
- 46 Further revised photomontages submitted by Mr Myers
- 47 Extract from Encyclopedia of Planning Law
- 48 Errata sheet submitted by Mr Downes
- 49 Extract from Regional Spatial Strategy for the West Midlands

- 50 Extract from the Herefordshire UDP
- 51 Mr Stagg's comments on appellant's timber framing survey
- 52 Photograph from 1960s submitted by Mr Downes
- 53 Conditions suggested by the Council – version 2
- 54 Historic Buildings conditions suggested by the Council
- 55 Unilateral undertaking – revised signatures
- 56 Mr Stagg's suggested checklist for the site visit
- 57 Closing submissions for the Council
- 58 Closing submissions for the appellant



**THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL  
(STRETTON GRANGE, STRETTON GRANDISON,  
HEREFORDSHIRE) TREE PRESERVATION ORDER 2009**

**Report By: Head of Planning Services**

**Wards Affected**

Frome

**1. Purpose**

To consider the representations made in relation to the making of a provisional Tree Preservation Order upon trees at Stretton Grange, Stretton Grandison and determine whether to confirm the order and revoke the Area Order made in 1987 covering trees within the former curtilage of the house.

**2. Order Description and Details**

- 2.1 This Order concerns 12 individual trees and 3 groups of trees in what were formerly the grounds of Stretton Grange. They comprise:

T1 - Sycamore  
T2 – Sycamore  
T3 – Sycamore  
T4 – Sycamore  
T5 – Horse Chestnut  
T6 – Yew  
T7 – Horse Chestnut  
T8 – Sycamore  
T9 – Sycamore  
T10 – Hornbeam  
T11 – Acacia  
T12 – Acacia

G1 – 3 Horse Chestnuts and 1 Sycamore  
G2 – 3 Sycamore  
G3 – 4 Yew

- 2.2 The Order was made on 10<sup>th</sup> June 2009 under emergency procedures in accordance with section 198, 201 & 203 of the Town and Country Planning Act 1990.

- 2.3 The reasons for making the order were:

*“The trees within the order are considered to contribute to the amenity and character of Stretton Grandison, in particular the setting of Stretton Grange and more recent development within its former curtilage; to the boundary between the settlement and open countryside; and the setting of adjacent properties. The Council considers it expedient to protect these trees and the contribution they make to the visual amenity and mature landscape qualities of the area”.*

**3. Background**

- 3.1 Former Malvern Hills District Council confirmed a Tree Preservation Order at The Grange, Stretton Grandison on 30<sup>th</sup> June 1987. This was an 'Area Order' with the trees defined as: 'The several trees of whatever species standing within the area numbered A.1. on the plan'.
- 3.2 Government guidance, set out in its Guide to the Law and Good Practice indicates that 'Area Orders' should generally be used as a temporary measure, to be replaced subsequently by orders specifying those individual or groups of trees to be protected in more detail. In particular 'Area Orders' have a draw-back in that only those trees present when the order was made are protected. As 'Area Orders' age the ability to discern those trees that are covered reduces as does the ability to take action in the event of possible breaches of the order.
- 3.3 Following consultation with the Chairman of Northern Area Planning Sub-Committee and the local member a new provisional Tree Preservation Order was made covering a number of trees within the current Area Order with the intention that if and when confirmed the Area Order would be revoked. The effect of this would be to leave those trees not covered by the new order without TPO protection. However Stretton Grange falls within Stretton Grandison Conservation Area and works to these other trees would be subject to prior notification under the conservation area procedures, unless they are dead, dying or dangerous.
- 3.4 Some 22' trees falling within the current 'Area Order' were excluded from the new order.
- 3.5 Planning permission (code DCNE03/3706/F), to change the use of Stretton Grange to 3 apartments, with an additional 3 houses with garages, parking spaces and associated drainage was granted on 29<sup>th</sup> July 2004. Planning permission was also granted to convert Stretton Court Barn to 3 units (Code NE2006/0670/F). These permissions have been implemented. The trees covered by the Area Order now fall within the various curtilages of these properties
- 3.6 A number of applications to do works to the trees covered by the TPO have been received in recent years as a consequence of concerns relating to their health and effect on residential amenity.

#### 4. Policies

- 4.1 Herefordshire Unitary Development Plan states:-

"Policy LA5 Protection of trees, woodlands and hedgerows

The enhancement and protection of individual trees, tree groups, woodlands and hedgerows will be secured by:

1. Placing Tree Preservation Orders where necessary on trees, groups of trees and woodlands of amenity value, and making use of hedgerow protection legislation;
2. Resisting proposals that would cause loss or damage to trees, hedgerows or woodlands which are worthy of retention. In particular proposals affecting protected trees will be subject to rigorous examination and only permitted where the development is in the public interest. Where the felling of protected trees is accepted replacement planting will be sought;"

#### 5. Representations

- 5.1 The new TPO was served on those whose land contains the trees together with all immediately neighbouring properties. The intention to revoke the current TPO on confirmation of the new TPO was also indicated to these property owners.



5.2 Representations have been received from Mr J Brock of The Old Hop Barn, Stretton Grandison. The issues raised by Mr Brock include:

- The TPO schedule incorrectly places group G2 in the curtilage of Beech House when it should be Yew Tree House;
- A second Yew in the garden of Yew Tree House should be protected by the TPO rather than omitted from such protection as currently proposed;
- Expresses concern that trees not covered by the TPO will not be subject to control over the works;
- The judgement for determining whether permission is granted or refused is unsatisfactory in that it is left to one individual, and unchallengeable.

## 6. Officer Appraisal

6.1 The original Tree Preservation Order was prepared over 20 years ago and the site has been the subject of a number of planning permissions that have resulted in the construction of 3 new dwellings and the conversion of Stretton Grange and its associated barn to residential units. The age of the original order, changes in the amenity value and condition of the trees, and the Secretary of State's advice upon the use of 'Area Orders' are such that it was considered appropriate to undertake a review of the trees on the site.

6.2 The new Order contains those trees considered to have sufficient amenity value to warrant protection. Those trees excluded from the new order and the reason for not including them are as follows:

- Sycamore tree, rear garden of Yew Tree House (Tagged 1437) – this tree has internal decay and there are doubts over its safety.
- Sycamore tree to rear of Yew Tree House (Tagged 1440) – a mature and heavily unbalanced tree growing at an acute angle over adjoining property with a high probability of failure in the near future.
- Yew tree to rear of Yew Tree House – (Tagged 1441) does not score sufficiently in relation to amenity rating, and in particular is of poor form.
- Group of 6 sycamore trees to rear side of Sycamore House (no tags) - do not score sufficiently in relation to the amenity rating and have stability issues in addition to growing too closely together to allow further amenity potential to develop.
- Group of 8 sycamore to rear of Sycamore House (tagged 1412, 1414, 1416, 1417, 1418, 1455, 1456, and 1457) – considered to present a foreseeable threat to nearby property in view of either basal cavities or secondary cavities at main forks.
- Group of 5 trees of various species at the front of the former Stretton Grange - do not score sufficiently in relation to the amenity rating and with no further potential (tagged 1401, 1402, 1403, 1404, and 1405).

6.3 The amenity rating scheme referred to was introduced by the Council in order to achieve consistency in terms of judging whether a tree has sufficient amenity value to warrant protection. Government advice indicates that trees that are 'dead, dying or dangerous should not normally be protected by Tree Preservation Orders'.

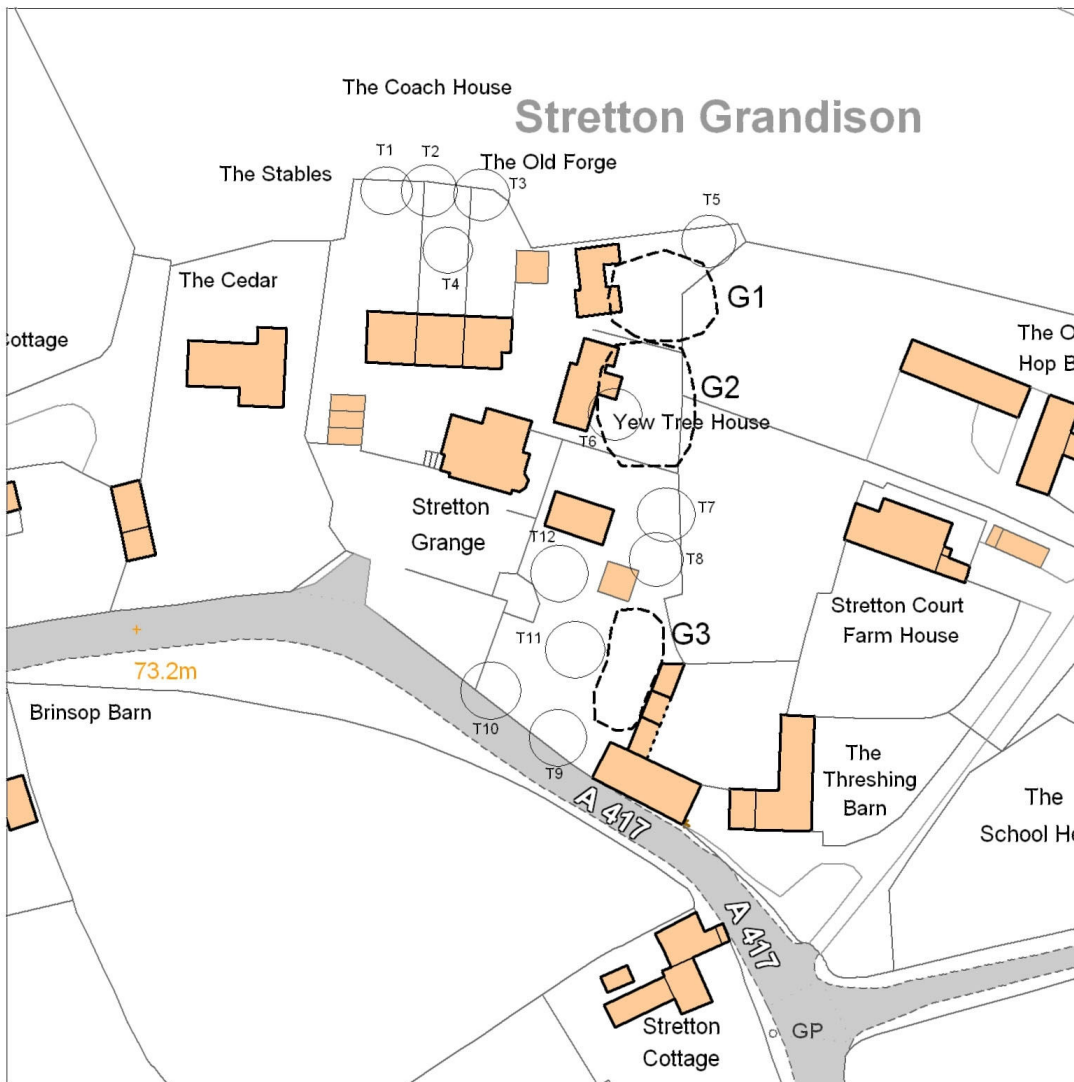
6.4 In relation to the representation received, Schedule 1 is incorrect and should be amended to show group G2 in the rear garden of Yew Tree House. The tree is correctly shown on the TPO plan. Officers have looked again at the second yew tree to the rear of Yew Tree House and remain of the opinion that it is of such poor form that it does not warrant inclusion in the TPO. Although those trees not included within the TPO will be subject to the conservation area

notification procedure, in effect their exclusion represents your officers' view that they would not merit retention either because of their health or the lack of amenity value. The determination of applications to do works to trees covered by a TPO is fully delegated to officers and the arrangements are similar to that for planning applications in that the determining officer shall not be the same as the case officer.

- 6.5 Recent inspection of trees within group G1 has identified that 2 horse chestnuts are showing signs of vascular dysfunction that we believe to be the product of phytophthora. There is the possibility that if this is the case, the disease might spread to adjacent trees, some of which are of particularly high amenity value. The owners of these trees might usefully be advised of this concern and advised to seek advice from an appropriately qualified arboricultural consultant. Should the vascular dysfunction prove to be a virulent form of phytophthora then there will be no option but to seek the removal of the trees.

**RECOMMENDATION****THAT**

- i) The County of Herefordshire District Council (Stretton Grange, Stretton Grandison, Herefordshire) Tree Preservation Order 2009 be confirmed with Schedule 1 being amended to indicate group G2 is to the rear garden of Yew Tree House.**
- ii) Upon the serving of the TPO confirmation in i) the Malvern Hills District Council (The Grange, Stretton Grandison) Tree Preservation Order No151, 1987 be revoked.**



**STRETTON GRANDISON**  
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