

MEETING:	PLANNING COMMITTEE
DATE:	6 APRIL 2011
TITLE OF REPORT:	<p>DMS/102972/F - REMOVAL OF CONDITIONS 13 AND 16 OF PLANNING PERMISSION S/102971/F. REFURBISHMENT AND CONVERSION OF EXISTING DERELICT BARN TO RESTAURANT AND CREATE NEW CAR PARKING FACILITIES AND ASSOCIATED JUNCTION IMPROVEMENT WORKS - TO REMOVE CONDITIONS LINKING THE ANCILLARY USE OF THE RESTAURANT TO THE HOTEL AT CASTLE LODGE HOTEL, GREEN COURT, WILTON, ROSS ON WYE, HR9 6AD</p> <p>For: Mr Felices per Mr B Eacock, 1 Fine Street, Peterchurch, Herefordshire, HR2 0SN</p>

Date Received: 15 November 2010 **Ward: Llangarron**

Grid Ref: 358876,224387

Expiry Date: 19 January 2011

Local Member: Councillor JA Hyde

1. Site Description and Proposal

- 1.1 The application site comprises a substantial stone barn and adjoining land, situated in the angle between, the A40 trunk road, the B4260 leading to Ross-on-Wye and the unclassified village road (Benhall Lane) leading to Wilton Castle. The site is a short distance away from the Castle Lodge Hotel, which was until recently in the same ownership. The site is within the Wilton Conservation Area and the Wye Valley Area of Outstanding Beauty (AONB).
- 1.2 Planning permission was granted for the conversion of the aforementioned barn to a restaurant and formation of associated car-parking on 17 March 2006 (SE2005/2343/F). This planning permission was the subject of a number of planning conditions. The planning permission was due to expire on 17 March 2011, but was recently extended on 10 January 2011 (S/102971/F). This planning permission was subject to the same conditions, as attached to the original planning permission.
- 1.3 This application is made under the provisions of Section 73 of the Town and Country Planning Act 1990 (as amended) and proposes the removal of conditions 13 and 16 attached to the extant planning permission. A similar application was refused by the Southern Area Planning Sub-Committee on 25 November 2009 (DCSE0009/1859/F). The reasons for refusal were as follows:

The local planning authority considers that conditions 13 and 16 of planning permission DCSE2005/2343/F (17 March 2006) continue to serve a useful planning purpose. The removal

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of these conditions would allow the operation of two separate businesses, with a concomitant increase in traffic upon the adjoining lane and an increased risk of indiscriminate parking upon it. Given the proximity of the site to the strategic road network and the inadequacy of the junction onto the B4260, the local planning authority considers the conditions essential in maintaining both highway safety and the residential amenity of local residents. The application is thus contrary to Policies DR2, DR3 and T11 of the Herefordshire Unitary Development Plan 2007.

1.4 The conditions are as follows:

Condition 13

The restaurant hereby approved shall only be used for purposes ancillary to the hotel known as Castle Lodge Hotel and within Class C1 of the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that order with or without amendment) and shall not be used as a separate restaurant for any other purpose within Class A3 of that order.

Reason: In the interests of highway safety, to ensure the free flow of traffic using the adjoining highway and protect the amenity of residents in the vicinity of the site and to conform to Policies T11 and DR2 of Herefordshire Unitary Development Plan.

Condition 16

The restaurant and car-park hereby approved and the Castle Lodge Hotel shall not be sold, let or leased separately from each other, and the car-parking shall be permanently available for use by both the restaurant and Castle Lodge Hotel.

Reason : To ensure that car-parking facilities are available for both premises and protect the amenity of residents in the vicinity of the site and to comply with Policy DR2 of Herefordshire Unitary Development Plan.

1.5 The application is supported by a draft legal agreement providing for a contribution towards the making of a Traffic Regulation Order (TRO) to provide for parking restriction on the unclassified lane, that serves the site. The application also makes provision for the dedication of 11 parking spaces within the curtilage of the barn restaurant which would be for the sole use of patrons of the Castle Lodge Hotel.

2. Policies

2.1 National Planning Policy

Planning Policy Statement 1 - Delivering Sustainable Development
Planning Policy Statement 5 - Planning for the Historic Environment
Planning Policy Statement 7 - Sustainable Development in Rural Areas
Planning Policy Guidance 13 - Transport

2.2 Herefordshire Unitary Development Plan

S1 - Sustainable Development
S2 - Development Requirements
S7 - Natural and Historic Heritage
DR1 - Design
DR2 - Land Use and Activity

DR3	-	Movement
T11	-	Parking Provision
LA1	-	Areas of Outstanding Natural Beauty
HBA6	-	New Development within Conservation Areas
NC1	-	Biodiversity and Development
HBA12	-	Re-use of Rural Buildings
E11	-	Employment in the Smaller Settlements and Open Countryside

2.3 Government Circular 11/95: The Use of Conditions in Planning Permissions

3. Planning History

3.1	SH910820PF	Conversion of barn to a dwelling	-	Approved 07.01.92
	SH951204PF	Change of use of land and barn (with extension) to vehicle hire centre with offices with valleting room	-	Refused 05.02.96
	SH960935PF	Change of use of land and barn (with extension) to vehicle hire centre with offices with valleting room.	-	Refused 05.02.96
	SH961463PF	Conversion of existing barn to dwelling	-	Approved 02.06.97
	SE2002/1765/F	Change of use to redundant barn into conference centre and construction of new car park	-	Approved 25.09.02
	SE2003/2164/F	Relocation of restaurant to barn and construction of new car park and alterations to existing car park	-	Approved 15.10.03
	SE2004/3888/F	Refurbishment and conversion of existing derelict barn to restaurant and creation of new car parking facilities serving existing hotel and new restaurant, together with associated junction improvement works	-	Withdrawn 28.02.05
	SE2005/2343/F	Refurbishment and conversion of existing derelict barn to restaurant and creation of new car parking facilities serving existing hotel and new restaurant, together with associated junction improvement works	-	Approved 17.03.06
	SE0009/1859/F	Refurbishment and conversion of existing derelict barn to restaurant, together with associated junction improvement works (removal of conditions 13 and 16 on planning Permission DCSE2005/2343/F)	-	Refused 25.11.09
	SE/100914/F	Refurbishment and conversion of existing derelict barn to restaurant, together with associated junction improvements	-	Withdrawn 10.06.10

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(removal of conditions 13 and 16 on application DCSE2005/2343/F)

SE/101074/F	Proposed extension of time limit on application DCSE2005/2343/F – to restaurant and creation of new car parking facilities servicing existing hotel and new restaurant together with associated junction improvements	- Withdrawn 16.07.10
SE/102971	Replacement of extant planning permission SE2005/2343/F for refurbishment and conversion of existing derelict barn to restaurant and creation of new car parking facilities serving existing hotel and new restaurant, together with associated junction improvement works	- Approved 10.01.11

4. Consultation Summary

Statutory Consultations

- 4.1 Highways Agency: No objection: The Highways Agency initially required further clarification relating to parking levels. The Highways Agency states, following receipt of further details, that the reduction in parking spaces will not affect the safety and free flow of traffic on the A40 at this location.

Internal Council Advice

- 4.2 Traffic Manager Objects: Will affect undersupply of parking at hotel. This figure takes into account restaurant, bar lounge area and 11 bedrooms. Even with discounting still need 32 spaces. There will be additional parking on the lane, and then onto B4260 road and A40 Parking for hotel needs to be addressed.
- 4.3 Conservation Manager has no objections.

5. Representations

- 5.1 Bridstow Parish Council objects. The Parish Council state that they believe condition 16 has already been broken. Clarification is sought.
- 5.2 Eight letters of objection have been received from residents in the locality. The following main issues are raised:
- Removal of two conditions would result in two separate businesses operating, with an associated increase in the volume of traffic using the junction of the lane and B4260 road, which is in close proximity to A40/A49 Wilton roundabout and to junction with BP service centre.
 - No improvements since last refusal and roundabout altered recently.
 - Conditions imposed to safeguard amenity and safety of local residents. No justification for removing the conditions.
 - Wilton Castle needs parking facilities for open days and functions.
 - Double yellow lines proposed will not prevent parking problems Already HGV's already park at entrance, which is lined, of lane.
 - Could be used for fast food.
 - Important local building in AONB and Conservation Area has been allowed to deteriorate.

5.3 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 The application proposes the removal of two conditions attached to planning permission S/102971/F. The effect would be to allow for the operation of the hotel and restaurant as two separate businesses. It should be borne in mind that this application does not affect any of the other conditions attached to the extant permission. As such, it would still be a requirement that no more than 60 seats be laid out for dining within the barn restaurant and that there should be no takeaway service. As such, measures would continue to exist that control the end use of the building. Likewise the developer would still have to comply with condition 26 of the extant planning permission, which requires works of mitigation to the lane and the junction with the B4269, including carriageway widening and the provision of a footpath along the site frontage. In addition, this application proposes to contribute towards the making of a TRO to provide for parking restrictions along the lane.

6.2 As such the key issues in the determination of this application are as follows:

- The impact of the removal of the conditions upon the safety and free flow of traffic upon the strategic and local highway network.
- An assessment of the parking arrangements for the existing hotel and the proposed restaurant.
- An assessment of the impact of the removal of the conditions upon the living conditions of nearby residents.

6.3 The Highways Agency has confirmed that the removal of conditions 13 and 16 would not result in any intensification of use of the Wilton Roundabout and the junction of the B4260 than previously tested and agreed. The original Highways Agency assessment of the 2005 application was made on the basis that the barn restaurant and hotel would operate as independent businesses as it was on that basis that the application was originally made. The control imposed by conditions 13 and 16 was not put in place at the recommendation of the Highways Agency and the prospect of removing the conditions has, in the Agency's view, no material impact over and above what has already been tested and approved. It should also be noted that the Highways Agency response is made in the light of current levels of traffic on the A40 and A49 and following the re-design on the Wilton Roundabout.

6.4 The above notwithstanding, the Highways Agency comment also alludes to the necessity to ensure that sufficient parking provision is put in place for each of the resultant businesses. The original scheme made provision across the two sites for a total of 64 spaces, with 55 provided upon the barn site and 9 at the hotel. Condition 16 requires that the car parking shall be permanently available for use by both the restaurant and the Castle Lodge Hotel. This arrangement was workable whilst a condition was in place restricting the separate disposal of the barn restaurant and hotel. Now that it is proposed to remove this condition, it is essential that each business has adequate on-site provision to prevent indiscriminate parking on the land and the concomitant effect that congestion would have upon the junction of the lane and the flow of traffic on the B4260 and the Wilton Roundabout.

6.5 The barn site has 54 allocated spaces, which is in line with adopted Highways Design Guidance. The hotel provides for a theoretical minimum of 9 spaces, albeit 13 vehicles have been observed parking on the forecourt of the hotel at the weekend. Accordingly, this represents a conservative total of 63 spaces across the two sites. In order to address concerns about the under provision of parking space at the hotel, 11 spaces are proposed to be provided on the barn site for the sole use of patrons of the Castle Lodge Hotel. This provision can be secured by planning condition. This allocated car parking is supported on the basis that it secures sufficient parking provision for the hotel. On balance it is not considered

that the reduction in spaces for the new restaurant will have a detrimental impact on highway safety. Again, it is reiterated that the existing permission does not allow for any takeaway from the site and also imposes an upper limit on the number of seats for dining.

- 6.6 The Council's Traffic Manager has expressed concern with regard to the proposed level of parking at the hotel. This concern is based upon the fact that the provision at the hotel would fall below design guide standards and so increase the propensity for on-street parking on Benhall Lane. However, in determining the appropriate level of parking for the hotel it is pertinent to consider the existing parking arrangements and those approved under the extant planning permission. As discussed above, the proposal would secure 11 additional spaces in perpetuity for the hotel together with the existing minimum provision on the hotel site of 9 spaces, which is considered to be sufficient and in line with the extant planning permission. Furthermore, a minimum of 20 spaces for an 11 bedroom hotel would seem a reasonable provision in an edge of town location, notwithstanding the fact that the hotel restaurant is open to the public. On balance, and mindful of the Highways Agency advice, your officers consider the parking provision across the two sites to be acceptable.
- 6.7 As referred to above, this application has no implications for the remaining conditions attached to the extant permission. Accordingly, the developer will have to fulfill the requirements of the outstanding conditions which include local highway improvements, restricted opening hours, no takeaway service and a limitation on the number of seats available for dining. Likewise, any external lighting must be agreed prior to the first use of the restaurant as would lighting for the car park. As such, it is considered that measures remain in place to ensure that the residential amenity of nearby properties would be preserved against the existing scenario.
- 6.8 Reference has been made to a possible breach of planning condition 16 . This has been raised by the Parish Council. However, as a matter of fact there cannot be a breach of the extant planning permission since it has not yet been implemented.

Summary and conclusions

- 6.9 The concern expressed by local residents focuses principally upon the implications for highway safety. Whereas the barn restaurant is currently tied to the hotel, the application, if approved, would effectively create a separate business utilising a junction opposite the service station entrance and in close proximity to the Wilton Roundabout. However, the Highways Agency has no objection to the removal of conditions 13 and 16 on the grounds that their assessment of the 2005 application was always based upon the barn restaurant operating separately from the hotel. As such, this application has no consequence for their original assessment. Although mindful of the local concern, the Highways Agency response is based upon technical and empirical evidence. In the face of this advice a refusal reason would, in your officer's assessment, be difficult to sustain. Accordingly, subject to the completion of a Section 106 Agreement to secure the contribution to making the Traffic Regulation Order and the conditions set out below, the application to remove Conditions 13 and 16 is recommended for approval.

RECOMMENDATION

- 1. The Head of Legal and Democratic Services be authorised to complete a planning obligation under Section 106 of the Town and Country Planning Act 1990 in regard to the making a contribution towards the making of a Traffic Regulation Order and the subsequent provision of parking restrictions on the unclassified lane.**
- 2. Upon completion of the above mentioned Officers named in the Scheme of Delegation be authorised to issue planning permission subject to the following conditions:-**

1. C09

2. Prior to the first use of the restaurant approved under reference S/102971/F details for the dedication and demarcation of 11 parking spaces for the sole use by patrons of Castle Lodge Hotel in accordance with a scheme to be submitted to and approved in writing by the local planning authority These spaces shall thereafter be retained and kept available for use by patrons of Castle Lodge Hotel at all times.

Reason: To minimise the likelihood of indiscriminate parking in the interests of highway safety and to conform with the requirements of Policy T11 of Herefordshire Unitary Development Plan.

Informative:

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

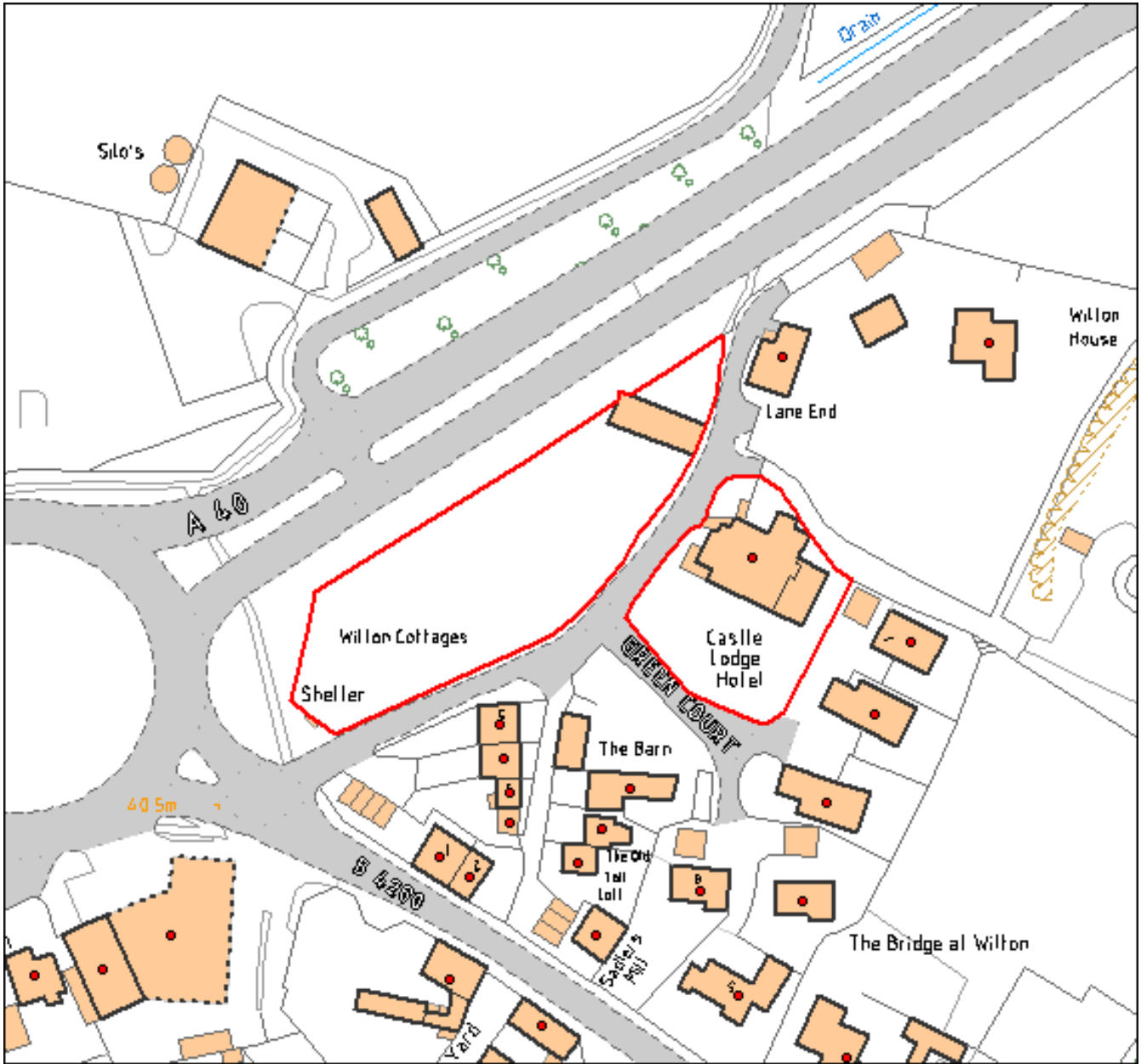
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DMS/102972/F

SITE ADDRESS : CASTLE LODGE HOTEL, GREEN COURT, WILTON, ROSS ON WYE, HR9 6AD

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