

**9 DCCE2007/0859/O - PROPOSED BUNGALOW FOR A DISABLED PERSON. LAND ADJACENT TO THE OLD VICARAGE, PRESTON WYNNE, HEREFORD, HEREFORDSHIRE, HR1 3PE**

**For: Miss S. Davies, Paul Smith Associates, 19 St Martins Street, Hereford, HR2 7RD**

**Date Received: 16th March, 2007**

**Ward: Hagley**

**Grid Ref: 56494, 46847**

**Expiry Date: 11th May, 2007**

Local Member: Councillor D.W. Greenow

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

1.1 This application represents the third submission for this proposal. The application again seeks permission for the erection of a single storey dwelling house on land adjacent to the Old Vicarage, Preston Wynne. The site is located within the open countryside and a Public Right of Way runs along the southern boundary of the site.

1.2 The proposal seeks Outline Permission for the erection of a single storey dwelling house. All matters are reserved. The site would be accessed via the existing field entrance off the C1118. The application has been submitted with an accompanying statement from the applicant, advising of her disability and wish to be independent but remain in the area.

### **2. Policies**

2.1 Planning Policy Guidance:

PPS1	-	Delivering sustainable development
PPS3	-	Housing
PPS7	-	Sustainable development in rural areas
PPG13	-	Transport

2.2 Herefordshire Unitary Development Plan 2007:

S1	-	Sustainable development
S2	-	Development requirements
S3	-	Housing
S6	-	Transport
DR1	-	Design
DR2	-	Land use and activity
DR3	-	Movement
H7	-	Housing in the open countryside outside settlements
T11	-	Parking provision

### **3. Planning History**

3.1 DCCE2006/2453/F - Proposed detached bungalow. Refused.

3.2 DCCE2005/3999/F - Proposed detached bungalow. Refused.

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

##### Statutory Consultations

4.1 Environment Agency: No objection.

4.2 Welsh Water: No objection.

##### Internal Council Advice

4.3 Traffic Manager: No objection.

4.4 Public Rights of Way Manager: No objection subject to the protection of the Public Right of Way.

#### **5. Representations**

5.1 The Ramblers' Association: No objection subject to the protection of the Public Right of Way.

5.2 Preston Wynne Parish Council: Strongly support the application.

5.3 Local Residents: Letters of support have been received from Mr and Mrs Ball, High Standing, Preston Wynne and R and S Rudd, The Old Vicarage, Preston Wynne. The comments raised can be summarised as follows:

1. The location of the proposed bungalow will not lead to over development;
2. The building would be in keeping with the area;
3. No residential amenity issues exist;
4. Safe access is available;
5. The dwelling will allow a young disabled person to stay in her local community and close to her supportive family;
6. There will be no increase in vehicle movements as the young disabled person already lives in the family home nearby;
7. This will not create a precedent and similar schemes have been approved.

5.4 A letter of qualified comment was also received from R and S Rudd, The Old Vicarage, Preston Wynne. The comments raised can be summarised as follows:

1. No objection if as previously proposed but concern if sited differently.

5.5 The Agent acting on behalf of the applicant submitted a statement in support of this application. The comments can be summarised as follows:

1. The previous applications for this proposal have been refused on the grounds of housing policy and sustainable development. The Council has accepted the development in all other respects;
2. The Council is now asked to consider this proposal having regard to the specific circumstances of the case and all relevant legislation;
3. The applicant is seeking greater independence but her personal circumstances necessitate her remaining in close proximity to her family;

4. The applicant's parent's home (The Glen) cannot be adapted to meet the needs of the applicant, and there is insufficient space for an annexe;
  5. There is no other option but to pursue this bungalow;
  6. Although not in a settlement to which housing is steered in the Herefordshire Unitary Development Plan, the application site is in a small, well contained plot next to an existing dwelling and close to the village hall;
  7. Safe access is available and the site lies within a reasonable distance to the A465, a primary transport route with public transport provision;
  8. The proposal is 'sustainable-neutral' on the basis that the applicant already lives in the area and will use her car no more than she currently does;
  9. The applicant is happy for a condition or legal agreement tying the property to her and any spouse and any dependants she may have;
  10. Article 8 of the Human Rights Act 1998 confers the 'right to a respect for a private and family life'. In this case, this can only be achieved through this proposal. The Council can interfere with these rights only if it is in accordance with the law and only if that interference is proportional to the intended objection;
  11. The applicant's circumstances are unique and, as appropriate 'other material planning considerations'. justify support for this proposal.
- 5.6 The full text of these letters can be inspected at Central Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Sub-Committee meeting.

## 6. Officers Appraisal

- 6.1 Preston Wynne is a small hamlet which has no identified settlement status in the Herefordshire Unitary Development Plan 2007. The proposal therefore constitutes housing in the open countryside and Policy H7 outlines the circumstances in which new housing can be supported. These can be summarised as follows:
1. The dwelling is required for essential agricultural and forestry workers;
  2. Replacement dwellings;
  3. The conversion of an existing rural building;
  4. The dwelling is a necessary accompaniment to the growth of a rural enterprise, including tourism and farm diversification; or
  5. The site is providing for the needs of gypsies or other travellers.
- 6.2 The application proposal fails to comply with any of the above criteria.
- 6.3 Notwithstanding the conflict with adopted policy, other material considerations are to be taken into account when considering planning applications and in this case the circumstances of the applicant should be accorded appropriate weight
- 6.4 The applicant is disabled. However she retains and enjoys freedom of movement by car and is not tied to a particular location. A more appropriate location within an identified settlement therefore remains a viable option. Additionally, the provision of this property would be in perpetuity. The agent has suggested a condition or legal agreement tying the new development to the applicant and dependants, having regard to the special circumstances of the applicant. If this proposal were accepted on the basis of the special circumstances of the individual, such an agreement would only be reasonable for a temporary form of accommodation, such as a mobile home. Once the applicant has ceased occupying the dwelling, its justification ceases to exist and the accommodation should be removed. This is not reasonable or practical with a permanent form of accommodation. Temporary accommodation, which can be

removed once the occupier no longer requires it, can be a solution in some circumstances, though not normally on a 'detached' site such as this. Accordingly it is considered that these circumstances cannot justify overriding the restrictive policy stance for new dwellings in the open countryside.

- 6.5 Turning to the issue of sustainability, Preston Wynne provides little more than a village hall. Residents in this area need to travel for the majority of their domestic, professional and personal requirements. The lack of public transport necessitates the use of private transport to meet these requirements. Policy S1 of the Herefordshire Unitary Development Plan 2007 states that:

"Sustainable development will be promoted by..directing necessary new development to strategic locations, settlements and sites that best meet the appropriate sustainable development criteria'.

- 6.6 To facilitate this Herefordshire Council has identified appropriate locations for new developments, including the designation of settlements. Preston Wynne is not such a designated settlement due to the inadequacies of the location to support new development.

- 6.6 As with the previous two applications, in other respects it would appear that an Outline Permission for this dwelling could be viable. Any privacy and amenity issues associated with the orientation of the proposal could be resolved with the front garden area of the Old Vicarage being the sole area to suffer any genuine and direct overlooking. The Public Right of Way would appear to be unaffected and the proposal would appear to satisfy the Traffic Manager. All matters are reserved enabling the Council to ensure a satisfactory form of physical development. Notwithstanding this, however, it remains the case that this scheme is contrary to policy as explained above.

- 6.7 Consideration has been given to the applicant's rights under Article 8 of the Human Rights Act 1998 and particularly the right to respect for a private and family life. This is acknowledged but, having regard to her right of appeal should permission be refused, and the need to balance here personal need with the Council's planning objectives, the planning system does provide adequate safeguards in respect of the applicant's human rights.

## RECOMMENDATION

**That planning permission be refused for the following reasons:**

- 1. The development is contrary to Policy H7 of the emerging Herefordshire Unitary Development Plan 2007, together with advice contained within PPS7 entitled Sustainable Development in Rural Areas, as the site the for dwelling lies outside of a defined settlement and none of the exceptions to new housiing in the countryside have been satisfied.**
- 2. The proposed development, by virtue of its remote location, is contrary to PPG3: Housing, PPG13: Transportation, and Herefordshire Unitary Development Plan 2007 Policies S1, S2 and DR2, which seek to prevent unsustainable development and reduce the need to travel.**

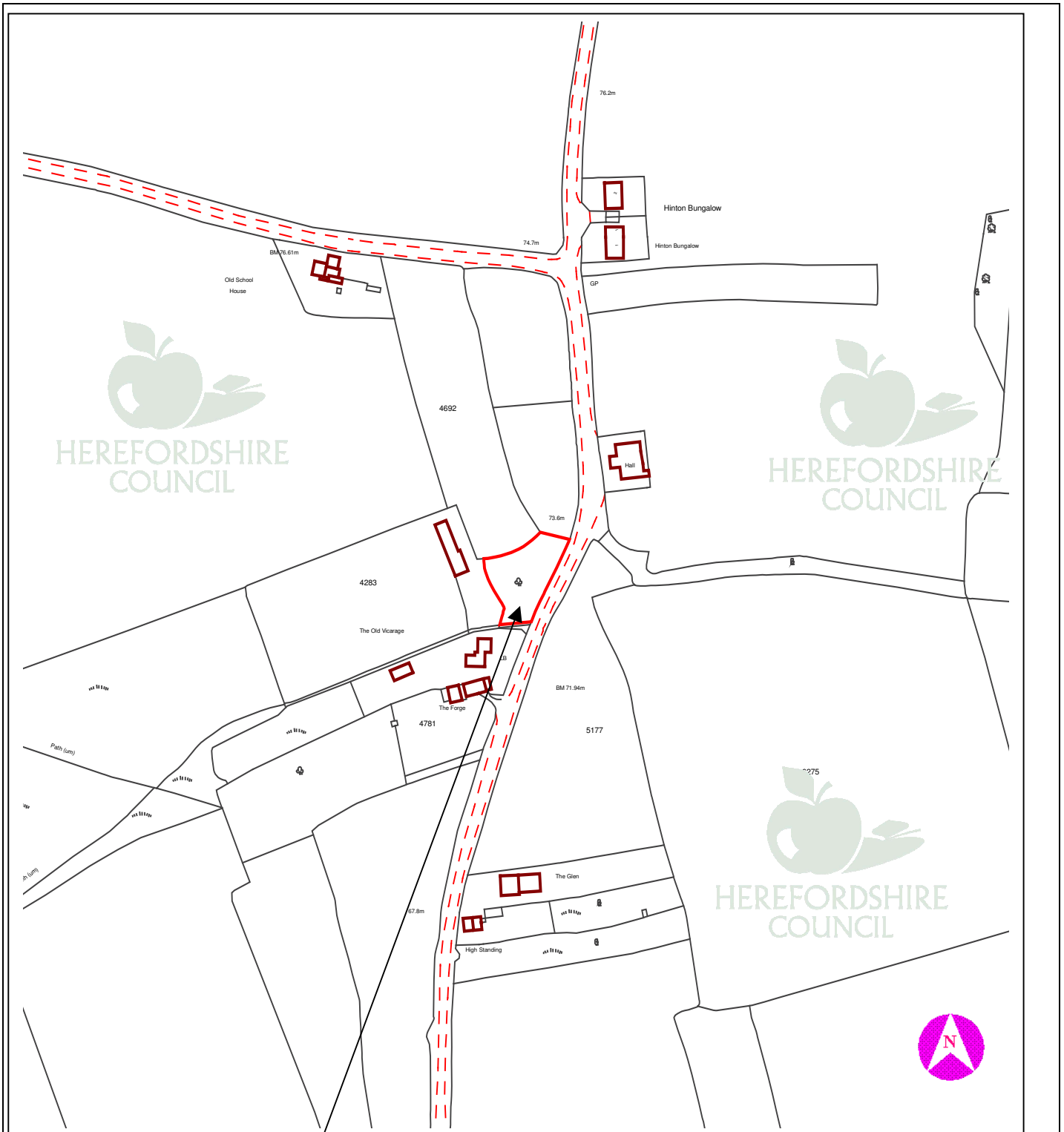
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** DCCE2007/0859/O

**SCALE :** 1 : 2500

**SITE ADDRESS :** Land adjacent to The Old Vicarage, Preston Wynne, Hereford, Herefordshire, HR1 3PE

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