

18 NW2003/1972/F - PROPOSED ERECTION OF A COTTAGE ON LAND TO THE REAR OF STONEWOOD COTTAGE, OXFORD LANE, KINGTON, HR5 3ED**For: Mr J Lupton, per Mr D Walters, 27 Elizabeth Road, Kington, Herefordshire HR5 3DB****Date Received:****1st July 2003****Ward:****Kington Town****Grid Ref:****29833, 56762****Expiry Date:****26th August 2003**

Local Member: Councillor Terry James

Introduction

This application was deferred by Members at the Northern Area Planning Sub-Committee on 15 October 2003. The principal reason for deferring consideration of the application was to clarify the landownership claimed by the applicant and the right of way across Balls Yard.

A letter has been received from the applicants solicitor that confirms that the land designated for the parking of one vehicle immediately next to Stonewood Cottage is owned by the applicant and furthermore that it enjoys a rights of access across the yard.

In view of this it is not now considered that there are any grounds for withholding planning permission and accordingly the attached report and recommendation remains as previously published.

1. Site Description and Proposal

- 1.1 The application site comprises a rectangular 0.1 hectare plot forming the larger part of the garden of Stonewood Cottage. It is elevated above the level of Stonewood Cottage with its north and west boundaries defined by an attractive stone wall, which screens much of the garden area in views from Oxford Lane and Board School Lane. Below the application site is Balls Yard, a courtyard providing access to the rear of Stonewood Cottage, 1-3 Oxford Lane and 39-41 Duke Street together with associated garaging and parking space.
- 1.2 The site falls within the Kington Conservation Area and is also designated as an Area of Important Open Space.
- 1.3 There is a pedestrian access from Board School Lane in the northern boundary of the garden and beyond this is a range of communal garages, one of which is used by the applicant for parking.
- 1.4 Planning permission is sought for the erection of a two-storey, two bedroomed dormer cottage positioned at right angles and some 10 metres from Stonewood Cottage. The proposed cottage would have rough cast rendered walls and a natural slate roof.

- 1.5 The revised plans for this proposal show a dedicated single parking space adjacent to Stonewood Cottage and accessed via Balls Yard.

2. Policies

Central Government Guidance

PPG 3	Housing
PPG 13	Transport

Hereford & Worcester County Structure Plan

Policy CTC 9	Development Requirements
Policy CTC 15	Conservation Areas
Policy CTC 18	Development in Urban Areas

Leominster District Local Plan (Herefordshire)

Policy A1	Managing the Districts Assets & Resources
Policy A2 (A)	Settlement Hierarchy
Policy A21	Development within Conservation Areas
Policy A24	Scale and Character of Development
Policy A25	Protection of Open Areas or Green Spaces
Policy A54	Protection of Residential Amenity
Policy A70	Accommodating Traffic from Development
Policy A78	Protection of Public Rights of Way

Herefordshire Unitary Development Plan (Deposit Draft)

Policy S1	Sustainable Development
Policy S2	Development Requirement
Policy S3	Housing
Policy S7	Natural & Historic Heritage
Policy DR1	Design
Policy DR2	Land Use & Activity
Policy DR4	Environment
Policy H1	Hereford and the Market Towns : Settlement Boundaries and Established Residential Areas
Policy H13	Sustainable Residential Design
Policy H16	Car Parking
Policy HBA 6	New Development Within Conservation Areas
Policy ARCH 1	Archaeological Assessments and Field Evaluations

3. Planning History

- 3.1 85/0555 – Site for one dwelling – Refused 16 December 1985 – Appeal dismissed 25 September 1986.

4. Consultation Summary

Statutory Consultations

- 4.1 Welsh Water raise no objection to the proposal but request conditions relating to the treatment of foul and surface water drainage.

Internal Consultation Advice

4.2 Chief Conservation Officer has no objection subject to resolution of parking issue, and archaeological condition.

4.3 Head of Engineering and Transportation – no objection.

5. Representations

5.1 In respect of the initial consultation exercise the following responses were received :

5.2 Kington Town Council state -

'The stone wall that surrounds this particular land adjacent to Stonewood Cottage is within a conservation area, and is an ancient wall which borders two medieval lanes. Herefordshire Council recently refused permission for the property on the opposite side of Oxford Lane (Oxford Arms Hotel) for a vehicular entry into their site. The application site has no vehicular access only a pedestrian one. The Back Lane on the north side of the site is too narrow for vehicles and Duke Street on the West Side is extremely narrow and is heavily used. In the application it states that the present owners of the land do not require car parking - but we understand that it is a requirement of the District Plan that all new properties should have car parking for at least 1 vehicle. Kington Town Council question how such a property would be built without contractors vehicles obtaining full access to the site. Preservation of our ancient walls is most important in order to preserve the historical aspects of Kington.'

5.3 A further response from Kington Town Council was received following additional consultation in respect of the proposed parking arrangements and can be summarised as follows :

'The objections originally raised still apply. Enquiries made by the Council indicate that the proposed siting of the parking place is erroneous.'

5.4 One letter of objection has been received from Mr J Rerrie, 41 Duke Street, Kington raising the following concerns ;

- access for the building works should be specified as the site is very restricted.
- no guarantee that existing garaging will be retained
- concern regarding surface water run-off and its effect on properties below the level of the application site

5.5 A further three responses were received from :

- John Rerrie, 41 Duke Street, Kington
- Mrs RE Ford, 39 Duke Street, Kington
- M Franklin, 39 Duke Street, Kington

5.6 The responses reiterate concerns expressed in paragraph 5.3 above but also seek to clarify matters relating to private access/parking rights in Balls Yard (the implications will be addressed in more details in the Officers Appraisal).

5.7 The Ramblers Association state :

'I have no objection to this proposed cottage. We note that Oxford Lane and Board School Lane are both Public Rights of Way designated footpaths 23 and 18 respectively. As Public Rights of Way will you please advise the developer that they should be kept unobstructed at all times as a result of the construction.'

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

6. Officers Appraisal

6.1 The key issues for consideration in the determination of this application are as follows :

- a) impact of the character and appearance of the Kington Conservation Area/Area of Important Open Space ;
- b) impact on amenities of local residents ;
- c) access and parking ;
- d) the relevance of the dismissed appeal (Application ref. 850555)

Character And Appearance of Conservation Area/Area of Important Open Space

6.2 The defining characteristic of the application site and the network of footpaths to the rear of the properties in High Street and Duke Street are the attractive stone built walls which largely screen the gardens from view. Furthermore, the generally open undeveloped nature of the land sandwiched between Prospect Lane and Board School Lane and the more historic properties that front onto High Street and Duke Street is a notable feature of the application site and the immediate locality.

6.3 In view of this, pre-application discussions have focussed on the importance of retaining the existing walled boundaries and to reduce the scale and visual impact of the proposal. It is considered that an acceptable compromise has been reached in terms of this application proposal that would preserve and enhance the character and appearance of the conservation area without having a significantly detrimental impact on the Area of Important Space.

6.4 The modest 6.5 metre height of the proposed cottage would ensure that only the roof would be readily visible over the boundary walls and in view of the small footprint and relative size of the remaining plot, it is not considered that there would be significant harm caused to the generally spacious character of the site and those in the vicinity.

6.5 The proposal would therefore satisfy Policies A21, A24 and A25 of the Leominster District Local Plan (Herefordshire).

Residential Amenities

6.6 The orientation and relative distance from the neighbouring property is such that there would be no adverse impact in terms of privacy, loss of daylight or sunlight.

6.7 Concern has been raised regarding the provision made for foul and surface water drainage. Foul drainage would be dealt with by means of a mains connection and surface water to a soakaway but in view of the local concern a condition requiring drainage details to be submitted and agreed before the commencement of any

development approved. Conditions will also reflect the comments received from Welsh Water.

Access / Parking

- 6.8 The main concern expressed relates to the provision for construction vehicles in view of the limited access to the site via Oxford Lane. In planning policy terms this is not a matter that would warrant the refusal of planning permission provided the existing stone boundary walls remain intact. No specific proposals have been put forward by the applicant but he has advised that access could be derived from Oxford Lane or Balls Yard, the private courtyard serving Stonewood Cottage which is immediately to the south of the application site.
- 6.9 Since this matter has not been formally resolved a condition requiring details of dealing with construction traffic is proposed.
- 6.10 The specific issue of private car parking has arisen and it is principally upon this matter that ongoing discussions have taken place. Initially it was proposed that parking for one vehicle would be provided by way of a rented garage within a communal garage block to the north of the application site. This was generally not felt to be appropriate since there was no guarantee of the long term availability of the garaging since it is not owned by the applicant. Further to this the applicant has provided a plan showing a dedicated parking space adjacent to Stonewood Cottage and accessed via Balls Yard.
- 6.11 It is considered that in planning terms its availability would satisfy the requirements of adopted development plan policy and whilst not being immediately adjacent to the proposed dwelling would be acceptable given the greater flexibility afforded to parking arrangements in town centre locations.
- 6.12 Issues have arisen regarding a restrictive covenant on Balls Yard which prevents turning in the courtyard area but this is not a matter that can be given weight in respect of the land use considerations associated with the determination of a planning application.
- 6.13 Overall the small scale of the proposed dwelling which is unlikely to attract the vehicular activity associated with a larger household and the availability of public and on-street parking in the town centre is such that the slightly unconventional approach to parking provision in this case is not a matter that would warrant the refusal of planning permission.
- 6.14 No objection has been raised by the Head of Engineering and Transportation and in view of the historic importance of the stone boundary walls, greater weight has been attached to their retention over partial demolition to provide on-site parking immediately adjacent to the proposed dwelling.

The Relevance of the Appeal Decision to the Current Proposal

- 6.15 The appeal decision relating to Application No. 850555 indicates that subject to design there should be no objection to the development of the garden plot in terms of its effect on the character and appearance of the conservation area. It attaches significant weight in common with the Town Council views upon the retention of the existing stone walls forming the north and west boundaries of the site. It is considered that the current proposal accords with the principles set out in the appeal decision.

- 6.16 The appeal however goes onto raise concerns with respect to the obstruction of Oxford Lane by vehicles during the construction of the dwelling and subsequent to occupation by delivery vehicles for example. In terms of current guidance and policy it would be unreasonable to refuse planning permission on the basis that temporary obstruction of the road network may occur and set against the greater flexibility inherent in Government guidance set out in PPG 3 and PPG 13 it is considered that only limited weight could be attached to this issue.
- 6.17 On balance therefore it is maintained that there are insufficient grounds to sustain a refusal with regard to highway safety.

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 - A06 (Development in accordance with approved floor plans and elevations received on 1 July 2003 and the site plan received on 13 August 2003).**

Reason: To ensure adherence to the approved plans in the interests of a satisfactory form of development.

- 3 - B01 (Samples of external materials)**

Reason: To ensure that the materials harmonise with the surroundings.

- 4 - C04 (Details of window sections)**

Reason: To safeguard the character and appearance of this building of [special] architectural or historical interest.

- 5 - C10 (Details of rooflights)**

Reason: To ensure the rooflights do not break the plane of the roof slope in the interests of safeguarding the character and appearance of this building of [special] architectural or historical interest.

- 6 - D01 (Site investigation - archaeology)**

Reason: To ensure the archaeological interest of the site is recorded.

- 7 - E16 (Removal of permitted development rights)**

Reason: To preserve the spacious setting of the dwelling hereby approved which is within a conservation area and area of important open space.

- 8 - F16 (Restriction of hours during construction)**

Reason: To protect the amenity of local residents.

9 - F20 (Scheme of surface water drainage)

Reason: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal.

10 - F48 (Details of slab levels)

Reason: In order to define the permission and ensure that the development is of a scale and height appropriate to the site.

11 - H13 (Access, turning area and parking)

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway.

12 - H27 (Parking for site operatives)

Reason: To prevent indiscriminate parking in the interests of highway safety.

13 - Foul and surface water shall be drained separately from the site and no surface water or land drainage run-off will be permitted to discharge into the public sewerage system.

Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment.

Notes to applicant :

- 1 - HN03 - Access via public right of way
- 2 - HN04 - Private apparatus within highway
- 3 - HN05 - Works within the highway
- 4 - ND03 - Contact Address Archaeology
- 5 - HN02 - Public rights of way affected (adjacent to site)

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.