

**DCCW0009/1683/F DCDCC/091945/G - REMOVAL OF
CONDITION 7 OF PLANNING PERMISSION
DCCW2004/0209/F, PROPOSED DWELLING AT 2
LOWER ORCHARDS, BURGHILL, HEREFORD,
HEREFORDSHIRE, HR4 7SD**

**For: Mr R I Matthews per Mr J Phipps, Bank Lodge,
Coldwells Road, Holmer, Hereford, HR1 1LH**

**Date Received: 12 August 2009 Ward: Burghill, Grid Ref: 348130,244227
Holmer and Lyde**

Expiry Date: 7 October 2009

Local Members: Cllr S Robertson

1. Site Description and Proposal

- 1.1 2 Lower Orchards is located to the south of the village of Burghill in a small cul-de-sac comprising six bungalows, two vacant plots and the applicant's dwelling.
- 1.2 Planning permission is sought to remove condition no. 7 attached to the original planning permission for this dwelling.

Condition 7:

“Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no fences/gates/walls/garages/building/extension/dormer windows shall be constructed other than those expressly authorised by this permission.

Reason: To prevent the overdevelopment of the site and to ensure any future development is controlled.”

This condition prevents the extension of the dwelling or sheds and greenhouses in the garden without grant of a specific planning permission.

2. Policies

- 2.1 Herefordshire Unitary Development Plan 2007:
Policy H18 - Alterations and Extensions

- 2.2 Burghill Parish Plan

3. Planning History

- 3.1 SH8820005PF Erection of 10 dwellings with garages. Approved 26 July 1989.

- 3.2 SH911659PM Proposed residential development. Approved 18 March 1992.
- 3.3 DCCW2004/0209/F Proposed dwelling. Approved 23 April 2004.
- 3.4 DCCW2009/1452/F Garden shed. Withdrawn 7 August 2009.

4. Consultation Summary

Statutory Consultations

- 4.1 None.

Internal Council Advice

- 4.2 None.

5. Representations

- 5.1 Burghill Parish Council supports this application.
- 5.2 One letter of objection has been received from Mr T Dutton, 8 Lower Orchards, Burghill, Hereford.

The main points raised are:

1. Despite the clarity of the condition, two garden sheds and a greenhouse have been erected on the site.
2. When planning permission was granted for the dwelling all the residents in the cul-de-sac opposed the application as the original planning permission restricted the development to single storey. Planning permission was granted which included the condition now requested to be removed. Obviously environmental concerns figured largely in the Planning Officer's thinking and was reflected by the imposition of condition 7.
3. Burghill Parish Plan seeks to "ensure more consistent planning decisions and compliance with planning controls."

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 Planning permission was granted for this dwelling in April 2004. Condition no. 7 removes the normal rights for dwellings to be extended or outbuildings to be placed within the curtilage. In considering removal of the condition you first must consider the reason why the condition was imposed. The reason stated:

"To prevent the overdevelopment of the site and to ensure any future development is controlled."

- 6.2 The dwelling is located within a good sized curtilage with ample room to the front and rear. The dwelling does not overdevelop the plot and there is sufficient room which would allow an extension to the property without detriment to adjoining neighbours.

Therefore extensions, which are permitted under the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) England Order 2008 without the need for planning permission could be developed without overdevelopment of the site.

- 6.3 The condition is therefore unwarranted and its removal is justified. It should also be noted that whilst extensions could be erected under permitted development rights there are also criteria and conditions to be met in order to protect neighbours. Infringement of the criteria and conditions mean that planning permission would be required.
- 6.4 The sheds and greenhouse which are on site further indicate that the site can accommodate outbuildings without detriment to neighbours and the wider locality. Again these are buildings which would normally be permitted development. They further identify that the site can accommodate outbuildings without detriment to neighbours and the wider locality.
- 6.5 It should be noted that the bungalows on this development do not have restrictions on permitted development, all of which have smaller plots than this site.
- 6.6 Finally, the use of this type of condition is normally used on high density house schemes where there is limited curtilage and barn conversions not in this kind of situation.
- 6.7 In conclusion, it is therefore considered that there is no justification for retention of the condition and its removal is supported.

RECOMMENDATION

That planning permission be granted:

Informative:

1 N15 Reason(s) for the Grant of PP/LBC/CAC

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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