

# AGENDA

## Planning Committee

Date: **Wednesday 6 April 2011**

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Time: **10.00 am**

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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 Planning Committee

## Membership

<b>Chairman</b>	<b>Councillor TW Hunt</b>
<b>Vice-Chairman</b>	<b>Councillor RV Stockton</b>
	<b>Councillor ACR Chappell</b>
	<b>Councillor PGH Cutter</b>
	<b>Councillor H Davies</b>
	<b>Councillor GFM Dawe</b>
	<b>Councillor DW Greenow</b>
	<b>Councillor KS Guthrie</b>
	<b>Councillor JW Hope MBE</b>
	<b>Councillor B Hunt</b>
	<b>Councillor RC Hunt</b>
	<b>Councillor G Lucas</b>
	<b>Councillor RI Matthews</b>
	<b>Councillor JE Pemberton</b>
	<b>Councillor AP Taylor</b>
	<b>Councillor DC Taylor</b>
	<b>Councillor WJ Walling</b>
	<b>Councillor PJ Watts</b>
	<b>Councillor JD Woodward</b>

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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
1.	<b>APOLOGIES FOR ABSENCE</b> To receive apologies for absence.	
2.	<b>NAMED SUBSTITUTES (IF ANY)</b> To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.	
3.	<b>DECLARATIONS OF INTEREST</b> To receive any declarations of interest by Members in respect of items on the Agenda.	
4.	<b>CHAIRMAN'S ANNOUNCEMENTS</b> To receive any announcements from the Chairman.	
5.	<b>APPEALS</b> To be noted.	1 - 4
6.	<b>DMS/102972/F - CASTLE LODGE HOTEL, GREEN COURT, WILTON, ROSS ON WYE, HR9 6AD</b>  Removal of Conditions 13 and 16 of Planning Permission S/102971/F. Refurbishment and conversion of existing derelict barn to restaurant and create new car parking facilities and associated junction improvement works - to Remove conditions linking the ancillary use of the restaurant to the hotel.	5 - 12
7.	<b>DMS/110216/F - PENRICE, WALFORD ROAD, ROSS ON WYE, HR9 5PQ</b>  Retention of existing dwelling (Penrice) and erection of 8 two and three bedroom dwellings.	13 - 24
8.	<b>DATE OF NEXT MEETING</b>  Date of next site inspection - Tuesday 26 April 2011  Date of next meeting - Wednesday 27 April 2011	



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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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## HEREFORDSHIRE COUNCIL

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<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>6 APRIL 2011</b>
<b>TITLE OF REPORT:</b>	<b>APPEALS</b>

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**CLASSIFICATION:** Open

## Wards Affected

Countywide

## Purpose

To note the progress in respect of the following appeals.

## Key Decision

This is not a key decision

## Recommendation

That the report be noted

## APPEALS RECEIVED

### Application No. DMS/102805/F

- The appeal was received on 25 February 2011
- 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 B Shaw
- The site is located at 44 Tower Road, Hereford, Herefordshire, HR4 0LF
- The development proposed is Proposed demolition of existing dwelling & erection of 5 two bedroom apartments and provision of public turning area.
- The appeal is to be heard by Written Representations

**Case Officer: Ms K Gibbons on 01432 261781**

### Application No. DMNW/100435/F

- The appeal was received on 28 February 2011
- 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 Ms A Cleverly
- The site is located at Lower Field At Ash Farm, Barnet Lane, Wigmore, Herefordshire, HR6 9UJ
- The development proposed is Retrospective re-application for change of use of land from agricultural to one family travellers site, including stationing of one caravan, shed and ancillary structure
- The appeal is to be heard by Hearing

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Further information on the subject of this report is available from the relevant case officer

**Case Officer: Mr C Brace on 01432 261795**

**Application No. DMS/102740/F**

- The appeal was received on 8 March 2011
- 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 N Grant
- The site is located at Apartments at Millbrook House, Brookend Street, Ross on Wye, Herefords
- The development proposed is Proposed new two storey one bed dwelling.
- The appeal is to be heard by Written Representations

**Case Officer: Mr D Thomas on 01432 261974**

**APPEALS DETERMINED**

**Application No. DMN/090923/O**

- The appeal was received on 22 September 2010
- 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 Brian Gray
- The site is located at Land Adjacent To Bathfield, Hope-Under-Dinmore, Leominster, Herefordshire
- The application dated 6 April 2009 was refused on 18 August 2010
- The development proposed was the siting of a wooden cabin in connection with an established equine enterprise for training of horses under rules and stud
- The main issue is whether, in the context of strict controls that exist over development in the countryside for reasons of character and sustainability, there is an essential need for a dwelling on the site for rural occupation worker

**Decision:** The application was refused under delegated powers on 18 August 2010.  
The appeal was **DISMISSED** on 16 February 2011.  
An application for the award of costs, made by the Council against the appellant, was **ALLOWED**

**Case Officer: Mr C Brace on 01432 261795**

**Application No. DMS/102384/A**

- The appeal was received on 20 December 2010
- 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 Nigel Yeomans
- The site is located at The Travel Centre, Old School Lane, Hereford, Herefordshire, HR1 1EX
- The application dated 14 September 2010 was refused on 2 November 2010
- The development proposed was the erection of 2 double sided banners on 8m high flag poles
- The main issue is the impact that the pair of freestanding banner signs, one at each of the entrance to the travel centre, would have on the visual amenities of their surroundings

**Decision:** The application was refused under delegated powers on 14 September 2010.  
The appeal was **DISMISSED** on 7 March 2011.

**Case Officer: Mrs C Atkins on 01432 260536**



**Application No. DMSE/100592/F**

- The appeal was received on 17 November 2010
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal is brought by Vodafone UK Ltd
- The site is located at Grass Verge at the Junction of, Fernbank Road & Eastfield Road, Ashfield, Ross-on-Wye, Herefordshire, HR9 5PT
- The application was refused on 12 May 2010
- The development proposed was the Installation of 15 Metre high Saturn 411T replica telegraph pole, housing 6 no. antennas within a GRP shroud. There will also be a 1 no. shared radio equipment cabinet, 1 no. electrical meter cabinet and ancillary development thereto.
- The main issues are the effect of the proposal on the character and appearance of the surrounding area, and whether there are other considerations sufficient to outweigh the harmful environment impact of the proposal

**Decision:** The application was refused under delegated powers on 12 May 2010  
The appeal was **DISMISSED** on 8 March 2011.

**Case Officer: Mrs C Atkins on 01432 260536**

**Application No. DMSW/100930/F**

- The appeal was received on 19 November 2010
- 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 Stephanie Lawrence
- The site is located at Site between, Holme Lee and New House, Cobhall Common, Herefordshire,
- The application dated 20 April 2010 was refused on 13 July 2010
- The development proposed was the erection of new dwelling.
- The main issue is whether there are any material considerations which justify not determining the proposal in accordance with those policies

**Decision:** The application was refused under delegated powers on 13 July 2010.  
The appeal was **DISMISSED** on 9 March 2011.

**Case Officer: Mr A Prior on 01432 261932**

**Application No. DMS/101705/FH**

- The appeal was received on 21 January 2011
- 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 Tina Mitchell
- The site is located at Windy Corner, 1 Willowfields Withies Lane, Withington, Herefordshire,
- The application dated 29 June 2010 was refused on 24 November 2010
- The development proposed was the addition of first storey over existing double garage and utility
- The main issues are *the* effects of the proposal on the character and appearance of the local area; and the living conditions at neighbouring properties, with particular regard to effects on light and outlook at 2 Willowfields.

**Decision:** The application was refused under delegated powers on 24 June 2010.  
The appeal was **DISMISSED** on 15 March 2011.

**Case Officer: Mrs C Atkins on 01432 260536**

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Further information on the subject of this report is available from the relevant case officer

**Application No. DMN/102084/F**

- The appeal was received on 15 December 2010
- 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 John Stinton
- The site is located at The Beech, Haynall Lane, Little Hereford, Herefordshire, SY8 4BG
- The application dated 9 August 2010 was refused on 7 October 2010
- The development proposed was the use of land and associated works for the holding of 14 markets/calender year at the Beech, Haynall Lane, Little Hereford. These markets to be agriculturally related for the sales of livestock, agricultural machinery and the seasonal sale of holly and mistletoe
- The main issue is Highway safety

**Decision:** The planning application was refused under delegated powers on 7 October 2010. The appeal was **DISMISSED** on 17 March 2011.

**Case Officer: Mr M Tansley on 01432 261815**

**Application No. EN2010/001262/ZZ**

- The appeal was received on 23 December 2010
- The appeal is made under Section 174 of the Town and Country Planning Act 1990 against the service of an Enforcement Notice
- The appeal is brought by Mr John Stinton
- The site is located at The Beech, Haynall Lane, Little Hereford, Herefordshire, SY8 4BG
- The breach of planning control alleged in this notice is Material change of use of the land and an agricultural building upon it from use for agriculture to a mixed use for agriculture and for the undertaking of sales utilizing hard standing area within the said land.
- The requirements of the notice are: Permanently cease using any part of the land and building for sales in contravention of relevant permitted developments rights.
- The main issue is Highway issues

**Decision:** The Enforcement notice with corrections be **UPHELD** 17 March 2011

**Case Officer: Mr M Tansley on 01432 261815**

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



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>6 APRIL 2011</b>
<b>TITLE OF REPORT:</b>	<p><b>DMS/102972/F - REMOVAL OF CONDITIONS 13 AND 16 OF PLANNING PERMISSION S/102971/F. REFURBISHMENT AND CONVERSION OF EXISTING DERELICT BARN TO RESTAURANT AND CREATE NEW CAR PARKING FACILITIES AND ASSOCIATED JUNCTION IMPROVEMENT WORKS - TO REMOVE CONDITIONS LINKING THE ANCILLARY USE OF THE RESTAURANT TO THE HOTEL AT CASTLE LODGE HOTEL, GREEN COURT, WILTON, ROSS ON WYE, HR9 6AD</b></p> <p><b>For: Mr Felices per Mr B Eacock, 1 Fine Street, Peterchurch, Herefordshire, HR2 0SN</b></p>

**Date Received: 15 November 2010** Ward: Llangarron

**Grid Ref: 358876,224387**

**Expiry Date: 19 January 2011**

Local Member: Councillor JA Hyde

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

- 1.1 The application site comprises a substantial stone barn and adjoining land, situated in the angle between, the A40 trunk road, the B4260 leading to Ross-on-Wye and the unclassified village road (Benhall Lane) leading to Wilton Castle. The site is a short distance away from the Castle Lodge Hotel, which was until recently in the same ownership. The site is within the Wilton Conservation Area and the Wye Valley Area of Outstanding Beauty (AONB).
- 1.2 Planning permission was granted for the conversion of the aforementioned barn to a restaurant and formation of associated car-parking on 17 March 2006 (SE2005/2343/F). This planning permission was the subject of a number of planning conditions. The planning permission was due to expire on 17 March 2011, but was recently extended on 10 January 2011 (S/102971/F). This planning permission was subject to the same conditions, as attached to the original planning permission.
- 1.3 This application is made under the provisions of Section 73 of the Town and Country Planning Act 1990 (as amended) and proposes the removal of conditions 13 and 16 attached to the extant planning permission. A similar application was refused by the Southern Area Planning Sub-Committee on 25 November 2009 (DCSE0009/1859/F). The reasons for refusal were as follows:

*The local planning authority considers that conditions 13 and 16 of planning permission DCSE2005/2343/F (17 March 2006) continue to serve a useful planning purpose. The removal*

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

*of these conditions would allow the operation of two separate businesses, with a concomitant increase in traffic upon the adjoining lane and an increased risk of indiscriminate parking upon it. Given the proximity of the site to the strategic road network and the inadequacy of the junction onto the B4260, the local planning authority considers the conditions essential in maintaining both highway safety and the residential amenity of local residents. The application is thus contrary to Policies DR2, DR3 and T11 of the Herefordshire Unitary Development Plan 2007.*

1.4 The conditions are as follows:

#### Condition 13

*The restaurant hereby approved shall only be used for purposes ancillary to the hotel known as Castle Lodge Hotel and within Class C1 of the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that order with or without amendment) and shall not be used as a separate restaurant for any other purpose within Class A3 of that order.*

*Reason: In the interests of highway safety, to ensure the free flow of traffic using the adjoining highway and protect the amenity of residents in the vicinity of the site and to conform to Policies T11 and DR2 of Herefordshire Unitary Development Plan.*

#### Condition 16

*The restaurant and car-park hereby approved and the Castle Lodge Hotel shall not be sold, let or leased separately from each other, and the car-parking shall be permanently available for use by both the restaurant and Castle Lodge Hotel.*

*Reason : To ensure that car-parking facilities are available for both premises and protect the amenity of residents in the vicinity of the site and to comply with Policy DR2 of Herefordshire Unitary Development Plan.*

1.5 The application is supported by a draft legal agreement providing for a contribution towards the making of a Traffic Regulation Order (TRO) to provide for parking restriction on the unclassified lane, that serves the site. The application also makes provision for the dedication of 11 parking spaces within the curtilage of the barn restaurant which would be for the sole use of patrons of the Castle Lodge Hotel.

## **2. Policies**

### 2.1 National Planning Policy

Planning Policy Statement 1 - Delivering Sustainable Development  
Planning Policy Statement 5 - Planning for the Historic Environment  
Planning Policy Statement 7 - Sustainable Development in Rural Areas  
Planning Policy Guidance 13 - Transport

### 2.2 Herefordshire Unitary Development Plan

S1 - Sustainable Development  
S2 - Development Requirements  
S7 - Natural and Historic Heritage  
DR1 - Design  
DR2 - Land Use and Activity

DR3	-	Movement
T11	-	Parking Provision
LA1	-	Areas of Outstanding Natural Beauty
HBA6	-	New Development within Conservation Areas
NC1	-	Biodiversity and Development
HBA12	-	Re-use of Rural Buildings
E11	-	Employment in the Smaller Settlements and Open Countryside

## 2.3 Government Circular 11/95: The Use of Conditions in Planning Permissions

### 3. Planning History

3.1	SH910820PF	Conversion of barn to a dwelling	-	Approved 07.01.92
	SH951204PF	Change of use of land and barn (with extension) to vehicle hire centre with offices with valleting room	-	Refused 05.02.96
	SH960935PF	Change of use of land and barn (with extension) to vehicle hire centre with offices with valleting room.	-	Refused 05.02.96
	SH961463PF	Conversion of existing barn to dwelling	-	Approved 02.06.97
	SE2002/1765/F	Change of use to redundant barn into conference centre and construction of new car park	-	Approved 25.09.02
	SE2003/2164/F	Relocation of restaurant to barn and construction of new car park and alterations to existing car park	-	Approved 15.10.03
	SE2004/3888/F	Refurbishment and conversion of existing derelict barn to restaurant and creation of new car parking facilities serving existing hotel and new restaurant, together with associated junction improvement works	-	Withdrawn 28.02.05
	SE2005/2343/F	Refurbishment and conversion of existing derelict barn to restaurant and creation of new car parking facilities serving existing hotel and new restaurant, together with associated junction improvement works	-	Approved 17.03.06
	SE0009/1859/F	Refurbishment and conversion of existing derelict barn to restaurant, together with associated junction improvement works (removal of conditions 13 and 16 on planning Permission DCSE2005/2343/F)	-	Refused 25.11.09
	SE/100914/F	Refurbishment and conversion of existing derelict barn to restaurant, together with associated junction improvements	-	Withdrawn 10.06.10

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

(removal of conditions 13 and 16 on application DCSE2005/2343/F)

SE/101074/F	Proposed extension of time limit on application DCSE2005/2343/F – to restaurant and creation of new car parking facilities servicing existing hotel and new restaurant together with associated junction improvements	- Withdrawn 16.07.10
SE/102971	Replacement of extant planning permission SE2005/2343/F for refurbishment and conversion of existing derelict barn to restaurant and creation of new car parking facilities serving existing hotel and new restaurant, together with associated junction improvement works	- Approved 10.01.11

#### **4. Consultation Summary**

##### Statutory Consultations

- 4.1 Highways Agency: No objection: The Highways Agency initially required further clarification relating to parking levels. The Highways Agency states, following receipt of further details, that the reduction in parking spaces will not affect the safety and free flow of traffic on the A40 at this location.

##### Internal Council Advice

- 4.2 Traffic Manager Objects: Will affect undersupply of parking at hotel. This figure takes into account restaurant, bar lounge area and 11 bedrooms. Even with discounting still need 32 spaces. There will be additional parking on the lane, and then onto B4260 road and A40 Parking for hotel needs to be addressed.
- 4.3 Conservation Manager has no objections.

#### **5. Representations**

- 5.1 Bridstow Parish Council objects. The Parish Council state that they believe condition 16 has already been broken. Clarification is sought.
- 5.2 Eight letters of objection have been received from residents in the locality. The following main issues are raised:
- Removal of two conditions would result in two separate businesses operating, with an associated increase in the volume of traffic using the junction of the lane and B4260 road, which is in close proximity to A40/A49 Wilton roundabout and to junction with BP service centre.
  - No improvements since last refusal and roundabout altered recently.
  - Conditions imposed to safeguard amenity and safety of local residents. No justification for removing the conditions.
  - Wilton Castle needs parking facilities for open days and functions.
  - Double yellow lines proposed will not prevent parking problems Already HGV's already park at entrance, which is lined, of lane.
  - Could be used for fast food.
  - Important local building in AONB and Conservation Area has been allowed to deteriorate.

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 proposes the removal of two conditions attached to planning permission S/102971/F. The effect would be to allow for the operation of the hotel and restaurant as two separate businesses. It should be borne in mind that this application does not affect any of the other conditions attached to the extant permission. As such, it would still be a requirement that no more than 60 seats be laid out for dining within the barn restaurant and that there should be no takeaway service. As such, measures would continue to exist that control the end use of the building. Likewise the developer would still have to comply with condition 26 of the extant planning permission, which requires works of mitigation to the lane and the junction with the B4269, including carriageway widening and the provision of a footpath along the site frontage. In addition, this application proposes to contribute towards the making of a TRO to provide for parking restrictions along the lane.

6.2 As such the key issues in the determination of this application are as follows:

- The impact of the removal of the conditions upon the safety and free flow of traffic upon the strategic and local highway network.
- An assessment of the parking arrangements for the existing hotel and the proposed restaurant.
- An assessment of the impact of the removal of the conditions upon the living conditions of nearby residents.

6.3 The Highways Agency has confirmed that the removal of conditions 13 and 16 would not result in any intensification of use of the Wilton Roundabout and the junction of the B4260 than previously tested and agreed. The original Highways Agency assessment of the 2005 application was made on the basis that the barn restaurant and hotel would operate as independent businesses as it was on that basis that the application was originally made. The control imposed by conditions 13 and 16 was not put in place at the recommendation of the Highways Agency and the prospect of removing the conditions has, in the Agency's view, no material impact over and above what has already been tested and approved. It should also be noted that the Highways Agency response is made in the light of current levels of traffic on the A40 and A49 and following the re-design on the Wilton Roundabout.

6.4 The above notwithstanding, the Highways Agency comment also alludes to the necessity to ensure that sufficient parking provision is put in place for each of the resultant businesses. The original scheme made provision across the two sites for a total of 64 spaces, with 55 provided upon the barn site and 9 at the hotel. Condition 16 requires that the car parking shall be permanently available for use by both the restaurant and the Castle Lodge Hotel. This arrangement was workable whilst a condition was in place restricting the separate disposal of the barn restaurant and hotel. Now that it is proposed to remove this condition, it is essential that each business has adequate on-site provision to prevent indiscriminate parking on the land and the concomitant effect that congestion would have upon the junction of the lane and the flow of traffic on the B4260 and the Wilton Roundabout.

6.5 The barn site has 54 allocated spaces, which is in line with adopted Highways Design Guidance. The hotel provides for a theoretical minimum of 9 spaces, albeit 13 vehicles have been observed parking on the forecourt of the hotel at the weekend. Accordingly, this represents a conservative total of 63 spaces across the two sites. In order to address concerns about the under provision of parking space at the hotel, 11 spaces are proposed to be provided on the barn site for the sole use of patrons of the Castle Lodge Hotel. This provision can be secured by planning condition. This allocated car parking is supported on the basis that it secures sufficient parking provision for the hotel. On balance it is not considered

that the reduction in spaces for the new restaurant will have a detrimental impact on highway safety. Again, it is reiterated that the existing permission does not allow for any takeaway from the site and also imposes an upper limit on the number of seats for dining.

- 6.6 The Council's Traffic Manager has expressed concern with regard to the proposed level of parking at the hotel. This concern is based upon the fact that the provision at the hotel would fall below design guide standards and so increase the propensity for on-street parking on Benhall Lane. However, in determining the appropriate level of parking for the hotel it is pertinent to consider the existing parking arrangements and those approved under the extant planning permission. As discussed above, the proposal would secure 11 additional spaces in perpetuity for the hotel together with the existing minimum provision on the hotel site of 9 spaces, which is considered to be sufficient and in line with the extant planning permission. Furthermore, a minimum of 20 spaces for an 11 bedroom hotel would seem a reasonable provision in an edge of town location, notwithstanding the fact that the hotel restaurant is open to the public. On balance, and mindful of the Highways Agency advice, your officers consider the parking provision across the two sites to be acceptable.
- 6.7 As referred to above, this application has no implications for the remaining conditions attached to the extant permission. Accordingly, the developer will have to fulfill the requirements of the outstanding conditions which include local highway improvements, restricted opening hours, no takeaway service and a limitation on the number of seats available for dining. Likewise, any external lighting must be agreed prior to the first use of the restaurant as would lighting for the car park. As such, it is considered that measures remain in place to ensure that the residential amenity of nearby properties would be preserved against the existing scenario.
- 6.8 Reference has been made to a possible breach of planning condition 16 . This has been raised by the Parish Council. However, as a matter of fact there cannot be a breach of the extant planning permission since it has not yet been implemented.

#### Summary and conclusions

- 6.9 The concern expressed by local residents focuses principally upon the implications for highway safety. Whereas the barn restaurant is currently tied to the hotel, the application, if approved, would effectively create a separate business utilising a junction opposite the service station entrance and in close proximity to the Wilton Roundabout. However, the Highways Agency has no objection to the removal of conditions 13 and 16 on the grounds that their assessment of the 2005 application was always based upon the barn restaurant operating separately from the hotel. As such, this application has no consequence for their original assessment. Although mindful of the local concern, the Highways Agency response is based upon technical and empirical evidence. In the face of this advice a refusal reason would, in your officer's assessment, be difficult to sustain. Accordingly, subject to the completion of a Section 106 Agreement to secure the contribution to making the Traffic Regulation Order and the conditions set out below, the application to remove Conditions 13 and 16 is recommended for approval.

#### **RECOMMENDATION**

- 1. The Head of Legal and Democratic Services be authorised to complete a planning obligation under Section 106 of the Town and Country Planning Act 1990 in regard to the making a contribution towards the making of a Traffic Regulation Order and the subsequent provision of parking restrictions on the unclassified lane.**
- 2. Upon completion of the above mentioned Officers named in the Scheme of Delegation be authorised to issue planning permission subject to the following conditions:-**



1. C09

2. Prior to the first use of the restaurant approved under reference S/102971/F details for the dedication and demarcation of 11 parking spaces for the sole use by patrons of Castle Lodge Hotel in accordance with a scheme to be submitted to and approved in writing by the local planning authority These spaces shall thereafter be retained and kept available for use by patrons of Castle Lodge Hotel at all times.

Reason: To minimise the likelihood of indiscriminate parking in the interests of highway safety and to conform with the requirements of Policy T11 of Herefordshire Unitary Development Plan.

**Informative:**

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

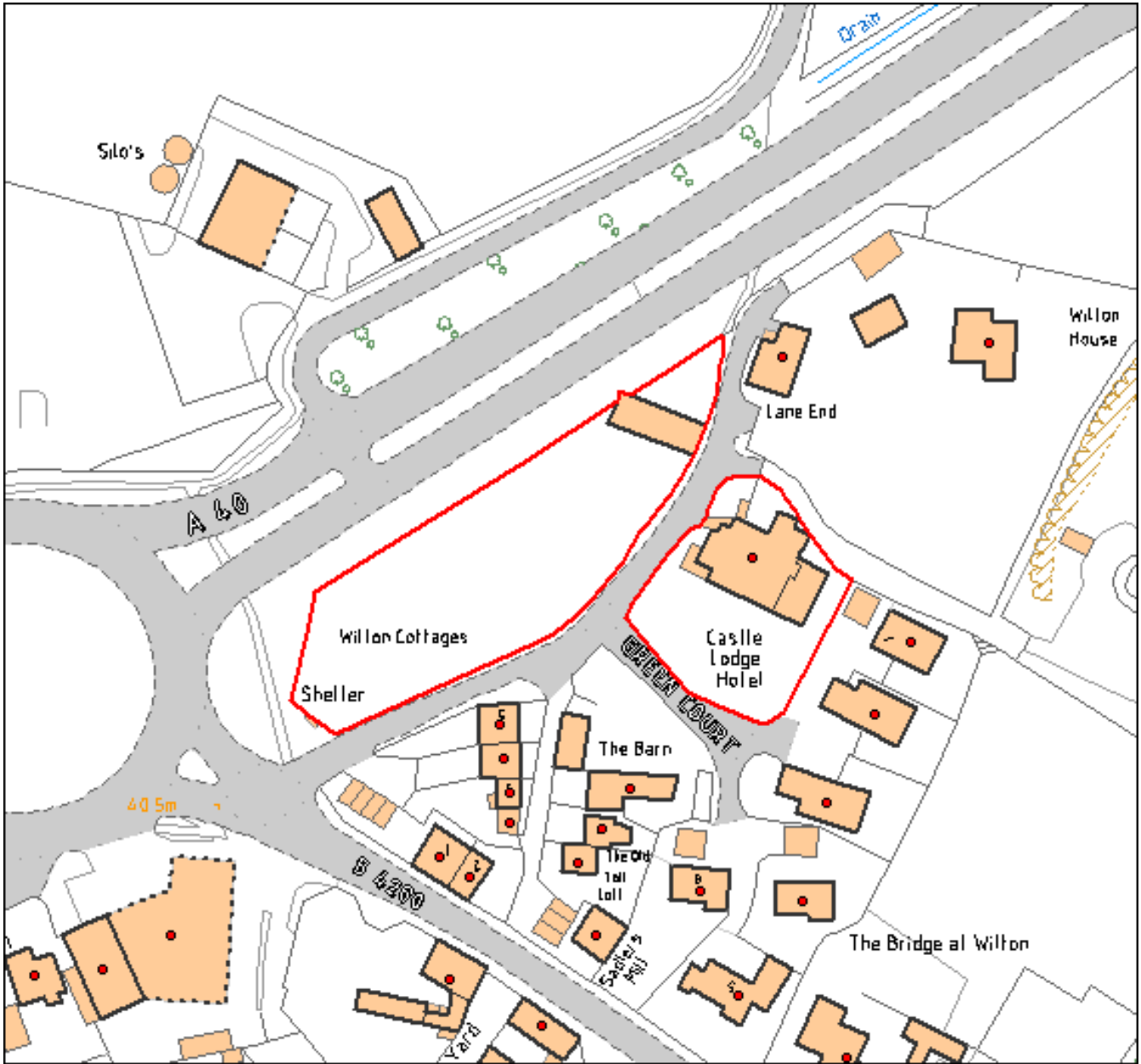
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** DMS/102972/F

**SITE ADDRESS :** CASTLE LODGE HOTEL, GREEN COURT, WILTON, ROSS ON WYE, HR9 6AD

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



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>6 APRIL 2011</b>
<b>TITLE OF REPORT:</b>	<p><b>DMS/110216/F - RETENTION OF EXISTING DWELLING (PENRICE) AND ERECTION OF 8 TWO AND THREE BEDROOM DWELLINGS AT PENRICE, WALFORD ROAD, ROSS ON WYE, HR9 5PQ</b></p> <p><b>For: Mr Egan per M F Freeman, Ruardean Works Varnister Road, Nr Drybrook, Gloucestershire, GL17 9BH</b></p>

**Date Received: 27 January 2011 Ward: Ross-on-Wye East Grid Ref: 359823,223347**

**Expiry Date: 7 April 2011**

Local Members: Councillors AE Gray, PGH Cutter, C Bartrum and G Lucas

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

- 1.1 The application site is located on the east side of the B4234 Walford Road some 800 metres south of Ross-on-Wye town centre. The site comprises Penrice, a large inter-war detached dwelling, set within a garden curtilage that extends to 0.28ha. The site is within the settlement boundary of Ross-on-Wye, in the Wye Valley Area of Outstanding Natural Beauty and Ross-on-Wye Conservation Area.
- 1.2 The site is rectangular in shape with a frontage onto the Walford Road. The existing vehicular access is towards the northern end of the frontage with the driveway running diagonally and to the south of Penrice to a flat roofed garage and large parking area. The site is currently screened from Walford Road by a stone wall, wooden fence and mature roadside planting.
- 1.3 The southern perimeter is defined for much of its length by a 3 metre high stone wall, which also forms part of the north elevation of Chasedale Cottage, which as a consequence forms part of the southern site boundary. Westwood is a detached dwelling to the immediate north, with the remainder of the northern boundary formed by the playing fields to St. Joseph's primary school. Residential properties on Eastfield Road are found to the east beyond mature planting that forms the boundary.
- 1.4 This revised application follows the refusal of two earlier schemes, the more recent (DMSE/102061/F), being the subject of an undetermined appeal heard on 29 March 2011. The more recently refused scheme included the demolition of the existing dwelling and proposed a three storey apartment blocks containing 8 no.2 bed apartments at the front of the site with a 3 storey terrace of 3no. 3 bed townhouses at the rear. The refused scheme proposed a contemporary design approach but with a palette of materials intended to reflect the surrounding locality, including panels of red brick, render and glazing under a traditional slated roof with chimney stacks to provide vertical emphasis. The proposal was refused for the following reason:

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Further information on the subject of this report is available from Mr S Withers on 01432 260612

*The proposal would be an inappropriate form of development and by virtue of its detailed design, scale and massing would represent an over-development of the site that would be harmful to the character and appearance of the Ross on Wye Conservation Area and the established residential character of the area. The proposal is therefore contrary to Policies DR1, HBA6 and H13 of the Herefordshire Unitary Development Plan 2007.*

- 1.5 This revised proposal would retain and refurbish the existing dwelling and now proposes the erection of a single L-shaped terrace of 8no. 2-3 bedroom properties to the rear. The L-shaped block would be of 2 storey scale with a ridge height of 7.8 metres and would front onto a parking courtyard providing a total of 18 spaces for the existing dwelling and the 8 new dwellings. By comparison to the previously refused schemes, the design approach is traditional incorporating projecting gables and dormer windows with a limited palette of materials (red brick, smooth render, natural slate and painter timber windows and doors). It is proposed to move the vehicular access to the south-west corner of the site and in addition to the L-shaped block, a new detached double garage is proposed to serve the retained dwelling and a combined refuse/cycle store would be provided for the 8 new dwellings. The garage and combined refuse/cycle store would be set each side of the new driveway serving the parking courtyard.
- 1.6 Chasedale Cottage and Westwood are the two dwellings in closest proximity to the application site. At it's nearest the L-shaped block would be 24 metres from Westwood and 12 metres from Chasedale Cottage although the proposed development would be within 5 metres and 2.5 metres of the respective boundaries. The east facing elevation towards the properties in Eastfield Road would be approximately 10 metres from the common boundary and some 53 metres from the nearest elevation of these properties.
- 1.7 The application is accompanied by a Design and Access Statement (revised), an ecological report (Bat and Reptile Survey), Tree Survey and Arboricultural Assessment, a Heritage Statement and a Sun and Daylight Analysis.
- 1.8 A draft heads of terms accompanies the application, the content of which is attached to this report.

## **2. Policies**

### **2.1 National Planning Guidance:**

PPS1	-	Delivering Sustainable Development
PPS3	-	Housing
PPS5	-	Planning for the Historic Environment
PPS9	-	Biodiversity and Geological Conservation

### **2.2 Herefordshire Unitary Development Plan 2007:**

S1	-	Sustainable Development
S2	-	Development Requirements
DR1	-	Design
DR3	-	Movement
H1	-	Hereford and the Market Towns: Settlement Boundaries and Established Residential Areas

H13	-	Sustainable Residential Design
H14	-	Re-using Previously Developed Land and Buildings
H16	-	Car Parking
HBA6	-	New Development Within Conservation Areas
HBA7	-	Demolition of Unlisted Buildings Within Conservation Areas
LA1	-	Areas of Outstanding Natural Beauty
LA5	-	Protection of Trees, Woodlands and Hedgerows
NC1	-	Biodiversity and Development

### 2.3 Supplementary Planning Guidance/Material Planning Considerations

The Ross-on-Wye Town Plan (adopted as Additional Planning Guidance on 20 September 2010)

Ross Rapid Townscape Assessment (published March 2010)

## 3. Planning History

3.1	SH87/1589/PO	Erection of a dwelling for veterinary surgery assistant to live on site.	-	Refused
3.2	SH89/0095/PO	Three houses to rear of Penrice.	-	Refused 01.03.1989
3.3	DCSE2007/1955/O	Outline application for the erection of a detached dwelling with ancillary works on land adjoining Penrice.	-	Refused and dismissed on Appeal 28.02.2008
3.4	DCSE0009/1972/F & SE0009/1973/C	Demolition of existing residential property and construction of 14 no. apartments, associated car parking landscaping and access.	-	Withdrawn 18.12.2009
3.5	DMSE/100399/F & DMSE/10400/C	Demolition of existing residential property and construction of 14 no. apartments, associated car parking, landscaping and access.	-	Refused 12.05.10 Appeal Withdrawn
3.6	DMSE/102061/F & DMSE/102062/C	Demolition of existing residential property and construction of 8 no. apartments, 3 no. townhouses with associated car parking, landscaping and access.	-	Refused 03.11.10 Appeal lodged

## 4. Consultation Summary

4.1 Welsh Water : No objection raised subject to condition controlling the discharge of foul and surface water.

### Internal Council Advice

4.2 Conservation Manager:

Historic Buildings Officer: No objection

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Further information on the subject of this report is available from Mr S Withers on 01432 260612

Landscapes: Comments awaited, although no objections have been recorded against the 2 previous schemes

Ecology: Comments awaited, although no objections have been recorded against the 2 previous schemes

- 4.3 Traffic Manager: Comments awaited on the revised plans following initial concerns regarding the identified visibility and pedestrian splays, parking layout, cycle storage.

## **5. Representations**

- 5.1 Ross Town Council: Recommend refusal because of the access on to the busy Walford Road. The extra number of vehicles turning out would be hazardous. The Committee also noted the strong local opposition.

Chairman expressed concern that the Ross Town Plan, which is now supplementary planning guidance had not been taken into account. Section 106 contributions need to be spent in Ross

- 5.2 15 letters of objection have been received from local residents, one accompanied by a 74 signature petition. The content of the letters is summarised as follows:

- Out of keeping with the prevailing character of the conservation area and would neither preserve or enhance the character or appearance of the area.
- The proposed buildings are inappropriate in terms of scale and density.
- The buildings would be overbearing in relation to their neighbours. The loss of residential amenity and privacy is unacceptable.
- Increased traffic movements would cause pollution and disturbance and result in increased levels of lighting
- Development would result in the creation of a busy junction onto the already busy Walford Road which would be detrimental to highway and pedestrian safety
- Permitting this development would result in an unwelcome precedent for similar redevelopment proposals that result in the loss of large gardens.
- Government guidance (PPS3) seeks to stop use of gardens for large scale residential development.
- Site is within AONB and development should conserve or enhance
- Description of development as “almhouses” is misleading
- No reference has been made to the Ross Rapid Townscape Assessment

- 5.3 Wye Valley Society comments as follows:

- Pleased that the new application proposes to retain the dwelling on site and also that the 8 terraced houses will not be as bulky or high as earlier applications
- Almhouse description misleading
- Still have concerns about the potential hazard of much increased traffic on Walford Road.

- 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 recent planning history of the application site revolved around establishing the principle of whether demolition of the existing inter-war detached dwelling (Penrice) and the residential redevelopment of this site is an acceptable one, and it is clear that the sensitive context of the location, in particular its location within the Ross-on-Wye Conservation Area and the Wye Valley Area of Outstanding Natural Beauty, and its relationship with existing residential properties are key considerations in the determination of this revised application. Since the

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Further information on the subject of this report is available from Mr S Withers on 01432 260612

refusal of the previous scheme, the applicant has revised the proposal, which now promotes the retention of the existing dwelling with an L-shaped two storey terraced development incorporating a total of 8 new 2-3 bedroom dwellings and two ancillary buildings for garaging/refuse and cycle storage. The proposed access arrangement is identical to that which has been submitted with previous schemes and entails the formation of a new access at the southern edge of the road frontage with the existing access closed off.

- 6.2 Having regard to the recently refused applications for the redevelopment of the site, it is appropriate to focus primarily upon the reasons for refusal (the subject of an appeal which was considered by Informal Hearing on 29 March 2011 although the Inspectors decision is pending) and to reconsider the impact of the revised development upon the character and appearance of the site and the surrounding locality as well as the implications for the privacy and amenity of residents living within the immediate vicinity of the site.

Detailed Design, Scale and Massing within the Ross-on-Wye Conservation Area and Wye Valley Area of Outstanding Natural Beauty

- 6.3 The revised proposal promotes a total of 8 new residential units (6, 3 bed units and 2, 2 bed units) together with the retention and refurbishment of the existing 4 bedroom dwelling and the provision of two ancillary buildings for the new and retained dwellings, a net reduction of 2 dwellings compared to the 11no. 2 bed units previously submitted. As a general observation it is considered that the visual impact of the new residential development and its overall scale and massing has been reduced.
- 6.4 Having particular regard to the visual impact of the development within the established suburban residential context of Walford Road, it is considered that the retention and proposed refurbishment of the existing dwelling on the front portion of the site will in itself result in a modest enhancement of the Conservation Area. The retention of the existing dwelling, albeit with two ancillary buildings slightly set back and to the immediate east of it will in this sense maintain the streetscene largely unchanged. Furthermore the revised approach would serve to limit the publicly visible elements of the site to the rear. The existing dwelling will retain an acceptable residential curtilage of its own being open at the front but enclosed to the side and rear.
- 6.5 With regard to the proposed L-shaped block, again it is recognised that it represents a significant new footprint of built development within a largely undeveloped garden curtilage. However it is also considered that the perception of its scale would be significantly reduced by its relatively inconspicuous position on the site when viewed from Walford Road, from where only a small section of the block would be glimpsed between the proposed ancillary buildings.
- 6.6 The height of the proposed new development has also been significantly reduced and is now a two storey proposal with a maximum ridge height of 7.9 metres (as compared to the 9.3 metre height of the recently refused scheme). The height of the block is accordingly subservient to the existing dwelling on the site (also 9.3 metres in height). The reduction in the storey height has resulted in a proposal that is longer and less compact, with the elevation (excluding the corner unit) facing the rear garden of Westwood extending to some 27 metres and the elevation facing Eastfield Road being approximately 18 metres. This said the new units would be set in from the site boundaries, having rear gardens ranging from 5-10 metres in depth.
- 6.7 The design approach has also been revisited and is now very traditional in appearance incorporating brick render and natural slate which is based upon the scale and appearance of almshouses in the locality (although it should be stressed that the dwellings are not intended to provide for residents in need of affordable housing). The mass of the L-shaped block is broken up by the introduction of forward projecting gables and the roof would also contain appropriately proportioned dormers. These features combined with eaves, window and porch details represent a significant change from the very contemporary designs that have been

submitted previously but are considered to be reflective of character of the locality and therefore acceptable within the context of this mixed but well established suburban residential area.

- 6.8 The L-shaped block would front onto a landscaped parking courtyard, which would maintain a sense of space to the rear of the existing dwelling further assisting with the dilution of the visual impact of the proposed new development upon the spacious and suburban characteristics that define this part of the Ross-on-Wye Conservation Area.
- 6.9 Notwithstanding the comparisons between the proposed and refused schemes, it remains the case that this proposal does represent a large footprint of new development within a sensitive location. This however, is not in itself grounds for the refusal of planning permission. The key policy consideration is whether the proposal can be considered to preserve or enhance the character of the Conservation Area. In this context it is worth noting that the mature landscaping within the site will not be affected by the proposals, and most importantly the trees adjacent to the boundary with Walford Road and which compliment the attractive mix of planting and built development which contribute to the character of this part of the Conservation Area will be properly protected. Furthermore the retention of the existing dwelling will serve to minimise the perception of change within the immediate locality allowing only glimpsed views of a small part of the new development to the rear and whilst neighbouring occupiers will have views of the site, the public vantage points are limited to views from immediately in front of the site in the vicinity of the proposed new access.
- 6.10 On this issue it is considered that the mature landscaping together with the set back and more restrained scale and elevational treatment of the L-shaped block in particular are such that the development in its revised form would preserve the essential spatial qualities that define the character and appearance of the Conservation Area and therefore accord with PPS5 and Policy HBA6 of the Herefordshire Unitary Development Plan. In the broader sense, and having regard to the AONB designation that covers much of Ross-on Wye and its environs, it is not considered that within this urban environment there would be any discernible impact upon the intrinsic landscape character of the surrounding area. Policy LA1 of the Herefordshire Unitary Development Plan is therefore satisfied.

#### Residential Amenity

- 6.11 The revised scheme incorporates a number of detailed design changes which combine to reduce the impact upon neighbouring occupiers. The key change, as identified above, is the reduction in ridge height of the development to a maximum height of 7.9 metres (some 1.4 metres lower than the refused scheme and the existing dwelling). This would serve to generally reduce the perceived scale of the development from those properties that bound the site. The proposal does present two relatively long elevations along the northern boundary with Westwood and the playing field associated with St Josephs RC Primary School; and the eastern boundary with the properties on Eastfield Road
- 6.12 This said, Chasedale Cottage, is most closely related to the proposed development and is located due south, such that it will not be impacted by overshadowing and any associated loss of daylight/sunlight. The design of Plot 9, closest to this boundary, has been amended so as to avoid any windows that overlook the rear terrace and garden of the property and the introduction of new windows in these elevations would be restricted by condition.
- 6.13 Westwood lies to the north and clearly its relationship with the existing building will be unchanged. The new two storey block would be at a distance of some 24 metres from the rear elevation at its nearest, with the nearest dormer window being approximately 26 metres away. Notwithstanding the reduction in ridge height now proposed, it is acknowledged that the end of the large garden curtilage will be overlooked to a greater extent by the rear facing dormer windows but this is already the case to a large extent by reason of the relationship of the



existing dwelling which has windows that overlook this part of the neighbours garden. It is not considered that this situation would result in the loss of privacy to an extent that would warrant the refusal of planning permission. Part of this north facing elevation would also overlook the end of the primary school playing field, but this in itself, is not objectionable.

- 6.14. A number of concerns relating to residential amenity arise from residents occupying the properties in Eastfield Road. In this respect, the reduction in height and change in design is of particular relevance. The first floor dormers in the rear elevation of L-shaped block would be some 10 metres from the well planted common boundary and 53 metres from the nearest elevation of properties in Eastfield Road and as such privacy standards are significantly exceeded and any reasonable concerns about overbearing impact have been satisfactorily addressed.

#### Other Material Considerations

- 6.13 A number of objections refer to the revised content of PPS3 and the implications of the advice on “garden grabbing”. It is considered that whilst this updated guidance does reduce the pressure placed upon local authorities to approve higher density schemes on garden plots in terms of meeting nationally prescribed targets for housing delivery on previously developed land, it does not override the need to consider each case on its merits and in relation to locally adopted policies. In this case, the Unitary Development Plan contains relevant policies that should be given significant weight in any determination. These policies seek to protect areas and individuals from the impact of unacceptable development and in this case for the reasons set out above it is considered that the relevant policies are satisfied
- 6.14 Whilst not a reason for refusal of the previous scheme, concern continues to be expressed at the level of vehicular movements that will be associated with the erection of 11 units at this location on Walford Road given that it is a busy road, well used by vehicles and pedestrians alike.
- 6.15 The Traffic Manager has been involved in the formulation of the revised access and parking arrangements. There have been some very minor revisions to the access and driveway and final comments are awaited. The means of vehicular access is now identical to previous schemes in terms of the visibility. Similarly the parking provision of 18 spaces (2 per dwelling excluding the double garage) is considered acceptable, with a condition recommended to ensure that the parking areas and secure cycle stores are constructed prior to the first occupation of any of the units.
- 6.16 The recommendation has had regard to the recently adopted Ross-on-Wye Town Plan, and it is considered that the proposal is consistent with the aims of the Plan. In particular, the refurbishment of a building within the Conservation Area and the contributions to improving highway safety and sport and recreation provision are positive aspects of the application that accord with the Plan. The Ross Rapid Townscape Assessment, prepared as part of the evidence base for the Local Development Framework has also been considered. Whilst it suggests that there have been some poor examples of modern infill development in this part of the Conservation Area and that there are limited opportunities for new development, it does not outweigh the detailed consideration of site specific proposals, or outweigh an assessment of these against the requirements of PPS5 and Policy HBA6.
- 6.16 The draft Heads of Terms (Appendix 1) includes a contribution towards sustainable transport improvements in the locality, which if permission were granted, would help secure the installation of a formal pedestrian crossing point at a position to be agreed on Walford Road. It also makes provision for contributions towards play space and sports facilities and the improvement of educational facilities within the vicinity of the application site. These contributions are in accordance with the adopted Supplementary Planning Document: Planning Obligations and are agreed as appropriate by the relevant service areas.

6.18 In conclusion it is considered that the revised proposal, whilst attracting a similar and significant level of objections, responds positively to the reasons for refusing the previous scheme. Its detailed design has been made more traditional in approach and the scale and massing of the two storey has been reduced. The retention and refurbishment of the existing dwelling respond positively to comments made about its importance in the streetscene and this results in an overall reduction in the visual impact of the proposal. Further attention has been given to the relationship of the development to neighbouring properties and this has also reduced the extent of any overlooking and overbearing effects. Accordingly the planning application is recommended for approval.

## **RECOMMENDATION**

**That subject to no further objections raising material planning considerations by the end of the consultation period, the officers named in the scheme of delegation be authorised to approve the application subject to the following conditions and any further conditions considered necessary by officers:**

1. **A01 Time limit for commencement (full permission)**
2. **B03 Amended plans**
3. **B07 Section 106 Agreement**
4. **C01 Samples of external materials**
5. **H03 Visibility splays**
6. **H02 Single access - footway**
7. **H06 Vehicular access construction**
8. **H08 Access closure**
9. **H13 Access, turning area and parking**
10. **H21 Wheel washing**
11. **H27 Parking for site operatives**
12. **F16 No new windows in specified elevation**
13. **F17 Obscure glazing to windows**
14. **G02 Retention of trees and hedgerows**
15. **G04 Protection of trees/hedgerows that are to be retained**
16. **G10 Landscaping scheme**
17. **G11 Landscaping scheme - implementation**

## **INFORMATIVES:**

1. **HN01 Mud on highway**

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Further information on the subject of this report is available from Mr S Withers on 01432 260612

2. **HN04 Private apparatus within highway**
3. **HN05 Works within the highway**
4. **HN03 Access via public right of way**
5. **HN26 Travel Plans**
6. **N15 Reason(s) for the Grant of PP/LBC/CAC**

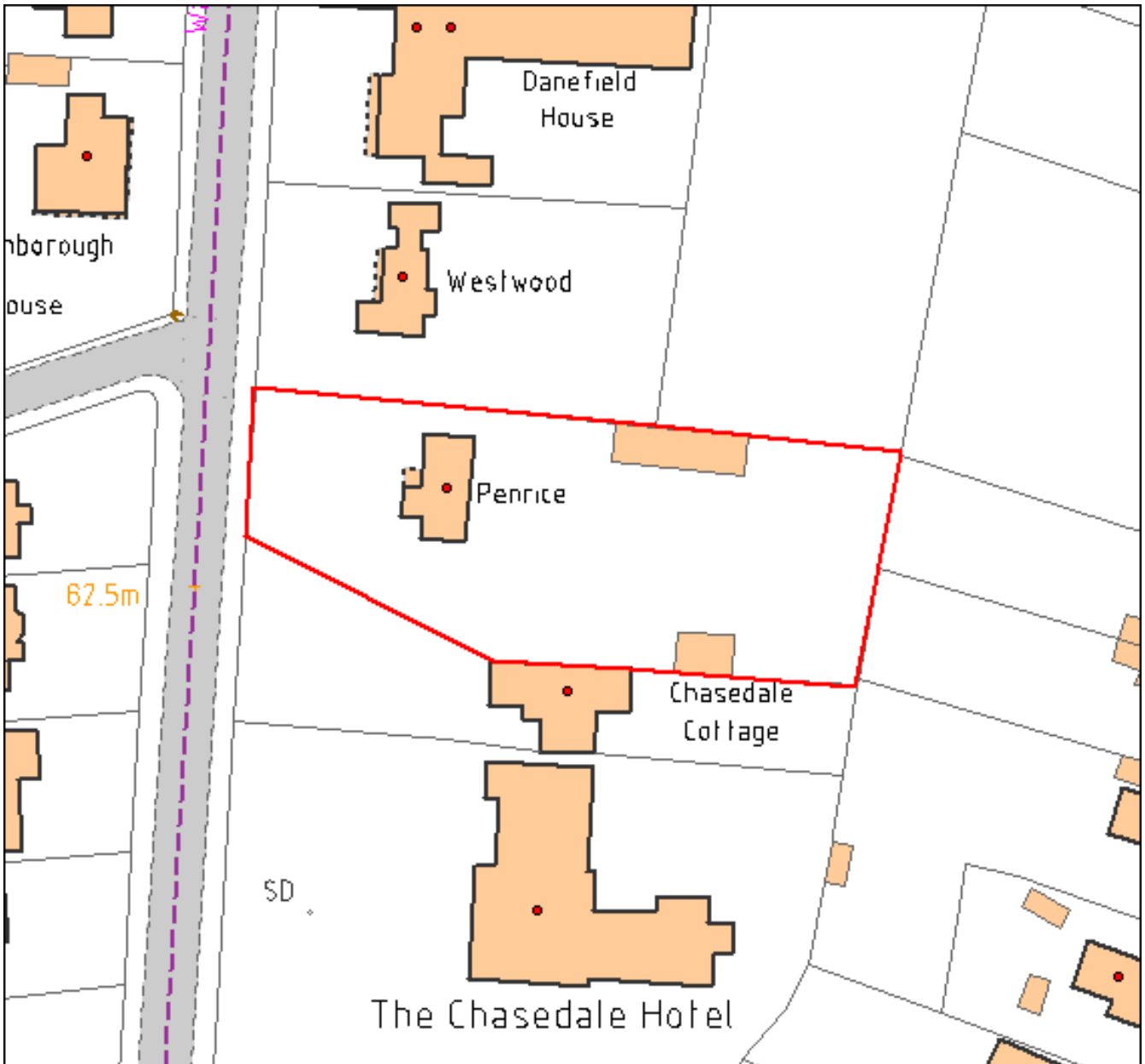
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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** DMS/110216/F

**SITE ADDRESS :** PENRICE, WALFORD ROAD, ROSS ON WYE, HR9 5PQ

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# DRAFT HEADS OF TERMS

## PROPOSED PLANNING OBLIGATION AGREEMENT

### Section 106 Town and Country Planning Act 1990

Planning Application – DMS/102061/F

This Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1<sup>st</sup> April 2008.

Retention of existing dwelling (Penrice) and erection of 8 two and three bedroom dwellings

At Penrice, Walford Road, Ross-on-Wye, Herefordshire, HR9 5PQ

- 1 The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £21, 528 to provide enhanced educational infrastructure ( at Ashfield Park, St Josephs & John Kyrle High school. The sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.
- 2 The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £21,626 to provide towards a controlled pedestrian crossing at Archenfield Road, Walford Road and/or improvements to crossings at junctions with Walford Road and Kent Avenue, Sussex Avenue and Alton Street and passenger waiting facilities improvements required at Tudorville.
- 3 The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £2,372 in lieu of such facilities within the vicinity of the development including Dean Hill, Beech Close, Rope Walk, Tudorville, Walford Road and Wilton Road play areas and £5,166 for sports provision (contribution based around the requirements of policy H19 and RST4 of the UDP and Sport England Sports Facilities Calculator respectively) towards existing sports facilities at Ross Swimming Pool and Ross Sports Centre. The money shall be used by Herefordshire Council for the provision of to provide enhanced formal or informal recreational or public open space.
- 4 In the event that Herefordshire Council does not for any reason use the sums in paragraphs 1, 2, 3, 4, 5, 6 and 7 above, for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
- 5 The sums referred to in paragraphs 1, 2, 3 and 4 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
- 6 The developer covenants with Herefordshire Council to pay a surcharge of 2% of the total sum detailed in this Heads of Terms, as a contribution towards the cost of monitoring and enforcing the Section 106 Agreement. The sum shall be paid on or before the commencement of the development.
- 7 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.

Date: 21/3/2011

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Further information on the subject of this report is available from Mr S Withers on 01432 260612

