

DCCE2007/2237/F - REPLACEMENT DWELLING AND CONTINUED TEMPORARY USE OF EXISTING OUTBUILDING AS FULL RESIDENTIAL ACCOMMODATION. (ALTERNATIVE SITING OF APPROVED DWELLING UNDER CE2002/1868/F). SWISS COTTAGE, WHITESTONE, HEREFORD, HEREFORDSHIRE, HR1 3SE

For: Mr A Gregory, per Mr P.H. Bainbridge, Stone Cottage, Duke Street, Withington, Hereford, HR1 3QD

Date Received: 23rd March, 2007 **Ward: Hagley**

Grid Ref: 56367, 42370

Expiry Date: 18th May, 2007

Local Member: Councillor D. Greenow

Introduction

This application was considered by the Central Area Planning Sub-Committee at its meeting on the 29th August 2007 when Members resolved to grant planning permission contrary to the recommendation of the report. This decision was accordingly referred to the Head of Planning Services to determine if it should be reported to the Planning Committee for further consideration.

At its meeting on 29th August 2007 the Central Area Planning Sub-Committee was recommended to refuse this application for the following reasons:

- 1. The proposed site for the dwelling is not on the same site as the existing dwelling (now demolished) and therefore the development is contrary to Policy H7 of the Herefordshire Unitary Development Plan 2007.**
- 2. The site occupies an exposed location within the open countryside and the proposed development would detract from the landscape character of the area. As such the development is contrary to the Policies S1, S2, S7, DR1 and LA2 of the Herefordshire Unitary Development Plan 2007.**

In the debate the members of the Area Sub-Committee gave weight to the fact that planning permission already exists for a replacement dwelling on part of the site and consequently, in their view, this case did not raise any new point of principle. They felt that the siting proposed was acceptable provided that the removal of the existing planning permission and the removal of the current residential structure on the site was secured through a Section 106 agreement. They appreciated the desire of the applicant to have a siting which was further away from the railway line and the site of the proposed passenger station and park-and-ride site at Whitestone. They also noted that the applicant has the full support of the Parish Council.

It was resolved to grant planning permission subject to a Section 106 agreement, the details of which were to be subject to further discussions between the applicant, officers, ward councillor and Chairman.

The application raises the following issues:

1. The overall area of land available to the applicant is extensive. Planning permission has been granted for a replacement dwelling close to the site of the now demolished original building on the site. Planning permission has also been refused for an alternative siting remote from the original site. In order to comply with policy H7 a replacement dwelling needs to be on the same site as the building being replaced. An acceptable compromise position needs assessing against the landscape qualities of the site and the extent to which the new dwelling will intrude into open countryside. In the opinion of both landscape and planning officers the current proposal is remote from the site of the original (now demolished) dwelling resulting in the encroachment of residential development into adjoining paddock and therefore does not comply with policy H.7 paragraph 4 as a matter of principle and policies S1, S2, S7, DR1 and LA2 in relation to landscape impact.
2. There is a substantial structure on the site which is fully serviced and currently occupied as a residential dwelling. The applicant intends to keep this as "Ancillary accommodation" as per the original planning permission but, if it is retained, it clearly has the potential to continue in residential use. The new proposed siting for the replacement dwelling is too far away (65 metres) for this structure to be reasonably operated as truly ancillary to the new dwelling. The Area Sub-Committee sought to resolve this by requiring the applicant to demolish this structure. The applicant has not agreed to this. Indeed, the description of development makes it clear that he wants to retain this structure. The effect of both the new dwelling and the retention of this structure would result in two dwellings on the site in open countryside. The lack of agreement to demolish this structure also means that the Area Sub-Committee's resolution cannot be implemented.
3. The critical policy principle at stake here is the question of how close to the original siting must a replacement dwelling be. The siting now proposed is 50 metres away from the original dwelling and will be conspicuous in the landscape – it is therefore contrary to policy. The ameliorative measures required by the Area Sub-Committee are not currently acceptable to the applicant.

The proposal conflicts with the development plan policies, which seek to restrict new housing in the open countryside without special justification. This conflict exists on three levels: firstly, the replacement dwelling is not on the site of the original dwelling, secondly, the proposed siting will detract from the landscape qualities of the site and, thirdly, the applicant intends to retain the structure on the site which is currently occupied residentially. There is no agreement to remove this dwelling and even if it is adapted to a non-residential use it clearly has the potential to be brought back into residential use in the future.

In the light of the conflict with the Council's policies the application is referred to this meeting for further consideration.

The original report to the Central Area Planning Sub-Committee follows incorporating updates reported verbally to the Central Area Committee. Also appended to this report is a Section 106 Heads of Terms in line with the Central Area Sub-Committees recommendation. The applicant has not agreed to part 2 of the Heads of Terms.

1. Site Description and Proposal

- 1.1 The site is located on the western side of the C1130 road which links Withington to Bartestree, south west of Whitestone Business Park. The site is an agricultural field bounded to the south by the railway line. The remainder of the site remains relatively open with the exception of boundary hedgerows and trees. The applicants existing property lies on the southern edge of the site adjacent to the railway line and is served by a vehicular access completed approximately 2 years ago. The site falls outside of the settlement of Withington as identified in the Herefordshire Unitary Development Plan 2007 and therefore falls within the open countryside.
- 1.2 Planning permission was approved on the 23rd August, 2002 for a replacement dwelling and temporary use of existing outbuilding (with added conservatory) as residential accommodation incorporating a new vehicular access. The vehicular access has been constructed and the pre-commencement conditions have been discharged therefore the planning permission has been lawfully implemented and remains extant.
- 1.3 Planning permission was refused by the Central Area Planning Sub-Committee on 4th July 2007 for the re-siting of the approved replacement dwelling to the western boundary of the field adjoining the applicants existing accommodation and 160 metres from the C1130. Planning permission is now sought for the re-siting of the approved replacement dwelling from a site 35 metres west of the C1130 to a new site 93 metres west of the C1130 within the adjoining agricultural field. The existing track would be extended to provide vehicular access to the site and foul drainage via a septic tank and reed bed system.

2. Policies

- 2.1 Herefordshire Unitary Development Plan 2007:

S1	-	Sustainable development
S2	-	Development requirements
S7	-	Natural and historic heritage
DR1	-	Design
H7	-	Housing in the countryside outside settlements
H13	-	Sustainable residential design
LA2	-	Landscape character and areas least resilient to change
T3	-	Protection and development of the rail network
T1	-	Public transport facilities

3. Planning History

- 3.1 None on site but development history on adjoining site:

CE2007/0951/F - Replacement dwelling and temporary use of existing outbuilding as full residential accommodation. (Alternative siting of approved dwelling under CE02/1868/F) Planning permission refused 4th July 2007. The reasons for refusal were:

- 1) The proposed site for the dwelling is not on the same site as the existing dwelling (now demolished) and therefore, the development is contrary to Policy H7 of the Herefordshire Unitary Development Plan 2007.

2) The site occupies an exposed location within the open countryside and the proposed development would detract from the landscape character of the area. As such the development is contrary to Policies S1, S2, S7, DR1 and LA2 of the Herefordshire Unitary Development Plan 2007.

CE2002/1868/F - Replacement dwelling and temporary use of existing outbuilding (with added conservatory) as full residential accommodation. Planning permission approved 23rd August, 2002.

4. Consultation Summary

Statutory Consultations

4.1 Network Rail: No objection.

Internal Council Advice

4.2 Traffic Manager: No objection.

4.3 Conservation Manager (Landscape):

The proposed development is in my opinion in 'open country' and would result in a further reduction in the quality and character of the landscape in this area. The pattern of settlement in the 'Principal Settled Farmlands' landscape type (as defined in the Herefordshire Landscape Character Assessment) is one of dispersed farmsteads and hamlets, usually distributed closely along roads and lanes, retaining the most productive land for agricultural production.

This pattern of settlement has, in more recent times been undermined by infilling of gaps and development into the wider landscape, avoiding the traditional association with access. Whilst the landscape type certainly retains some capacity for development the historic settlement pattern should be acknowledged and further departures from this pattern avoided. In many areas within this landscape type development has eroded and undermined the traditional settlement pattern, degrading the quality and character of the landscape; this should be resisted in this instance.

4.4 Head of Environmental Health:

Whilst I have no objection to the proposal I would question if the increased separation from the railway or any future station and park and ride scheme due to the proposed relocation of the dwelling will provide appreciable reductions in noise levels and the introduction of barriers etc might provide better protection.

5. Representations

5.1 Lugwardine Parish Council: We support this application and feel the planning authority should grant an exception to normal planning policy due to the blight caused by the inclusion of a Park and Ride facility in the UDP.

There are other properties in the locality so it cannot really be called open countryside.

5.2 Withington Parish Council: Withington Parish Council has sympathy with the applicant because of the station/park and ride site identified alongside his land. For this reason, Withington P.C. does not object to the existing premises being moved to the new location.

5.3 Two letters of objection has been received from C Hunt of Holmleigh, Whitestone and Mr P Foster of Sunnyside, Whitestone. The main points raised are:

- The revised location still occupies a large portion of pasture land.
- The applicant has already built a new house, which he now wants to call an annexe. Only one property should be allowed to replace the original Swiss Cottage.
- Re-location of the site further eastwards would have less visual impact.

5.4 A further letter from J and A Allen, Railway House, Whitestone has been received, the main points raised are:

- We have no objection to the development providing the annexe is not used for any residential accommodation as soon as the new house has been built. We would add that the new entrance to the site does not lend itself to any more vehicular traffic.

5.1 A letter has been provided by the applicants agent in support of the application. The main points raised are:

- There is no reference in the 2002 application file to possible changes in the rail network or its impact on the proposal at that time. If the allocation were in place at the time, it must be seriously questioned whether planning permission would have been granted on the approved site as it could now prevent implementation of the new rail station
- The applicants have objected to the allocation throughout and in February 2004 requested the re-siting of the approved dwelling.
- The new rail station and park and ride allocation extends along 130 metres of the applicants land adjoining the railway line.
- If a platform is required on both sides of the track as indicated in the rail study it will encroach on the applicants land.
- The revised siting excludes over 50% of the adjoining pasture land within the applicants ownership.
- The revised siting will enable a tree screen to be planted
- The applicant has tried to sell the property but not offers were made prior, during or after the auction.
- The extant permission can be revoked and the applicants existing accommodation changed to ancillary accommodation in accordance with the current approval.
- The council has no plans within its capital programme to develop the station
- The relocation of the dwelling will ensure that one major objection to the allocated rail station and park and ride is removed.
- The applicants are happy to provide a legal agreement rescinding their existing permission if this application is approved.

5.5 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 The site of the approved dwelling and site of the proposed dwelling submitted under this application fall within the open countryside where there is a presumption against

any new residential development. One exception permitted under Policy H7 of the Herefordshire Unitary Development Plan 2007 is a replacement of an existing dwelling with established residential use rights. However, this policy requires that the replacement dwelling be on the same site as the existing building. The proposed site for the dwelling is 50 metres (165 feet) away from the site of the permitted replacement dwelling. The proposal therefore fails to satisfy the requirements of Policy H7 of the Herefordshire Unitary Development Plan 2007 and is therefore unacceptable for this reason alone.

- 6.2 The proposed site for the replacement dwelling is within an agricultural field with no residential development in the immediate locality. Whilst the site now proposed under this application is considerably closer to the approved site than with the recently refused proposal, it is still very exposed within the landscape and would not appear integrated with any other built development. Policy LA2 of the Herefordshire Unitary Development Plan 2007 requires proposals to demonstrate that landscape character has influenced the location of the development. In this instance, the introduction of the new residential use with the associated ancillary residential development such as garages, hardstanding, fences, sheds, greenhouses, washing lines etc will significantly detract from the character and appearance of the landscape contrary to Policy LA2.
- 6.3 The applicants reasoning for wishing to re-site the dwelling is due to the land allocated south of the railway line as a possible passenger railway station and park and ride area. If implemented, the proposed rail station and park and ride would inevitably generate some additional vehicle movements and potential noise. However, the approved site for the dwelling is 40 metres away from the railway line, the proposed site for the railway station and existing mature trees and vegetation providing some screening. Further planting could be undertaken to minimise any overlooking.
- 6.4 In terms of noise, there is already a high degree of background noise emanating from both the railway line and the adjacent C1130 road and Whitestone Business Park beyond. Furthermore, the applicants have not provided any evidence to demonstrate that the potential or existing noise exceeds acceptable thresholds or that satisfactory amenity could not be safeguarded with the approved siting. Therefore, it is not considered that the amenity of the occupants of the approved dwelling would be harmed to such an extent as to warrant supporting this application, which is clearly contrary to Development Plan policies.
- 6.5 There is also a concern regarding the future use of the building currently occupied by the applicant. The applicant states that their existing accommodation would become 'ancillary' to the new dwelling as required by the current permission. However, the footprint of the existing accommodation is larger than the proposed new dwelling containing all the normal facilities associate with an independent dwelling. Allied with the distance now proposed between the existing accommodation and proposed dwelling its is difficult to see how the accommodation could be ancillary. In effect, two potentially independent dwellings would be created.
- 6.6 The supporting information indicates that the applicant has been seeking to sell the property with planning permission but advises that the rail station allocation in the UDP is affecting the saleability of the land and/or the price that can be obtained. This ultimately is not a material planning consideration. Furthermore, the proposals to allocate the land for a railway station and park and ride were in the public domain through early consultations on the Unitary Development Plan prior to the applicant obtaining planning permission in 2002 for the current siting of the dwelling.

6.7 Therefore, notwithstanding that the siting now proposed brings the dwelling nearer to the approved siting, there are not considered to be any other material planning considerations to warrant approving a development which is contrary to a number of adopted Unitary Development Plan policies.

RECOMMENDATION

That planning permission be refused for the following reasons:

- 1 The proposed site for the dwelling is not on the same site as the existing dwelling (now demolished) and therefore, the development is contrary to Policy H7 of the Herefordshire Unitary Development Plan 2007.**
- 2 The site occupies an exposed location within the open countryside and the proposed development would detract from the landscape character of the area. As such the development is contrary to Policies S1, S2, S7, DR1 and LA2 of the Herefordshire Unitary Development Plan 2007.**

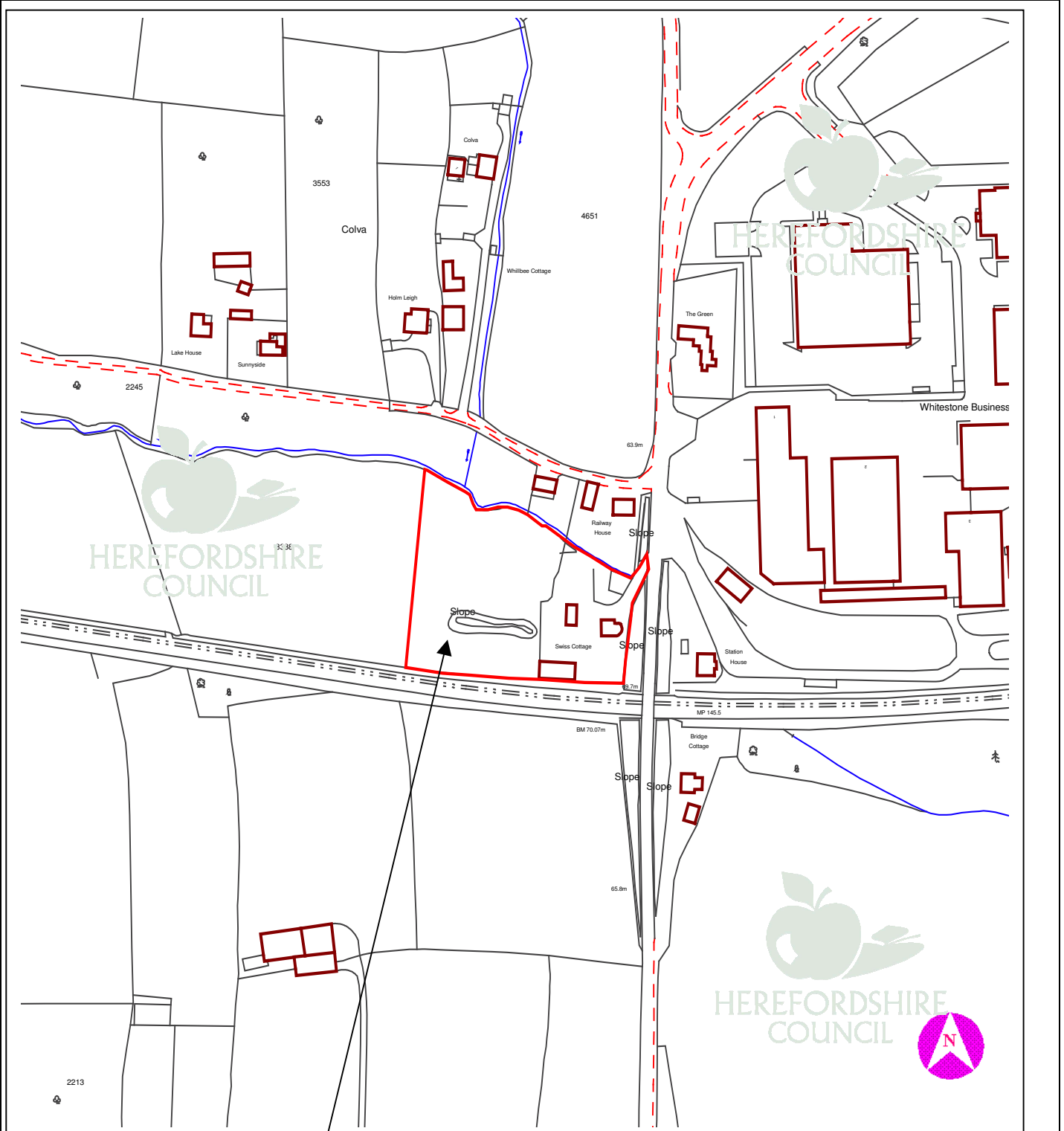
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCCE2007/2237/F

SCALE : 1 : 2500

SITE ADDRESS : Swiss Cottage, -, Whitestone, Hereford, Herefordshire, HR1 3SE

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

Planning Application – DCCE2007/2237/F

- Re-siting of approved replacement dwelling

At Swiss Cottage, Whitestone, Hereford, HR1 3SE

1. The developer covenants with Herefordshire Council to permanently cease all further works in association with planning permission reference CE2002/1868/F upon commencement of planning permission DCCE2007/2237/F.
2. Within 1 month of first occupation of the dwelling approved under planning permission DCCE2007/2237/F, the existing building marked on the location plan scale 1:1250 as 'temporary accommodation' and coloured red shall be permanently demolished and the land restored to its former condition through the levelling and seeding the area with grass.
3. Not to seek or claim any costs compensation or other financial sums whatsoever from the Council arising from or in connection with the restrictions and obligations in the Deed.
4. 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.

Russell Pryce - Principal Planning Officer

14th September 2007