

8 DCNC2008/1363/F - ERECTION OF NEW HOUSE AND ANCILLARY GARAGE AT CANTILEVER LODGE, STOKE PRIOR, LEOMINSTER, HEREFORDSHIRE, HR6 0LG**For: Mr E. Hutton at the above address****Date Received: 21 May 2008
Expiry Date: 16 July 2008****Ward: Hampton Court****Grid Ref: 52009, 56591**

Local Member: Councillor KG Grumbley

1. Site Description and Proposal

- 1.1 The site is a vacant plot of land lying within the settlement of Stoke Prior. It is a long, narrow plot, bounded to the north, east and west by dwellings, and to the south by a C class road. The dwellings to either side are substantial in size, one of contemporary design and the other, Grade II listed building, a local vernacular cottage of stone and brick.
- 1.2 A public footpath runs along the western edge of the site and its route runs entirely within the application site, being diverted as part of the original permission.
- 1.3 The proposal is for the erection of a 2-storey timber framed dwelling. The plans show an attached open fronted double car port to the fore of the house, again a traditional design of weatherboarded framing with a tiled roof.
- 1.4 The property is set back into the site and orientated north/south in a similar fashion to Cantilever Lodge lying immediately to the east. Excluding the attached garage, it has a floor area of approximately 120 square metres and a height to its ridge of 7.6 metres.

2. Policies

Herefordshire Unitary Development Plan:

DR1 – Design
DR5 – Planning obligations
H6 – Housing in smaller settlements
H13 – Sustainable residential design
T6 – Walking

3. Planning History

- 3.1 90/0154 - Construction of a new dwelling and alterations to Cantilever Lodge - Approved 18/02/91.
- 3.2 A letter on this file dated 17th September 1997 confirms that the planning permission has been implemented by virtue of works to create a vehicular access. It is also clear that the alterations approved to Cantilever Lodge (principally the blocking in of a

balcony overlooking the adjacent site) have been completed in accordance with condition 4.

- 3.3 NC2008/0201/F - Erection of a detached house and ancillary garage - Refused 05/03/08 due to concerns about the degree of overlooking that the resultant dwelling would be caused by Cantilever Lodge and also that because of its small scale, the dwelling did not relate well to its surroundings or the plot in which it sits.

4. Consultation Summary

Statutory Consultations

- 4.1 None required.

Internal Council Advice

- 4.2 Planning and Transportation Manager - No objection subject to conditions and a request for a financial contribution as per the Supplementary Planning Document.
- 4.3 Conservation Manager - No objection subject to conditions.
- 4.4 The Public Rights of Way Manager comments as follows: The proposed erection of a new house and ancillary garage will adversely affect public footpath SP7, which passes as shown on the attached plan. The proposed width of the footpath at 1.2 metres is not acceptable, the PROW Manager cannot accept a width of less than 2 metres.

At present, the proposal appears to conflict with the requirements of UDP Policy T6, and until further information and plans are sent to the PROW Manager for further consultation, the PROW Manager recommends refusal of the application.

I am also concerned that the proposed planting strip of trees and shrubs as a partial screen will frequently overgrow the path without a regular maintenance regime, and also create an undesirable 'tunnel effect' as the trees and shrubs mature. Although this path was diverted onto its present alignment in 2002, a path has run between the two roads in Stoke Prior for over 100 years, and historically the land appears to have been orchard.

As a minimum means of safeguarding the public right of way, I request a condition to the effect that any trees and shrubs are planted a minimum 1.5 metres from the eastern edge of the 2 metre wide path. The fact that existing vegetation currently overgrows and obstructs the west side of the path only serves to emphasise the importance of this point.

The development proposal will require improvement of the existing path, as parts of it are unwalkable at present due to overgrowth and undergrowth, and the proposal implies complete clearance of the site before any work commences. Consequently, the proposal should also demonstrate that the needs of disabled people have been taken into account in the design. At present, the path is accessed from the public road to the south by means of 3 steps. This proposal provides an opportunity to remove these steps and provide a gradient to permit greater access, for example child buggies, and those who find steps difficult.

The development proposal should also include a specification for the type of surface proposed for the footpath. This should take into account the village location, and the need for minimal surface maintenance.

5. Representations

- 5.1 Ford and Stoke Prior Parish Council request that a Section 106 contribution is made and is put towards the creation of a public footpath to serve the village hall. They also comment on the need to ensure adequate drainage arrangements as the area is prone to localised flooding.
- 5.2 One letter of objection has been received from Mr & Mrs Gibson, Church House, Stoke Prior. In summary the points raised are as follows:
1. The new dwelling will overshadow Church House and will greatly effect existing amenity.
 2. The description of Church House in the Design and Access Statement is inaccurate.
 3. The plans do not allow for a 2 metre wide footpath.
- 5.3 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 Under current policy considerations, Stoke Prior is identified under Policy H6 of the Unitary Development Plan that seeks to limit the plot size and size of dwelling in smaller settlements. The proposal is in excess of the size limits in terms of its floor area and the plot size. However, the planning history of the site establishes that the original permission has been implemented. This is therefore a material planning consideration in respect of the current proposal.
- 6.2 The site is flanked to either side by dwellings of some considerable size and the approved scheme also proposed a dwelling of a similar scale to them, although not of any particular architectural quality. The current proposal is smaller than the approved scheme but is of a similar form in terms of the position of the dwelling in the plot and the relationship of the garaging to it. Architecturally it represents a significant improvement and is far more reflective of the character of its surroundings.
- 6.3 It is concluded that in terms of its scale and design the proposal represents an improvement over the approved scheme. The extant permission is also a material planning consideration as the correspondence on the original file accepts that planning permission has been implemented. It is the opinion of the case officer that this site is ultimately better suited to a dwelling of greater substance than would otherwise be allowed by Policy H6 and the history is sufficient to warrant a departure from it.
- 6.4 The approved scheme was designed and positioned so as to create a blank elevation facing the windows of Cantilever Lodge that look directly onto the site. This, combined with the alterations made to remove an open balcony from Cantilever Lodge, ensured that there would be limited overlooking of the new dwelling. This current proposal is almost identically positioned to ensure that the new dwelling itself is not overlooked.

- 6.5 With regard to the relationship of the proposal to Church House, the issue is not whether the proposal overlooks the existing property, but vice versa. Three windows face directly onto the application site. One would appear to serve a utility room and is in closest proximity to the proposal, whilst the other two are further away and will look onto the back garden. The objector suggests that windows in the gable end of their property, facing onto the road will be overshadowed and, whilst this may occur to some extent during the early part of the day, it is a situation that would be the same if the approved scheme were to be built out. Therefore it does not offer sufficient justification to refuse this application.
- 6.6 Of the other issues raised, the width of the public footpath and the treatment of the boundary between it and any dwelling could be dealt with by a combination of conditions and notes. The plans have been amended in light of the comments from the Public Rights of Way Manager to ensure that the width of the footpath is a minimum of 2 metres. At the time of writing this report no further comment has been received from the Public Rights of Way Manager but it is considered that the concern raised is addressed.
- 6.7 The location of the bio-disc and soakaways as raised by the Parish Council is justified in light of the localised flooding that is an issue in Stoke Prior. It is apparent however, that the location of a similar system to the rear of the proposed dwelling may cause problems to the neighbouring dwellings and perhaps a more appropriate solution would be to investigate the use of a surface water attenuation system to prevent any additional flooding problems occurring as a result of this proposal. Again this could be dealt with by an appropriately worded condition.
- 6.8 The applicant's agent has indicated that his client is willing to accept the financial contributions required in accordance with the Council's Supplementary Planning Document. A Draft Heads of Terms Agreement is appended to the report detailing this. It is recommended that the completion of a Section 106 Agreement is dealt with as a condition should planning permission be forthcoming. They have also indicated in writing that they are prepared to undertake the improvement works to improve the public footpath as suggested by the Public Rights of Way Manager.
- 6.9 It is therefore concluded that the proposal accords with policy and the application is therefore recommended for approval.

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 (Amended plans)**

Reason: To ensure the development is carried out in accordance with the amended plans and to comply with the requirements of Policy DR1 of Herefordshire Unitary Development Plan

3. **B07 (Section 106 Agreement)**

Reason: In order to provide [enhanced sustainable transport infrastructure, educational facilities, improved play space, public art, waste recycling and affordable housing] in accordance with Policy DR5 of the Herefordshire Unitary Development Plan 2007.

4. **C01 (Samples of external materials)**

Reason: To ensure that the materials harmonise with the surroundings so as to ensure that the development complies with the requirements of Policy DR1 of Herefordshire Unitary Development Plan

5. **G09 (Details of Boundary treatments)**

Reason: In the interests of visual amenity, to ensure the development has an acceptable standard of privacy and to conform to Policy DR1 of Herefordshire Unitary Development Plan.

6. **G10 (Landscaping scheme)**

Reason: In order to maintain the visual amenities of the area and to conform with Policy LA6 of Herefordshire Unitary Development Plan.

7. **G11 (Landscaping scheme - implementation)**

Reason: In order to maintain the visual amenities of the area and to comply with Policy LA6 of Herefordshire Unitary Development Plan.

8. **H01 (Single access - no footway)**

Reason: In the interests of highway safety and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan

9. **H04 (Visibility over frontage)**

Reason: In the interests of highway safety and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan.

10. H05 (Access gates)

Reason: In the interests of highway safety and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan

11. H06 (Vehicular access construction)

Reason: In the interests of highway safety and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan

12. H09 (Driveway gradient)

Reason: In the interests of highway safety and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan

13. I16 (Restriction of hours during construction)

Reason: To protect the amenity of local residents and to comply with Policy DR13 of Herefordshire Unitary Development Plan.

14. I21 (Scheme of surface water regulation)

Reason: To prevent the increased risk of flooding and to comply with Policy DR4 of Herefordshire Unitary Development Plan.

15. Prior to the commencement of development details of the improvement, re-grading and re-surfacing of the public footpath shall be submitted to and approved in writing by the local planning authority. The improvement works shall be carried out in accordance with the approved details and shall be completed before the dwelling hereby approved is first occupied.

Reason: To ensure that the route of the public footpath is protected and to conform with Policy T6 of the Herefordshire Unitary Development Plan.

Informatives:

- 1. HN01 - Mud on highway**
- 2. HN02 - Public rights of way affected**
- 3. HN04 - Private apparatus within highway**
- 4. HN05 - Works within the highway**
- 5. HN10 - No drainage to discharge to highway**
- 6. HN28 - Highways Design Guide and Specification**
- 7. N15 - Reason(s) for the Grant of Planning Permission**
- 8. N19 - Avoidance of doubt**

Decision:

Notes:

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Background Papers

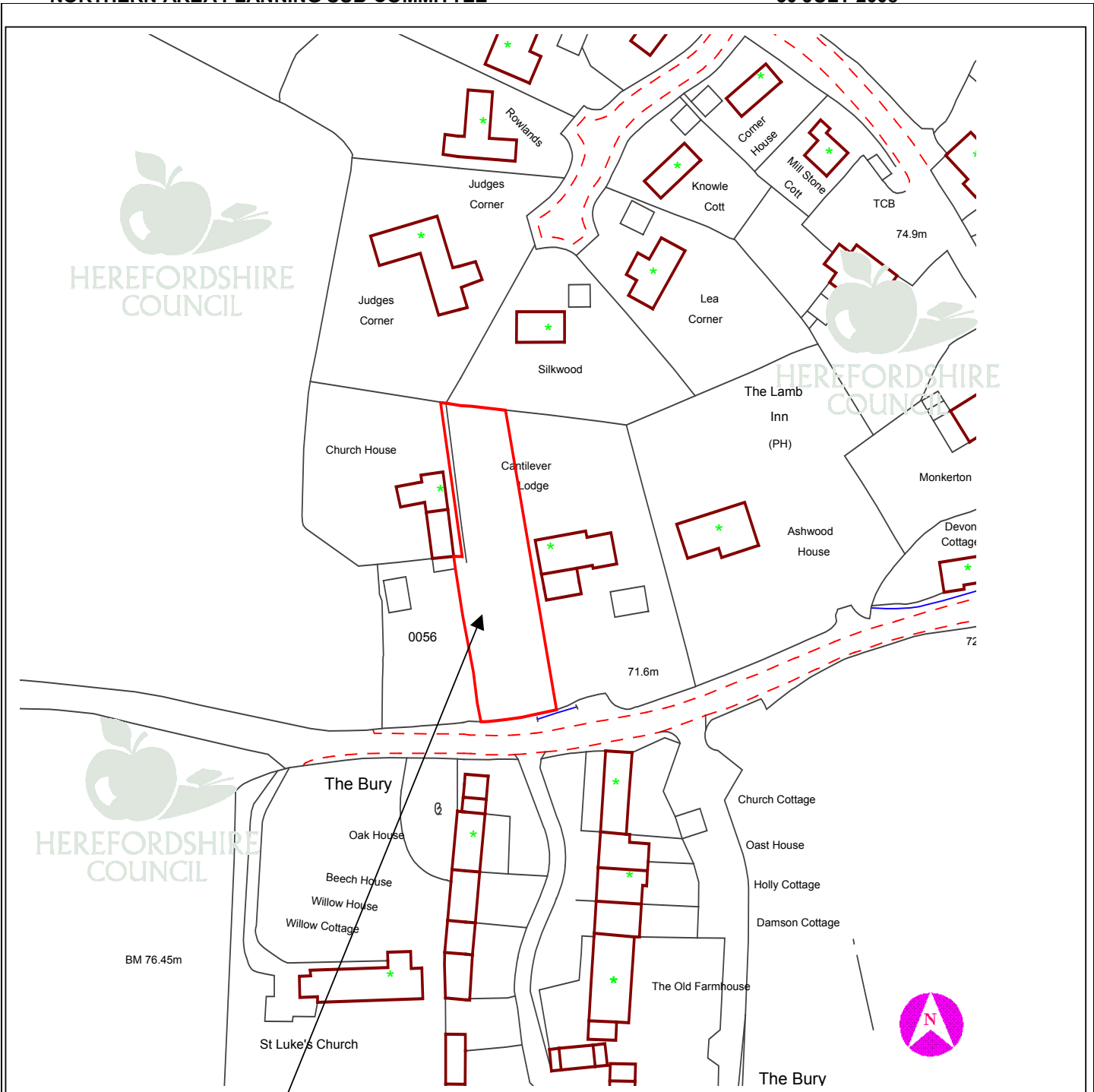
Internal departmental consultation replies.

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

Planning Application DCNC2008/1363/F
Erection of a detached house and ancillary garage on land adjacent to Cantilever Lodge, Stoke Prior,
Leominster, HR6 0LG

1. The developer covenants with Herefordshire Council, to pay Herefordshire Council the sum of £2,952 for off site highway works and improved public and sustainable transport infrastructure to serve the development. The sum shall be paid on or before the commencement of development. The monies may be pooled with other contributions if appropriate.
2. The developer covenants with Herefordshire Council to pay £317 towards the improvement of semi natural green spaces and recreational rights of way within the locality of the application site. The sum shall be paid on or before the commencement of development. The monies may be pooled with other contributions if appropriate.
3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £2,932 to provide enhanced educational infrastructure at Stoke Prior Primary School. The sum shall be paid on or before the commencement of development.
4. The developer covenants with Herefordshire Council To pay Herefordshire Council the sum of £124 as a 2% surcharge fee for the services of a Council Planning Obligation Monitoring Officer. The sum shall be paid on or before the commencement of the development.
5. In the event that Herefordshire Council does not for any reason use the sum specified in paragraphs 1, 2 and 3 for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
 - a. The sums referred to in paragraphs 1, 2 and 3 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
 - b. 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.
 - c. The developer shall complete the Agreement by (a date to be agreed) otherwise the application will be registered as deemed refused.

Andrew Banks
Principal Planning Officer
16 July 2008



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APPLICATION NO: DCNC2008/1363/F

SCALE : 1 : 1250

SITE ADDRESS : Cantilever Lodge, Stoke Prior, Leominster, Herefordshire, HR6 0LG

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