

13 DCNE2003/3437/F - APPLICATION UNDER SECTION 73 TO PROCEED WITH THE DEVELOPMENT WITHOUT COMPLIANCE WITH CONDITION 15 (PLANNING PERMISSION NE2002/2904/O) ON SITE AT ROSE AND COOMBE COTTAGES, FLOYDS LANE, WELLINGTON HEATH, LEDBURY, HEREFORDSHIRE, HR8 1LR

For: Mr H Kent per Mr P H Tufnell, Tufnell Town & Country Planning, Waverley Studio, Gloucester Road, Hartpury, Gloucester, GL19 3BG

Date Received:
17th November 2003

Ward:
Hope End

Grid Ref:
71128, 40138

Expiry Date:
12th January 2004

Local Members: Councillor R. Mills and Councillor R. Stockton

1. Site Description and Proposal

1.1 The site is located on the eastern side of unclassified road 66401 known as Floyds Lane within the village of Wellington Heath. Until approximately 40 years ago two dwellings occupied the site but both were demolished and the site is currently undeveloped. The northern, eastern and southern boundaries are enclosed by existing hedges and the roadside frontage remains open. Ground levels fall relatively steeply eastwards and to a lesser extent southwards within the site. The site is largely surrounded by existing residential development to the north, east and south and the western side of Floyds Lane. The site lies within the Malvern Hills Area of Outstanding Natural Beauty, is also designated as an Area of Great Landscape Value and falls within the present settlement boundary for Wellington Heath as defined in the Malvern Hills District Local Plan.

1.2 Outline planning permission was approved on 29th January 2003 for the construction of a single dwelling on the site in question. Condition 15 of the planning permission states:

'The development hereby permitted is for the construction of a single storey bungalow with ground floor accommodation only.

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

The applicants now wish to proceed with the development approved on 29th January 2003 without complying with condition 15 of the permission.

2. Policies

Hereford and Worcester County Structure Plan

H16a – Housing in Rural Areas

H18 – Housing in Rural Areas Outside the Greenbelt
CTC1 – Areas of Outstanding Natural Beauty
CTC2 – Areas of Great Landscape Value

Malvern Hills District Local Plan

Housing Policy 3 – Settlement Boundaries
Landscape Policy 2 – Areas of Outstanding Natural Beauty
Landscape Policy 3 – Development in Areas of Great Landscape Value

Herefordshire Unitary Development Plan (Deposit Draft)

H7 – Housing in the Countryside Outside Settlements
H14 – Reusing Previously Developed Land and Buildings
LA1 – Areas of Outstanding Natural Beauty
LA2 – Landscape Character and Areas Least Resilient to Change
LA3 – Setting of Settlements

3. Planning History

NE2003/2904/O – Site for erection of one dwelling – Outline Planning Permission approved 29th January 2003.

N98/0157/O – Site for one dwelling – Outline Planning Permission refused 16th September 1998.

MH88/2248 – Proposed dwelling on the site of Rose and Coombe Cottages demolished 1966 - Planning Permission refused 19th September 1988. Appeal dismissed 27th July 1990.

NH78/1950 – Proposed house – Planning Permission refused 9th October 1978.

4. Consultation Summary

Statutory Consultations

4.1 None required.

Internal Council Advice

4.2 Head of Engineering and Transportation has no objection.

5. Representations

5.1 Wellington Heath Parish Council recommend the approval for a dwelling on this site subject to the following conditions:

1. The roof line of the dwelling should be no higher than the roof line of adjacent properties in order to reduce the visual intrusion of the development on the Area of Outstanding Natural Beauty and to prevent overlooking of neighbouring properties.
2. The footprint of any dwelling including any garage should be restricted to that shown on the plans accompanying the Outline permission in order to prevent the

dwelling overcrowding the site and to maintain the relationship between the dwelling size and plot size of the local area.

5.2 Four letters of objection have been received from:

Peter Constantine, Orchard Lodge, Floyds Lane, Wellington Heath
Mrs. S Blundell, Woodfields, Floyds Lane, Wellington Heath
Francis Bradley, Pear Tree Cottage, Floyds Lane, Wellington Heath
Mr. & Mrs. Moore, Vine Cottage, Floyds Lane, Wellington Heath

The main points raised are:

- a) Approval of the development will be detrimental to the village environment in that a house of substantial bulk could be constructed on a small plot overlooking adjoining properties.
- b) The dwelling would overlook adjacent properties and their gardens reducing privacy, light and general amenity.
- c) The bungalow south of the site would be dominated by a two-storey dwelling, which would of necessity be extremely close to the boundary on elevated land. Planning permission was also refused for the provision of a first floor on this bungalow.
- d) The development would also be highly visible from the much-used footpaths across the valley.
- e) The reasons for all of the conditions attached to the original outline planning permission have not changed and therefore should remain.

5.3 The applicant's agent has written letters in support of his client's case. The main points made are:

1. The condition fails the important test set out in Government Circular 11/95 relating to necessity and reasonableness of the condition.
2. The properties which adjoin the site on all sides have two storey elements and therefore a wholly single storey approach would be out of character.
3. We have a duty to make the best use of land and this is not achieved by compliance with condition 15.
4. The local planning authority will retain control over the design of the dwelling or its ability to provide a proper transition between adjoining properties. This transition can be achieved by careful attention to both eaves and ridge heights.

5.4 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 applicants wish to proceed with the development approved under planning permission reference NE2002/2904/O for the construction of a single dwelling without complying with condition 15. Condition 15 restricts the development on site to a single storey bungalow with ground floor accommodation only. As such, the principle of constructing a dwelling on the site has been established. The consideration is therefore whether the condition is reasonable and necessary having regard to the site and its immediate surroundings.

- 6.2 The site is large enough to accommodate a modestly sized dwelling. Existing developments within the area are not characterised by a particular scale, form or design of dwelling. The locality is made up of a mixture of houses, bungalows and dormer bungalows set within varying sized plots. As such, there is no particular pattern of development, which should be used to guide the development of the site.
- 6.3 The development of the site will be dictated by the proximity and height of adjacent properties to the north, south and east and the difference in ground levels both with and surrounding the site. The property to the north known as Woodfields is a split-level dwelling being single storey on the Floyds Lane side and full two storeys from the east. The property immediately east of the site is a modestly sized two storey dwelling whilst to the south is a dormer bungalow. As such, there is a gradual fall in roof heights from north to south, which will mean that only a relatively low development would be appropriate for the site. However, it is considered that a dormer style dwelling for example could be accommodated on the site without being unduly prominent or having a significant adverse impact on the amenity of surrounding properties.
- 6.4 Neighbouring amenity is further safeguarded through the other conditions imposed on the Outline Planning Permission such as condition 14 which requires the retention of all the existing boundary trees and hedges, and conditions 12 and 13 which requires details of the slab levels and earth works to be submitted to ensure that the development is constructed at a height appropriate for the site. The local planning authority can also maintain control over the height of the development on site through the Reserved Matters application where the siting, scale and design of the dwelling will be considered. If at this stage, the development is considered to be excessively high within the site and consequently unacceptable, the Reserved Matters application can be refused.
- 6.5 Therefore, it is considered that the site could accommodate a low two storey dwelling subject to the footprint, design and slab level being appropriate and commensurate with the size of the site and its surroundings. These matters can be satisfactorily controlled through the reserved matters application and the relevant development plan policies.

RECOMMENDATION

That planning permission is granted.

Note to Applicant:

The decision to grant planning permission has been taken having regard to the policies and proposals in the Hereford and Worcester County Structure Plan and Malvern Hills District Local Plan set out below, and to all relevant material considerations including Supplementary Planning Guidance:

Hereford and Worcester County Structure Plan

H16a - Housing in Rural Areas

H18 - Housing in Rural Areas Outside the Greenbelt

CTC1 - Areas of Outstanding Natural Beauty

CTC2 - Areas of Great Landscape Value

Malvern Hills District Local Plan

Housing Policy 3 - Settlement Boundaries

Landscape Policy 2 - Areas of Outstanding Natural Beauty

Landscape Policy 3 - Development in Areas of Great Landscape Value

This informative is only intended as a summary of the reasons for grant of planning permission. For further detail on the decision please see the application report by contacting Reception at Blueschool House, Blueschool Street, Hereford (Tel: 01432-260342).

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.