



Appeal Decisions

Inquiry held on 21 to 24 October,
31 October and 14 November 2008
Site visits made on 20 October and
14 November 2008

by **David Prentis** BA BPI MRTPI

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
10 December 2008

Appeal A: APP/W1850/E/08/2072525 Orleton Manor, Orleton, Ludlow SY8 4HR

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
- The appeal is made by Euston Park Developments Limited against Herefordshire Council.
- The application Ref DCNW2007/3949/L is dated 21 December 2007.
- The works proposed are alteration, repairs and extension to existing manor house.

Appeal B: APP/W1850/A/08/2072529 Orleton Manor, Orleton, Ludlow SY8 4HR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Euston Park Developments Limited against Herefordshire Council.
- The application Ref DCNW2007/3948/F is dated 21 December 2007.
- The development proposed is alteration, repairs and extension to existing manor house.

Appeal C: APP/W1850/A/08/2072531 Orleton Manor, Orleton, Ludlow SY8 4HR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Euston Park Developments Limited against Herefordshire Council.
- The application Ref DCNW2008/0105/F is dated 21 December 2007.
- The development proposed is creation of building comprising garages, estate offices, stores and visitors lodge, greenhouse and spa building.

Application for costs

1. At the Inquiry an application for costs was made by Herefordshire Council against Euston Park Developments Limited. This application is the subject of a separate decision.

Decision – Appeal A

2. I dismiss the appeal insofar as it relates to works to the ground floor rooms shown on drawing 840/01/100 as living room, hall and stairway to first floor
-

(adjacent to living room), boiler room, stairway to cellar and study, to the oak settle alcove in front room 1 and also to first floor rooms shown on drawing 840/01/101 as bedroom 1 and the stairway to ground floor (adjacent to bedroom 1), together with any external alterations associated with the said rooms and any alterations to external paving.

3. I allow the appeal insofar as it relates to demolition of lean-to extensions and construction of new extension and works to ground floor rooms shown on drawing 840/01/100 as kitchen, utility room, stairway to first floor (adjacent to front room 2), front room 2, hall leading from front porch and front room 1 (other than the oak settle alcove) and to all first floor rooms shown on drawing 840/01/101 other than bedroom 1 and stairway to ground floor (adjacent to bedroom 1), together with any external alterations associated with the said rooms and I grant listed building consent for alteration, repairs and extension to existing manor house at Orleton Manor, Orleton, Ludlow SY8 4HR in accordance with the terms of the application Ref DCNW2007/3949/L, dated 21 December 2007, and the plans submitted with it insofar as relevant to those elements of the works hereby permitted and subject to the conditions attached at Schedule 1.

Decision – Appeal B

4. I dismiss the appeal insofar as it relates to alterations to the ground floor rooms shown on drawing 840/01/100 as living room, hall and stairway to first floor (adjacent to living room), boiler room, stairway to cellar and study, to the oak settle alcove in front room 1 and also to first floor rooms shown on drawing 840/01/101 as bedroom 1 and the stairway to ground floor (adjacent to bedroom 1), together with any external alterations associated with the said rooms and any alterations to external paving.
5. I allow the appeal insofar as it relates to demolition of lean-to extensions and construction of new extension and alterations to ground floor rooms shown on drawing 840/01/100 as kitchen, utility room, stairway to first floor (adjacent to front room 2), front room 2, hall leading from front porch and front room 1 (other than the oak settle alcove) and to all first floor rooms shown on drawing 840/01/101 other than bedroom 1 and stairway to ground floor (adjacent to bedroom 1), together with any external alterations associated with the said rooms and I grant planning permission for alteration, repairs and extension to existing manor house at Orleton Manor, Orleton, Ludlow SY8 4HR in accordance with the terms of the application Ref DCNW2007/3948/F, dated 21 December 2007, and the plans submitted with it insofar as relevant to that part of the development hereby permitted and subject to the conditions attached at Schedule 2.

Decision – Appeal C

6. I dismiss the appeal.

Preliminary matters

7. At the Inquiry the appellant requested that works to the attic storey be deleted from Appeals A and B. It was explained that the appellant intended to carry out further ecological surveys in relation to bats and to return to this aspect of the scheme at a later date. The appellant also requested that a proposed door

- between a bedroom and an adjoining bathroom be deleted (Note 42 on drawing 840/01/151). The Council did not object to these amendments and I shall determine the appeals on this basis. I shall treat drawings 840/01/152 and 840/01/153 as having been withdrawn and shall disregard information on the remaining drawings relating to a staircase from the first floor to the attic, the formation of a "bridge link" at attic floor level, rooflights in the main roof and the door to the bathroom.
8. It emerged that there was a minor error in the drawing showing the north west elevation of the proposed extension. This could be covered by a condition.
 9. Turning to Appeal C, the appellant requested that I accept a revised layout drawing 840/01/158A in addition to the submitted layout drawing 840/01/004B. The revised drawing is to be taken as superseding the submitted drawing insofar as it shows the siting of the proposed garage complex, greenhouse and spa buildings. The submitted layout defines the site boundary and shows the route of the proposed access. This amendment results in a slight adjustment to the siting of the proposed garage complex. I do not consider that anyone would be prejudiced by this change and I shall consider Appeal C on this basis.
 10. A further layout, 840/01/158B, was submitted during the Inquiry. This drawing shows a proposal to set the floor level of the garage complex below existing ground level. I shall treat this as illustrative information.
 11. The front boundary wall of the property lies outside the appeal site boundaries. Any proposal to raise the height of the wall is therefore not a matter which is before me. The proposed greenhouse building is designed to back onto a wall but no details of such a wall are included in the scheme drawings. This is a matter which could be covered by a condition if Appeal C were to be allowed.
 12. The appellant submitted a Unilateral Undertaking (UU) providing that a proposed flat within the garage complex would only be occupied on a temporary basis, ancillary to the main house. The Council confirmed that the UU overcame a concern about potential new residential accommodation outside the village planning boundary. I consider that the UU is necessary, having regard to development plan policy, and I shall take it into account in my decision.
 13. The appellant also submitted further information on archaeology and the Council stated that, subject to appropriate conditions, this issue was resolved. I share that view.

Main issues

14. For Appeal A the main issue is the effect of the proposed works on the special historic and architectural interest of the building and its setting.
15. For Appeal B the main issues are the effects of the proposals on:
 - the special historic and architectural interest of the building and its setting within the Orleton Conservation Area; and
 - protected species.

16. For Appeal C the main issues are the effects of the proposals on:

- the character and appearance of the Orleton Conservation Area, including any effect on the setting of the listed building;
- protected species;
- highway safety; and
- trees.

Reasons

Listed building and its setting – Appeals A and B

Background

17. Orleton Manor dates from the late C16 to early C17 and the importance of the building is reflected in its II* grading. To my mind it is a fine example of a timber framed manor house which has survived in a relatively complete and unspoilt form. The U shaped plan, design and materials all contribute to the architectural interest of the building. The age of the building and its status as the manor house to the village of Orleton also give it considerable historic interest. It stands on the edge of the village, within the Orleton Conservation Area, and is prominent in views from Overton Lane. To the south east there is extensive open land, associated with the house but outside the appeal site boundaries, which contains ponds and areas of newly planted fruit trees.
18. It appears that the house has been patched up over many years and I saw examples of poor repairs to defective sole plates, mortise and tenon failures repaired with filler and inappropriate softwood tie beams. In my view the frame is now in need of fairly extensive repairs. In practice these are most likely to be carried out by an owner who wishes to renovate the whole house with a view to creating a reasonably comfortable dwelling. Planning Policy Guidance Note 15: *Planning and the Historic Environment* (PPG15) states that the best way of securing the upkeep of historic buildings is to keep them in active use and even continuing existing uses will often necessitate some degree of adaptation. That said, the building does not appear to me to be in imminent danger of going into rapid or serious decline. It is not in such a perilous state that harmful alterations should be accepted as the only means of securing necessary repairs.
19. The proposals include an extensive schedule of works and there are many items where the Council has no objections in principle, subject to appropriate conditions. I see no reason to disagree with the Council's assessment of these aspects of the proposals and shall confine my comments to those matters which are in dispute.

Replacement of lean-to and game larder

20. A lean-to extension and a small game larder, attached to the south west elevation, would be demolished and replaced by a new extension. Historic maps indicate that some form of extension has existed here for many years. Nevertheless, the current lean-to is of rough and ready construction. Its form and materials differ markedly from the main house and in my view it is not a feature which contributes to the special interest of the listed building. The

game larder is relatively modern, constructed of horizontal boarding over a brick base, and is of no interest.

21. The replacement extension would have a larger floor area than existing but this is largely due to the fact that it would fill the space between the lean-to and the game larder. Importantly, it would have a very similar roof pitch to the lean-to and would be set back a similar distance from the main south east elevation. The massing of the proposed extension and its relationship to the house would therefore reflect that of the existing lean-to. It would plainly be seen as a modern addition to the historic building, in particular because of the proposed full-height glazed doors. However, these would be set behind oak posts, under overhanging eaves, and contained between sections of stone walling. In my opinion the glazed elements would not be unduly dominant and the proposed design and materials would be sympathetic to the listed building.
22. The design incorporates 5 rooflights which would clutter the roof of the extension and sit uncomfortably with the historic fabric above at first floor level. The appellant's conservation architect stated that these could be omitted if necessary. I consider that this would be necessary, in order to protect the setting of the listed building, and that this matter could be covered by a condition. (I deal separately with the implications of these rooflights for bats).

Division of front room 2

23. The Council argued that the division of this room into 2 would lead to a loss of historic character. The presence of a bread oven at the south west end of the room indicated that it has historically formed part of the service wing of the house. This part of the room has been much altered by modern works around the fireplace. A finely-moulded beam, which spans the centre of the room, is an important feature. The appellant stated that the proposed partition would be on the line of the beam and would be installed in a way which would not conceal it. I see no reason why this should not be achievable. I consider that the insertion of the partition would not result in the loss of historic fabric. It would be seen as a modern intervention, which would not prevent the former floor plan from being understood, and is an acceptable degree of adaptation.

Front elevation bay

24. The proposals include the opening out of the ground floor of a projecting bay on the north west elevation, forming a new entrance at this point. There is ample evidence that there was an entrance here in the past, including a sketch from 1892, the sales particulars of 1908 and later photographs of the building. Consequently, I do not regard the proposed re-instatement of this feature as speculative. I saw that the only fabric to be removed would be relatively modern. I agree with the Council that further details of the works would be required and consider that this could be covered by a condition.

Panelled living room and associated works

25. The listing description notes that the end wall of the living room has been "...moved about one metre south, leaving the fireplace in a cupboard". The appellant proposes to reverse that change, reinstating the original dimensions of the room and restoring the original fireplace as its focal point. Various works would be associated with this, including the removal of a fireplace on the

north east wall, removal of a C19 chimney stack on the north east elevation, introduction of windows to the north east elevation, removal of curved stairs within the Oriel tower and replacement of the cellar steps. Illustrative plans were submitted showing how sections of the panelling could be re-set, with some new panels, to create an enlarged panelled room.

26. The listing description notes that the living room has re-set C17 panelling and it appears that the panelling was installed during the C19. Where it came from is not known. The room has seen some alteration since that time, including the installation of modern French windows in the south east wall, a window in the south west (courtyard) wall and changes to the fireplace. Nevertheless, it is my view that the panelled room as a whole has survived in a relatively intact state since the time it was created. It is an important feature which contributes to both the historic and the architectural interest of the building. Its importance lies in both the age and quality of the historic fabric and also in what it shows about the historical development of the house. I consider that the extensive changes proposed to the panelling, and to the room as a whole, would fail to preserve the special interest which it possesses.
27. The appellant pointed out that, in the past, it was not uncommon for panelling to be moved from building to building. It was argued that the panelled room does not represent a "polite" design but was merely a pragmatic response to the needs of the time. Close inspection of the panelling bears this out – it is by no means in a regular pattern and some sections do not line up properly. To my mind this understanding of the panelling adds to its interest – both as an example of ingenious craftsmanship, no doubt seeking to make best use of the available resource, and as an illustration of social history.
28. Any harm that would arise from the proposed changes must be balanced against the potential benefits of restoring the original fireplace and its position in the room. There is no dispute that the fireplace is part of the primary fabric of the building. Moreover, it is hard to appreciate it in its current confined location. However, in my view the proposals would not amount to an evidence-based reconstruction of the room as a whole. There is no evidence that there was previously a panelled room of these dimensions. The proposed room would include C17 panelling installed in the C19, re-set panelling, some new panelling, modern French windows and a modern courtyard window, and new windows to former openings in the north east elevation. I consider that it would be less coherent than the room which currently exists.
29. In striking this balance I also take into account the associated proposals to remove the Oriel tower stairs and to replace the cellar steps. The appellant stated that the Oriel tower stairs date from the early C20 and represent an unfortunate modern intervention. They were also said to be dangerous. Although the stairs are relatively modern they are well-crafted and add something to the history and development of the building. Whilst they are steep and winding, I do not consider that they are any more hazardous than many stairs found in historic buildings. Failure to meet contemporary design standards is not sufficient justification, in historic buildings terms, for their removal. The cellar steps are part of the older historic fabric of the building and are a feature of some interest. I consider that the loss of these stairways adds to the case against accepting the degree of change which is proposed for the living room.

30. PPG15 states that the reinstatement of features that were deliberately superseded by later historic additions should be avoided. I consider that this advice is pertinent to the living room proposals in that the original fireplace appears to have been deliberately superseded by the C19 changes. In my opinion the C19 panelled room is a feature of significant historic and architectural interest in its own right which would be harmed by the proposed alterations.

South east elevation – right hand gable

31. One of the most striking features of the exterior of the building is the regular pattern of vertical close-studding. This is absent from the right hand gable elevation where only the corner posts, (and some timbers high on the gable), appear to be primary. Softwood studwork with diagonal bracing has been introduced, the timbers here being of smaller size than elsewhere. The appellant proposes to rebuild this gable elevation, using oak framing, to match the rest of the building. The Council argued that this would be an unnecessary cosmetic alteration to the building.

32. I have some sympathy with the appellant's view because the gable is of an inferior form of construction which is out of character with the building as a whole. There is some evidence of the original spacing of studwork in the surviving primary timbers. As this evidence accords with the pattern found throughout the rest of the building I am satisfied that the proposed reconstruction should not be regarded as speculative. However, the appellant's conservation architect accepted in cross-examination that the proposals could involve taking down this gable entirely. I am concerned that this could have serious implications for the interior of the panelled living room and also for the interior of bedroom 1 which also contains re-set panelling. I do not consider that there is sufficient information to conclude that this gable could be replaced without consequential harm to these important interiors.

Other alterations

33. The Council had no objection in principle to the replacement of the modern main staircase and I see no reason to disagree. The widening of this stair would have only a minor impact on the historic fabric of the building and further details of the works, together with joinery details of the new stair, could be required by a condition.

34. Whilst I am satisfied that, in general, there is sufficient detail for the appeals to be determined, I agree that further details would be required in relation to timber frame repairs, joinery details, the provision of plumbing and electrical services and any alterations to floors in order to protect the special interest of the building. All of these matters could be covered by conditions.

35. There is an assortment of stone paving adjoining the building which contributes to its setting. I do not consider that the wholesale replacement of this paving is justified and therefore in my opinion these external works should not be approved.

36. I have not identified any objection to the proposed removal of the settle alcove and adjoining partition in front room 1, to a replacement window in the south east elevation of bedroom 1 or to works in the study adjacent to the chimney.

However, these works are closely associated with other works which I do not consider to be acceptable and they should not therefore be approved unless as part of a satisfactory scheme for this part of the building.

Conclusions on first main issue – Appeals A and B

37. I consider that the proposed alterations to the panelled living room, together with closely related works to the Oriel tower stairway, cellar steps and south east elevation right hand gable would fail to preserve the special historic and architectural interest of the listed building. They would be contrary to Herefordshire Unitary Development Plan 2007 (UDP) Policy HBA1 which seeks to preserve the special interest of listed buildings. The replacement window to bedroom 1, the removal of the settle alcove in front room 1 and works in the study are too closely associated with these works to be severed from them. The replacement of the external paving is not justified.
38. I conclude that the replacement of the lean-to extension and game larder, division of front room 2 and alterations to the front elevation bay, (together with other works detailed in the applications which were not contentious), would preserve the special interest of the listed building and its setting. Insofar as these alterations would affect the exterior of the building, they would preserve the character and appearance of the conservation area. These elements of the proposals would accord with UDP Policy HBA4, which seeks to protect the setting of listed buildings, Policy HBA6, which seeks to preserve or enhance conservation areas, Policy S7, which seeks to protect or enhance areas of historic importance, Policy DR1, which seeks to promote the distinctive character and appearance of the locality and Policy H18 which states that the scale and design of extensions should be in keeping with the existing dwelling.
39. Those aspects of the proposals which I have found to be acceptable together form a coherent scheme for distinct parts of the building which could be separated from those works I consider to be unacceptable.

Conservation area and setting of listed building – Appeal C

Context

40. Orleton Manor lies on the edge of the village with open land to the south east and south west and woodland on the opposite side of Overton Lane, to the north west. Adjoining, to the north east, is a group of former farm buildings, now converted to other uses, which were once attached to Orleton Manor. The Orleton Conservation Area covers the whole of the village together with adjoining agricultural land. It is characterised by sunken lanes and by an informal pattern of development, with many dwellings set in gardens, resulting in a distinctive rural character. A draft conservation area appraisal has been prepared but this has not been adopted and I shall give it limited weight.
41. The immediate setting of the listed building is rural and agricultural. There is no evidence that the house ever had extensive formal gardens and only a small area close to the building has that character today. I consider that the relationship of the house to the countryside, as well as to the village, is an important aspect of its setting and its contribution to the conservation area.

Garage complex

42. The proposed site of the garage is bounded by a wall to Overton Lane and a line of trees to the south east. A mature yew hedge divides the site from that part of the garden which is closest to the house. The proposed garage complex would have a linear plan, the length and depth of which would, in my opinion, generate an excessively large and bulky roof form. The use of timber posts and boarding to the ground floor, and the insertion of roof lights and a gable, would do little to articulate the bland expanse of the roof. The resulting building would be out of scale and out of keeping with its rural surroundings.
43. I consider that the building would have a substantial and harmful impact on views across the front elevation of the listed building. At present the house is seen in the context of garden and a backdrop of trees. The proposals would result in these views being dominated by the garage complex which would extend out in front of the house almost to the site boundary. I note that there would be an intervening space between the garage and the house and that the yew hedge would partially screen the garage. I also note the proposal, shown on the illustrative drawing (Document 37), to set it down into the ground. These factors would provide some mitigation but to my mind would not overcome the harm which would be done to the setting of the listed building.
44. The boundary wall and hedging would provide some screening from Overton Lane. Even so, the building would be seen above this screening and its north western end would be very close to the boundary. I consider that it would have a significant adverse impact on views from the lane, even if the levels were to be reduced as shown on the illustrative drawing.
45. Overall, I consider that the scale and bulk of the garage complex would be too great. Rather than being seen as an adjunct to the house it would appear as a substantial building in its own right. It would dominate the area to the south west of the house, harm the setting of the listed building and erode the rural character of the conservation area.

Greenhouse and spa building

46. The greenhouse would back onto the site boundary in a position where an agricultural building once stood. That building was demolished in the 1970s or thereabouts and the area is now used for vehicle parking. The open nature of this part of the site affords fine views of the house from Overton Lane. These are only slightly impaired by the presence of parked vehicles. The views have only been available for around 30 – 40 years but, nevertheless, they make a positive contribution to the conservation area today.
47. The detail of the north west elevation of the proposed greenhouse is not before me. However, it seems very likely that any greenhouse here would curtail the views I have described. Moreover, the greenhouse would “turn its back” on the lane and offer little to the street scene as an alternative to the views currently enjoyed. This element of the proposals would therefore detract from the character and appearance of the conservation area.
48. The spa building would be larger than the garden shed it would replace. Nevertheless, it would still be a relatively minor structure which could be set down into the ground slightly so that it would not protrude above the existing

boundary wall. Whilst I see no objection to this building in isolation, I agree with the Council that it would add to a cumulative impact. The spa building would be close to the garage complex and associated parking area. The combined effect would result in a more intensively developed character in this part of the garden, to the detriment of the setting of the listed building.

Access

49. The proposed access would join Overton Lane at a point where there is an existing field gate. The lane is single track with banks and hedges on either side. The proposed access and visibility splays would result in the loss of about 29m of hedgerow. This dimension would increase if the Council's approach to visibility were followed (see below). In either case, the landscape impact could be compensated for by planting a new hedgerow behind the visibility splay – a matter which could be controlled by a condition. The formation of entrance radii and excavation to accommodate the change in levels would result in some visual impact but in my opinion this would be minor and localised. The appellant stated that the access drives within the site could be set into the ground slightly in order to minimise their visual impact. This matter, together with appropriate choice of surface materials, could be covered by a condition. Subject to suitable conditions, I do not consider that the proposed access arrangements would harm the conservation area or the setting of the listed building.

Conclusions on first main issue – Appeal C

50. I conclude that the Appeal C proposals, as a whole, would be harmful to the setting of the listed building which would not, therefore, be preserved. This is a fundamental objection, particularly having regard to the importance of the listed building. Moreover, the proposals would also be harmful to the character and appearance of the conservation area, which would not be preserved, and would be contrary to UDP Policies HBA4, HBA6, S7, DR1 and H18.

Protected species – Appeals B and C

Great Crested Newt

51. An ecological report prepared for the appellant in relation to adjoining land identified a pond to the south east of the proposed access with the potential to support Great Crested Newt (GCN). The report recommended that surveys be carried out on this pond and on others within 500m. The Council drew attention to the presence of GCN in another pond in the vicinity which is a further indicator of potential for GCN. No survey work for GCN has been carried out at the appeal site.
52. Circular 06/2005 *Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System* gives advice on protected species. It states that it is essential that the presence or absence of protected species, and the extent to which they are affected, is established before planning permission is granted. It goes on to say that the need to ensure ecological surveys are carried out should only be left to coverage under planning conditions in exceptional circumstances.

53. The Council's ecologist gave evidence, which was not challenged, that the locations of the proposed access, visibility splays, drive and garage complex have the potential to be terrestrial habitat for GCN associated with nearby ponds and that this habitat could be harmed by the proposals. The appellant argued that the requirement for surveys and, if needed, mitigation could be covered by a planning condition. It was suggested that the appellant controlled an extensive area of land within which mitigation could be provided. However, in my view this approach would be contrary to the advice of Circular 06/2005. I am not persuaded that the fact that land is available amounts to the exceptional circumstances contemplated in the Circular. Given the potential for GCN to be present at the site I consider that allowing the appeal in the absence of the necessary surveys would result in a risk of harm to GCN.

Bats

54. An initial bat survey carried out for the appellant in March 2008 found evidence of bats roosting in the roof space of the house. Further surveys were recommended to establish the type of roost, species and population size. A survey was carried out in September 2008 and this confirmed that at least 2 species of bat were roosting in the roof. The report of this survey (Document 21) also recommended that further surveys were needed in order to design a mitigation strategy - 2 further emergence surveys and one dawn survey, to be carried out in May/June 2009. The deletion of works to the attic from Appeal B resolved some of the Council's concerns in relation to bats. Two matters remained – potential disturbance from proposed rooflights in the extension and disturbance arising from the introduction of a window, (albeit a "blind" window), in the south east elevation right hand gable.

55. Initial data on bat movements from the second survey indicates foraging activity in the vicinity of the proposed extension. Until such time as the population, species and emergence/activity patterns have been better understood, following the necessary survey work, I consider that the rooflights should be regarded as having the potential to disturb bats. I have already concluded, under the first main issue, that the rooflights should be omitted. In my view the potential for disturbance to bats is an additional reason for omitting them. The blind window would not result in any significant impact on bat habitat, subject to appropriate timing of the works which could be controlled under the licensing regime.

56. Turning to Appeal C, the garage complex would have numerous rooflights in an area where there is evidence of bat foraging activity. These would also have the potential to disturb bats. The rooflights would be the sole means of light to the upper floor so could not be omitted by way of a condition. Other mitigation strategies may be available but the design of these depends on the outcome of the further surveys. I conclude that the garage complex has the potential to disturb bats and should not be permitted in advance of the necessary surveys.

Conclusions – protected species

57. I conclude that, subject to a condition relating to the rooflights, the amended Appeal B proposals would not be harmful to bats. However, the Appeal C proposals have the potential to harm GCN habitat and to disturb bats. They should not be permitted in the absence of the necessary surveys. The

Appeal C proposals are therefore contrary to UDP Policy NC1 which states that proposals should demonstrate that there would be no adverse effect on protected species.

Highway safety – Appeal C

58. The access would be moved to a point on Overton Lane south west of the house. The approach from the village would be via a lightly trafficked single track lane with infrequent passing bays and limited forward visibility. The Council and the appellant agreed that 25m visibility splays would be required. No detailed design of the access was submitted with the application but an illustrative scheme was presented to the Inquiry which showed that these splays could be achieved on land in the control of the appellant. There was disagreement as to whether the 25m should be measured to the edge or the centre of the carriageway but in my view either is achievable. (The Council's approach would result in the loss of more of the hedgerow but the difference would not be so significant as to affect my conclusions on landscape impact or GCN habitat). The illustrative details show how the access could join the lane at the correct level with an acceptable gradient. All of these matters could be covered by a planning condition.
59. The proposals would have the effect of adding to the traffic on the section of lane between the existing and proposed access points. However, the house does not generate a great deal of traffic. While there would be a large proportionate increase in traffic the total traffic flow would still be at a low level. I recognise that traffic would share the lane with pedestrians and cyclists but this is already the case because the lane serves a group of houses further along. I consider that the restricted width and limited forward visibility would cause drivers to travel slowly.
60. There was disagreement between the Council and the appellant as to the safety of the existing access. I note that it does not meet the visibility standards set out in *Manual for Streets*. However, the lane here is wider than elsewhere, it is lightly trafficked and vehicles are unlikely to be travelling at speed. The access appears to have operated for many years without difficulty. In practical terms I do not consider that it is unduly hazardous. Consequently, I do not think that the new access would result in a significant improvement in highway safety, rather it would have a neutral effect.
61. I conclude that the proposals would not conflict with UDP Policy DR3 which states that development should incorporate adequate vehicular access without detriment to highway safety.

Trees – Appeal C

62. The Council was initially concerned about a Yew (T15) and a Horse Chestnut (T8). At the Inquiry the Council and the appellant agreed that T8 would retain an adequate rooting area, subject to a detailed method statement being agreed. I consider that this matter could be covered by a condition. With regard to T15, the appellant's tree protection plan shows only a minor incursion of the proposed drive into the root protection area of this specimen. I therefore consider that this tree would not be significantly affected and conclude that the proposals would accord with UDP Policy LA5 which seeks to resist the loss of trees which are worthy of retention.

Other material considerations

63. The appellant drew attention to the outbuildings adjoining the site, which are no longer in the same ownership as Orleton Manor, and was critical of the Council's role in the process by which ownership became separated. However, those circumstances are not for me to comment on. The current position is that the house has no outbuildings, other than a small garden shed.
64. I have commented above that repairs to the house are most likely to be carried out by an owner who wishes to renovate it with a view to creating a reasonably comfortable dwelling. In my view that approach extends to the reasonable provision of outbuildings. Taken individually, I see no objection in land use terms to the various ancillary uses proposed in Appeal C. However, I am not persuaded that the totality of what is proposed is so essential that, without it, the listed building would be at risk. I consider that there is scope to provide ancillary buildings in a way which would avoid harm to the setting of the listed building and the conservation area. I conclude that the needs of the listed building do not provide a justification for the scale of ancillary development promoted in Appeal C.
65. The appellant proposes to re-introduce apple production on adjoining agricultural land and to acquire more land. I saw that a start has been made on this enterprise by planting fruit trees and I acknowledge that this demonstrates a commitment by the present owner to improve the estate as a whole. I also acknowledge that the revival of apple production would bring benefits to the rural economy. However, in planning terms there is little linkage between the apple enterprise and the 3 appeals which are before me. Consequently, I place only limited weight on these matters in reaching my decisions.
66. At the Inquiry the appellant submitted an illustrative concept design for the garden. There is, no doubt, scope for some improvement to the garden. However, it does not appear to me to be in need of major intervention and there is no evidence that Orleton Manor ever had extensive pleasure grounds or formal gardens. I take account of the opportunity to secure new planting by a planning condition but place only limited weight on this factor.
67. I have considered all other matters raised, including the various comments made on behalf of English Heritage, the regional planning policies identified by the appellant, the views of third parties, the petition in support of the appeals and the examples of other extensions and outbuildings in the vicinity which were drawn to my attention but find nothing to alter my conclusions on the main issues.

Conditions

68. I have referred above to the need for conditions relating to omission of rooflights and to details of the north west elevation of the extension. I agree with the Council's suggested conditions relating to archaeology and foundation design because construction of the extension might disturb archaeological remains. The Council and the appellant agreed on a schedule of further details required and I also agree. I have adjusted the detailed wording of the suggested conditions, having regard to the advice of Circular 11/95 *The use of conditions in planning permissions*. I do not think a condition requiring works

to be in accordance with the plans is needed as the works must accord with the plans in any event. I do not think it is necessary to control construction hours as construction impacts are dealt with under other legislation.

Conclusions

69. For Appeal A, I have identified a group of works which would preserve the special interest of the building and its setting which should therefore be permitted. These may be separated from those works that I consider would be harmful to the listed building. Any wider benefits the appellant's overall plans may have for the garden, the estate and the rural economy are not sufficient to outweigh this harm, so the harmful elements should not be permitted. I shall therefore issue a split decision in this case.
70. For Appeal B, I have reached similar conclusions in relation to the listed building and the weight to be applied to the benefits I have identified. In addition, I have concluded that those operations which I have found to be acceptable in listed building terms would not harm either the character or the appearance of the conservation area. Moreover, subject to appropriate conditions, they would not be harmful to protected species. I shall therefore issue a split decision in this case as well.
71. For Appeal C, I have concluded that the proposals would harm the setting of the listed building and the character and appearance of the conservation area. In addition, they would be harmful to protected species. I take account of the fact that the proposals would not be harmful to highway safety or to trees, that they would support the continued use of the house, and that the appellant's overall plans may bring benefits to the garden, the estate and the rural economy. However, for the reasons given above, these factors do not outweigh the harm I have identified. Appeal C should therefore fail.

David Prentis

Inspector

Schedule 1 – conditions for Appeal A

- 1) The works hereby permitted shall begin not later than three years from the date of this decision.
- 2) Notwithstanding the details shown on the submitted drawings, no rooflights shall be installed in the roof of the extension hereby permitted.
- 3) Notwithstanding the details shown on the submitted drawings, no works shall take place until details of the north west elevation of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details.
- 4) No works shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.
- 5) No works shall take place until a detailed design and method statement for any new foundations or groundwork has been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details.
- 6) No works shall take place until details of the following matters have been submitted to and approved in writing by the local planning authority. Drawings shall be at a scale no less detailed than 1:5 in the case of joinery or 1:20 otherwise. The details shall include specifications and an assessment of how the alterations will affect the fabric of the listed building. The works shall be carried out in accordance with the approved details.
 - i. Doors, windows, roofs and staircases.
 - ii. Alterations to north west elevation bay to form porch.
 - iii. Plumbing and electrical services.
 - iv. The location and condition of every member of the timber frame, the nature and condition of the infill panels, any replacements, alterations or repairs to the timber frame or infill panels, and details of any structural repairs below the sole plates. These details are to be accompanied by a structural engineer's report identifying any structural defects and a schedule of works to remedy those defects, including a method statement.
 - v. Any alterations to masonry walls and chimney stacks.
 - vi. The condition of all internal floors and details of any alterations or repairs, including alterations to the sub-structure and any damp-proofing measures.
 - vii. Samples of the materials to be used on the external surfaces of the building.

Schedule 2 – conditions for Appeal B

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Notwithstanding the details shown on the submitted drawings, no rooflights shall be installed in the roof of the extension hereby permitted.
- 3) Notwithstanding the details shown on the submitted drawings, no development shall take place until details of the north west elevation of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.
- 5) No development shall take place until a detailed design and method statement for any new foundations or groundwork has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) No development shall take place until details of the following matters have been submitted to and approved in writing by the local planning authority. Drawings shall be at a scale no less detailed than 1:5 in the case of joinery or 1:20 otherwise. The details shall include specifications and an assessment of how the alterations will affect the fabric of the listed building. The development shall be carried out in accordance with the approved details.
 - i. Doors, windows, roofs and staircases.
 - ii. Alterations to north west elevation bay to form porch.
 - iii. Plumbing and electrical services.
 - iv. The location and condition of every member of the timber frame, the nature and condition of the infill panels, any replacements, alterations or repairs to the timber frame or infill panels, and details of any structural repairs below the sole plates. These details are to be accompanied by a structural engineer's report identifying any structural defects and a schedule of works to remedy those defects, including a method statement.
 - v. Any alterations to masonry walls and chimney stacks.
 - vi. The condition of all internal floors and details of any alterations or repairs, including alterations to the sub-structure and any damp-proofing measures.
 - vii. Samples of the materials to be used on the external surfaces of the building.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr T Jones	of Counsel, instructed by Legal Services, Herefordshire Council
He called	
Miss K Gibbons	Principal Planning Officer, Herefordshire Council
BA(Hons) BPI MRTPI	
Mr J Stagg	Team Leader, Building Conservation, Herefordshire Council
DipTP MRTPI IHBC	
Mr D Davies BSc	Area Engineer (Development Control) North, Herefordshire Council
DipGeog&Env AAusIMM	
Miss B Symons	Senior Ecologist, Herefordshire Council
BSc (Hons) ALGE	
Mr C Mayes (Dip Countryside&EnvMan)	Senior Landscape Officer, Herefordshire Council

FOR THE APPELLANT:

Mr J Cahill	Queens Counsel, instructed by Harris Lamb
He called	
Mr A Arrol	Arrol and Snell Ltd, St Mary's Hall, St Mary's Court, Shrewsbury SY1 1EG
RIBA ABC	
Mr P Downes	Harris Lamb, Grosvenor House, 75-76 Francis Road, Edgbaston, Birmingham B16 8SP
BSc(Hons) MRICS	
Mr T Moya CEnv	Tim Moya Associates, Unit 96 Greenway Business Centre, Harlow Business Park, Harlow CM19 5QE
MArborA PgDip(Arb)	
Mr R Myers MA(Cantab)	Robert Myers Associates, Hergest Estate Office, Ridgebourne Road, Kington, Herefordshire HR5 3EG
DipLA MLI	
Mr S Parfitt MSc BA	David Tucker Associates, Forester House, Doctor's Lane, Henley-in-Arden, Warwickshire B95 5AW
MCIT MILT MIHT	
Mr J Pattenden BSc	RSK Carter Ecological, Edmunds House, 40 The Green, South Bar, Banbury OX16 9AE
MSc MIEEM	

INTERESTED PERSONS:

Dr R Jack, on behalf of Orleton Parish Council	The Forge, Orleton, Ludlow SY8 4HR
Mr D Lewis	Lime Farm, Tunnel Lane, Orleton, Ludlow SY8 4HY
Mr R Sparey	Portway House, Orleton, Ludlow SY8 4HG
Mr G Jenkins	Molly's Cottage, Orleton, Ludlow SY8 4HJ
Mr C Marsden	Tumbledown, Headbrook, Kington HR5 3DZ

DOCUMENTS

- 1 List of appearances for the appellant
- 2 Letter from Mrs James and Mr Jukes (20 October 2008)
- 3 Petition in support of the appeals
- 4 Letter from English Heritage (17 October 2008)
- 5 E-mail from English Heritage (20 October 2008)
- 6 Draft Unilateral Undertaking
- 7 Supplementary proof of evidence of Mr Arrol
- 8 Supplementary proof of evidence of Mr Stagg
- 9 Summary proof of evidence of Mr Davies
- 10 Summary proof of evidence of Mr Mayes
- 11 Summary proof of evidence of Miss Symons
- 12 Summary proof of evidence of Mr Stagg
- 13 Summary proof of evidence of Miss Gibbons
- 14 Plan 05489/D1 rev E – Location and details of proposed entrance
- 15 Survey drawing 840/01/157
- 16 Survey drawing 840/01/157 rev A – garage position added
- 17 Concept design for gardens submitted by appellant
- 18 Opening statement for the appellant
- 19 Opening statement for the Council
- 20 Schedule of additional information
- 21 Initial Bat Survey Report by RSK Carter Ecological
- 22 Note on bat records by Miss Symons
- 23 Statement of Common Ground – arboricultural matters
- 24 Statement of Common Ground
- 25 E-mail from Harris Lamb (3 March 2008)
- 26 Plans and photographs of panelling submitted by appellant
- 27 Supplementary report on existing access by Mr Davies
- 28 Extract from report by Richard Morriss and Associates
- 29 Letter from Mrs Mark (23 October 2008)
- 30 Photographs submitted by Mr Marsden
- 31 Photographs submitted by appellant
- 32 Correspondence regarding Statement of Common Ground
- 33 Plan from Orleton Conservation Area Appraisal
- 34 Archaeological Evaluation by Archenfield Archaeology
- 35 Drawing 6529-2 submitted by Mr Moya
- 36 Plan showing location of appellant's photographs
- 37 Drawing 840/01/158 rev B – amended garage details
- 38 Mr Stagg's supplementary comments regarding panelled room
- 39 Unilateral Undertaking dated 24 October 2008
- 40 Bundle relating to ecology conditions submitted by appellant
- 41 Natural England letters of 3 April 2007 and 1 June 2007
- 42 Mr Arrol's location diagram of timber frame repairs
- 43 Revised photomontages submitted by Mr Myers
- 44 Note on photomontages submitted by Mr Myers
- 45 E-mail from English Heritage (30 October 2008)
- 46 Further revised photomontages submitted by Mr Myers
- 47 Extract from Encyclopedia of Planning Law
- 48 Errata sheet submitted by Mr Downes
- 49 Extract from Regional Spatial Strategy for the West Midlands

- 50 Extract from the Herefordshire UDP
- 51 Mr Stagg's comments on appellant's timber framing survey
- 52 Photograph from 1960s submitted by Mr Downes
- 53 Conditions suggested by the Council – version 2
- 54 Historic Buildings conditions suggested by the Council
- 55 Unilateral undertaking – revised signatures
- 56 Mr Stagg's suggested checklist for the site visit
- 57 Closing submissions for the Council
- 58 Closing submissions for the appellant