

5 DCCE2006/3982/F - PROPOSED NEW DWELLING (RETROSPECTIVE). REVISED SITING FROM APPROVAL DCCE2005/3180/F. PLOT ADJACENT TO 'STONELEIGH' FORMERLY 'ROWBERRY', LUGWARDINE, HEREFORD, HR1 4DS

For: Mr. & Mrs. T. & E. Smith, 3 Huskinson Drive, Hereford, HR1 1DB

Date Received: 20th December, 2006

Ward: Hagley

Grid Ref: 55209, 41080

Expiry Date: 14th February, 2007

Local Member: Councillor R.M. Wilson

This application was deferred at the meeting of the Central Area Planning Sub-Committee on the 7th February, 2007 in order to carry out a Members' site visit. This site visit was carried out on the 20th February, 2007.

1. Site Description and Proposal

1.1 The application seeks retrospective permission for the retention of a dwelling on land adjacent to Stoneleigh (formerly Rowberry), Lugwardine. A dwelling on this site was approved by virtue of application DCCE2005/3180/F, however, when development was commenced it was brought to the Council's attention that the proximity of the new dwelling to the boundary of the neighbour to the east was less than approved. Further investigations by the Council's Enforcement Officer determined that the application block plan associated with application DCCE2005/3180/F was inaccurate, with the site narrower than was understood to be the case. The result of this being the distance to the boundary to the east and west are less than agreed. The dwelling itself, as well as the associated access, is unchanged from the approved scheme. This application seeks the retention of the approved dwelling within the amended site area.

1.2 The application site is located within the settlement boundary of Lugwardine and is adjacent to a designated Conservation Area. Lugwardine is designated as a 'Main Village' in the emerging Herefordshire Unitary Development Plan (Revised Deposit Draft). The site is also adjacent to a Listed Building to the west (Porch House).

2. Policies

2.1 Planning Policy Guidance:

PPS1	-	Delivering sustainable development
PPS3	-	Housing
PPG15	-	Planning and the historic environment

2.2 Herefordshire Unitary Development Plan (Revised Deposit Draft):

S1	-	Sustainable development
S2	-	Development requirements

S7	-	Natural and historic heritage
DR1	-	Design
DR2	-	Land use and activity
DR4	-	Environment
DR6	-	Water resources
H4	-	Main villages: settlement boundaries
H5	-	Main villages: housing land allocations
H16	-	Car parking
T11	-	Parking provision
HBA4	-	Setting of listed buildings
HBA6	-	New development within conservation areas

3. Planning History

- 3.1 DCCE2005/3180/F - Proposed new dwelling. Approved 29th November, 2005.

4. Consultation Summary

Statutory Consultations

- 4.1 Welsh Water: No objection but will require reconsultation when connection to the mains becomes available.

Internal Council Advice

- 4.2 Conservation Manager: No objection to the scheme as now proposed.
- 4.3 Traffic Manager: On the basis of the confirmed access arrangements, no objections subject to conditions.

5. Representations

- 5.1 Lugwardine Parish Council: Objection of the following grounds:

- The size of the dwelling, which has now become apparent, is too large for the plot;
- Dwelling is too close to Stoneleigh causing privacy and light loss issues;
- The property is not a dormer bungalow;
- The conditions attached to the previous application were not all discharged prior to the commencement of development.

- 5.2 Local Residents: Three letters of objection have been received from two sources raising the following points:

- The property is not a 'dormer bungalow';
- The position on the site is not as approved;
- The property is too large for the plot;
- The building is overpowering and claustrophobic in size and the closeness to the boundary is inadequate resulting in an adverse impact upon quality of life;
- The access proposed is not all in the ownership of the applicant;
- A site visit by Members is suggested;
- The paddock area to the rear of the building was not part of the approved property and domestic features have been introduced onto this area of land;
- Noise and pollution resulting from the construction process have resulted;

- The issues of loss of light and privacy previously raised under application DCCE2005/3180/F should be reconsidered as they are unacceptable;
- The dwelling is suggested as being required for Mrs. Smith, already registered disabled, a more modest bungalow is more appropriate in this context;
- The property will cause shadow and resulting dropping of fruit;
- The design is inappropriate for this location;
- The pedestrian access is unacceptable.

In addition to the above, a letter from a solicitor has been received on behalf of Stoneleigh, challenging the land ownership of the access.

- 5.3 A solicitor, acting on behalf of the applicant, has submitted documentation in support of the applicant's claims over access rights/ownership.
- 5.4 The applicant has submitted a lengthy document in support of the application, the key points of which are summarised as follows:
- a. The error in the original site plan (which necessitated this application) is regrettable. We believe that the change compared to the previous approved plans is minimal;
 - b. The comments on the scale of the proposal are not applicable as the actual dwelling is previously approved;
 - c. The finish is previously approved;
 - d. The access is previously approved;
 - e. 90% of the base work for the access drive is completed and works have only been stopped by the ongoing legal dispute;
 - f. There has been no attempt to mislead anyone with the scheme, all details were correct except the site plan and a new application was immediately submitted when this error was recognised;
 - g. The Parish Council raised no objection to the scheme previously;
 - h. There are several other large properties on small plots in the locality (photographs included);
 - i. The minimal differences between the site plans will not significantly impact upon the aspect from neighbouring properties or increase the overshadowing or privacy impact;
 - j. The plans of the new dwellings were available post determination and were available to the Estate Agents involved during the sales process;
 - k. The footprint of Stoneleigh (formerly Rowberry) is over 200 square metres in a 0.32 acre site, compared to 157 square metres for the new dwelling in a half an acre site;
 - l. The dwelling is a dormer property in accordance with the Collins definition of such properties;
 - m. The materials are appropriate for the location;
 - n. The access issue may be resolved through civil court proceedings if unresolved in the near future but we believe the area required for access arrangements is our property;
 - o. The access arrangements as currently provided are comparably to others in the locality;
 - p. The applicant also takes the opportunity to refute personal comments and allegations made in representations received, the details of which are not pertinent to this application but are available on file.

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

6. Officers Appraisal

6.1 A number of issues relating to the building itself, the access, and land ownership issues have been raised, together with comments relating to personal circumstances, which in itself is not a material consideration in this case. The dwelling which is the subject of this application, as well as the associated access arrangements, have previously been approved by virtue of application DCCE2005/3180/F. On this basis the sole matter for consideration is the impact of the reduced distance from the dwelling to the east and west boundaries with neighbouring property.

6.2 The result of the plan inaccuracies is that the dwelling is now up to 0.5 metres closer to the boundary with Porch House, and 1.5 metres closer to the boundary with Stoneleigh. It is considered that these variations are such that no significant impact on the wider character and visual amenity of the area will result. The key issue for consideration is therefore the actual impact of these variations upon the neighbouring dwellings.

6.3 It is considered that the 0.5 metre variation to the west will not result in any tangible difference in the relationship between the new dwelling and Porch House. Turning to the east, Stoneleigh has no habitable openings in the side facing elevation affected by this new property and as such the key impact is in respect of the area to the rear. The gap between the boundary as approved was approximately 3 metres. As built the gap is 1.4 metres at the closest point. Habitable windows are found in the rear of Stoneleigh and the proposal projects 5 metres beyond the rear elevation of this neighbour. No openings are proposed in this projecting element and as such privacy will not be affected. The property is located to the west of Stoneleigh and as such there would be some increased shadowing in the afternoon/evening. Similarly, the overbearing impact upon the rear elevation will be increased to an extent. However, the remaining distance between these properties and their relative orientation is such that the impact will remain within acceptable limits and would not warrant the refusal of planning permission.

Other issues

6.4 Issues surrounding the ownership of the access have been raised. The applicant maintains that they have control over the land required for the access and it is not for the planning process to resolve such disputes. Ultimately the access must be provided as approved but this is for the applicant to secure. A revised plan has now been received confirming the access details in accordance with the Area Highway Engineers requirements. Details of the required conditions are to be confirmed but the completion of the access will be restricted by a time limit having regard to the retrospective nature of the application.

6.5 Comments relating to the description of the original proposal and the height and size of the dwellings as built are noted but ultimately with the exception of the proximity of the neighbouring boundaries, the house has been built in accordance with the approved plans and it is not therefore reasonable to challenge these aspects of the development.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

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. **B03 (Matching external materials (general)).**

Reason: To ensure the satisfactory appearance of the development.

3. **E16 (Removal of permitted development rights).**

Reason: In order to protect the residential amenity of adjacent properties.

4. **E18 (No new windows in specified elevation).**

Reason: In order to protect the residential amenity of adjacent properties.

5. **E19 (Obscure glazing to windows).**

Reason: In order to protect the residential amenity of adjacent properties.

6. **W01 (Foul/surface water drainage).**

Reason: To protect the integrity of the public sewerage system.

7. **W02 (No surface water to connect to public system).**

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment.

8. **W03 (No drainage run-off to public system).**

Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment.

9. **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.

10. **G01 (Details of boundary treatments).**

Reason: In the interests of visual amenity and to ensure dwellings have satisfactory privacy.

11. **H03 (Visibility splays).**

Reason: In the interests of highway safety.

12. H05 (Access gates).

Reason: In the interests of highway safety.

13. H06 (Vehicular access construction).

Reason: In the interests of highway safety.

14. H08 (Access closure).

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

15. 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.

Informatives:

- 1. N01 - Access for all.
- 2. N03 - Adjoining property rights.
- 3. HN05 – Works within the highway
- 4. HN10 – No drainage to discharge onto highway
- 5. N15 - Reason(s) for the Grant of PP/LBC/CAC
- 6. N19 - Avoidance of doubt

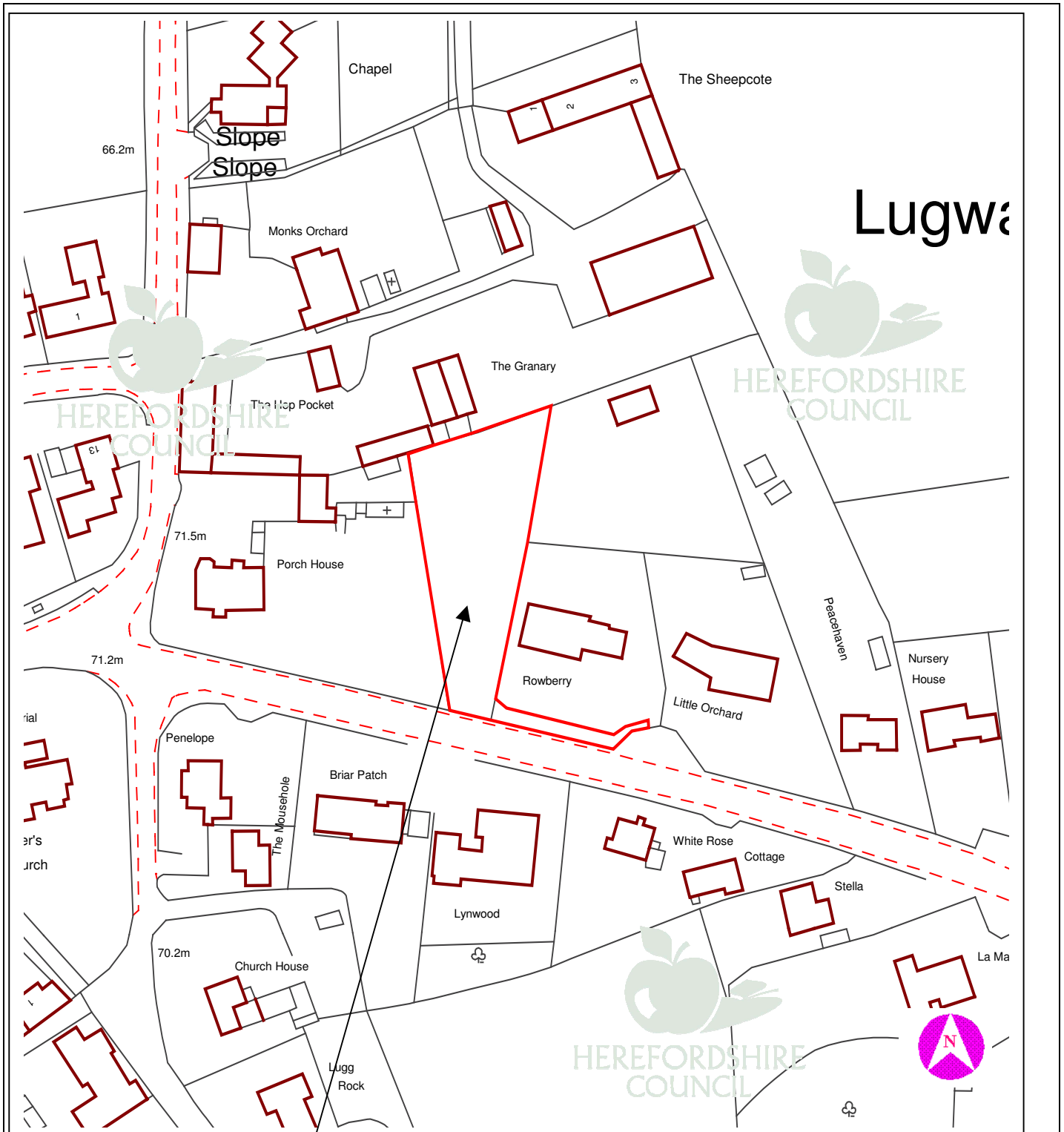
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCCE2006/3982/F

SCALE : 1 : 1250

SITE ADDRESS : Plot Adjacent to 'Stoneleigh' formerly 'Rowberry', Lugwardine, Hereford, HR1 4DS

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