

<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>14 APRIL 2010</b>
<b>TITLE OF REPORT:</b>	<p><b>DMSE/093151/F - ERECTION OF SIX DETACHED HOUSES (AMENDMENT TO SH940997PF) AT CARADOC, SELLACK, ROSS-ON-WYE, HEREFORDSHIRE, HR9 6LS</b></p> <p><b>For: Mr H Bramer Per Mr DF Baume, 41 Widemarsh Street, Hereford, HR1 9EA</b></p>

**Date Received: 17 December 2009**    **Ward: Llangarron**

**Grid Ref: 355730.0,227418.0**

**Expiry Date: 11 February 2010**

Local Member: Councillor JA Hyde

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

- 1.1 The development proposed comprises the erection of six detached dwellings and the construction of a new access point and driveway on land approximately 400 metres north-east of Caradoc Court, a Grade II\* listed building located on flat land at the top of a steep, north-facing wooded slope, rising up from the River Wye. The woodland is called Castlemeadow Wood, which is designated as a Special Wildlife Site (SWS). The application site comprises an open grass field, which slopes gently down to the east. The site is bounded to the north by Castlemeadow Wood and to the south by a tree-lined bridleway SK6, which traverses through the parkland and terminates at St. Tysilio's Church to the east. East Lodge cottage is found to the west of the application site.
- 1.2 The application site falls within the Wye Valley Area of Outstanding Natural Beauty and within the unregistered historic parkland associated with Caradoc Court. The historic character of this area is reinforced by the presence and form of the bridleway, an ancient route between the Court and the Church. It is over the bridleway that vehicular access to the development would be obtained.
- 1.3 Such development would ordinarily be contrary to adopted national and local planning policies and the application has been advertised as a departure from the development plan. In this respect the planning history associated with Caradoc Court and its environs is a crucial material consideration.

### Background

- 1.4 In 1986 Caradoc Court, a Grade II\* Listed building of national importance, was severely fire damaged. In 1994 an application to restore the fire damaged Court to a single residence, together with enabling development comprising six houses was received by the then South Herefordshire District Council (SH94/0997PF & SH94/0998/L). The case for the enabling development was accepted on the basis that restoration of the nationally important Caradoc Court would not otherwise be financially viable. Following the advice of English Heritage the application was approved on 24 February 1995. The planning permission was subject to a

---

Further information on the subject of this report is available from Mr E Thomas on 01432 260479

planning obligation stipulating that work on the enabling development could not commence until a specified proportion of the works of restoration of the Court had been carried out.

- 1.5 The previous owner was unable to complete the restoration of Caradoc Court in accordance with the terms of the planning obligation leading to the sale of the Court. Subsequently the restoration of Caradoc Court has been completed and it has been sold separately. A Certificate of Lawfulness (DCSE2006/1684/V) confirms that the planning permission for the six 'enabling' houses remains extant.
- 1.6 The current application is to vary the design, layout and point of vehicular access associated with the enabling development in the context that the applicant could, if so desired, revert to the extant planning permission.

### The proposal

- 1.7 As per the extant permission, this application is for the erection of six detached dwellings that would be east/west aligned parallel to the bridleway. The front elevation of units 1-4 would face south towards the bridleway, with units 5 & 6 found at the terminus of the private drive. At its closest the most westerly unit (1) would be 15 metres from the east elevation of East Lodge. The proposed point of access is taken from the bridleway at the south-western corner of the site. Access to individual plots would spur off the driveway to parking areas of bound gravel, located where appropriate to the side of rather than in front of the dwellings.
- 1.8 The dwellings are of fairly consistent design, comprising, with the exception of unit 1 a T-shaped plan with gables projecting forward and rear. The overall heights range from 7.0m to 7.35m, which is broadly commensurate with the extant scheme. Materials proposed are stone facing and painted render under natural clay tile roofs, with painted timber joinery. Following the receipt of amended plans the gross external floor area of the scheme is equivalent at 1100 square metres to that of the extant permission.
- 1.9 The submitted Design and Access Statement accepts that there is no directly relevant design context for a scheme of six detached dwellings grouped in such proximity within what is an otherwise open rural setting and that the proposal is contrary to a number of Unitary Development Plan policies. However, the extant scheme is capable of implementation and as such is a significant material consideration.
- 1.10 In contrast to the extant scheme, the current application is accompanied by a tree constraints survey and report, topographical survey and an accurate block plan. An ecological survey and financial appraisal have also been submitted. Notwithstanding the relative merits of the current application when compared to the 1995 permission, it does present an opportunity to review areas where the extant permission is deficient and impose new planning conditions where appropriate.
- 1.11 The application is also accompanied by a Draft Heads of Terms which provides for a contribution towards public open space, children's and young people's services and local sustainable transport infrastructure. The Draft Heads of Terms is attached to this report.

## **2. Policies**

### **2.1 Planning Policy Statements**

PPS 1	-	Delivering sustainable development
PPS 5	-	Planning for the historic environment
PPS 7	-	Sustainable development in rural areas
PPS 9	-	Biodiversity and geological conservation

Other guidance: Enabling Development and the Conservation of Historic Places (English Heritage, 2008)

BS2005:5837 – Trees in relation to construction  
Circular 03/99: Non-mains sewerage systems

## 2.2 Herefordshire Unitary Development Plan

S1	-	Sustainable development
S2	-	Development requirements
DR1	-	Design
DR2	-	Land use and activity
DR3	-	Movement
H7	-	Housing in the countryside outside settlements
H13	-	Sustainable residential design
H16	-	Car parking
T6	-	Walking
LA1	-	Areas of Outstanding Natural Beauty
LA2	-	Landscape character and areas least resilient to change
LA4	-	Protection of historic parks and gardens
LA5	-	Protection of trees, woodlands and hedgerows
LA6	-	Landscaping schemes
NC1	-	Biodiversity and development

## 3. Planning History

SH83/0803PF	Change of use from agricultural and residential to health and leisure complex (including hotel) at Caradoc Court, Sellack	-	Approved 09.11.83
SH84/020PF	Change of use to a residential home for the elderly/nursing home at Caradoc Court, Sellack	-	Approved 25.04.84
SH89/0963PF & 0964L	Restoration and extension to form 20 apartments and erection of 5 cottages in walled garden at Caradoc Court, Sellack	-	Deemed withdrawn
SH94/0997PF	Rebuild fire damaged house to original state as single residence with outbuildings and six houses on adjoining land at Caradoc Court, Sellack	-	Approved 24.02.95
DCSE2006/1684/V	Certificate of lawfulness for six new houses (approved on Planning Permission SH940997PF), Caradoc Court, Sellack	-	Approved 06.12.06
DCSE2007/0330/U	Certificate of lawfulness for existing use as a residential unit, The East Wing, Caradoc Court, Sellack	-	Withdrawn 27.11.08
DCSE2007/1771/G	Variation of Section 106 Agreement Ref: SH940997PF at Caradoc Court, Sellack	-	Refused 12.09.07
DCSE2008/3078/F	Erection of 6 detached dwellings: Land adjacent to East Lodge, Caradoc, Sellack	-	Withdrawn 30.3.09
DMSE2009/2727/F	Change of use of East Wing to form two holiday lets	-	Approved 23.12.09
DMSE2009/2850/F	To hold a limited number of wedding/functions (no more than 25 per annum) at Caradoc Court, Sellack	-	Approved 5.3.10

#### 4. Consultation Summary

##### Statutory Consultations

- 4.1 English Heritage: The Council should satisfy itself that the financial justification for this enabling development complies with the methodology set out in the English Heritage publication 'Enabling Development and the Conservation of Historic Places' (2008).
- 4.2 Forestry Commission: No objection.

##### Internal Council Advice

- 4.3 Conservation Manager (Landscapes and Biodiversity): The officer concludes that both the extant and current schemes are equal in terms of their adverse impact on the trees adjacent to the application site. For both schemes there is direct conflict between unit 1 and tree 12 (an oak in Castlemeadow Wood covered by the TPO). It is noted, however, that the current scheme has been modified to ensure that unit 6 is removed from the root protection area of tree 7 (an oak on the bridleway), although secondary impacts such as overshadowing, resulting from the proximity of the tree to the house, will remain. This may lead to future pressure for the removal of trees 7 and 12 in particular. The officer expresses concern in relation to unauthorised excavations that were undertaken in early 2009 and does not agree that the omission of turning heads in the northern part of the site is a material improvement against the extant scheme, as they could be constructed using a no-dig method which should not prejudice the trees in Castlemeadow Wood. The officer does acknowledge that the movement of the access point will retain at least two trees that would have to be removed were the extant scheme implemented, but considers that this benefit is offset by the necessity for the construction of the turning head, the southern portion of which is within the Root Protection Area of tree 6.
- 4.4 Conservation Manager (Ecology): The officer is satisfied with the findings of the submitted report in relation to the potential impact upon protected species and agrees with the surveyor's observations regarding the importance of the surrounding hedgerows and trees. The provision of bat and bird boxes within the development is supported and it is recommended that these be built in to the houses. Conditions are suggested in relation to the implementation of the recommendations set out in the consultant ecologist's report and the submission of a management plan for the Castlemeadow Wood Special Wildlife Site.
- 4.5 Conservation Manager (Historic Buildings): No objection.
- 4.6 Conservation Manager (Archaeology): There is nothing significant about this specific location that would lead me to believe that there are likely to be particularly archaeological risks associated with its development. In the circumstances it is not necessary to require an archaeological field evaluation report. Recommends the imposition of standard condition E03 (site observation).
- 4.7 Traffic Manager: The Traffic Manager has recommended a scheme to require the provision of a passing place along the proposed private drive, which could be achieved by extending the width of the driveway northwards in front of units 3 and 4 without causing any further impact on any of the protected trees. It is also recommended that on-plot parking areas are enlarged to ensure that 3 spaces are provided per dwelling and that a scheme requiring visibility over plot frontages be submitted. This should be designed to enable individual accesses to plots to double as informal passing places. It is considered that these measures will combine to address some of the concerns expressed by objectors in relation to the provision of on-site parking and the associated threat of indiscriminate parking on the bridleway.
- 4.8 Public Rights of Way Manager: No objection. The applicant should ensure that contractors are aware of the line of the public right of way and that the right of way must remain at its

---

Further information on the subject of this report is available from Mr E Thomas on 01432 260479

historic width and suffer no encroachment or obstruction during the works or at any time thereafter. The applicants should also ensure that future occupants will have legal authority to drive motor vehicles over the bridleway.

- 4.9 Building Control Manager: Either a single treatment plant or individual septic tanks would be an acceptable means of handling foul drainage providing adequate percolation testing can be demonstrated.
- 4.10 Countryside and Leisure Development Manager: No objection.
- 4.11 Planning Obligations Manager: The S.106 should be worded to require payment prior to first occupation of any of the dwellings hereby approved.

## **5. Representations**

- 5.1 Sellack Parish Council: There is concern that the proposal is for 4-bed rather than 3-bed dwellings. This is pertinent to the number of vehicles potentially accessing the site. Units 5 & 6 both touch the boundary of the root protection areas. Will building works impinge on these trees? The alternative site offered by the adjoining landowner has not been fully explored. Will future occupants enjoy a lawful right of access over the bridleway? Concern is also expressed at the position of the vehicular access, which although preferable to the former position further to the east, is still considered unsafe in relation to East Lodge.
- 5.2 Open Spaces Society: Does the developer have the legal authority required to allow prospective occupants to drive over the bridleway?
- 5.3 Ross-on-Wye and District Civic Society: Objection. The proposal will have a visually damaging effect upon a sensitive landscape. The commercial use of the Court is not within the spirit of the original S.106.
- 5.4 Wye Valley Area of Outstanding Natural Beauty Unit: Objects to the development on the grounds that it will be detrimental to the character and landscape of the AONB. It is in an area of open countryside within a nationally important landscape and close to a building and estate of significant historic and landscape importance. The office disagrees with the implication that the restoration of a Grade II\* listed building is of greater national importance than the AONB. Notwithstanding the presence of the extant permission, the design and layout of the proposed houses is not appropriate to this location. If housing is to take place here it should either seek to match the scale and form of traditional estate houses or should be of a design that becomes a distinct feature in itself.
- 5.5 Hereford and Worcester Gardens Trust: The landscape and heritage issues raised in the response to the withdrawn application have not been addressed. The requirements of the S.106 agreement linked to the 1995 planning permission have not been fulfilled properly and this application should be withdrawn as a consequence. 4-bed dwellings are proposed and the houses are thus more bulky and visually intrusive than the 1995 proposal. The proposal will be detrimental to the historic bridleway and is clearly contrary to a number of key policies within the Unitary Development Plan.
- 5.6 Campaign to Protect Rural England: The proposal will have an adverse effect on the historic landscape in this sensitive area, located within the Wye Valley Area of Outstanding Natural Beauty. This application appears to be quite separate from the enabling permission granted in 1995 and should therefore, in our opinion, be treated as another application. The provisions of the Unitary Development Plan should be applied, particularly as this application has been made since this plan came into force.
- 5.7 Wye Valley Society: The proposal will adversely affect the visual beauty of the Wye Valley Area of Outstanding Natural Beauty and the sensitive and historic area around the Grade II\*

---

Further information on the subject of this report is available from Mr E Thomas on 01432 260479

listed Caradoc Court. Concern is also expressed in relation to the impact of the proposal upon the ancient bridleway and the trees on its borders.

5.8 A letter has been submitted alongside a 57 signature petition. The letter summarises the concerns of the signatories as follows:

- The proposal promotes 4-bed not 3-bed dwellings and thus represents an unacceptable intensification of use of the bridleway in an unsustainable location;
- The private drive is too close to the protected bridleway trees and will cause damage. There are insufficient turning areas and none of the houses have garages;
- The foul treatment plant is likely to be inappropriate in this location and result in foul water run-off down the bridleway;
- The access drive needs to be 4.5m wide and incorporate a 2m service corridor to one side. This will prevent the build up of vehicles using the bridleway.

5.9 Letters and emails of objection have been received from 24 further individuals, some of whom have written on more than one occasion to comment upon amended plans and issues arising. One of the letters refers to an online petition containing 317 'signatures', although this has not been submitted to the local planning authority. The content is summarised as follows:

- The proposal will be detrimental to the visual amenity of the AONB;
- The proposal will adversely affect the landscape character of the area, which forms part of the unregistered historic park and garden associated with Caradoc Court;
- The development will be visually intrusive and of inappropriate design in this rural context. The houses will be prominent when viewed from Kings Caple. Existing screening is insufficient and likely to come under further pressure for removal once the dwellings are occupied;
- The proposal will result in conflict between vehicles, walkers and horse riders on what is presently a tranquil and historic route linking Caradoc Court to the Church;
- Intensified traffic and the development itself will have a considerable negative effect upon the perception of the area, negatively affecting tourism revenue;
- The potential of relocating the development to an alternative site offered by the neighbouring landowner has been too easily discounted;
- The S.106 agreement governing restoration of the Court and the enabling site are indivisible. Given that the Court has not been restored in strict accordance with the terms of the S.106, how can the associated requirements be said to have been discharged? Until the Court is restored in accordance with the agreed schedule of works, this application should not be considered;
- The proposal is for 4-bed properties which will have a higher re-sale value than the 1995 scheme. Enabling schemes should not profit the developer, but should be the minimum necessary to bring about the conservation objective;
- It is clear that the intention in restoring the Court was to enable it to be used as a commercial venue, which is contrary to the original statement that it would be restored as a single residence. Were commercial use envisaged it is unlikely that the enabling development would have been approved;
- The laying of services will ruin the surface of the bridleway. Who will be responsible for maintenance? It is understood that the Council will only undertake to maintain bridleways to a standard fit for pedestrians;
- The current scheme is sufficiently different from the 1995 permission to necessitate a decision based on its own merits and an application of current planning policies. Too much weight is being attached to the fallback position;
- The site is part of the former pleasure grounds associated with the Court, the Wye Valley being the birthplace of English scenic tourism. Unattractive houses will ruin this sensitive site and damage the relationship between the Court and its setting;
- The wider community interests should take precedence over an individual's business interests;

---

Further information on the subject of this report is available from Mr E Thomas on 01432 260479

- This is a unique and timeless landscape, which will become ruined. Without the landscape the Court is devalued;
- The vehicular access onto the Hoarwithy Road is inappropriate for the volume of traffic that it will have to accommodate, particularly given the recent planning approval to hold weddings and functions at Caradoc Court.

5.10 The applicant has submitted a revised Tree Constraints Report and Arboricultural Impact Assessment (Jerry Ross Arboricultural Consultancy) which outlines what are perceived by the applicant as the improvements that the current scheme offers in relation to the impact upon the trees. These are summarised as follows:

- The 1995 scheme approved a layout that involved significant encroachment into the Root Protection Areas (RPAs) of a number of trees, notably 6, 7 and 12;
- The entrance point is moved westwards, thereby avoiding conflict with at least two trees in TPO group 1, which would be removed were the extant scheme implemented;
- To offset damage caused by the unauthorised excavations it is proposed to backfill with good quality topsoil those areas to the south of the drive so that it can be re-colonised by roots from nearby trees;
- The proposal obviates the requirement for parking and turning areas that would disturb the RPAs of protected trees to the north of the site. As a consequence, however, a turning head is required that will affect the RPA of tree 6. The southern section of the turning head will make use of cellular confinement load support systems as advocated by BS5837;
- The current proposal allows for unit 6 to be set significantly further to the north so that no direct conflict arises between its footprint and the RPA of trees 6 and 7;
- The degree of encroachment into the RPA of tree 12 is significantly reduced. Some encroachment still occurs with respect to unit 2 and tree 12, but this is partly off-set by the removal of the parking areas shown on the 1995 layout.

5.11 The applicant has also provided a financial appraisal that demonstrates that the current proposal is no more profitable than the extant scheme. This is based on build costs per square foot and resale value for the two schemes being equivalent.

5.12 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 This application derives from the approved enabling scheme to finance the restoration of Caradoc Court, a Grade II\* listed manor house gutted by fire in 1986. The enabling scheme remains valid and is capable of implementation at any point henceforth. It is thus a significant material consideration to be weighed against adopted planning policies that normally preclude residential development in the open countryside.

6.2 Policy requires that residential development in the open countryside is normally only permitted where it accords with the exceptions defined within Policy H7 (Housing in the countryside outside settlements). However, in this instance the original enabling development was granted in connection with the restoration of a Grade II\* listed building which warranted a departure from planning policies and it was determined at the time that the erection of 6 dwellings would be the most appropriate way of securing restoration of the listed building - notwithstanding the fact that the site is prominent within a nationally important landscape. As described in section 5 there are a number of other perceived adverse consequences that have been identified by respondents and it is accepted that by definition the proposal will adversely affect the intrinsic natural beauty of the AONB in a manner contrary to Policy LA1 of the Unitary Development Plan. Likewise the proposal will adversely affect the historic structure, character and appearance of the unregistered historic park and garden, contrary to Policy

LA4. This notwithstanding the key issues in the determination of this application revolve around a comparison of the extant and current scheme in relation to the following issues:

- An assessment of the respective impacts upon the protected trees surrounding the site;
- An assessment of the respective access and parking arrangements;
- An assessment of the respective profitability of the extant and current scheme, on the understanding that enabling development should be the minimum necessary to secure the future of the listed building;
- An assessment of the two schemes in respect of the design and layout of the dwellings in relation to the landscape.

#### Comparative impact in relation to trees

- 6.3 Subsequent to the approval of the 1995 scheme the Council in 2009 made a Tree Preservation Orders in relation to the trees surrounding the site. Whilst this does not prevent the implementation of the 1995 permission, it is a material consideration.
- 6.4 It is clear that both schemes impose themselves upon the Root Protection Areas (RPAs) of certain trees upon the site, a situation that would be unlikely to be sanctioned if designing a layout from first principles. However, it is considered, on balance, that the current proposal improves the situation in relation to the trees, most obviously by removing unit 6 from the RPA of trees 6 & 7, which are large mature oaks on the bridleway, and by also moving the point of access so as to enable the retention of at least two further trees within TPO group 1. In addition the current layout does not involve the provision of turning and parking areas to the north of the dwellings and less excavation is therefore required within the RPAs of protected trees lining the northern boundary.
- 6.5 There were unauthorised excavations within the RPAs of the bridleway trees in early 2009, but the opportunity remains for restoration of the ground conditions where this has taken place, and a scheme will be required via condition to ensure that this restitution is carried out.

#### Access and parking arrangements

- 6.6 Vehicular access to the site is via a combination of the private drive to Caradoc Court (taken from the Hoarwithy Road) and then the bridleway, an ancient route linking Caradoc Court to the Church. As objectors have commented, this is a quiet route with traffic currently limited to residential traffic associated with Caradoc Farm, Caradoc Court and East Lodge, farm vehicles, pedestrians, cyclists and horse riders. However, the owner of the application site is also understood to retain rights of vehicular access over the drive and bridleway and these rights can be conferred to prospective occupants.
- 6.7 The use of the bridleway as a means of accessing the development site is clearly less than satisfactory. It is narrow and without passing places for much of its length. The case officer considers that the potential for conflict between vehicles and other users is substantial. It is clear, in your officer's opinion, that introducing additional traffic to the bridleway will be detrimental to its character and utility. However, the extant planning permission is again the decisive factor, and the extant proposal utilises precisely the same means of access to the site, albeit the actual point of access into the site has been moved so as to enable the retention of trees.
- 6.8 Once within the site alignment of the drive has been amended so that for much of its length it corresponds with the extant permission. Parking areas are contained in areas immediately adjacent to the dwellings rather than in parking courts to the north. So long as the plots remain open planned, the level of parking is appropriate in accordance with Policy H16 of the Unitary Development Plan. Some objectors assert that this proposal is for 4-bed and not 3-bed plans as proposed under the extant scheme and the concomitant intensified use of the



bridleway that this might bring about as a consequence. However, it is clear that with the exception of one house type, all of those approved under the extant scheme are capable of modification to provide 4-bedrooms, with examples of “dressing rooms” being significantly larger than the third bedroom. Given that the scale of the respective schemes in terms of gross external floor area is now equivalent, the case officer considers the view that the current scheme will generate more traffic than the extant permission cannot be substantiated.

#### A comparison of the respective profitability of the extant and current schemes

- 6.9 Following from the above the Council has to be satisfied that the current proposal is not more profitable to the developer than the extant permission. This is on the basis that enabling development should never amount to more than the minimum necessary to meet the overriding objective – in this case the restoration of Caradoc Court. This principle derives from English Heritage guidance on enabling development, recognising the enabling development will only be permissible in exception circumstances and should not benefit developers above and beyond that necessary to fulfil the conservation objective. Whilst the objectors have queried whether the restoration of Caradoc Court at all costs is appropriate, this is not an issue for debate under this application, but was a decision undertaken in 1995 to which the Council is still bound.
- 6.10 Evidence has been sought to demonstrate that the current proposal is no more profitable than the extant scheme. Development appraisals have been provided for each scheme and conclude that the net profit from both schemes is comparable and in fact slightly less than for the extant scheme. On this basis the financial evidence available confirms that the current proposal is no more profitable than the extant scheme and satisfies the English Heritage requirement to demonstrate accordingly.
- 6.11 It is proposed to remove permitted development rights in order that future extensions and/or the erection of outbuildings cannot be undertaken constructed without planning permission, which would have implications for the development value.

#### Comparative design and layouts of the two schemes relative to the landscape

- 6.12 The current proposal is for 6 detached 2-storey dwellings. In this respect it is the same as the extant proposal. The basic layout is again similar, although as referred to above the precise location of individual units has been amended in the current proposal to take account of the now accurately plotted position of the protected trees. The current proposal promotes a more consistent design approach utilising a combination of stone and render and a generally uniform appearance. Whilst this uniformity may be read by some as uninspired, it is arguably more appropriate in this context than an approach that promotes variety for variety's sake.
- 6.13 It is the case officer's opinion that there is no marked difference between the two schemes in terms of the wider impact upon the landscape and particularly in views from Kings Caple. Unit 1 is one metre closer to East Lodge than in the extant scheme, but this is still considered to represent an acceptable relationship.

#### Other issues

- 6.14 The representations section above refers to a number of objections that have been received. It is beyond the scope of this report to address each directly and a number of the objections relating to the adverse landscape and visual impact are acknowledged and accepted as fact. Further issues such as bridleway maintenance are understood, although ultimately this is an issue for the interested parties. Again the fact that the extant permission is capable of implementation renders these issues beyond redress.
- 6.15 Concern has also been expressed at the proposed use of a foul drainage treatment plant as opposed to individual septic tanks. Circular 03/99 Non mains sewerage systems, advocates

---

Further information on the subject of this report is available from Mr E Thomas on 01432 260479

the use of package sewerage treatment plants in favour of septic tanks and as such the current proposal is consistent with Government advice. However, given concerns expressed relating to local geology and the implications relating to the appropriateness of a treatment plant it is proposed to impose a condition requiring further investigation of the alternative options to be examined in conjunction with the Building Control section and Environment Agency as appropriate.

- 6.16 A common theme of the objectors' correspondence has been that the Council has not enforced the terms of the original S.106 in relation to the restoration of the Court and that this application is invalid as a consequence. Objectors have criticised subsequent decisions of the Council that have allowed an element of commercial use of Caradoc Court, whereas the S.106 intended the Court to remain as a single residence. Although the substance of the objections is understood, it is maintained that the enabling development served the purpose of securing the restoration of the building to a point whereby it became capable of occupation as a single residence. An objective that has been satisfied. It is not inappropriate to consider alternative uses of Caradoc Court in accordance with currently adopted policy.

#### Summary and conclusions

- 6.17 This application has been highly controversial. The restoration of Caradoc Court is seen by many of the local objectors as scant justification for what is considered destruction of this part of the countryside, which is part of a nationally important landscape. Many have criticised the Council for its approach to accepting this application to vary the enabling development. However, it is the view of officers that provided the Council is satisfied that the proposal is superior to the extant and implementable planning permission from 1995 *and* it is demonstrated to not benefit the developer to any greater extent than the existing permission; the correct course of action is to make a choice between the two schemes based upon the available information.
- 6.18 Neither scheme would obtain planning permission if assessed against currently adopted planning policies. Both proposals conflict with a variety of Unitary Development Plan documents and national planning guidance. However, these conflicts are immaterial given the context provided by the extant permission.
- 6.19 On balance, your officers consider that the designs promoted by the current scheme are superior to the extant scheme and that there are benefits in relation to the protected trees surrounding the site. The means of access and use of the bridleway by motor vehicles has already been accepted and cannot be revisited.
- 6.20 The application is recommended for approval subject to the following conditions.

#### **RECOMMENDATION**

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

- 1 A01 Time limit for commencement (full permission)**
- 2 B03 Amended plans**
- 3 B07 Section 106 Agreement**
- 4 C01 Samples of external materials**
- 5 D04 Details of window sections, eaves, verges and barge boards**
- 6 D05 Details of external joinery finishes**

---

Further information on the subject of this report is available from Mr E Thomas on 01432 260479

- 7 **D10 Specification of guttering and downpipes**
- 8 **E03 Site observation - archaeology**
- 9 **F14 Removal of permitted development rights**
- 10 **I16 Restriction of hours during construction**
- 11 **H03 Visibility splays**
- 12 **H04 Visibility over frontage**
- 13 **H13 Access, turning area and parking**
- 14 **H27 Parking for site operatives**
- 15 **H29 Secure covered cycle parking provision**
- 16 **I18 Scheme of foul drainage disposal**
- 17 **G04 Protection of trees/hedgerows that are to be retained**
- 18 **G05 Pre-development tree work**
- 19 **G06 Remedial works to trees**
- 20 **G07 Protection of trees covered by a Tree Preservation Order**
- 21 **G09 Details of boundary treatments**
- 22 **G10 Landscaping scheme**
- 23 **G11 Landscaping scheme - implementation**
- 24 **Prior to commencement of the development, a full biodiversity protection and enhancement strategy should be submitted to and approved in writing by the local planning authority. This scheme should incorporate the recommendations as set out in the ecologist's report dated December 2008, with the work implemented as approved and maintained thereafter as such. An appropriately qualified ecological clerk of works should be appointed to oversee the ecological protection and enhancement work.**
- 25 **Within 3 months of the date of this planning permission. A management plan for Castlemeadow Wood Special Wildlife Site shall be submitted to the local planning authority for written approval. This shall be implemented as approved.**

**INFORMATIVES:**

- 1 **HN01 Mud on highway**
- 2 **HN04 Private apparatus within highway**
- 3 **HN05 Works within the highway**

**4        HN28 Highways Design Guide and Specification**

**5        N11C General**

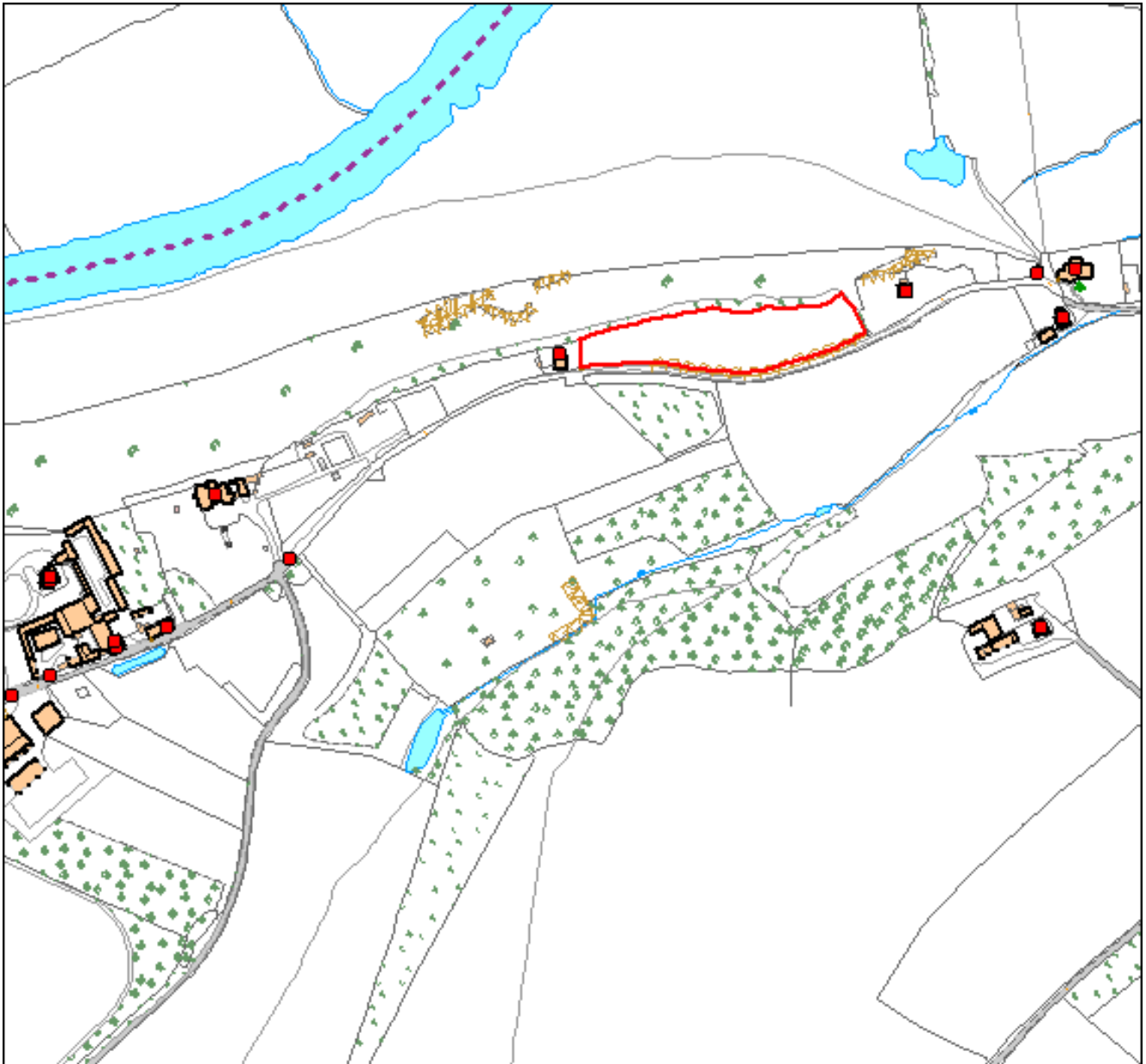
Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.



This copy has been produced specifically for Planning purposes. No further copies may be made.

**APPLICATION NO:** DMSE/093151/F

**SITE ADDRESS :** CARADOC, SELLACK, ROSS-ON-WYE, HEREFORDSHIRE, HR9 6LS

Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005

Further information on the subject of this report is available from Mr E Thomas on 01432 260479

**DRAFT HEADS OF TERMS**  
Proposed Planning Obligation  
Section 106 Town and Country Planning Act 1990

**Planning Application DMSE/093151/F**

Erection of six detached houses (amendment to planning permission SH94/0997/PF) on land adjacent to East Lodge, Caradoc, Sellack, Herefordshire HR9 6LS

1. The developer covenants with Herefordshire Council to pay £1,075 towards the cost of new or enhancement of existing open space, play, sport and recreation facilities in lieu of such facilities being provided on site, to be used in the locality of the development or other location as may be agreed in writing with Herefordshire Council.
2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £10,010 to provide enhanced educational infrastructure allocated as follows: £645 early years element; £6,060 primary element; £3,140 youth element and £165 special educational needs element.
3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £4,915 for off site highway works and improved public and sustainable transport infrastructure to serve the development (other than Section 278 works essential to facilitate the development). The monies shall be used by Herefordshire Council at its option for any or all of the following purposes:
  - Improved bus shelters/stops in the locality of the application site;
  - Safe routes for schools;
  - Improved lighting and signage to existing highway/pedestrian and cycle routes;
  - Improved pedestrian and cyclist crossing facilities;
  - Traffic calming measures.
4. The developer covenants with Herefordshire Council to pay a surcharge of 2% of the total sum detailed in this Heads of Terms, as a contribution towards the cost of monitoring and enforcing the Section 106 Agreement. The sum shall be paid on or before the commencement of the development.
5. In the event that Herefordshire Council does not for any reason use the said contributions for the purposes specified in the agreement within 10 years of the date of each payment, the Council shall repay to the developer the said sum of such part thereof which has not been used by Herefordshire Council.
6. All of the financial contributions shall be Index linked and paid prior to the first occupation of any of the completed dwellings within the development.
7. The developer shall pay to the Council, on or before completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.

Edward Thomas  
30 March 2010