

DCCE2007/3194/F - SITING OF WOODEN CABIN TO ACCOMMODATE NEEDS OF DISABLED PERSON. LAND ADJACENT 'OLD VICARAGE', PRESTON WYNNE, HEREFORD, HEREFORDSHIRE, HR1 3PE

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

Date Received: 15th October, 2007 **Ward: Hagley**

Grid Ref: 56494, 46847

Expiry Date: 10th December, 2007

Local Member: Councillor D. Greenow

Introduction

This application was considered by the Central Area Planning Sub-Committee at its meeting on 21st November 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 21st November 2007 the Central Area Planning Sub-Committee was recommended to refuse this application for the following reasons:

- 1. The development is contrary to policy H7 of the Herefordshire Unitary Development Plan 2007, together with the advice contained within PPS7, Sustainable Development in Rural Areas, as the site for the dwelling lies outside a defined settlement and none of the exceptions to new housing in the countryside have been satisfied.**
- 2. The proposed development, by virtue of its remote location, is contrary to PPS3. 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.**

In the debate the Members of the Area Sub-Committee gave weight to the personal circumstances of the applicant, in particular the need to have a specially adapted house with, for example, floor level cooking surfaces. The applicant had responded to previous refusals of permission by proposing a wooden "Cabin" structure which would be capable of being removed from the site when no longer required. The particular needs of the applicant were such that the Sub-Committee were satisfied with the arguments that adaptation of the applicant's parents' house would not be a practical way of providing independent accommodation. The applicant has lived in the village from birth and is fully integrated into the local community who, in turn, fully support the application. The parish council, in particular, has expressed strong support for the application. In these circumstances the Area Sub-Committee considered that the Unitary Development Plan is too restrictive and, in this case, an exception should be made.

It was resolved to grant planning permission

The application raises the following issues:

1. The site is outside any identified settlement boundary where new housing is controlled through Policy H.7. None of the exceptions allowed by that policy apply in this case.
2. Policy H.10, which deals with exception sites, does not include within it provision for exceptions to be made for houses for the disabled; instead it is focussed on affordable housing needs.
3. The proposed dwelling is a timber cabin style three bedroomed bungalow. Its overall size, at 128 square metres is greater than the size limit of 90 square metres set in policy H.6 for housing in smaller settlements. Planning policy H.10, Rural Exception Housing, cross refers to this policy limitation. Consequently even if acceptable in principle the size of the proposed dwelling is over 40% larger than that which would normally be allowed by policy.
4. The timber cabin design would amount to a permanent dwelling in open countryside. Consequently this type and design of house does not overcome the basic policy objection to it.

In the light of the above it is clear that the proposal conflicts with the development plan policies which seek to restrict new housing in the open countryside without special justification. Consequently, the application is referred to this meeting of the Planning Committee for further consideration.

The report to the Central Area Sub-Committee on 21st November follows

1. Site Description and Proposal

- 1.1 The application seeks permission for the erection of a timber constructed 3-bedroom dwelling for occupation by the applicant on land adjacent to The Old Vicarage, Preston Wynne. The site extends to 0.09 hectare and is bound to the east by the C1118, The Old Vicarage to the south and agricultural land to the remaining aspects.
- 1.2 The site is an orchard, but does not appear to be actively managed as such. The boundary to the road and the open countryside to the north and west are defined by mature trees and hedgerow. The southern aspect, toward The Old Vicarage, is open by comparison.
- 1.3 Vehicular access is achieved via a gate at the south east corner of the site in close proximity to the public footpath that runs along the southern site boundary.
- 1.4 This application is the fourth submission for residential accommodation for the applicant at this location. The three previous applications (detailed at Section 3) have been refused on the basis that the site is within open countryside where residential development is contrary to adopted planning policies.

2. Policies

- 2.1 Planning Policy Statements and 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 DCCE2007/0859/O - Proposed bungalow for a disabled person. Refused at Central Area Planning Sub-Committee 6th June, 2007.
- 3.2 DCCE2006/2453/F - Proposed detached bungalow. Refused 18th September, 2006.
- 3.3 DCCE2005/3999/F - Proposed detached bungalow. Refused 30th January, 2006.

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 but recommends imposition of conditions relating to formation of parking areas and visibility splays.
- 4.4 Public Rights of Way Manager: No objection subject to the protection of the Public Right of Way during construction and thereafter.

5. Representations

- 5.1 The Ramblers' Association: No objection subject to the protection of the Public Right of Way during construction and thereafter.
- 5.2 Preston Wynne Parish Council: Strongly support the application.
- 5.3 Four letters of support have been received from local residents and other interested third parties. These letters highlight the desire of the applicant to remain within the local community, where she has resided for her entire life. They point to the network of friends and family that have supported the applicant, but also indicate an understandable desire for independence whilst maintaining these connections.
- 5.4 A letter of support has been received from the applicant's sister. The letter explains how permission for a bespoke home would enable self-sufficiency and autonomy in a location close to family and friends and the applicant's place of work.

- 5.5 A letter from the applicant's doctor has also been provided in support of the application. The letter explains the applicant's disability and the level of support and intervention required from the wider family. It goes on to describe the proposal as a 'sensible and worthwhile solution to the problem that is presented'.
- 5.6 The agent for the application has also submitted a supporting statement, the content of which can be summarised as follows:
- Other than failure to comply with housing policy/sustainability the previous applications have been accepted by the Council as according with national and local planning policy;
 - This application overcomes previous reticence to grant a 'personal' condition, because the building is a temporary structure, desired only for the lifetime of the applicant;
 - The applicant's condition means that although able to live independently she will still need to be within reasonable proximity to her family. The potential for building an annexe within the grounds of her parents' house has been discounted owing to lack of space;
 - The existing dwelling cannot be adapted to meet the specific needs of the applicant e.g. adapted worktop heights would be required;
 - Although in open countryside in planning terms the site is well contained, next to residential properties and opposite the village hall. Regular bus services are available, whilst it should be noted that the applicant works in Bartestree;
 - Approval of this application is the only way by which the applicant can secure a private and family life in accordance with Article 8 of The Human Rights Act 1998;
 - The development would be neutral in terms of car use.
- 5.7 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. Officer's Appraisal

- 6.1 Preston Wynne is a small hamlet, which has no 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 or forestry workers;
 2. It is a replacement dwelling;
 3. The residential conversion of an existing rural building;
 4. The dwelling is necessary as an accompaniment to the growth of a rural enterprise;
 5. The site is providing for the needs of gypsies or other travellers.
- 6.2 The application does not meet any of the above criteria. However, as with previous applications this is not contested.
- 6.3 In exceptional circumstances, and where the development is contrary to policy at face value, planning permissions made specific to an individual may be an appropriate means of squaring personal considerations with policy content. However, the use of a personal permission in this context would be unusual on a site so divorced from an existing dwelling. It should also be borne in mind that the accommodation is sought for the duration of the applicant's life, which given Miss Davies is 24, could almost be the equivalent to permitting a permanent dwelling on site.

- 6.4 This application is promoted by the agent on the premise that the building proposed is essentially temporary yet will still meet the needs of the applicant, who wishes to achieve independence yet remain within the local community. The agent also submits that the application seeks change of use of land rather than operational development on the pretext that the cabin is temporary and would not constitute typical development. This view is contested owing to the size and moreover, if approved, the likely permanence of the structure.
- 6.5 The 'cabin' would provide 3 bedrooms, a kitchen, living room, utility and bathroom, equating to 128 square metres. (The dimensions therefore exceed the upper limits given in the definition of a caravan (Section 13 (2) Caravan Sites Act 1968). The structure would also be larger than that which would comply with Policy H6 for a 4-bed dwelling in a smaller settlement).
- 6.6 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'.
- 6.7 To facilitate new housing Herefordshire Council has identified appropriate locations for new developments, including the designation of settlements. Preston Wynne is not such a designated settlement in accordance with the methodology used in the Unitary Development Plan.
- 6.8 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 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 Herefordshire Unitary Development Plan 2007, together with advice contained within PPS7, Sustainable Development in Rural Areas, as the site for the dwelling lies outside of a defined settlement and none of the exceptions for new housing in the countryside have been satisfied.**
- 2 The proposed development, by virtue of its remote location, is contrary to PPS3: Housing, PPG13: Transport, and Herefordshire Unitary Development Plan 2007 Policies S1, S2 and DR2, which seek to prevent unsustainable development and reduce the need to travel.**

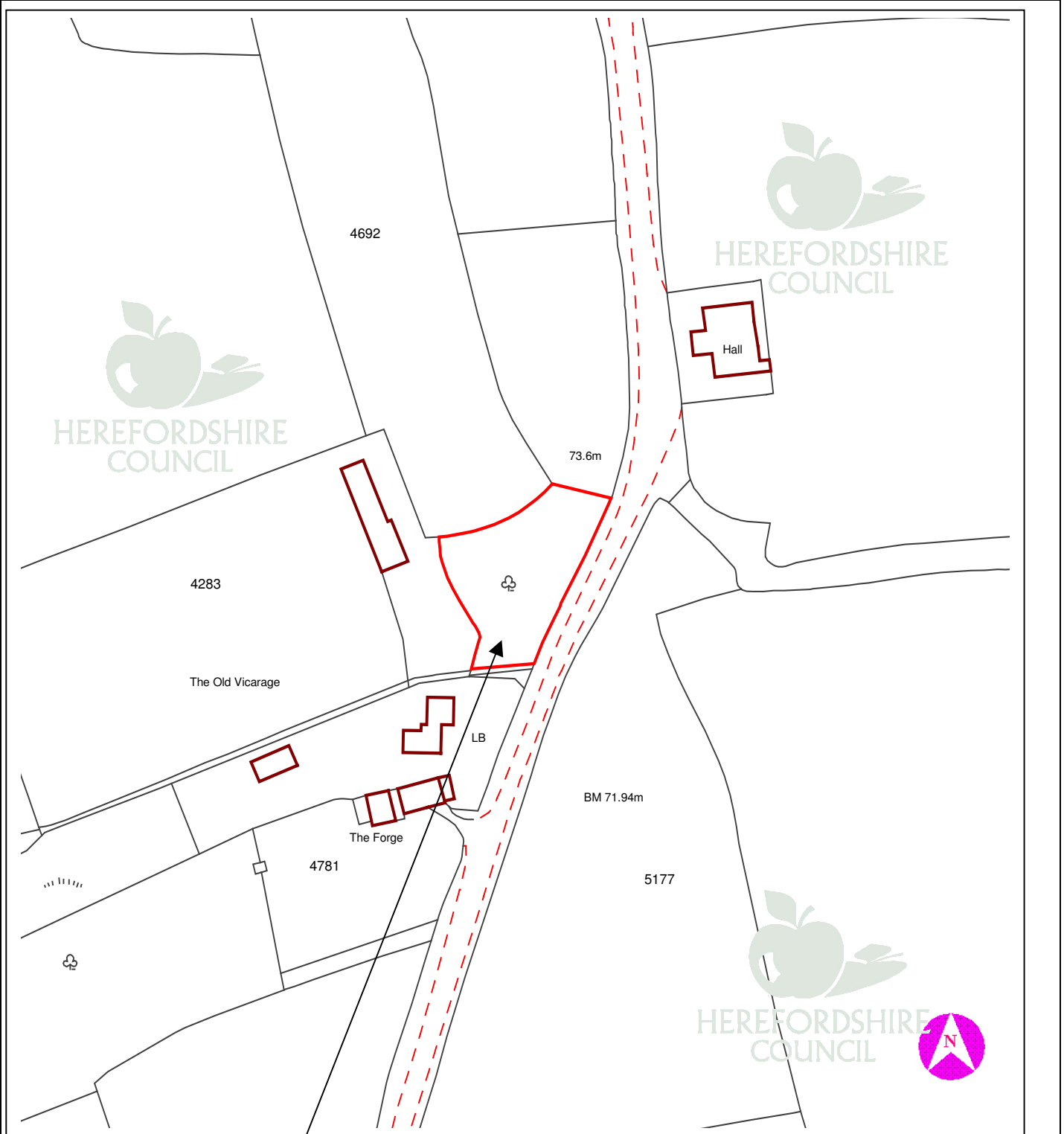
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCCE2007/3194/F

SCALE : 1 : 1250

SITE ADDRESS : Land adjacent 'Old Vicarage', Preston Wynne, Hereford, Herefordshire, HR1 3PE

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