

# **15 DMNW/092501/F - CHANGE OF USE TO ALLOW FOR THE ERECTION OF A MARQUEE UP TO 12 TIMES A YEAR FOR FUNCTIONS PRIMARILY FOR WEDDING RECEPTIONS AT LEMORE MANOR, EARDISLEY, HEREFORDSHIRE, HR3 6LR**

**For: Mr & Mrs B Owen Per James Spreckley, Brinsop House, Brinsop, Herefordshire, HR4 7AS**

**Date Received: 2 October 2009**

**Ward: Castle**

**Grid Ref: 31068.4,251591.8**

**Expiry Date: 27 November 2009**

Local Member: Councillor JW Hope MBE

## **1. Site Description and Proposal**

- 1.1 Lomore Manor lies in open countryside, approximately 2 miles north of Eardisley, on the east side of the A4111. It is a large detached property which was formerly a nursing home but has recently acquired planning permission as a residential property, (inclusive of the converted coach house). The application site also includes two fields to the south and east of the manor.
- 1.2 Immediately to the west of the coach house is a dwelling, Kimberley, outside of the control of the applicant. Furthermore there is another property, Lomore Bungalow approximately 70m back along the drive. Woodhouse Farm (holiday lets) lie to the south east approximately 150m from Lomore Manor. New House and New House Farm lies approximately 540m north of Lomore Manor. Holywell Cottage lies approx. 400m to the south. Properties at Questmore Cottage/Farm lies approx 560m to the north. After this the next nearest properties lie in excess of 600m away.
- 1.3 The proposal is for the land adjacent to Lomore Manor (the parcel of land immediately to the South/South East of the property) for the siting/erection of a marquee up to 12 times in any calendar year for functions (these being primarily weddings). The application also states the applicants are willing to accept a condition limiting the playing of amplified music inside the marquee from 10am to 12 midnight, and a further condition requiring that any marquee may only be erected no more than two days before and removed no more than 2 days after the date of the function.
- 1.4 Public footpath EE13 passes along the access drive from the junction onto the A4111, and has been advertised accordingly.
- 1.5 Within 190m to the south of the house lies a special wildlife site, Holywell Dingle.

## **2. Policies**

### **2.1 Unitary Development Plan Policies**

RST12	-	Visitor Accommodation
RST13	-	Rural and Farm Tourism Development
S1	-	Sustainable Development
S8	-	Recreation, Sport & Tourism
DR2	-	Land Use & Activity
DR3	-	Movement
DR13	-	Noise
NC4	-	Sites of Local Importance

## 2.2 Government Policy

- PPS4 - Planning for Sustainable Economic Growth
- PPS7 - Sustainable Development in Rural Areas
- PPS9 - Biodiversity and Geological Conservation
- Good Practice guide on Planning for Tourism

## 3. Planning History

- 3.1 DCNW2009/0293/F - Proposed Change of use from Nursing Home to residential dwelling - Approved 8 April 2009.
- 3.2 DCNW2008/2075/F - Change of Use from Nursing home to multi-use venue, occasional erection of up to 10 Marquees and variation of previous condition to allow occupation of the Coach House - Withdrawn 19 January 2009 (referred to committee on the 14 January 2009).
- 3.3 NW03/1344/F - Conversion of stable building to management accommodation, (subject to occupancy condition required to be varied) - Approved 18 June 2003.
- 3.4 NW03/1334/F - Removal of condition 2 attached to P.P 93-524A - Approved 17 June 2003. Kimberley, Eardisley.
- 3.5 98/0033/N - Removal of condition 2 of permission 93/524. (New dwelling & Lomore Manor not to be sold separately) - Refused 10 March 1998.
- 3.6 93/524 - Barn conversion to dwelling - Approved 23 November 1993. (This dwelling now known as Kimberley).
- 3.7 89/628 - Change of use to nursing home, Lomore Manor - Approved 27 November 1989.

## 4. Consultation Summary

### 4.1 Ramblers Association

This development doesn't appear to have any impact upon the adjacent Public Right of Way, Eardisley EE13, which follows the driveway from the A4111 and past Lomore Manor. One point I would like to make is with regard to vehicular movement along the driveway and would request that appropriate notices warning of pedestrians in the vicinity are erected at suitable points.

I ask you to ensure that the developer is aware that there is a legal requirement to maintain and keep clear a Public Right of Way at all times.

### Internal Council Consultees

### 4.2 Transportation Manager

Visibility at road is below current standards but as the site has operated with more intensive use than proposed for some time without accidents it would be unreasonable to recommend refusal.

### 4.3 Public Rights of Way Manager – It does not affect the PROW.

### 4.4 Environmental Health Manager

I have concerns regarding this application due to the potential for noise nuisance from events at the site. The Environmental Health Department has received complaints regarding noise from this location since the site has been used for functions etc. No information has been provided in the application regarding the potential for noise nuisance and how this is to be managed on the site, other than an offer to restrict amplified music inside the marquee to between 10am to 12 midnight.

It is not clear from the application what the maximum duration of an event will be and the use for 12 events per year, even if an event was restricted to 1 day, could cause disturbance to neighbours for most of the summer weekends.

The use of temporary structures like marquees to house live and recorded music is more likely to give rise to noise complaints than the use of permanent buildings due to the reduction in noise attenuation that these structures provide. The rural nature of this site would indicate that the background noise levels in this area would be quite low and I have concerns that a noise disturbance would be likely if music was played from a marquee on site. I believe that noise would be particularly problematic during the evening and night when background levels are at their lowest. Numerous complaints were received from nearby residents following an event held on the site on Saturday 19 July 2008 which featured a marquee and music and for subsequent events. I therefore believe conditions should be attached to the permission to protect the noise environment of the area.

I would recommend that a scheme of noise control measures be submitted to the planning authority before live or recorded music is played public address systems are used at the application site. As part of these measures a noise limiter might be fitted at the venue, which would monitor the noise levels and cut the power to the music system when the preset decibel level is breached. (The level would need to be agreed with the Planning and Environmental Health Department prior to use.) This type of system should hopefully eliminate complaints if the level is set correctly and the limiter properly set up, however the applicant would need to investigate if this type of system is workable at this site and for marquees. Other noise attenuating measures may be suitable then/ or in addition to the limiter or other physical measures including management techniques. The applicant should identify what measures are most suitable at this site and submit an appropriate scheme.

Should Members be minded to approve this application, I would recommend the following conditions:

**F02 – Scheme of measures for controlling noise**

Before the commencement of the use of marquees for the holding of events which involve the use of amplification, a scheme shall be agreed with the local planning authority which specifies the provisions to be made for the control of noise emanating from the site. The use shall be carried out in accordance with the approved details.

Reason: In order to protect the amenity of nearby properties.

**F14 – Time restriction on music**

No live, amplified or other music shall be played outside after 23:00 or before 10:00 on Sundays to Thursdays or Bank and Public holidays and 00:00 and 10:00 respectively on Fridays and Saturdays. Outside is defined as not being within the building known as Lomore Manor and includes any PA system or speakers located in the garden, field or in a temporary structure, including marquees.

Reason: In order to protect the amenity of occupiers of nearby properties.

An event is defined as use in any one calendar day.

Reason : To protect the amenity of the occupiers of nearby properties.

An event shall be separated by any previous or subsequent event by at least 14 days.

Reason : To protect the amenity of the occupiers of nearby properties

## 5. Representations

### 5.1 Eardisley Parish Council

No response received

### 5.2 Letters of objection have been received from the following:

Ms CA Sayce, Kimberley.

R Woodbridge & R Peace, Holywell Cottage.

Mrs and Mrs G McQuiston, Cokesyeld Farm, Almeley, Hereford.

Mrs G Bedford (JS & GS Bedford), 4 Newhouse Farm, Almeley, Hereford.

Mr Laurence Dray, Station Farm, Almeley, Hereford.

Mr & Mrs Glyn-Jones (September Organics Farming), Newhouse Farm, Almeley, Hereford.

### 5.3 The objections are summarised below:

#### 1. Noise Pollution

- Music is extremely loud and intrusive on a regular basis, almost fortnightly during the summer when nearby residents doors and windows may be open.
- This noise affects neighbours, livestock, pets and wildlife in particular because background noise levels in the area are low because of the rural location. It is peaceful and tranquil.
- Previous experiences have been that music has continued until 2.30am rather than the 12am limit suggested in the application.
- Music can be heard above the sound of neighbours' televisions, and speeches can also be heard.
- Impact upon adjacent businesses which rely upon the peaceful and tranquil surrounding environment (both farming and tourism based).

#### 2. Location

- The siting of the marquee would be in an area less than 50 metres from Kimberley. Is it not possible to site this further from the neighbour's house?

#### 3. Access and Parking

- The access drive is shared by two other properties.
- Not enough parking provided. Drive has been used in the past. Provision should be made on site.

#### 4. Ecology

- Reference is made to the previous objection by Herefordshire Nature Trust to the proposal and the impact upon wildlife, especially nocturnal animals.

#### 5. Other issues

- The use of Chinese lanterns is a danger to livestock in adjacent/nearby fields and has caused nuisance.

The full text of these letters can be inspected at Planning Services, Garrick House, Widemarsh Street, Hereford and prior to the Committee meeting.

#### 6. **Officer's Appraisal**

- 6.1 Lomore Manor, and its associated coach house has planning permission as a residential property. It is rented out as a 'whole' for short term holiday lets rather than being lived in as a family home. This in itself does not require the benefit of planning permission. The proposal is to use the land adjacent to the property for the erection of a marquee on no more than 12 occasions in any calendar year for the purposes of functions such as weddings. This proposal also requests consent to erect a marquee in the suggested positions within the grounds of the property. This use has already been ongoing for approximately two years.
- 6.2 The majority of the concerns relate to the impact upon local residents, livestock, animals and wildlife from the noise and disturbance of these 'functions'. There have been ongoing complaints about the use but it is acknowledged that the use of music does now seem to cease at midnight.
- 6.3 The Environmental Health Manager's comments are noted and his suggested conditions are recommended. However, it is the officer's opinion that this matter may not be completely resolved to the satisfaction of the neighbours without further investigation and evidence. As such, and with the support of the applicant, it is suggested that a one year temporary consent is granted. This would allow the monitoring of activities within the marquee and their impact upon the surrounding area. The use would need to operate within the remit of the above mentioned conditions. It is suggested that the criteria for how and when the testing takes place is agreed with the Local Planning Authority prior to it being undertaken to ensure that the data that is needed can be captured.
- 6.4 Should the applicant then wish to continue with this use a new application will need to be submitted, along with the requisite reports (and their subsequent suggestions), and this will then be subject to a further consultation with local residents. A decision can then be considered for its further continuation. It is hoped that this will provide a sensible approach to meeting the needs of a local business whilst addressing the concerns addressed by local residents outlined above.
- 6.5 In addition to this a condition requiring details of parking (within the site) is also recommended to ensure that adequate parking is provided within the site for guests. This will address concerns and ensure compliance with policy DR3 of the Herefordshire Unitary Development Plan.
- 6.6 In relation to ecology and the impact upon livestock and local animals, the majority of these concerns relate to noise which should, it is hoped, be mitigated against by the proposed conditions. It is not considered that a reason for refusal could be substantiated on these grounds and that the proposal complies with policy NC4 of the Herefordshire Unitary Development Plan and guidance contained within Planning Policy Statement 9 – Biodiversity and Geological Conservation.

- 6.7 I note the local concerns about the Chinese lanterns. This is not a matter that can be controlled with planning legislation but it is hoped that in the interests of neighbourliness, and in having regards to the rural surrounds, the applicants would seek to restrict this activity in the future.
- 6.8 To conclude, the Environmental Health Manager has not raised an objection and is of the opinion that the use can operate, within the remit of the recommended conditions. It is the officers' opinion that in order to address the local concerns this additional time period would be of benefit to ensure that the proposal can comply satisfactorily with the requirements of policies of the Herefordshire Unitary Development Plan listed above and operate without detriment to the occupants of nearby properties and to highway safety.

## RECOMMENDATION

**That planning permission be granted subject to the following conditions:**

**1 F18 Temporary permission (1 year)**

**Reason: To enable the monitoring of activities within the marquee and their impact upon the surrounding area and neighbours having regard to policies DR2 and DR13 of the Herefordshire Unitary Development Plan.**

**2 The property shall only be let for the purpose of functions during periods where there is a management presence on site.**

**Reason: In order to protect the amenity of nearby residents in accordance with policy DR2 of the Herefordshire Unitary Development Plan.**

**3 A marquee shall be erected for no more than 12 functions (a function being defined as one calendar day) until the expiry of this consent. The marquee shall not be erected more than 2 days prior to the day the function is due to take place and shall be removed within 2 days following the date of the function.**

**Reason: In order to define the terms of this permission and in order to protect the amenity of nearby residents in accordance into policy DR2 of the Herefordshire Unitary Development Plan.**

**4 F02 Restriction on hours of delivery**

**5 Before the commencement of the use of marquees for the holding of events which involve the use of amplification, a scheme shall be agreed with the local planning authority which specifies the provisions to be made for the control of noise emanating from the site. The use shall be carried out in accordance with the approved details.**

**Reason: In the interests of the amenities of existing residential property in the locality and to comply with Policy DR1 and DR2 of Herefordshire Unitary Development Plan.**

**6 No live, amplified or other music shall be played outside after 23:00 or before 10:00 on Sundays to Thursdays or Bank and Public holidays and 00:00 and 10:00 respectively on Fridays and Saturdays. Outside is defined as not being within the building known as Lomore Manor and includes any PA system or speakers located in the garden, field or in a temporary structure, including marquees.**

**Reason: In the interests of the amenities of existing residential property in the**

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Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

locality and to comply with policies DR1 and DR2 of the Herefordshire Unitary Development Plan.

- 7 A record of the times and dates of functions shall be kept, and shall be made available for inspection by the local planning authority at their request. The local planning authority shall be given a minimum of 5 days written notice of a function being held unless otherwise agreed in writing by the local planning authority.

Reason: To allow the local planning authority to monitor the use having regard to the restrictions imposed in the above conditions having regard to policies DR2 and DR13 of the Herefordshire Unitary Development Plan.

- 8 Prior to the commencement of development a plan showing the existing and proposed overflow car parking (for use during functions) shall be submitted to and approved in writing by the local planning authority. These areas shall be kept clear and available for the parking of guests' vehicles during functions.

To prevent indiscriminate parking on the highway and driveway in the interest of highway safety having regard to policy DR3 of the Herefordshire Unitary Development Plan.

#### INFORMATIVES:

- 1 The local planning authority would encourage the applicants to contact and agree the method of acoustic testing and monitoring with them as a matter of urgency prior to any other functions being undertaken.
- 2 N15 Reason(s) for the Grant of Planning Permission
- 3 N19 Avoidance of doubt - Approved Plans

Decision: .....

Notes: .....

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#### Background Papers

Internal departmental consultation replies.



**SITE ADDRESS :** LEMORE MANOR, EARDISLEY, HEREFORDSHIRE, HR3 6LR

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