

DCCE2006/3117/F - DEMOLITION OF EXISTING DWELLING AND CONSTRUCTION OF 13 NO. TWO BED APARTMENTS WITH ASSOCIATED EXTERNAL WORKS. AMENDMENT TO ACCESS ROAD PREVIOUSLY APPROVED (DCCE2005/0977/F) MILL COURT VILLAGE, LEDBURY ROAD, HEREFORD (PHASE 2)

For: Mill Court Developments Ltd, Hitchman Stone Partnership, 14 Market Place, Warwick, CV34 4SL

Date Received: 29th September, 2006 Ward: Tupsley

Grid Ref: 51905, 39866

Expiry Date: 29th December, 2006

Local Members: Councillors Mrs M. Lloyd-Hayes, Mrs E.A. Taylor, W.J. Walling

Introduction

The consideration of this application was deferred at the Main Planning Committee on the 24th November 2006 in order for the provision of affordable housing on site to be pursued. The report has been updated to reflect further comments received.

1. Site Description and Proposal

- 1.1 This application seeks planning permission for the erection of 13 residential units on land off Ledbury Road, Hereford. The 0.21 hectare site is located on the northern side of Ledbury Road and adjoining Eign Brook, the railway line, Mill Court, the rear boundaries of 23-31 Ledbury Road and 31a Ledbury Road (an existing backland plot). The site is also adjacent to an area utilised as allotment gardens. Access to the site is via an existing driveway from Ledbury Road serving 31a Mill Court and parking courts. The application site is immediately adjacent to a recently approved development of 19 units (DCCE2006/0977/F). The proposal whilst comprising a separate area of land to the already approved development adjacent is intended to reflect the character and appearance of the previous development and shares the access road previously approved for this scheme, albeit in an upgraded format.
- 1.2 The proposal involves the demolition of the existing dwelling on site, number 31a, and the erection of a single three-storey block of flats consisting of 13 two bedroom units. The proposal is arranged in a broadly 'L' shaped configuration with a vehicular access point passing through the development to a shared parking area to the rear. Parking at a level of one space per unit is proposed, together with a disabled persons reserved parking space and secure cycle parking for 13 cycles. A shared private amenity space is also proposed.
- 1.3 A Section 106 Agreement is currently being prepared in association with this proposal and a Draft Heads of Terms is attached at Appendix 1.

2. Policies

2.1 Planning Policy Guidance:

PPG1	-	General policy and principles
PPG3	-	Housing
PPG13	-	Transport

2.2 Herefordshire Unitary Development Plan (Revised Deposit Draft):

S1	-	Sustainable development
S3	-	Housing
DR1	-	Design
DR7	-	Flood risk
H1	-	Hereford and the market towns: settlement boundaries and established residential areas
H9	-	Affordable housing
T11	-	Parking provision
T7	-	Cycling
H15	-	Density
H16	-	Car parking

3. Planning History

- 3.1 HC870250POE - Erection of 3 bungalows with garages and one additional garage. Refused 30th July, 1987. Appeal dismissed 24th March, 1988.
- 3.2 HC880232PO - Erection of two dwellings with garages and one additional garage. Permitted 4th August, 1988.
- 3.3 HC910256PO - Erection of two dwellings with garages and one additional garage (amendment to HC880232PO). Permitted 13th August, 1991.
- 3.4 HC970346PO - Site for erection of two dwelling with garages and one additional garage. Deemed invalid 23rd September, 1997.
- 3.5 CE2000/0744/O - Scheme for residential development. Permitted 3rd November, 2000.
- 3.6 CE2002/0444/F - Proposed development to provide 23 mixed residential units consisting of 2 bed flats. 3 bed town houses and 2 bed mews cottages. Refused 10th January, 2003.
- 3.7 DCCE2004/0026/F - Proposed development to provide 19 residential units. Approved 23rd April, 2004.
- 3.8 DCCE2005/0977/F - Proposed development to provide 19 residential units. Approved 15th July, 2005.

4. Consultation Summary

Statutory Consultations

- 4.1 Network Rail: No objection.

4.2 Environment Agency: Confirmed the requirement for a Flood Risk Assessment for Local Planning Authority approval. This has now been received and assessed.

4.3 Welsh Water: No objection subject to conditions.

Internal Council Advice

4.4 Traffic Manager: Confirmed that the access arrangements as revised are acceptable, albeit with sub-standard crossfalls. Some minor changes in respect of the falls may therefore be necessary, together with the introduction of suitable low kerbing, but this can be secured through Conditioning the submission of S38 drawings for prior approval. Confirmed requirements for financial contribution of £1500 per unit towards sustainable transport improvements.

4.5 Forward Planning Manager:

'The UDP threshold for affordable housing in urban areas is 0.5 ha or 15 dwellings (this was considered by the Inspector as an appropriate threshold, also the new PPS3 suggests 15 dwellings as a national indicative minimum site (para 29)). On sites below that we would not have the ability to insist on an element of affordable housing.

In respect of Mill Court my understanding is that one application was granted permission some time ago on a site that fell below the UDP threshold and at that time the current application site (which is in a different ownership) was not available and not part of the application. Now a second application has been made on a site adjacent to the first (although sharing the same access) but again this part of the site is below the affordable housing threshold - however, the combined sites would exceed the threshold.

[On the basis of the above] I do not believe we can use the UDP policy to insist on an element of affordable housing as for all intents and purposes they have come forward as two separate sites albeit adjacent to each other.'

4.6 Conservation Manager:

- Landscape Officer: No objection subject to conditions.
- County Archaeologist: No objection.
- Ecologist: Confirmed the requirement for an ecological investigation prior to the determination of this application.

4.7 Parks, Countryside and Leisure Development Manager: Confirmed requirement for a financial contribution of £500 per dwelling towards improving the Portfields site.

4.8 Environmental Health and Trading Standards Manager: No response.

4.9 Director of Childrens' Services: advised of a requirement for a financial contribution of £2000 per dwelling to enable the upgrading of facilities at Aylestone High School and St James Primary School.

4.10 Land Drainage (In respect of Flood Risk Assessment): No objection subject to a condition relating to water storage attenuation.

5. Representations

5.1 Hereford City Council: No objection.

5.2 Local residents: No response received.

5.3 Supporting Statement: In support of this application, and in consideration of the request for the provision of affordable housing in this scheme, the following comments have been submitted by the applicant:

1. The proposed development is under the threshold for affordable housing;
2. At the time of the acquisition of the land for the development of 19 units this application site was not owned by us [current developer] and there was no opportunity to purchase this land at that time;
3. The application site was offered subsequent to the commencement of the previously approved development;
4. The provision of affordable housing on this site would not be economically feasible considering this development already proposes the following contributions:
 - a. Restrictive Covenant - £45,750
 - b. Section 106 contributions - £62,000
5. The proposed development is targeting young people and key workers and will therefore be 'affordable' in nature, albeit as driven by market forces.

6. Officers Appraisal

6.1 The main issues associated with this application are considered to be:

- The Principle of Residential Development
- Provision of Affordable Housing
- Design and Scale
- Residential and Visual Amenities
- Highway Issues

Principle

6.2 The application site lies within an Established Residential Area as defined in the Herefordshire Unitary Development Plan (Revised Deposit Draft). Policies S3 and H1 permit new residential development within the Established Residential Areas and, as such, the proposal is considered appropriate as a matter of principle. Of further note is the permission on the adjacent site (DCCE2005/0977/F). It is considered that this permission has clearly established the principle of development in this location.

Affordable Housing

6.3 This application seeks planning permission for 13 dwellings on a site under 0.5 hectares. The scheme therefore falls below the level at which affordable housing can be secured through the relevant policy in the Herefordshire Unitary Development Plan. The Developer has confirmed that this development cannot be linked with the adjacent development in the sense that when this original scheme secured planning permission, this application site was not available for development. On this basis whilst your officers have discussed the provision of a proportion of affordable housing, ultimately, it is considered unreasonable to pursue such provision in this instance. This matter has been discussed with the Forward Planning Manager since the deferral of the application and the position taken on this issue is assessed as correct.

Highway Issues

- 6.4 The requirements of the Traffic Manager have been discussed and have now been achieved through an appropriately revised access and road layout. Minor alterations may be necessary but these can be secured through effective conditioning, the details of which will be confirmed. It is considered that the proposed arrangements will provide safe access without detriment to highway safety.
- 6.5 In other respects adequate parking is provided (minimum of one space per unit) in accordance with Development Plan requirements and secure cycle parking is identified. This is considered appropriate having regard to the 2-bed format of accommodation proposed.

Design and Scale

- 6.6 As originally submitted this application failed to relate acceptably to the adjacent scheme currently under construction. A revised scheme was requested and received which now takes important design queues from the adjacent development. The use of rendered panels and the general roof and layout arrangements reflect the approach taken with the adjacent scheme and this will allow this proposal to integrate effectively into this location. The scale is reflective of the locality and in view of the existence of existing buildings and mature landscaping along its boundaries it is considered that the proposal will have no adverse impact on the wider area.

Residential and Visual Amenities

- 6.7 The dwellings fronting Ledbury Road are considered to be a sufficient distance away to ensure that privacy will be maintained at an acceptable level. The adjacent Mill Court terrace has no openings in the end elevation facing the proposal. The separation distance between the proposed development and the scheme currently under construction on the adjacent site is of note. However, the overall layout is reflective of a modern higher density development and this relationship is considered acceptable in this context. The impact on existing properties adjacent to the site has been addressed through the design and layout such that there will be no harm to existing occupiers. Having regard to the design approach proposed it is considered that the visual amenities of the site and wider area will be preserved through this development. The development will relate well to the adjacent development creating a single comprehensive and integrated development of this area.

Other Issues

- 6.8 The Council's Ecologist advised of the requirement of an appropriate ecological investigation and associated report and this has now been received and is being evaluated.

Conclusion

- 6.9 This application represents an evolution of the extant permission on the adjacent site. The application has addressed the issues noted in the previous development proposals for this site and remains acceptable in relation to design, scale, residential and visual amenity, and highway issues. For these reasons, approval, is recommended subject to the conditions set out below.

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 by the 22nd December, 2006 in accordance with the Heads of Terms set out in Appendix 1 to this report and any additional matters and terms as he considers appropriate.**
- 2) **Upon the completion of the aforementioned planning obligation, and subject to there being no objection from Conservation Manager in respect of the outstanding matters that the officers named in the Scheme of Delegation to Officers be authorised to issue planning permission subject to the following conditions and any further conditions considered necessary by Officers, including those required in respect of highway matters.**
 - 1 **A01 (Time limit for commencement (full permission))**
Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
 - 2 **B01 (Samples of external materials)**
Reason: To ensure that the materials harmonise with the surroundings.
 - 3 **F16 (Restriction of hours during construction)**
Reason: To protect the amenity of local residents.
 - 4 **F48 (Details of slab levels)**
Reason: In order to define the permission and ensure that the development is of a scale and height appropriate to the site.
 - 5 **G01 (Details of boundary treatments)**
Reason: In the interests of visual amenity and to ensure dwellings have satisfactory privacy.
 - 6 **G02 (Landscaping scheme (housing development))**
Reason: To ensure a satisfactory and well planned development and to preserve and enhance the quality of the environment.
 - 7 **G03 (Landscaping scheme (housing development) - implementation)**
Reason: To ensure a satisfactory and well planned development and to preserve and enhance the quality of the environment.
 - 8 **G09 (Retention of trees/hedgerows)**
Reason: To safeguard the amenity of the area.

9 No development shall commence on the site or machinery or materials be brought on to the site for the purpose of development until adequate measures have been taken to prevent damage to Eign Brook and to those trees which are to be retained. Protective measures must include:

a) Protective fencing, of a type and form agreed in writing with the local planning authority, to be erected along the boundary of the 5 metre exclusion zone. This fencing must be at least 2.0 metres high and sufficiently robust to deter construction traffic.

b) No excavations, site works, trenches, channels, pipes, services or temporary buildings used in connection with the development or areas for the deposit of soil or waste or for the storage of construction materials, equipment or fuel or other deleterious liquids shall be sited within the exclusion zone.

Reason: In order to preserve the character and amenity of the area.

10 H09 (Driveway gradient)

Reason: In the interests of highway safety.

11 H13 (Access, turning area and parking)

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway.

12 H21 ((Wheel washing)

Reason: To ensure that the wheels of vehicles are cleaned before leaving the site in the interests of highway safety.

13 H27 (Parking for site operatives)

Reason: To prevent indiscriminate parking in the interests of highway safety.

14 H29 (Secure cycle parking provision)

Reason: To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative modes of accommodation in accordance with both local and national planning policy.

INFORMATIVES:

1 Your attention is drawn to the requirements of Part M of the Building Regulations 1991 in respect of the need to provide access and facilities for the disabled.

2 N03 - Adjoining property rights

3 N11A - Wildlife and Countryside Act 1981 (as amended) - Birds

4 N11B - Wildlife & Countryside Act 1981 (as amended) and Conservation (Nat. Habitats & C.) Regs 1994 - Bats

5 HN1 – Mud on highway

- 6 HN5 – Works within the highway
- 7 HN8 – Section 38 Agreements
- 8 HN13 – Protection of visibility splays on private land
- 9 N15 - Reason(s) for the Grant of PP/LBC/CAC
- 10 N19 - Avoidance of doubt

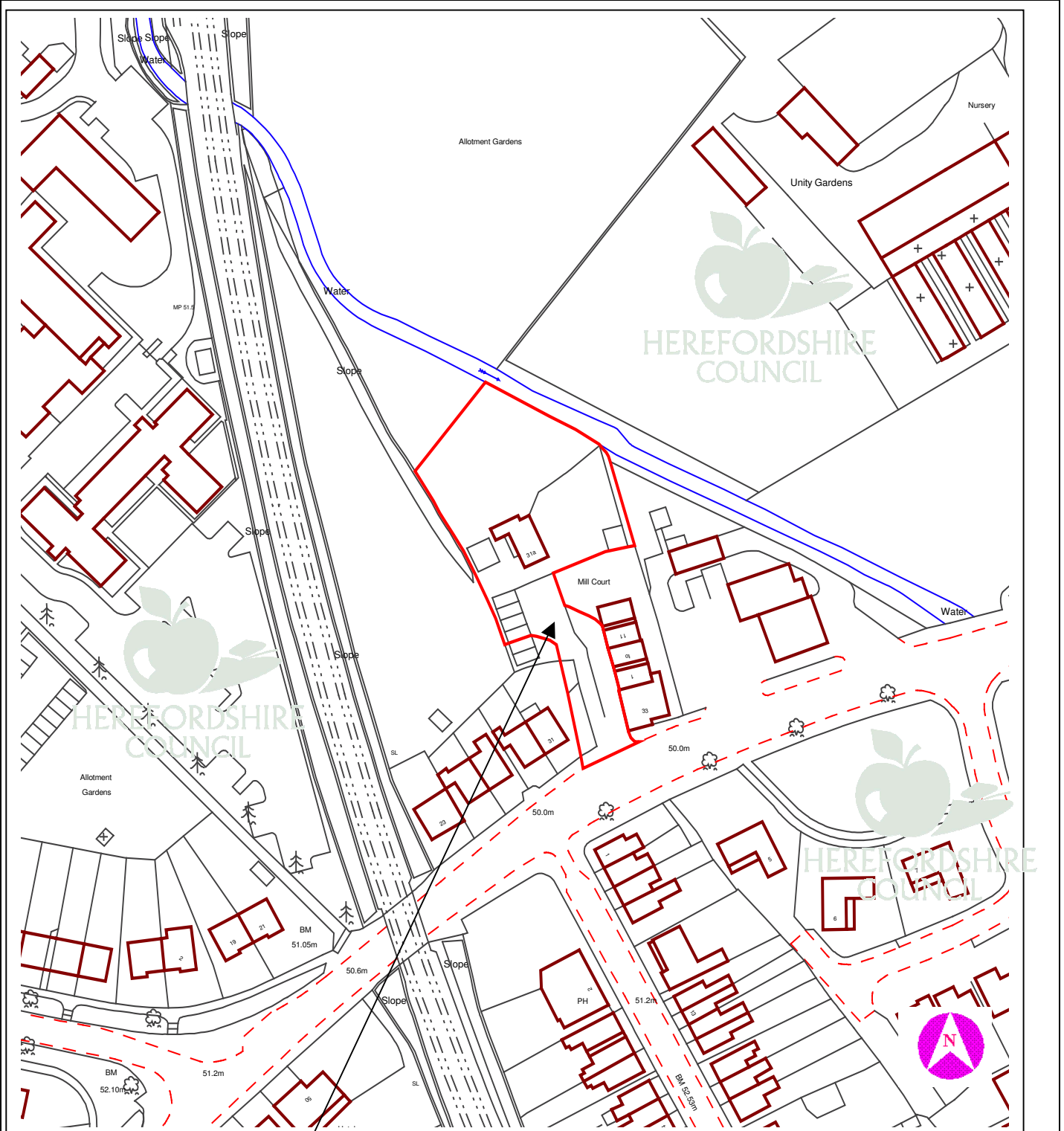
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCCE2006/3117/F

SCALE : 1 : 1250

SITE ADDRESS : Mill Court Village, Ledbury Road, Hereford (Phase 2)

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DRAFT HEADS OF TERMS
Proposed Planning Obligation Agreement
Section 106 Town and Country Planning Act 1990

- Planning Application – DCCE2006/3117/F
 - Residential development of 13 No. two bedroom residential units
 - Mill Court Village, Ledbury Road, Hereford.
1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £26,000 (ratio of £2000 per two bed unit) to provide enhanced educational infrastructure/facilities for the nursery, primary and secondary schools within the catchment area of the application site which sum shall be paid on or before the commencement of the development.
 2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £10000 for public art in the locality of the application sites which sum shall be paid on or before the commencement of the development.
 3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £19500 (ratio of £1500 per unit) to provide for sustainable transport improvements which sum shall be paid on or before the commencement of the development.
 4. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £6,500 to provide for the cost of improving and maintaining the 'Portfields' open space and local play facilities which sum shall be paid on or before the commencement of the development.
 5. In the event that Herefordshire Council does not for any reason use the said sum of Clauses 1, 2, 3, and 4 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.
 6. 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.
 7. The developer shall complete the Agreement within 12 weeks of the date the determination of this application otherwise the application will be registered as deemed refused.

Adam Sheppard - Senior Planning Officer
Peter Yates - Development Control manager

28th December 2006