

# AGENDA

## Southern Area Planning Sub-Committee

Date: **Wednesday 23 December 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**

Tel: 01432 261885

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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 Southern Area Planning Sub-Committee

## Membership

**Chairman**                    **Councillor PGH Cutter**  
**Vice-Chairman**         **Councillor MJ Fishley**

**Councillor CM Bartrum**  
**Councillor H Bramer**  
**Councillor BA Durkin**  
**Councillor AE Gray**  
**Councillor JA Hyde**  
**Councillor JG Jarvis**  
**Councillor G Lucas**  
**Councillor PD Price**  
**Councillor RH Smith**  
**Councillor DC Taylor**  
**Councillor JB Williams**

**Non Voting**                    **Councillor TW Hunt**                    Chairman of Planning Committee  
   **Councillor RV Stockton**                Vice-Chairman of Planning Committee

## **GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS**

The Council's Members' Code of Conduct requires Councillors to declare against an Agenda item(s) the nature of an interest and whether the interest is personal or prejudicial. Councillors have to decide first whether or not they have a personal interest in the matter under discussion. They will then have to decide whether that personal interest is also prejudicial.

A personal interest is an interest that affects the Councillor more than most other people in the area. People in the area include those who live, work or have property in the area of the Council. Councillors will also have a personal interest if their partner, relative or a close friend, or an organisation that they or the member works for, is affected more than other people in the area. If they do have a personal interest, they must declare it but can stay and take part and vote in the meeting.

Whether an interest is prejudicial is a matter of judgement for each Councillor. What Councillors have to do is ask themselves whether a member of the public – if he or she knew all the facts – would think that the Councillor's interest was so important that their decision would be affected by it. If a Councillor has a prejudicial interest then they must declare what that interest is. A Councillor who has declared a prejudicial interest at a meeting may nevertheless be able to address that meeting, but only in circumstances where an ordinary member of the public would be also allowed to speak. In such circumstances, the Councillor concerned will have the same opportunity to address the meeting and on the same terms. However, a Councillor exercising their ability to speak in these circumstances must leave the meeting immediately after they have spoken.

## AGENDA

	Pages
<p><b>1. APOLOGIES FOR ABSENCE</b></p> <p>To receive apologies for absence.</p>	
<p><b>2. DECLARATIONS OF INTEREST</b></p> <p>To receive any declarations of interest by Members in respect of items on the Agenda.</p>	
<p><b>3. MINUTES</b></p> <p>To approve and sign the Minutes of the meeting held on 25 November 2009.</p>	1 - 8
<p><b>4. ITEM FOR INFORMATION - APPEALS</b></p> <p>To be noted.</p>	9 - 10
<p><b>PLANNING APPLICATIONS</b></p> <p>To consider and take any appropriate action in respect of the planning applications received for the southern area and to authorise the Head of Planning Services to impose any additional or varied conditions and reasons considered to be necessary.</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. DMSE09/2748/F - THE PLOCK, SOLLERS HOPE, HEREFORDSHIRE, HR1 4TF.</b></p> <p>Proposed single track vehicular access. Variation of condition 7 of planning permission DCSE2007/3932/F</p>	11 - 16
<p><b>6. DMSE09/2571/F - ASHDOWN, LLANGROVE, ROSS-ON-WYE, HEREFORDSHIRE, HR9 6EP.</b></p> <p>Loft conversion into three bedrooms &amp; two en-suites. Raise main ridge by 1.3m. Rear gable with french doors. Raise ridge of rear annex with side apex dormer.</p>	17 - 22
<p><b>7. DMSW09/1993/F - OLDFIELD FARM, GARWAY HILL, HEREFORD,</b></p> <p>Erection of workshop, display shop and office for Blacksmithing Business.</p>	23 - 28
<p><b>8. DMSE09/2727/F - CARADOC COURT, SELLACK, ROSS-ON-WYE, HEREFORDSHIRE, HR9 6LS.</b></p> <p>Change of use of East Wing to two holiday lets.</p>	29 - 34
<p><b>9. DMSE09/2758/F - GREEN ORCHARD, RYEFIELD ROAD, ROSS-ON-WYE, HEREFORDSHIRE, HR9 5LS.</b></p> <p>Removal of existing detached house and garage and redevelopment of site to provide 7 no. 2 bedroom flats including car parking and landscaping and utilising existing vehicular access altered to provide new turning.</p>	35 - 42



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- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- 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.
- Access to a public Register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- 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 Southern Area Planning Sub-Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 25 November 2009 at 2.00 pm**

**Present:** Councillor PGH Cutter (Chairman)  
Councillor MJ Fishley (Vice Chairman)

**Councillors:** CM Bartrum, H Bramer, BA Durkin, AE Gray, JA Hyde, G Lucas, PD Price, RH Smith, DC Taylor and JB Williams

**In attendance:** Councillors TW Hunt (ex-officio) and RV Stockton (ex-officio)

**55. APOLOGIES FOR ABSENCE**

Apologies were received from Councillor JG Jarvis.

**56. DECLARATIONS OF INTEREST**

- 5. DCSE09/1665/F - ROSS ON WYE RUGBY CLUB, SIXTH AVENUE, GREYTREE, ROSS ON WYE, HEREFORDSHIRE, HR9 7AG.  
Councillor AE Gray; Prejudicial; Relative of the applicant's agent.
- 5. DCSE09/1665/F - ROSS ON WYE RUGBY CLUB, SIXTH AVENUE, GREYTREE, ROSS ON WYE, HEREFORDSHIRE, HR9 7AG.  
Councillor CM Bartrum; Prejudicial; Member of Ross Town Council.
- 5. DCSE09/1665/F - ROSS ON WYE RUGBY CLUB, SIXTH AVENUE, GREYTREE, ROSS ON WYE, HEREFORDSHIRE, HR9 7AG.  
Councillor G Lucas; Prejudicial; Member of Ross Town Council.
- 5. DCSE09/1665/F - ROSS ON WYE RUGBY CLUB, SIXTH AVENUE, GREYTREE, ROSS ON WYE, HEREFORDSHIRE, HR9 7AG.  
Councillor H Bramer; Prejudicial; Member of Ross Town Council.
- 5. DCSE09/1665/F - ROSS ON WYE RUGBY CLUB, SIXTH AVENUE, GREYTREE, ROSS ON WYE, HEREFORDSHIRE, HR9 7AG.  
Councillor JA Hyde; Prejudicial; Member of Ross Town Council.
- 5. DCSE09/1665/F - ROSS ON WYE RUGBY CLUB, SIXTH AVENUE, GREYTREE, ROSS ON WYE, HEREFORDSHIRE, HR9 7AG.  
Councillor PGH Cutter; Prejudicial; Member of Ross Town Council.
- 9. DCSE0009/1859/F DCSE09/1989/F - CASTLE LODGE HOTEL, WILTON, ROSS-ON-WYE, HEREFORDSHIRE, HR9 6AD.  
Councillor PGH Cutter; Personal; Has a work premises on Wilton Road.

**57. MINUTES**

**RESOLVED:** That the Minutes of the meeting held on 28 October 2009 be approved as a correct record and signed by the Chairman.

**58. ITEM FOR INFORMATION - APPEALS**

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

**59. DCSE09/1665/F - ROSS ON WYE RUGBY CLUB, SIXTH AVENUE, GREYTREE, ROSS ON WYE, HEREFORDSHIRE, HR9 7AG.**

*Construction of temporary changing room and associated works.*

The Principal Planning Officer reported the following:

5 further letters had been received from local residents expressing concern at the location of the changing rooms relative to their dwellings. The content reiterated the concerns expressed by the objector at paragraph 5.2 of the case officer's report. All of the objectors concluded that the proposal would be more acceptable were the changing rooms relocated to a position whereby they were not visible from the properties in Bell Place. The detrimental visual impact of an essentially temporary structure was referred to, as was the propensity for future security issues, vandalism and parking issues during match days.

A sixth letter had been received from Mr Haywood, 6 Abbots Close. This explained that the grass verge and planting from the edge of Abbots Close to the boundary of the rugby field was maintained by the owners of 1-6 Abbots Close as a management committee. Concern was expressed at the existing problems associated with spill over parking arising from the use of the playing fields, which lead to damage to the verge and issues around access to property. Whilst the management committee had no objection to the facilities, it questioned why the level of parking had been so reduced compared to the 2003 planning permission and recommended that the parking provision be reappraised.

The Principal Planning Officer made the following comments, circulated to all attendees in the updates sheet.

The rationale for the chosen location for the changing rooms is given at section 5.3 of the case officer's report and is the same as under the 2003 planning permission (albeit that the current proposal is for a larger building). The reduction in the number of car parking places proposed reflects the desire to increase the use of sustainable modes of transport by those accessing the site and has been undertaken on the advice of the Council's highways department. The Rugby Club has also indicated that a club member could be employed as a traffic steward on match days so as to ensure no parking on Abbots Close.

Councillor RH Smith noted the concerns raised by the local residents but felt that these could be addressed through suitable conditions, he also noted the support of the Parish Council. He drew members' attention to the proposed amendments to condition 5 of the recommendation and felt that the application should be approved.

**RESOLVED**

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

- 1 A01 Time limit for commencement (full permission)**
- 2 H07 Single access - outline consent**
- 3 H13 Access, turning area and parking**



- 4 H29 Secure covered cycle parking provision
- 5 H30 Travel plans (including reference to parking management plan)
- 6 Prior to the first use of the changing rooms hereby approved a barrier shall be erected across the vehicular access in order to prevent access by coaches. The barrier shall be installed and retained thereafter in accordance with details to be submitted to and approved in writing by the local planning authority.

Reason: In the interests of highway safety and the free flow of traffic so as to comply with Policy DR3 of the Herefordshire Unitary Development Plan.

- 7 The floor levels of the changing rooms hereby approved shall be set at 33.43m AOD, in accordance with the submitted Flood Risk Assessment (BMW266/FRA, dated 06/01/09).

Reason: To protect the development from flooding in accordance with Policy DR7 of the Herefordshire Unitary Development Plan.

- 8 The development permitted shall only be carried out in accordance with the submitted Flood Risk Assessment (BMW266/FRA, dated 06/01/09).

Reason: To prevent the increased risk of flooding and provide water quality benefits by ensuring the provision of a satisfactory means of surface water disposal.

- 9 C09 Details of cladding (agricultural and industrial buildings)

**INFORMATIVES:**

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

**60. DCSE0009/1902/F DCSE09/2350/F - TRE-ESSEY FARM, ST WEONARDS, HEREFORDSHIRE, HR2 8NA.**

*Proposed new covered manure store.*

The Senior Planning Officer reported the following:

The Environmental Protection Manager has considered the revised siting of the store and has no objection.

In accordance with the criteria for public speaking Mr Davies, a neighbouring resident, spoke in objection to the application, and Mr Williams, the applicant, spoke in support.

Councillor JA Hyde, the local ward member, advised members that Mr Davies had been notified of the amendment to the manure store position. She confirmed that Llangarron parish council had not objected to the application and that she was also in support of it.

In response to questions raised by members, the Senior Planning Officer confirmed that the store was still 50 metres away from Tre-Essey farm and that the matter being stored was solid manure.

**RESOLVED**

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

- 1 A01 Time limit for commencement (full permission)**
- 2 B03 Amended plans**
- 3 C01 Samples of external materials**
- 4 I51 Details of slab levels**

**INFORMATIVES:**

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

- 61. DCSW0009/1982/F DMSW09/2150/F - DANESWOOD, LITTLE BIRCH, HEREFORDSHIRE, HR2 8AS.**

*Proposed detached garage.*

Councillor RH Smith, the local ward member, had some concerns in respect of the description of the application and he sought clarification in order to confirm that a workshop was not being proposed. He also requested clarification in respect of the materials proposed for the garage.

In response to the points raised by the local ward member, the Principal Planning Officer confirmed that the application was for a garage and that a condition would be included in the resolution restricting its use accordingly. He advised members that the profiled metal sheeting proposed by the applicant had been selected in order to provide a low pitch roof and in order to reduce landscape impact.

**RESOLVED**

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

- 1 A01 Time limit for commencement (full permission)**
- 2 B02 Development in accordance with approved plans and materials**
- 3 F07 Domestic use only of garage**

**INFORMATIVES:**

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

- 62. DCSW09/2133/O - LAND ADJACENT TO SUN COTTAGE, GARWAY HILL, HEREFORDSHIRE, HR2 8EZ.**

*Outline planning application for construction of a three bedroom dwelling.*

The Principal Planning Officer reported the following:

Orcop Parish Council stated that they fully support the application on the grounds that young people should be encouraged to stay within the Parish.

In accordance with the criteria for public speaking, Mr McRae spoke in objection to the application, and Mr Heath, the applicant, spoke in support.

Councillor RH Smith, the local ward member, noted that the status, character and intentions of the applicant were not material planning considerations but felt that they did have some bearing on applications under UDP policies H7, H8, and E11. He advised the sub-committee that a separate approval was being sought for a small workshop to relocate the applicant's blacksmithing business which had been operating successfully for 3 ½ years. He noted that the applicant had provided full financial details of his business and also detailed areas of possible expansion.

Councillor Smith felt that the application related to an existing, highly successful, rural business and was therefore supported by UDP policies H7.2 and H8. He added that the applicant had provided evidence that no suitable accommodation was available for conversion and that housing rarely became available in the area, and when it did it was well outside the reach of the first time buyer.

Councillor Smith noted that the application site was less than a mile away from the applicant's workshop and he felt that this was a reasonable distance. In summing up he felt that adequate justification did exist for a dwelling on the site; that some landscape impact was inevitable but could be mitigated through conditions; and that access issues could also be addressed accordingly. He therefore felt that the application should be approved in accordance with UDP Policies H7.2 and H8.

Councillor PD Price noted the applicant's comments in respect of the rural housing project undertaken in Golden Valley. He noted that the community and the Parish Council were in support of the application and felt that the Council should support a small rural business.

In response to the previous comments the Southern Team Leader advised members that if they were in support of the application in principle the planning department still had reservations in respect of the site location due to its considerable distance away from the applicant's workshop and its impact on the wider landscape.

Councillor RH Smith felt that a suitable condition could be added to any planning approval in order to address any concerns in respect of restriction of usage to a rural usage.

## **RESOLVED**

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

### **1) Restricted Occupancy Condition**

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

*[The Southern Team Leader advised members that he would refer the application to the Head of Planning and Transportation]*

**63. DCSE0009/1859/F DCSE09/1989/F - CASTLE LODGE HOTEL, WILTON, ROSS-ON-WYE, HEREFORDSHIRE, HR9 6AD.**

*Refurbishment and conversion of existing derelict barn to restaurant and creation of new car parking facilities servicing existing hotel and new restaurant, together with associated junction improvement works. (Removal of conditions 13 and 16 on planning permission DCSE2005/2343/F).*

In accordance with the criteria for public speaking, Mr Deegan, representing the local residents, spoke in objection to the application, and Mr Eacock, the applicant's agent, spoke in support.

Councillor JA Hyde, the local ward member, advised members that the lane referred to as Benhall Lane in the report was actually an unnamed road and Benhall Lane was a larger road on the other side of the A40. She noted the existing conditions and felt that these conditions had already been breached if the hotel sale had already gone ahead. She noted the concerns regarding the narrow access and welcomed comments from other members.

Councillor G Lucas noted that the application came before the Southern Area Planning Sub-Committee in 2006. He advised members that the car park and the access lane became extremely congested during busy periods and therefore he felt that the conditions should remain.

In response to a question by Councillor H Bramer, the Principal Planning Officer advised that there had not been a breach of conditions on the site as the 2006 planning approval for a restaurant had not been implemented. He confirmed that none of the conditions would take effect until the planning permission was implemented.

In response to a question from Councillor PD Price, the Principal Planning Officer advised members that there was a parcel of land to the right of the fence, as highlighted on the site plan, which would accommodate the additional parking spaces. He confirmed that 24 parking spaces would be made available.

In response to further comments by members, the Principal Planning Officer confirmed that the condition referred to a 'restaurant' and that at present there was not a restaurant on the site, just a dilapidated barn. He added that it would have been unreasonable for members to add a condition to the 2006 resolution to restrict the sale of the barn.

The Chairman noted the existing issues with vehicular access into the Castle Lodge car park and noted the existing issues with the Wilton roundabout. He felt that 24 parking spaces would be insufficient for the hotel and would only increase the traffic concerns for the local residents. He felt that the 2006 planning permission would not have been granted without the two conditions being considered for removal and therefore felt that they should remain.

**RESOLVED**

**The Southern Area Planning Sub-Committee is minded to refuse the application subject to the reason for refusal set out below (and any further reasons for refusal felt to be necessary by the Head of Planning and Transportation) provided that the Head of Planning and Transportation does not refer the application to the Planning Committee.**

- 1) **The application is contrary to policy T11 and is refused on grounds of highway safety**

**If the Head of Planning and Transportation does not refer the application to the Planning Committee, officers named in the Scheme of Delegation to Officers be instructed to refuse the application subject to such reason for refusal referred to above.**

*[The Southern Team Leader advised members that he would not refer the application to the Head of Planning and Transportation]*

The meeting ended at 4.02 pm

**CHAIRMAN**



<b>ITEM FOR INFORMATION - APPEALS</b>
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**APPEALS RECEIVED****Application No. DCSE0009/1208/F**

- The appeal was received on 2 December 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 E R & R E P
- The site is located at Upper Foxhall, Phocle Green, Ross-On-Wye, Herefordshire, HR9 7TN
- The development proposed was the conversion of and alterations to redundant period barn
- The appeal is to be heard by Written Representations

**Case Officer: Charlotte Atkins 01432 260536**

**APPEALS DETERMINED****Application No. DCSW2009/0329/RM**

The appeal was received on 21 May 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 Mr Davies
- The site is located at land at Rangers Lodge, Little Birch Lane, Wrigglebrook, Kingsthorpe, Hereford HR2 8AW
- The application was refused on 16 April 2009 under Delegated Powers
- The development proposed was the erection of a detached dwelling with ancillary works.
- The main issues are whether or not the reserved matters proposals would produce a satisfactory development with particular regard to the character and appearance of the locality, the living conditions of the occupiers of the adjoining dwelling, and the landscaping of the site.

**Decision:** The appeal was Dismissed on 19 November 2009.

**Case Officer: Andrew Prior on 01432 261932**

**Application No. DCSW2009/0373/F**

The appeal was received on 13 August 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 Mr Mussell
- The site is located at Land Adjoining 14 Gosmore Road, Clehonger, Hereford, Herefordshire, HR
- The application dated 16 December 2008 was refused on 17 April 2009 under Delegated Powers
- The development proposed was New three bed detached dwelling
- The main issues are 1) the effect of the character and appearance of the area; 2) the effect on the living conditions of the occupiers of No 45 Oak Crescent with particular regard to visual impact and overlooking and the provision of amenity space to the proposed dwelling and the parent property; and 3) the effect on the safety and convenience of users of the highway.

**Decision:** The appeal was Dismissed on 12 November 2009.

**Case Officer: Angela Tyler 01432 260372**

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

**Application No. DCSW0009/1252/F**

The appeal was received on 22 September 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 Mrs Susan O'Neill
- The site is located at Caradoc, Kingstone, Hereford, Herefordshire, HR2 9EZ
- The application dated 22 March 2009 was refused on 30 July 2009 under Delegated Powers
- The development proposed was Cast iron balcony & small spiral staircase at the rear of the property and the change of a landing window to a door.
- The main issue is effect of the proposal on the living conditions of occupiers of Cider Mill Cottage (also know as 4 Little Dell), Green Court Farm and Green Court Cottage in terms of privacy and noise and disturbance.

**Decision:** The appeal was Dismissed on 22 October 2009.

**Case Officer:** Angela Tyler 01432 260372

**Application No. DCSE2008/2384/F**

The appeal was received on 21 May 2009

- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Non determination
- The appeal was brought by Mr John Lee
- The site is located at The Leys, Lyne Down, Much Marcle, Ledbury, Hereford, HR8 2NS
- The application dated 19 September 2008, at Lyne Down, Much Marcle,
- The main issues are
  - (i) Whether or not the site is reasonably located in relation to services and facilities;
  - (ii) The effect of the proposal on the character and appearance of the surrounding countryside;
  - (iii) The effect of the proposal on the setting of nearby listed buildings, namely Gamage Farmhouse and the stable building;
  - (iv) The effect of the proposal on wildlife and nature conservation;
  - (v) Whether there are any material considerations to outweigh any harm arising from the first four issues, including:
    - a) The need for and provision of sites for gypsies within the area,
    - b) The accommodation needs of the appellant and his family,
    - c) The personal circumstances of the appellant and his family,
    - d) Human rights considerations.

**Decision:** The appeal was Dismissed on 5 October 2009.

An application for the award of costs made by the appellant against the Council was DISMISSED.

**Case Officer:** Yvonne Coleman on 01432 383083

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



**5 DMSE/092748/F - PROPOSED SINGLE TRACK VEHICULAR ACCESS. VARIATION OF CONDITION 7 OF PLANNING PERMISSION DCSE2007/3932/F AT THE PLOCK, SOLLERS HOPE, HEREFORDSHIRE, HR1 4TF.**

**For: Mr and Mrs Jones per Mr and Mrs C Jones, Little Ow Farm, How Caple, Hereford, HR1 4TF.**

**Date Received: 26 October 2009**

**Ward: Old Gore**

**Grid Ref: 360805,232097**

**Expiry Date: 21 December 2009**

Local Member: Councillor BA Durkin

**1. Site Description and Proposal**

- 1.1 The site lies to the northeast of the B4224, between How Caple and the C1298 to Sollers Hope. The land is used for agricultural grazing and a building is sited upon it. Opposite the site, on the other side of the road there are residential barn conversions and The Falcon House, which is a Grade II listed building, which is partially used for bed and breakfast accommodation. The site and surrounding area fall within the Wye Valley Area of Outstanding Natural Beauty.
- 1.2 Within the site the land levels rise from the road to the northeast. A hedgerow defines the roadside boundary. There is a wide, grassed highway verge between the site and the carriageway. In the western corner of the site there is an existing gated vehicular access onto the B4224. A public right of way runs along the northwestern boundary.
- 1.3 Planning permission was granted in February 2008 to provide a new vehicular access to the southeast of the existing access. This planning permission was conditional. Of particular relevance to this application is condition 7, which states that '*Prior to the first use of the access hereby approved the existing vehicular access, in the western corner of the site, onto the B4224 shall be permanently closed in accordance with details set out in the applicant's Design and Access Statement.*' In essence this requires the removal of the existing gate and planting of a native hedgerow. The stile providing pedestrian access to the public right of way would remain. Following the grant of planning permission and the commencement of development in respect of the new access, the applicant advised the Council that it had been discovered that a private right of way exists over the land and utilises the existing access. This private right of way allows the Third Party, and successors in title, to pass and re-pass over a strip of the application site (including use of the existing access) for the purposes of hauling timber. In light of this the applicant could not meet the requirements of condition 7 and permanently close the existing access. In September 2008 an application was submitted to vary condition 7, to prevent the applicant from using the existing access. This would have resulted in the applicant using the new access and the Third Party using the existing. Planning permission was refused, because it was considered that the potential use of the two accesses this would not ensure the safe use and free flow of the B4224.
- 1.4 Planning permission is now sought to vary condition 7 of the original planning permission and the submission is supported by a Unilateral Undertaking from the applicants to the Council. This sets out requirements that the applicant will undertake to meet if planning permission is granted. In summary these are that the applicants will give the Council reasonable notice of the Third Party's commencement and cessation of the use of the existing access and that during the

period of use by the Third Party the applicants will cease use of the new access and during this time they will use the existing access.

## 2. Policies

### 2.1 Planning Policy Statement

- PPS1 - Delivering Sustainable Development
- PPS7 - Sustainable Development in Rural Areas

### 2.2 Herefordshire Unitary Development Plan 2007

- Policy S1 - Sustainable Development
- Policy S2 - Development Requirements
- Policy DR2 - Land Use and Activity
- Policy DR3 - Movement
- Policy E13 - Agricultural and Forestry Development

## 3. Planning History

- |     |                 |  |                              |
|-----|-----------------|--|------------------------------|
| 3.1 | DCSE2007/1627/S | Agricultural building for storage of fodder and machinery  | - Prior Approval<br>12.07.07 |
|     | DCSE2007/2719/F | Single track vehicular access to agricultural land   | - Withdrawn<br>24.09.07      |
|     | DCSE2007/3932/F | Proposed single track vehicular access to agricultural land (to replace existing sub standard access)  | - Approved<br>06.02.08       |
|     | DCSE2008/2243/F | Amendment to condition 7 of approved planning application DCSE2007/3932/F - the existing access shall be permanently closed prior to the first use of the new approved access. | - Refused<br>24.10.08        |

## 4. Consultation Summary

- 4.1 Traffic Manager: The application offers the best solution to a situation which is not ideal and which prevented the implementation of the previous application.
- 4.2 Public Right of Way Manager: Does not affect the Public Right of Way.

## 5. Representations

- 5.1 The applicant has submitted a Unilateral Undertaking and Supporting Statement, which set out the obligations that the applicants are prepared to comply with and the background to the application, respectively. Furthermore, the applicants' solicitor has provided a letter in response to the letter from the Third Party's solicitor's letter objecting to the proposal. In summary these state:
- The gate to the existing access will be kept closed at all times, except whilst in use by the Third Party, in accordance with the terms of their right of way.
  - The applicants will give reasonable notice of the start and finish times of any proposed or actual use of the existing access by the Third Party (or successors in title)
  - At all times when the existing access is in use by the private right of way holder, whether notice of such use is given by the applicants to Herefordshire Council or not, the applicants will only use the existing access to their field at The Plock and not to use the new access.

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Further information on the subject of this report is available from Mrs C Atkins on 01432 260536

- The unilateral undertaking does not restrict the Third Party right of way over the land, the solicitor's letter is factually and legally incorrect. The right of way is completely unaffected.
  - The applicants, who live in close proximity to the site, will monitor usage of the existing access by the Third Party and convey all reasonable notice that can be given.
  - Unilateral undertaking does not require the Third Party to give notice of proposed use of the access, in compliance with the right of way.
- 5.2 Sollers Hope Parish Council: It's clear that an agreement has not been reached between the Jacksons (who have right of way through the existing access) and the Jones' (landowners). The Parish Council feels only able to support this application once the issues between the two parties have been fully resolved.
- 5.3 Three letters of objection have been received from Mr and Mrs Glover, Falcon Field, How Caple, Higgs and Sons Solicitor's on behalf of Mrs Jackson, Rock Farm, Sollers Hope and Mr Jackson, The Rock, Sollers Hope. The main points raised are:
- Two accesses opposite my property (Falcon Field and Falcon Nest) are unacceptable, whatever the restriction.
  - Lack of discussion between the parties involved.
  - Unilateral undertaking developed by the applicant/solicitors, and the Council requires investigation. Short time scale for consultation does not allow this. Time scales should be extended.
  - Concern over Council's effective communication and methods of problem solving with affected parties.
  - Mr and Mrs Jackson advised us (Mr and Mrs Glover) that they communicated their rights of way to the applicants on 22 January, prior to the planning permission.
  - The third parties right of access is unrestricted. No obligation to notify the applicants of intention to use the existing access.
  - How would the applicants know when to close the gate? As such the undertaking cannot be fulfilled.
  - Third Party approval has neither been sought nor given for this new arrangement. Third Party will not accede to the restrictions imposed by the undertaking.
  - Unable to support as will control how the existing right of way is used. Concerned that the applicants can implement a unilateral undertaking without agreement from those who have the right to use the existing access under the 1971 conveyance.
- 5.4 Fifty-three letters of support have been received, from local residents, people who state that they frequently use the B4224 and Paul Keetch MP. In summary the points raised are:
- Use of the new access is essential for the road safety of the applicants and the general public who use the B4224.
  - This proposal is a sensible approach to resolve this problem and allow simultaneous use of the existing and new access.
  - The new access is far safer than the existing, so this application should be supported, as it would allow the applicants to use the new access.
  - This greatly affects the livelihood of the applicants.
  - Proposal would ensure the safe use and free flow of traffic using the road.
  - Common sense should prevail and allow the use of the new access.
  - The old access is preserved as one of two timber extraction routes from Birchwood, and of the two routes available this is the least desirable, being steeper and having nowhere to stack timber.
  - As a neighbouring landowner, I feel that the applicants have acted decently, honestly in the best interests of the environment and the community and feel they are being unfairly discriminated against.

- I spoke in favour of the original application at Committee and whilst this proposal is not as safe I have no objection if it will allow the applicants to continue to farm in the responsible and careful manner we have come to expect from him (Mr Day, The Falcon House).
- Agreement is a sensible solution and I offer up my full support (Paul Keetch MP).

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 issue to be considered is whether the variation of condition 7 of planning permission SE2007/3932/F, in accordance with the terms of the Unilateral Undertaking, would control the use of both accesses at the site satisfactorily in the interests of highway safety.
- 6.2 The Unilateral Undertaking states that the applicants will adhere to the following, if permission is granted:
- Will give reasonable notice of the Third Party's use of the existing access to the Council.
  - Upon use of the existing access by the Third Party, the applicants will cease use of the new access (whether they have provided notice to the Council, or not).
  - While the Third Party is using the existing access, the applicants will only use the existing access.
  - When the Third Party stops using the existing access, the applicants will use the new access.

The Unilateral Undertaking places no burden or requirements on the Third Party. In practice they will be able to use the existing access in accordance with the terms of the 1971 conveyance. Use by the Third Party would be readily evident, being for timber haulage. The objections are noted, however, they appear to be based on a misunderstanding of the requirements of the Unilateral Undertaking. Being 'Unilateral' the undertaking only places requirements on one party. The gate will not be locked, but rather shut, as it is presently, and as is necessary by virtue of there being livestock in the field.

- 6.3 Although the proposal does not prevent the use of the existing access as per planning permission SE2007/3932/F, the amended proposal, would prevent the applicants using the new access at the same time as the Third Party is using the existing access. In essence this would prevent dual use of the accesses, which would not be acceptable in highway safety terms, given their proximity to one another and the dangerous position of the existing access on a bend in the road. Moreover, when the Third Party is not using the existing access the applicants can use the new access which is safer in highway terms. It is, therefore, considered to be an acceptable solution to the existing circumstances.
- 6.4 Having assessed the revised wording of condition 7 and the Undertaking, in light of Circular 11/95 – The Use of Conditions in Planning Permissions, it is considered that the proposal complies with tests of the validity of conditions. In particular the condition is necessary to control concurrent use of the two accesses, it would be relevant to planning and the development proposed and is precisely worded. The revised condition would be reasonable, as it places no burden on the Third Party or unreasonable obligation on the applicants. Turning to enforceability it is considered that the Council would be able to monitor use of the accesses effectively and take action if required, either through the notice given by the applicants of the use of the existing access or from local residents.

**RECOMMENDATION**

That planning permission be granted subject to the following condition:

- 1 The existing vehicular access, in the western corner of the site on to the B4224 and the new vehicular access as authorised under planning permission DCSE2007/3932/F shall be used only in accordance with the provisions of the Deed of Unilateral Undertaking given by the Applicants to the County of Herefordshire District Council, as submitted with the planning application.

Reason: To ensure the safe and free flow of traffic using the adjoining County highway.

**INFORMATIVES:**

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

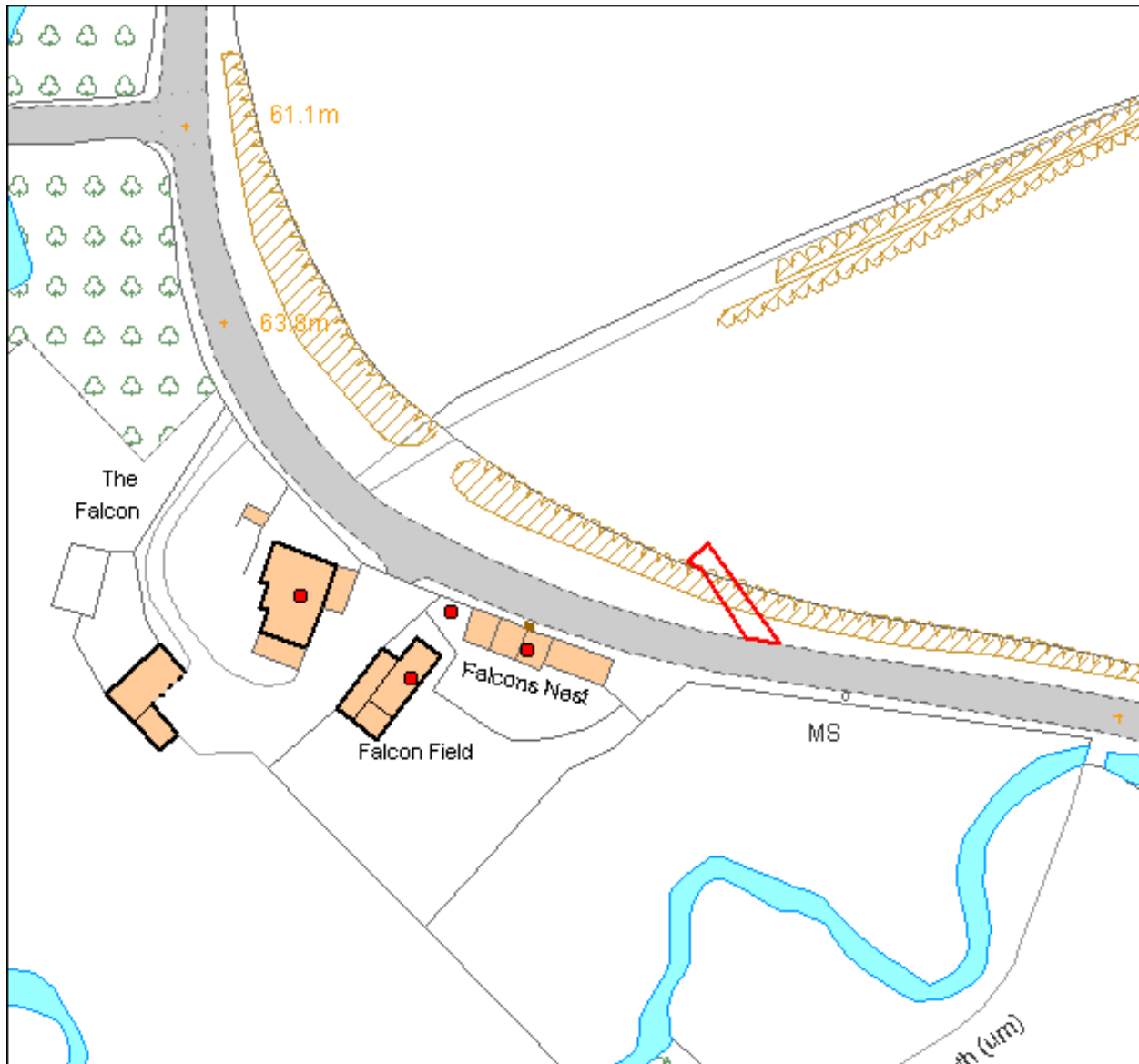
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



Scale

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**APPLICATION NO:** DMSE/092748/F

**SITE ADDRESS :** THE PLOCK, SOLLERS HOPE, HEREFORDSHIRE, HR1 4TF

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**6 DMSE/092571/FH - LOFT CONVERSION INTO THREE BEDROOMS & TWO EN-SUITES. RAISE MAIN RIDGE BY 1.3M. REAR GABLE WITH FRENCH DOORS. RAISE RIDGE OF REAR ANNEX WITH SIDE APEX DORMER. AT ASHDOWN, LLANGROVE, ROSS-ON-WYE, HEREFORDSHIRE, HR9 6EP.**

**For: Mr Morgan Per Gallery Loft Conversions, 4 Cynor House, Abernant, Aberdare, Wales, CF44 0PY.**

**Date Received: 13 October 2009    Ward: Llangarron    Grid Ref: 353087.0,219023.0**

**Expiry Date: 22 December 2009**

Local Member: Councillor JA Hyde

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

- 1.1 The site lies on the northern side and set back from the unclassified road between Llangrove and Whitchurch, opposite Llanwrithy. The property is a detached 1960's bungalow, set back some 15 metres from the roadside boundary and screened by a mature hedgerow. Either side of the property there is residential development, with agricultural land to the rear. The dwelling to the east, Meadowside (annotated as Ravensholme on the site location plan) was built under the same planning permission as Ashdown, but is a handed version. A 2 metre high fence defines the boundary between the two bungalows and there is a pair of link detached garages between and to the rear of the two bungalows. Ashdown has been previously extended, by way of a ground floor addition to the rear elevation. Levels slope gradually from the road up into the site, but are relatively flat within the rear garden of the site.
- 1.2 It is proposed to increase the main ridge height of the bungalow by 1.3 metres and the earlier ground floor extension by 1.4 metres to facilitate the provision of first floor accommodation. The eaves height would not be altered. Amended plans have been received, which have reduced the number of roof lights, altered the size and position of the roof extension/dormer windows and increased the height that the roof would be raised. As amended, three rooflights are proposed to the southern (front) elevation and a gabled roof extension and two rooflights to the northern (rear) elevation. In addition, two dormer windows are proposed in the eastern elevation of the earlier ground floor extension. The first floor accommodation would comprise three bedrooms, two shower rooms and storage areas.
- 1.3 The roof ridge height of Meadowside has been recently altered in a similar manner, however no dormer windows or roof extensions were included in the approved scheme, with natural light being provided by rooflights.

## **2. Policies**

### **2.1 Herefordshire Unitary Development Plan**

H18 - Alterations and Extensions

## **3. Planning History**

- 3.1 SH93/0471/PF Extension to rear of bungalow to create ancillary accommodation. - Approved 27.05.93

#### 4. Consultation Summary

- 4.1 Traffic Manager: Recommend refusal, concerned about intensification and therefore number of trips generated, and visibility of the site. Existing parking arrangements only allow for reversing out of the site, therefore parking and turning need to be incorporated into the design.

#### 5. Representations

- 5.1 Parish Council (original and amended plans): Unanimously do not support the planning application as we feel it is intrusive to the neighbouring property and extremely large for the plot of ground.
- 5.2 Three letters of objection have been received. Two letters, one each in relation to the original and amended plans from Mr and Mrs Smail, Meadowside and one letter from Mr Shapland of Bryn Elm, Llangrove (owner of Mapps Pool House). The main issues raised are:
- The proposed raising of the roof ridge on the annexe will curtail the daylight to the kitchen on the eastern side of Mapps Pool House.
  - No rational objection to raising the main ridge.
  - Lack of parking for such a considerable extension.
  - Proposed conversion would significantly overlook our back garden from both the rear gable end with French doors and the side apex dormer (Meadowside). We derive great enjoyment from not being overlooked.
  - A balcony could be created where the French doors are proposed.
  - Object to amended plans, we will be overlooked to a degree which will spoil our enjoyment of our rear garden.
- 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 main issues are the acceptability of the proposal in terms of its impact upon the character and appearance of the dwelling, the affect on neighbouring properties and highway safety.
- 6.2 Policy H18 of the HUDP sets out the requirements for extensions to dwellings. The policy requires that the original dwelling remains the dominant feature, that the new development is in keeping with the character of the existing dwelling in terms of scale, mass, siting, detailed design and materials, the proposal would not be cramped on its plot, would not adversely impact on the privacy and amenity of occupiers of neighbouring properties and the level of resulting off street parking provision is in accordance with H16.
- 6.3 The proposal would increase the height of the main roof ridge from 5.1 metres to 6.4 metres and provide rooflights to the front elevation and a rooflight and roof extension to the rear. As a result of the proposal the dwelling would be altered from a bungalow to a dormer bungalow. The eaves heights would not change and by virtue of this, together with the ridge height increase and the provision of rooflights only to the front elevation, it is considered that the resulting dwelling would essentially have the appearance of a bungalow and as such the original dwelling would remain dominant. In addition, the neighbouring bungalow, Meadowside, has been increased to the same height, with two rooflights on the front elevation.



- 6.4 Amended plans have reduced the height of the roof ridge of the extension to the rear roof slope and set it in from the gable end elevation. The originally proposed long, dormer window to the eastern elevation of the extension has been amended to two dormer windows. These amendments are considered to have satisfactorily reduced the bulk of these elements of the scheme, such that they would be broadly in keeping with the character and appearance of the existing bungalow, in terms of scale, mass, design and materials. The proposal does not increase the size of the footprint of the dwelling and taking into account the size of the plot within which the property sits, it is considered that the resulting dwelling would not appear cramped on the plot.
- 6.5 Turning to the impact upon the neighbouring properties, this relates to the dwellings either side of the site. With regards Mapps Pool House, to the west, it is considered that the minimal height increase of the earlier extension by 1.4 metres, from 4.4 metres to 5.8 metres, in the context of some 16 metres between the nearest elevations of the properties, would not result in a loss of daylight or overbearing impact.
- 6.6 In respect of the property to the east, Meadowside, the main objection raised is that overlooking would result from the proposed rear elevation gable extension and the dormer windows to the eastern elevation of the earlier extension. The roof extension to the rear elevation, which includes French doors with a Juliet style balcony, would afford views of part of the objector's rear garden. However, these views would be at an obtuse angle and would not result in the loss of privacy of the majority of the garden. The dormer windows to the eastern elevation would provide light to a stairwell and bedroom. The distance between this elevation and the boundary with Meadowside would be some 12.5 metres. The garage block is sited between the sight line of the dormers and the neighbour's garden, but due to their flat roof design and height would not obscure views from the proposed dormers. Whilst the dormers would enable views across the neighbour's property, it is considered that, on balance, due to the distance separation and that only one of the dormer windows would serve a bedroom, this element of the scheme would not unacceptably impinge upon the residential amenity of the neighbour.
- 6.7 As existing the off road parking is provided in tandem along the driveway. There is no area within the site for turning. The Traffic Manager has raised an objection on the basis of the lack of turning area and the intensification of the use of the site. It is considered that as the front garden is capable of being altered to provide a parking/turning area and the site already has more than the 1.5 spaces required by policy H16 of the HUDP, a condition would be reasonable to control this matter. With regards improvements to the visibility splay, this was considered unreasonable in the consideration of the planning application of the neighbouring property and as such is not recommended in relation to this proposal.

## RECOMMENDATION

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

- 1 A01 Time limit for commencement (full permission)**
- 2 B03 Amended plans**
- 3 H12 Parking and Turning – Single House**

## INFORMATIVES:

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

Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



Scale

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**APPLICATION NO:** DMSE/092571/FH

**SITE ADDRESS :** ASHDOWN, LLANGROVE, ROSS-ON-WYE, HEREFORDSHIRE, HR9 6EP

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**7 DMSW/091993/F - ERECTION OF WORKSHOP, DISPLAY SHOP AND OFFICE FOR BLACKSMITHING BUSINESS AT OLDFIELD FARM, GARWAY HILL, HEREFORD, HR2 8HA.**

**For: Mr A Heath, Turpins, St Weonards, Herefordshire, HR2 8RQ.**

**Date Received: 16 September 2009      Ward: Pontrilas      Grid Ref: 345173,224053**

**Expiry Date: 11 November 2009**

Local Member: Councillor RH Smith

**1. Site Description and Proposal**

- 1.1 The site is reached off the eastern side of the C1238 road to the south east of Garway Hill. The C1238 road skirts the eastern lower slope of Garway Hill, nevertheless Oldfield Farm is an elevated site. The farm comprises a range of listed stone rubble barns and modern farm buildings to the north and north east of the traditional farm buildings which are currently in use for storage purposes together with a traditional farmhouse. The applicant currently is using a lean-to blockwork building on the western side of one of the listed barns. There is a farm gate entrance just to the south west of the existing workshop building.
- 1.2 It is proposed to erect a new larger portal frame building in a clearing, used previously for rough grazing for sheep. The main workshop building will be 13.7 metres long and 12.2 metres wide; the display shop will be 7.6 metres by 4 metres in area and an office adjoining it 4 metres by 2.5 metres. The two smaller elements will be contained in a lean-to element on the southern side of the main workshop building. The height of the workshop will be 5.6 metres to the ridge. It is 16 metres to the west of the nearest block of buildings. There is a wood to the west of the application which provides screening from the C1238 road.
- 1.3 The applicant has been using his existing workshop for approximately two years or so. He was previously using a smaller building on the farm. The land for the proposed workshop has been offered to the applicant by his grandfather.
- 1.4 The applicant has also applied for a detached dwelling on land approximately one kilometre north along the C1238 road. This is the subject of a separate planning application which was reported to the Southern Area Planning Sub-Committee on 25 November 2009. This application has been referred to the Planning Committee scheduled for 20 January 2010.

**2. Policies**

**2.1 Planning Policy Statements**

PPS7 – Sustainable Development in Rural Areas

**2.2 Herefordshire Unitary Development Plan**

S1 - Sustainable Development  
 DR1 - Design  
 DR2 - Land Use and Activity

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

- DR3 - Movement
- DR4 - Environment
- DR13 - Noise
- E6 - Expansion of Existing Businesses
- E8 - Design Standards for Employment Sites
- E11 - Employment in Smaller Settlements and Open Countryside
- HBA4 - Setting of Listed Buildings

### 3. Planning History

- 3.1 None identified relating to the site

### 4. Consultation Summary

#### Statutory Consultations

- 4.1 No statutory or non-statutory consultations required

#### Internal Council Advice

- 4.2 Traffic Manager states that further plans are required for the access onto the C1238 road and details for on-site parking
- 4.3 The Environmental Health and Trading Standards Manager raises no objections

### 5. Representations

- 5.1 A Design and Access Statement has been submitted with the application:

- Application is made for new workshop, product display shop and office
- Share existing farm workshop. No longer adequate for expanding business.
- Taking on full-time employee and urgently need new premises
- Workshop (13.7 metres by 12.2 metres)
- Display shop is to be 7.6 m by 4 metres
- Office is to be 4 m by 2.5 m
- Office and display shop will be constructed from rendered concrete blocks with red brick face to south and east aspect. Lean-to roof will be covered with sheets of moulded grey/black imitation moulded tiles
- Windows will be wood or uPvc
- Workshop will be constructed from steel portal frame covered in metal sheeting over concrete shuttered sides under a big 6 roof covering

#### Access

- For practicality and economic reasons access will be via the existing farm roadway and by then taking a short hardcore surfaced drive to the new workshop.

- 5.2 Garway Parish Council support the application

- 5.3 In a letter that accompanied the application, the applicant makes the following main points:

- I am a 26 year old self-employed blacksmith
- I have been sharing the workshop on the farm (which is owned by my grandfather) for the past three years or so, now urgently need a larger purpose built premises
- This would include an office and shop to display items I produce

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

- Site offered to me by grandfather is a discreet one formerly used for rough grazing of sheep
- New separate access will be provided
- Exit onto C1238 has very good visibility in both directions
- There are a number of established trees around the site, however only one long-dead fir will need to be removed

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 are considered to be the principle of development on a site in open countryside, the setting of the listed building, impact on amenity and the means of access and traffic generated.
- 6.2 The new building will allow the applicant to expand his existing business on the site and to employ additional workers. The applicant is currently employing an additional worker. The existing workshop building which was formerly a lambing shed restricts for the type of work undertaken by the applicant which can be for domestic fireplaces through to welding work on machinery. Work is also undertaken away from the premises. The shop area is a display area for customers who may visit the site, at present some items are displayed outside the building or are on the walls of the building. It is not considered that this low level of use will generate visitors and can be regarded as an ancillary element.
- 6.3 The application is reported to Sub-Committee given that it constitutes new industrial development in the open countryside contrary to the requirements of Policy E11 in the Herefordshire UDP which does not encourage for new employment in the open countryside. However Policy E6 which is concerned with the expansion of existing businesses, would allow for this subject to the location of a suitable site for an existing business to expand. It should also be noted that the existing use albeit one which does not have the benefit of planning permission would accord with Policy E11 given the enterprise utilise an existing building. Therefore, on balance it is considered that support can be given to the principle of the development, subject to controls over future use and expansion.
- 6.4 The setting of the listed barns would not be unduly affected by this proposal in view of the established presence of modern farm buildings with the traditional buildings in this group and accordingly Policy HBA4 is satisfied.
- 6.5 The means of access is on the inside of a bend onto the C1238 and it is considered that the visibility to north and south are satisfactory. The on site parking arrangements will need to be addressed by the submission of further details in the event that planning permission was granted. There will only be an average one visitor a day, which given the existing means of access, which can be improved upon, will not constitute a danger to highway safety. However, in the light of the concerns raised by the Traffic Manager it will be necessary for the applicant to provide details of the extent of visibility achievable at the access. This information has been requested and the recommendation reflects the need for further consideration of this issue.
- 6.5 It is considered that given that the site is well screened from view and that it is viewed against larger buildings on the site the new building will not materially impinge upon the landscape of this elevated site in the wider countryside. The building will also not impinge upon the amenities of any residents living in the vicinity of the new blacksmith workshop, by reason of noise and disturbance and therefore would not be contrary to Policies DR4 and E8 in the Herefordshire UDP.

6.6 The proposal can be supported subject to conditions restricting the use and the user and to ensure that the building would in the event that it was no longer required for the approved use revert to an agricultural use which would be compatible with this open countryside location.

**RECOMMENDATION**

**That, subject to the receipt of details of the visibility splay and confirmation that the Traffic Manager is satisfied, planning permission be granted subject to the following conditions, and any other conditions that may be deemed necessary:**

- 1        **A01 Time limit for commencement (full permission)**
- 2        **B01 Development in accordance with the approved plans**
- 3        **C01 Samples of external materials**
- 4        **F06 Restriction on Use**
- 5        **F26 Personal condition**
- 6        **H15 Turning and parking: change of use - commercial**

**INFORMATIVES:**

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

Decision: .....

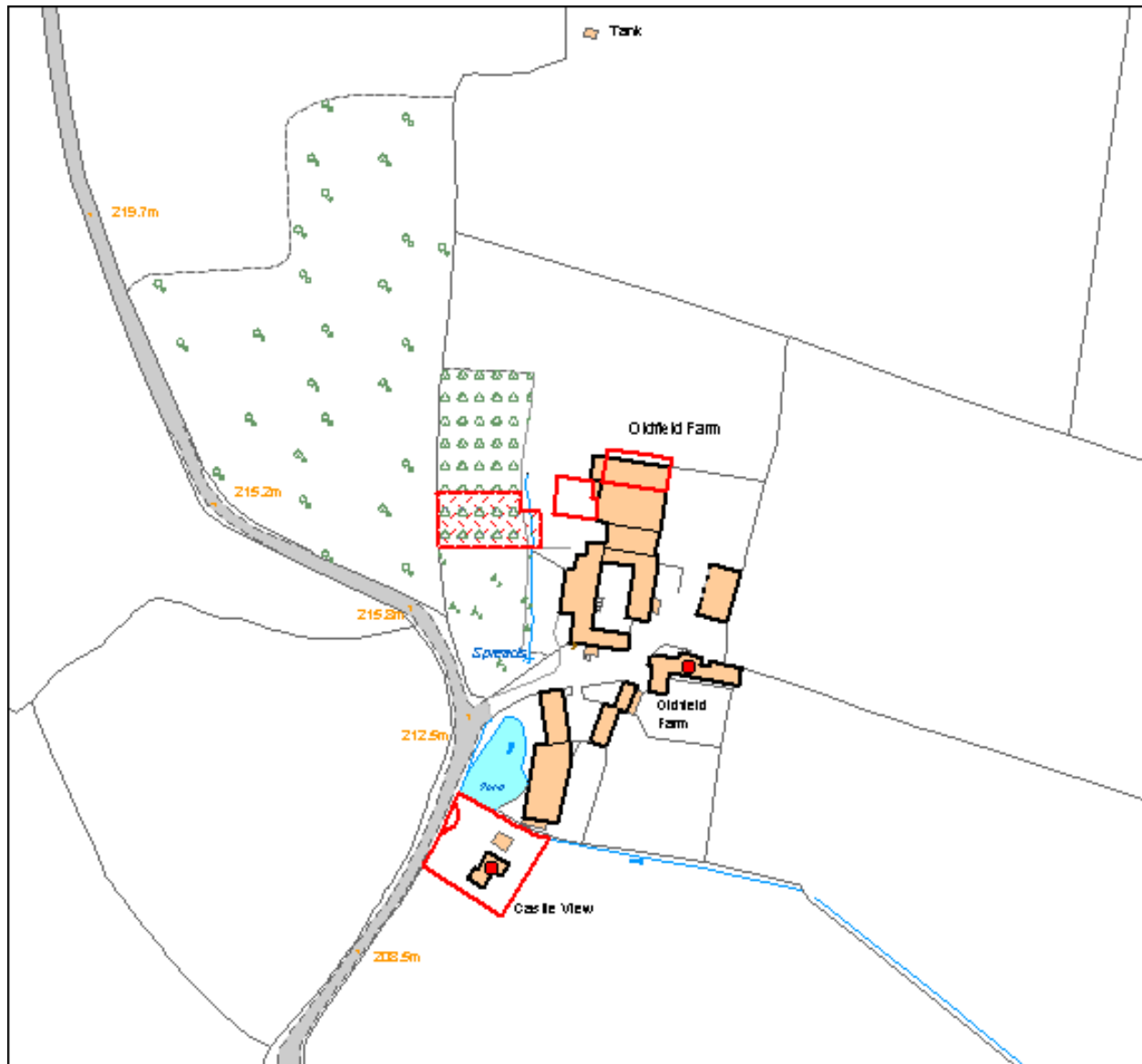
Notes: .....

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**Background Papers**

Internal departmental consultation replies.





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**APPLICATION NO:** DMSW/091993/F

**SITE ADDRESS :** OLDFIELD FARM, GARWAY HILL, HEREFORDSHIRE, HR2 8HA

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**8 DMSE/092727/F - CHANGE OF USE OF EAST WING TO TWO HOLIDAY LETS AT CARADOC COURT, SELLACK, ROSS-ON-WYE, HEREFORDSHIRE, HR9 6LS.**

**For: Mr Handby Per Mr John Handby, Caradoc Court  
Sellack, Ross-on-Wye, Herefordshire, HR9 6LS.**

**Date Received: 22 October 2009    Ward: Llangarron    Grid Ref: 355864.0,227484.0**

**Expiry Date: 17 December 2009**

Local Member: Councillor JA Hyde

**1. Site Description and Proposal**

1.1 The application seeks planning permission for the change of use of the East Wing at Caradoc Court, Sellack to form two holiday lets. Caradoc Court is an imposing Grade II\* listed limestone and sandstone country house located on a river scarp above the Wye. The Court was gutted by fire in the mid 1980's and restored thereafter. The East Wing as described in the application comprises the 3-storey element at the eastern end of the dwelling, but also the studio flat located over the existing garage, which is set back substantially from the main façade.

1.2 The holiday let proposed within the East Wing is the larger of the two, extending over three floors and comprising part of the 'original' house. The ground floor contains an entrance hall, kitchen, dining room and sitting room. At first floor there are two large bedrooms with en-suite with a third bedroom and what is described as a sitting room/fourth bedroom on the second floor. There is a linking door at first floor back into the remainder of the house.

1.3 The studio flat/let is more basic comprising a small kitchen, double bedroom and bathroom.

**2. Policies**

**2.1 National Guidance**

PPS 7                    -        Sustainable Development in Rural Areas  
PPG 15                 -        Planning and the Historic Environment

**2.2 Herefordshire Unitary Development Plan**

S1                        -        Sustainable Development  
S2                        -        Development Requirements  
S7                        -        Natural and Historic Heritage  
H7                        -        Housing in the Countryside Outside Settlements  
LA1                      -        Areas of Outstanding Natural Beauty  
RST1                    -        Criteria for Recreation, Sport and Tourism Development  
RST2                    -        Recreation, Sport and Tourism Development Within Areas of Outstanding Natural Beauty  
RST12                  -        Visitor Accommodation  
HBA1                    -        Alterations and Extensions to Listed Buildings  
HBA3                    -        Change of Use of Listed Buildings  
HBA4                    -        Setting of Listed Buildings

T6 - Walking

### 3. Planning History

- |     |                        |  |                          |
|-----|------------------------|--|--------------------------|
| 3.1 | SH83/0803PF            | Change of use from agricultural and residential to health and leisure complex (including hotel) at Caradoc Court, Sellack:                     | - Approved<br>09.11.83   |
| 3.2 | SH84/020PF             | Change of use to a residential home for the elderly/nursing home at Caradoc Court, Sellack   | - Approved<br>25.04.84   |
| 3.3 | SH89/0963PF<br>& 0964L | Restoration and extension to form 20 apartments and erection of 5 cottages in walled garden at Caradoc Court, Sellack:                         | - Deemed<br>withdrawn    |
| 3.4 | SH94/0997PF            | Rebuild fire damaged house to original state as single residence with outbuildings and six houses on adjoining land at Caradoc Court, Sellack: | - Approved<br>24.02.95   |
| 3.5 | DCSE2006/1684/V        | Certificate of lawfulness for six new houses (approved on Planning Permission SH940997PF), Caradoc Court, Sellack                              | - Approved<br>06.12.06   |
| 3.6 | DCSE2007/0330/U        | Certificate of lawfulness for existing use as a residential unit, The East Wing, Caradoc Court, Sellack  | - Withdrawn<br>27.11.08  |
| 3.7 | DCSE2007/1771/G        | Variation of Section 106 Agreement Ref: SH940997PF at Caradoc Court, Sellack   | - Refused<br>12.09.07    |
| 3.8 | DCSE2009/2850/F        | To hold a limited number of weddings/functions at the property (no more than 25 per annum)   | - As yet<br>undetermined |
- 3.9 Of particular relevance to the planning history is application SH94/0997PF. This gave permission for the restoration of the Court to a single residence together with the construction of enabling development comprising 6 detached dwellings on land to the east of East Lodge. Although the development was described as the restoration of the Court to a single residence, there was no associated planning condition or clause in the S.106 agreement stipulating that the Court should remain a single dwelling in perpetuity.

### 4. Consultation Summary

#### Statutory Consultations

- 4.1 English Heritage: No objection

#### Internal Council Advice

- 4.2 Traffic Manager: Visibility at the new point of access onto the C classified Hoarwithy Road needs to be improved to 2.4m x 90m as per the previously approved scheme for the enabling development. Any intensification of use of this access without this improvement would not be acceptable.
- 4.3 Conservation Manager (Building Conservation): No objection
- 4.4 Tourism Manager: No objection

### 5. Representations

- 5.1 Sellack Parish Council: No objection

5.2 Letters of objection have been received. The content is summarised as follows:

- The restoration of Caradoc Court was linked to an enabling development of 6 houses to be constructed on a nearby site. The planning permission stipulated Caradoc Court be rebuilt to its original state as a single residence. The approval of the enabling development on such a scale and in such a sensitive location presumably reflected the size of development needed to fund the restoration of the Court as *a non-commercial venture*.
- It is clear that the Court has not been rebuilt in the manner intended. It is also clear that the present owners intend to use the Court for commercial purposes. Had this outcome been intended in 1995, it is reasonable to assume that a smaller (or even no) enabling development might have been approved.
- The proposed self-catered B&B units would intensify the use of the vehicular access and junction onto the C road. As part of the enabling development a new junction was cut above the existing gated entrance adjacent the lodge. It is uncertain as to whether the current owners, or their guests, intend using the new access. This is a highway safety issue.

5.3 The applicants have written in response to the points raised by the letters of objection. The letter explains that Caradoc Court has been home historically to not just the principal occupants, but also to a host of servants and estate workers. A former owner also converted and occupied the east wing as a separate residence.

The applicants disassociate themselves from the site for the six enabling houses and state that Caradoc Court was purchased with a strong desire to complete the restoration and bring it back to life, principally as a family home, but with the purchase predicated upon the belief that some form of commercial use would be necessary to assist with the considerable upkeep associated with a dwelling of this size.

The applicants believe that operating the East Wing as holiday accommodation is a good use of that part of the property, which is in line with the tourist objectives for the area and will be of benefit to local businesses whilst ensuring the continued integrity and viability of Caradoc Court.

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 Caradoc Court is a large Grade II\* listed country house, which has its origins in the C16 and C17th. Following severe fire damage in 1986, it has been restored over the last 15 years to a point where work has been completed to the satisfaction of the local planning authority and the dwelling is occupied primarily as a private dwelling. It is in this context that the applicants are seeking planning permission to change the use of the East Wing and studio over the garage to form two separate holiday let units.

### Policy Framework

6.2 National guidance on historic buildings is provided by PPG15 (draft PPS15 is at the consultation stage). The generic advice on the change of use of historic buildings is given at Paragraph 2.18:-

"New uses may often be the key to a building's or area's preservation, and controls over land use... and other planning matters should be exercised sympathetically where this would enable a historic building or area to be given a new lease of life. The Secretary of State is not generally in favour of tightening development controls over changes of use as a specific instrument of

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Further information on the subject of this report is available from Mr E Thomas on 01432 260479

conservation policy. He considers that, in general, the same provisions on change of use should apply to historic buildings as to all others. Patterns of economic activity inevitably change over time, and it would be unrealistic to seek to prevent such change by the use of planning controls.”

- 6.3 In addition to the adopted Government guidance the Unitary Development Plan contains various policies that are of relevance. As holiday lets are de facto dwellings (subject to restrictive occupancy conditions) Policy H7 could be argued as of relevance, as could policy H17, which deals with the subdivision of existing housing (and does not specifically preclude the subdivision of housing in the open countryside). Although the site is within the AONB, Policy LA1 is of less relevance as the proposal involves the re-use of an existing building and does not involve any new build or other harm to the AONB.
- 6.4 Policy HBA1 deals with alterations and extensions to listed buildings, although the proposal does not involve any alterations to the fabric of the listed building itself. Policy RST1 deals with proposals for recreation, sport and tourism development and states a presumption in favour of the re-use of existing buildings for proposals in the open countryside. Policy RST2 deals explicitly with recreation, sport and tourism development within Areas of Outstanding Natural Beauty and requires that development must respect and be in keeping with the inherent distinctiveness of the local landscape, be small scale and make a positive contribution to the understanding and quiet enjoyment of the natural beauty of the area. In this instance the proposal does not involve any new build and has no impact upon the distinctiveness of the local landscape.
- 6.5 RST12 deals with visitor accommodation and states that in the open countryside the provision of permanent serviced or self-catering accommodation for visitors will only be permitted if it consists of the re-use and adaptation of a rural building and:
- Is of an appropriate scale and design for its surroundings;
  - Does not harm the character or appearance of the countryside;
  - It is wherever possible accessible by a choice of modes of transport and is designed to incorporate access for the disabled;
  - The proposal does not harm the character of the original building.
- 6.6 In this instance it is the fourth of the above criterion that is of most consequence in assessing this application. The Conservation Officer has commented that the proposal has no implications for the pre-existing use of the Court as it intends no alterations and proposes a use that is residential in character. Accordingly the proposal is considered to accord not only with Policy RST1 but also HBA1.
- 6.7 The letters of objection refer to the fact that the enabling development was associated with the restoration of the Court as a single dwelling, although the wording of the associated Section 106 did not confirm this and the planning permission did not contain a planning condition to that effect. Although the substance of the objections is understood, it is maintained that the enabling dwellings served the purpose of securing the restoration of the building to a point whereby it became capable of occupation as a single residence. An objective that has been satisfied. Now complete, it is entirely appropriate to consider the alternative use of the building in accordance with currently adopted policy.
- 6.8 The Traffic Manager is satisfied that the existing drive is capable of accommodating any increase in vehicular traffic associated with this proposal, but has recommended a condition to improve visibility at the new access onto the C classified Hoarwithy Road. This is achievable and can be governed via a condition to require the improvements to be undertaken within a prescribed timescale.

6.9 Although the planning history is material to the consideration of this case, it does not determine that the Court shall remain as a single dwelling in perpetuity and it is entirely legitimate to consider the future of the property and the other material planning considerations associated with permitting an alternative use of the property. On this basis the proposal is considered to accord with the purpose of the planning policies referred to above 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)**
- 2. F30 Use as holiday accommodation**
- 3. H04 Visibility over frontage**

**INFORMATIVES:**

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

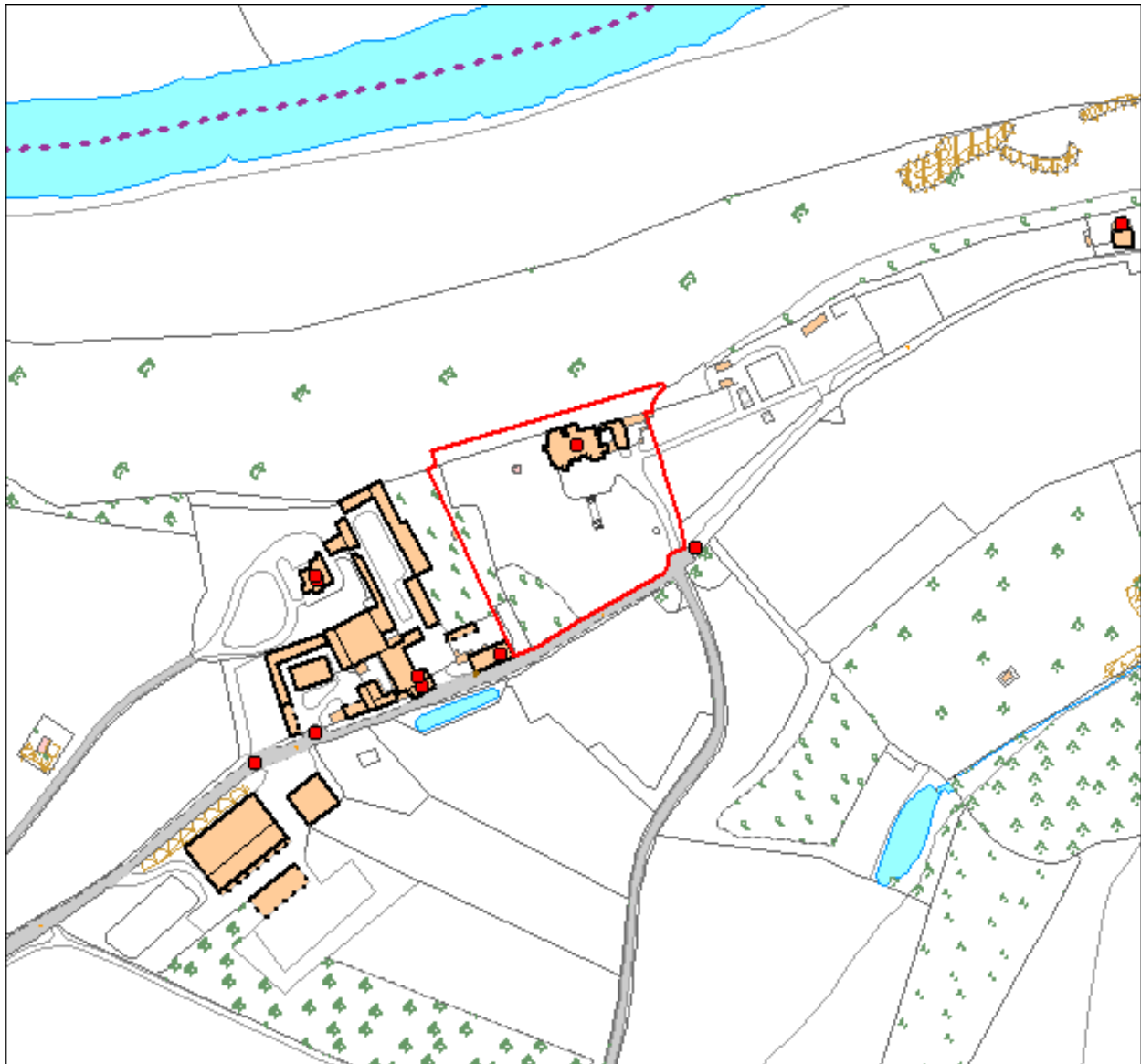
Decision: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** DMSE/092727/F

**SITE ADDRESS :** CARADOC COURT, SELLACK, ROSS-ON-WYE, HEREFORDSHIRE, HR9 6LS

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**9 DMSE/092758/F - REMOVAL OF EXISTING DETACHED HOUSE AND GARAGE AND REDEVELOPMENT OF SITE TO PROVIDE 7 NO. 2 BEDROOM FLATS INCLUDING CAR PARKING AND LANDSCAPING AND UTILISING EXISTING VEHICULAR ACCESS ALTERED TO PROVIDE NEW TURNING AT GREEN ORCHARD, RYEFIELD ROAD, ROSS-ON-WYE, HEREFORDSHIRE, HR9 5LS.**

**For: Mrs Drummond Per Mr Neil Shepherd, Goldenlea Grafton Lane, Binton, Stratford on Avon, Warwickshire CV37 9TZ.**

**Date Received: 27 October 2009 Ward: Ross-on-Wye East Grid Ref: 360594.0,224307.0**

**Expiry Date: 22 December 2009**

Local Members: Councillors PGH Cutter and AE Gray

**1. Site Description and Proposal**

- 1.1 The application site which comprises a modern detached house and gardens of about 0.13 ha is at the northern end of Ryefield Road. To the south and east are large Victorian detached houses (the adjoining house Cherrington being a stone villa) and terraced housing, respectively. On the opposite side of the road is the Ryefield Centre. To the north is a narrow strip of land with mature trees (subject to a Tree Preservation Order, although these trees are not on the site) and beyond that the Ashburton Industrial Estate.
- 1.2 An application (DCSE2007/0031/F) to erect a 3 and 2 storey block of 9 apartments was refused permission in June 2007 for the following reason:
- “The proposed apartment building would be an over-intensive form of development, which would harm the character and amenity of the area. The proposal would conflict therefore with Policies H1, H13, S2 and DR1 of the Herefordshire Unitary Development Plan 2007.”*
- 1.3 An application (DCSE2008/0039/F) was refused at SAPSC and subsequently dismissed on appeal. It was for the same number of residential units as DCSE2007/0031/F but with the main section fronting Ryefield Road being of 2 rather than 3-storey height. The application was refused for three reasons, relating to over-development, loss of privacy and inadequacy of the parking provision.
- 1.4 In his decision letter the Inspector commented that he did not consider the principle of redevelopment for flats to be out of keeping with the character of the area, but did conclude that the access and parking arrangements would introduce a degree of disturbance for neighbouring residents and that the outlook from one of the bedrooms to Cherrington would be significantly affected.
- 1.5 In an attempt to address these concerns the current scheme proposes redevelopment comprising the demolition of the existing dwelling and erection of 7 two-bed units. Bound up with this is a significant reduction in the scale of the building. In former applications vehicular access to the site was through an under-croft adjacent Cherrington, with accommodation over.

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Further information on the subject of this report is available from Mr E Thomas on 01432 260479

This is now dispensed with and the building is set away from the common boundary being 12.2 metres from the flank of Cherrington as opposed to 5.1 metres as proposed under the appeal scheme. The building is also brought 1 metre further forward on the site so that it is approximately 4 metres from the stone boundary wall. The building is smaller in scale, the two-storey element extending 18.2 metres back into the site as against the 25.8 metres under the appeal scheme. The building then steps down to a single storey for the remainder, which incorporates ground floor flat 4. The two-storey element remains 8.8 metres tall.

- 1.6 Ground floor units 1 & 2 share a lobby and offer identical accommodation and configuration. Units 3 and 4 to the rear have independent access. The stairs to the first floor are tucked around the corner against the rear of unit 1. Units 6 & 7 are found above units 1 & 2 and are identical. Unit 5 is above unit 3. A total of 11 parking places are provided at the rear of the site with provision for covered cycle parking. It is also proposed to modify the access in order to provide for a turning head for public use. The cul-de-sac does not currently contain a turning head and the access modification is being offered up as a means of overcoming the Inspector's concern.
- 1.7 The scheme is accompanied by a Draft Heads of Terms, which is compliant with the Council-adopted Planning Obligations SPD and is attached to this report as Appendix 1.

## 2. Policies

### 2.1 National Guidance

PPS3 - Housing

### 2.2 Herefordshire Unitary Development Plan 2007

S1 - Sustainable Development  
 S2 - Development Requirements  
 S3 - Housing  
 DR1 - Design  
 DR2 - Land Use and Activity  
 DR3 - Movement  
 H1 - Hereford and the market towns: settlement boundaries and established residential areas  
 H14 - Re-using previously developed land and buildings  
 H15 - Density  
 H16 - Car parking  
 LA5 - Protection of Trees, Woodlands and Hedgerows  
 LA6 - Landscaping Schemes

## 3. Planning History

- 3.1 DCSE2007/0031/F Demolition of existing detached dwelling and erection of 9 no. residential dwelling apartments - Refused 20.06.07
- 3.2 DCSE2008/0039/F Removal of existing house and construction of nine flats, including car parking and landscaping and utilising existing vehicular access - Refused 12.02.08 and subsequently dismissed on appeal.

## 4. Consultation Summary

### Statutory Consultations

4.1 Welsh Water: No response

Internal Council Advice

4.2 Traffic Manager: No objection subject to the submission of a detailed scheme for the turning head, which will have to be built to adoptable standards and a detailed design for the cycle parking. Both can be dealt with via condition.

4.3 Conservation Manager (Biodiversity and Landscapes): Has expressed some concern that the application is not accompanied by a tree survey and that the proposed bin store may impact trees on the adjoining site. It has been confirmed, however, that the proposal will not affect the TPO trees within the industrial estate to the north.

4.4 Public Rights of Way Manager: No objection

## **5. Representations**

5.1 Ross Town Council: No objections

5.2 Two letters of objection have been received from Mr Pope, Cherrington, Ryefield Road and Mr & Mrs Hiley, 8 North Road, Ross-on-Wye. The content is summarised as follows:

- The reduction in numbers from 9 to 7 will make no difference to the number of extra vehicles using the dangerous junction of Ryefield Road onto the Gloucester Road;
- The proposal would adversely affect the character of the area and may have implications for the drainage system;
- The proposal would result in loss of privacy and overshadowing of gardens.

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 proposes the demolition of the existing four-bed detached dwelling and replacement with a single block containing 7, 2-bed apartments at Green Orchard, Ryefield Road. The application is made against the backdrop of two previously refused schemes for 9 apartments, the latter of which was dismissed at appeal.

6.2 The main differences between the appeal scheme and the current proposal are as follows:

- A reduction in the number of units from 9 to 7;
- A reduction in the scale of the building. The two-storey element is truncated and steps down to a single-storey element further into the site;
- The parking ratio (apartments to parking spaces) rises from 1.44 to 1.57;
- Greater separation distance to the flank elevation of Cherrington – 12.2 metres as opposed to 5.1 metres;
- Modification to the access to create a turning head at the cul-de-sac for public use.

6.3 The main issues in the determination of this application are as follows:

- The principle of development;
- The impact of the proposal upon the privacy and amenity of neighbouring dwellings;
- The implications for the Ryefield Road/Gloucester Road junction.

- 6.4 The principle of residential development at the site is clearly established. The site is within an established residential area within a Market Town Policy (H1). Moreover, the appeal Inspector commented that redevelopment for apartments would not be out of keeping with the area. In addition the scale of the building has been substantially reduced. The density equates to 54 dwellings/hectare, which is considered appropriate to this suburban location in accordance with advice contained within PP53 Housing.
- 6.5 In dismissing the appeal for 9 apartments the Inspector concluded that the 5.1 metres separation distance between the appeal building and Cherrington would be insufficient to guard against a loss of outlook and amenity to a bedroom window at Cherrington. This smaller proposal has allowed this gap to widen to 12.2 metres, which is considered an acceptable separation between flank elevations. The neighbours at 8 North Road have expressed concern as regards loss of privacy and overshadowing of rear gardens. However, the proposed building would be 16.5 metres from the boundary, at which point it is single-storey. Moreover there is only one first floor window in the rear (east) elevation, which is 31 metres from the boundary and approximately 50 metres from the residential terrace in North Road. In fact, despite the increase in the number of dwellings on site, there are far fewer windows in the east elevation of the proposed apartment building than there are in the existing single dwelling.
- 6.6 The Traffic Manager has raised no objection to the proposal and is content that the scheme would have no consequence for the operation of the existing Ryefield Road/Gloucester Road junction. The provision of a publicly accessible turning head is welcome and will alleviate the current need to reverse and manoeuvre within the highway. The precise design detail of the turning head, which will be dedicated to the Highway Authority, will be governed via condition.
- 6.7 The submitted Design and Access Statement refers to proposed structural planting to “act as a buffer between the flats and adjoining properties and to enhance the level and number of trees within the area and along a road delineated by mature trees. A condition is recommended to ensure that such a scheme is implemented. The S.106 agreement will be completed in line with a standard condition, prior to the first occupation of any of the apartments.

### Summary and Conclusions

Officers are satisfied that the revised scheme respects the character of the area and would have no prejudicial impact upon the residential amenity of existing dwellings. The scale of the building is appropriate within the street-scene and parking is at an appropriate level. Subject to conditions, including the requirement to complete a S.106 Agreement, the application is recommended for approval.

## RECOMMENDATION

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

- 1. A01 Time limit for commencement (full permission)**
- 2. B07 Section 106 Agreement**
- 3. C01 Samples of external materials**
- 4. H06 Vehicular access construction**
- 5. H08 Access closure**
- 6. H09 Driveway gradient**

- 7. H13 Access, turning area and parking
- 8. H17 Junction improvement/off site works
- 9. H27 Parking for site operatives
- 10. H29 Secure covered cycle parking provision
- 11. G10 Landscaping scheme
- 12. G11 Landscaping scheme - implementation
- 13. F16 No new windows in specified elevation
- 14. I51 Details of slab levels

**INFORMATIVES:**

- 1. N15 Reason(s) for the Grant of Planning Permission
- 2. N19 Avoidance of doubt - Approved Plans

Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** DMSE/092758/F

**SITE ADDRESS :** GREEN ORCHARD, RYEFIELD ROAD, ROSS-ON-WYE, HEREFORDSHIRE, HR9 5LS

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## DRAFT HEADS OF TERMS

**Proposed Planning Obligation Agreement  
Section 106 Town and Country Act 1990**

Planning Application: Removal of existing detached house and garage and redevelopment of site to provide 7 no. 2-bed flats including car parking and landscaping at Green Orchard, Ryefield Road, Ross-on-Wye, Herefordshire HR9 5LS

1. The developer covenants with Herefordshire Council, in lieu of a deficit in the provision of play, sport and recreation facilities on site to serve the development, to pay Herefordshire Council the sum of £1,259 (contribution based around the requirements of policy H19 of the UDP). The money shall be used by Herefordshire Council for the provision of new play sport and recreational facilities within the locality.
2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £14,349 to provide enhanced educational infrastructure at St. Josephs RC Primary School, John Kyrle High School with 1% allocated for special educational needs.
3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £6, 815 for off-site highway works and improved sustainable transport infrastructure (excluding that required to facilitate the development i.e. new access and turning head arrangements).
4. The 'highway contribution' monies shall be used by Herefordshire Council at its option for any or all of the following purposes:
  - a) Traffic calming and improved signage;
  - b) Contribution to improved bus services;
  - c) Contribution to Safe Routes for Schools;
  - d) Improved bus shelters/stops in the locality of the application site;
  - e) New/improved cycling/pedestrian connectivity with the site;
  - f) New/improved pedestrian and cyclist crossing facilities;
  - g) Initiatives to promote sustainable transport initiatives.
5. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £1,022 toward the enhancement of existing library services in Ross-on-Wye.
6. The developer covenants with Herefordshire Council to pay Herefordshire Council an additional administrative charge of 2% of the total contributions detailed in this Heads of Terms to be used toward the cost of monitoring and enforcing the Section 106 Agreement.
7. In the event that Herefordshire Council does not for any reason use the said sum within Clauses 1, 2, 3 and 5 for the purposes specified in the agreement within 10 years of the date of this agreement, and unless otherwise agreed in writing with the Council, the Council shall repay the developer the said sum or part thereof, which has not been used by Herefordshire Council.
8. All of the financial contributions shall be Index Linked and paid on or before commencement of the development.
9. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.

Edward Thomas  
Principal Planning Officer 9 December 2009

