

**13 DCNC2007/1348/F - RETROSPECTIVE APPLICATION FOR THE VARIATION OF CONDITION 3 OF PLANNING PERMISSION NC2002/1955/F AND INSTALLATION OF 3 ROOF LIGHTS 26 SHERFORD STREET, BROMYARD, HEREFORDSHIRE, HR7 4DL**

**For: Mr S Partridge at above address.**

**Date Received:**

**1st May 2007**

**Ward: Bromyard**

**Grid Ref:**

**65613, 54576**

**Expiry Date:**

**26th June 2007**

Local Members: Councillor B. Hunt Councillor A. Seldon

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

- 1.1. The site is in a Conservation Area and is located on the western side of Sherford Street. Planning permission was granted in October 2002 for the erection of a three storey building accommodating four flats (ref. no. DCNC2002/1955/F). The building was a direct replacement of an existing detached dwelling, which was demolished. The approved building is now nearing completion.
- 1.2. Condition number 3 on the planning permission required that four windows on the north elevation (i.e. the kitchen and bedroom to flat 1 and also the stairwell windows to flats 3 and 4 ) be glazed with obscure glass only and be non-opening, prior to the use or occupation of the flats and at all times thereafter. The reason was to protect the residential amenity of adjacent properties, in particular, the existing dwellinghouse to the north. At the time of writing this report three of the windows have been inserted, the two stairwell windows have obscure glass, but are opening windows, the bedroom window has clear glass and is also an opening window. This application has been submitted to remove condition number 3 of the planning permission.
- 1.3. Three conservation rooflights have been inserted in the front (roadside facing) roof of the building, which were not on the original planning permission. This planning application also seeks permission retrospectively for these rooflights.

## **2. Policies**

### **2.1 Planning Policy Guidance**

PPS1 - Delivering Sustainable Development  
PPG3 - Housing  
PPG15 - Planning and the Historic Environment.

### **2.2 Herefordshire Unitary Development Plan**

Policy S2 - Development requirements  
Policy DR1 - Design

Policy H1 - Hereford and the Market Towns: Settlement Boundaries and Established Residential Areas.

H18 - Alterations and extensions

HBA6 - New development within Conservation Areas.

### 2.3. Supplementary Planning Guidance

Design and Development Requirements

## 3. Planning History

DCNC2001/1533/F - Proposed detached dwelling to provide for flats. Refused 06.12.01.

DCNC2001/1534/C - Demolition of detached housed. Refused 06.12.01

DCNC2002/1715/C - Demolition of existing building to enable replacement. Approved 02.10.02.

DCNC2002/1955/F - Construction of a four no two bedroom flats. Planning permission granted 02.10.02.

## 4. Consultation Summary

### Statutory Consultations

4.1. None required

### Internal Council advice

4.2 The Traffic Manager has no objection.

4.3. The Conservation Manager observes that normally it is preferable to avoid having rooflights on principal elevations but, as the building is set up quite high, the impact is minimal and as such does not object to the three rooflights. There appears to be other variations to the appearance of the building from the approved scheme i.e. the use of concrete lintels over the windows, a different front door and a new porch rather than a reused one.

## 5. Representations

5.1 The applicant states that the four windows required by the planning permission to be non-opening would result in there being no reasonable means of escape in the event of a fire from rooms facing this elevation, so it would be preferable for residents to have these windows as an emergency escape route. The conservation rooflights fitted on the front allow light and air into the rooms and also a means of escape in the event of a fire. I have endeavoured to make the building as attractive as possible and trust it will be a credit to the area.

5.2. Bromyard Town Council states:-

My Town Council's Planning Committee resolved not to support this application.

## (a) Variation of Condition 3.

It was felt that the applicant's concerns regarding the safety of non-opening windows could be overcome by the installation of windows specifically designed to break in the case of fire or other emergency.

## (b) Installation of three roof lights.

This is felt to be detrimental to the residential amenity of adjacent buildings.

## 5.3. There have been two letters received from W. H. and S. M. Lewis, Tack Farm, Edwyn Ralph, Bromyard Hfds HR7 4LT. The main points being:-

- The objectors own the adjacent property - Redgate House, 20 Sherford Street, which is adjacent to the application site.
- Alarmed by the proposal to alter the permission.
- One of the windows is significantly larger and does not have obscure glass. Windows appear to be hinged and, therefore, able to open.
- If permission is granted the objector's property will be completely overlooked by the four windows in question and prejudice enjoyment of their property and have a negative effect on its value.
- The applicant's disregard and lack of adherence to the planning conditions is unacceptable. He is also in breach of condition 4 relating to the porch and windows.
- Site within Conservation Area.
- Concerns over increased demand for parking as a result of the development. Extra noise and disruption to local residents.
- The windows, if opened, will be over land in applicant's ownership and would effectively be trespassing on objector's property.

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

## 6. Officer's Appraisal

## 6.1. The main issues relate to:-

- (i) Whether the removal of condition 3, relating to the four windows would result in the residential amenities of the occupants of the adjacent property to the north being adversely affected by overlooking and loss of privacy;
- (ii) Whether the insertion of the roof lights will adversely affect the visual appearance and character of the building and its setting within the Conservation Area.

- 6.2. The applicant has stated that some of the windows on the side of the building, which were conditioned by the planning permission to remain fixed, needed to be opening windows, in order to comply with building regulations, so as to provide a means of escape if there was a fire. The bedroom and kitchen windows were made larger to enable escape. However, the stairwell windows were made smaller.
- 6.3. The ground level of the neighbouring property to the north is higher than the application site, to the extent that the lawn is roughly level with the first floor of the applicant's building. The highest of the four windows in question (i.e. restricted by condition 3) is a bedroom window, which is at first floor level and looks towards the neighbour's dwelling. This would normally overlook the neighbour's property, but its view is currently restricted by a temporary larch lap fence, positioned inside the neighbour's boundary by approximately 1.5 metres. The applicant has stated that he intends to erect a new fence along the boundary, when the work is completed, which will prevent any overlooking from this window. He also intends to take out the clear glass and insert obscure glass, as originally required. The two stairwell windows are lower down, so that the base of the windows are level with the next door neighbour's ground level. These windows have obscure glass and, along with the intended new fencing, will not affect the neighbour's privacy. The kitchen window at ground floor level is lower than the neighbour's lawn and looks out onto an earth wall and cannot overlook the neighbour's property.
- 6.4. Consequently the only window that is likely to cause a problem is the first floor bedroom window, but the intended insertion of obscure glass and the erection of a fence will overcome this problem. The building appears to be set back enough from the side boundary to ensure that the opening window will not overhang the neighbour's property. A condition requiring the provision of the new fence could be imposed on any permission granted.
- 6.5. The three new roof lights inserted on the front roof slope of the building will not adversely affect the visual appearance of the building, nor the visual amenity and character of the Conservation Area. Consequently, the new roof lights are considered to be acceptable.
- 6.6. In conclusion, the development, as proposed, is considered to be acceptable and in accordance with the relevant planning policies and guidance. In particular Policies S2, DR1, H1, H18 and HBA6 of the Herefordshire Unitary Development Plan.

## RECOMMENDATION

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

- 1 - The two stairwell windows and the bedroom window restricted by condition no. 3 of planning permission DCNC2002/1955/F be glazed with obscure glass only, prior to the use or occupation of the flats and at all times thereafter, unless otherwise first agreed in writing by the local planning authority.**

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

- 2 - Before the flats are first occupied a fence shall be erected along the northern boundary of the site in accordance with details to be first submitted to and be subject to the prior written approval of the local planning authority. The details of the fence shall include position, length, size, design, materials and finish. The fence shall be erected in accordance with the approved details and shall remain in place and fully intact at all times thereafter, unless otherwise first agreed in writing by the local planning authority.

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

**Informatives:**

- 1 - N15 - Reason(s) for the Grant of PP/LBC/CAC
- 2 - N03 - Adjoining property rights
- 3 - The applicant should be aware that this planning permission does not over-ride any civil/legal rights enjoyed by adjacent property owners. If in doubt, the applicant is advised to seek legal advice on the matter.
- 4 - N19 - Avoidance of doubt

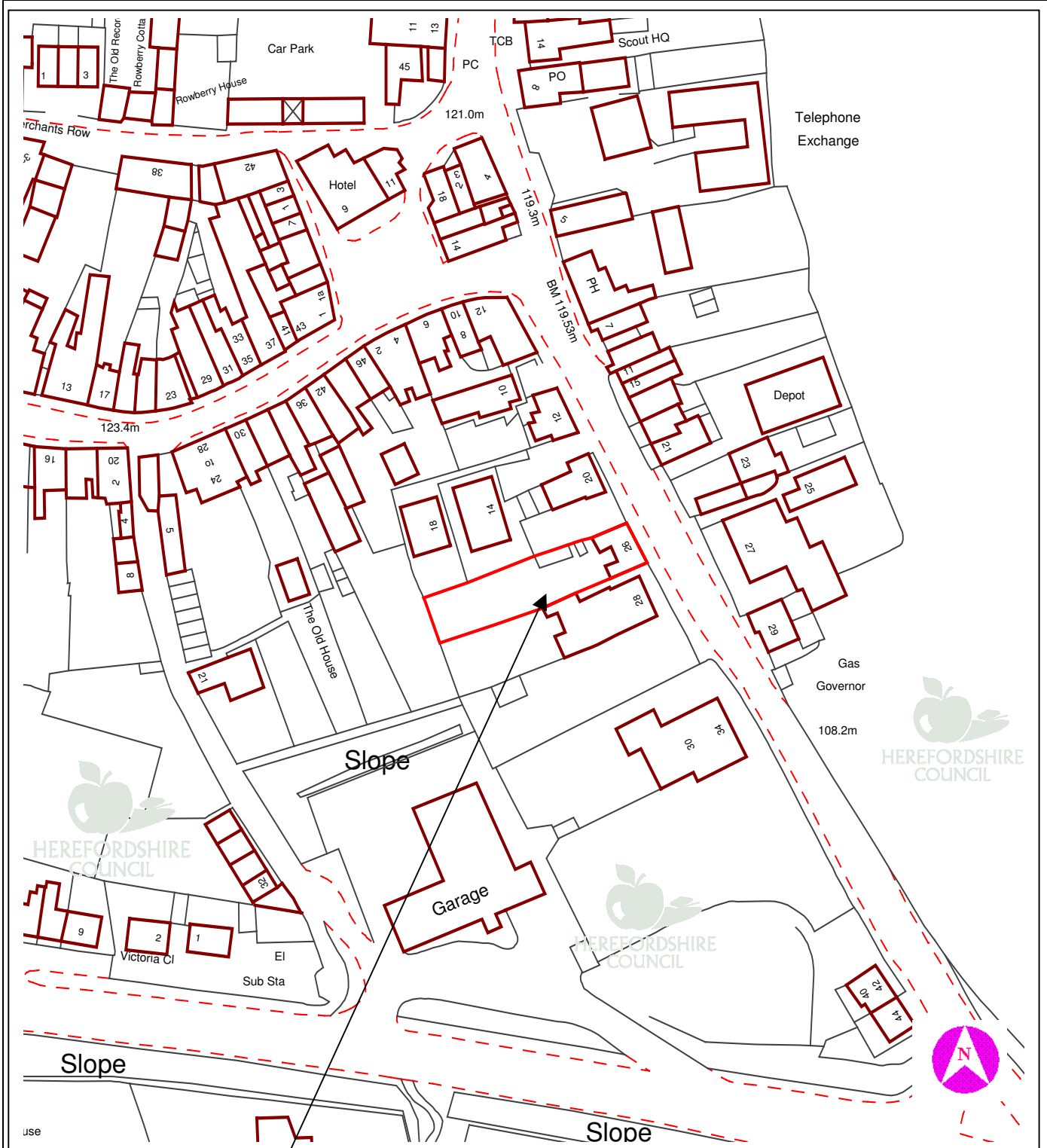
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** DCNC2007/1348/F

**SCALE :** 1 : 1250

**SITE ADDRESS :** 26 Sherford Street, Bromyard, Herefordshire, HR7 4DL

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