

1 DCCE2004/0190/F - THREE STOREY DEVELOPMENT OF 16 NO. 2 BED FLATS AND 1 NO. 1 BED FLAT AT 36 FOLLY LANE, HEREFORD, HR1 1LX**For: Richard Harper Estates per Planning Solutions, 96 Rock Hill, Bromsgrove, Worcester, B61 7HX****Date Received: 19th January 2004****Ward: Tupsley****Grid Ref: 52385, 40404****Expiry Date: 15th March 2004**

Local Members: Councillors G.V. Hyde, Mrs. M.D. Lloyd-Hayes, W J Walling

This application was deferred at the last meeting of the Central Area Planning Sub-Committee for a site visit which took place on 22 March, 2004. As a consequence of the Sub-Committee's request, the layout has been amended with the bin store now positioned further away from the site boundary with No. 32 Folly Lane.

1. Site Description and Proposal

- 1.1 The 0.19 ha application site lies on the north east side of Folly Lane within an Established Residential Area. It presently supports a large detached three storey period house divided into six flats, although presently vacant. The house is positioned to one side of the site with derelict outbuildings to the rear and a lawned area and driveway to the side. The lawned area supports a cedar tree which is subject to a Tree Preservation Order. The boundary with Folly Lane is defined by a retaining wall and initial steep bank, the house standing at a higher level than Folly Lane.
- 1.2 To the north west of the site and attached to the existing house is a contemporary parade of shops, some with flats over. To the rear, south east side and opposite the site, are residential properties.
- 1.3 The proposal is to demolish the existing buildings on the site and erect a three storey block of 17 flats (16 x 2 bedroom and 1 x 1 bedroom). The new building would be partly on the footprint of the existing house although with an additional wing projecting to the rear, approximately 1 metre from the rear boundary of the site. The existing access and driveway would be widened, this requiring partial removal of the bank, and 18 parking spaces laid out at the rear. A detached bin store would be provided on the side lawn. The cedar tree would be retained.

2. Policies**2.1 Hereford Local Plan:**

ENV14	-	Design
H3	-	Design of new residential development
H12	-	Established Residential Areas – character and amenity
H13	-	Established Residential Areas – loss of features
H14	-	Established Residential Areas – site factors
CON21	-	Protection of Trees

2.2 Herefordshire UDP (Deposit Draft):

S1	-	Sustainable development
S2	-	Development requirements
S3	-	Housing
DR1	-	Design
H1	-	Hereford and the market towns
H13	-	Sustainable residential design
H14	-	Re-using previously developed land and buildings
H15	-	Density
H16	-	Car parking

3. Planning History

- 3.1 CE2001/2621/F - New driveway off Folly Lane - refused 28 November 2001.
- 3.2 CE2003/0110/F - Conversion and extension of house into 10 self-contained flats and a new development to provide 6 self-contained flats including associated landscaping and parking - withdrawn 4 March 2003.

4. Consultation Summary

Statutory Consultations

- 4.1 Environment Agency: No objection
- 4.2 Dwr Cymru Welsh Water: No objection subject to conditions.

Internal Council Advice

- 4.3 Head of Engineering and Transportation: Recommends conditions.
- 4.4 Head of Conservation: No objection subject to tree protection during construction stage.

5. Representations

- 5.1 Hereford City Council : No objection.
- 5.2 Three objection letters have been received from 10 Whittern Way and 24 and 32 Folly Lane, summarised as follows:
- existing boundary wall with Whittern Way properties should be retained;
 - further bat survey should be carried out in late spring/early summer;
 - loss of trees / bird habitats;
 - overcrowded development;
 - loss of light / overshadowing;
 - detrimental to preserved cedar;
 - noise and disturbance from vehicles;
 - additional traffic would cause danger and inconvenience to other users of the highway;
 - adequacy of sewer needs to be confirmed;
 - adequacy of surface water drainage arrangements needs to be confirmed;

- overlooking;
- nuisance from misuse of bin store;
- inadequate parking for visitors;
- form of development and number of storeys out of keeping with surroundings;

The full text of these letters can be inspected at Central Planning Services, Blueschool House, Blueschool Street, Hereford and prior to the Sub-Committee meeting.

6. Officers Appraisal

- 6.1 The main issues in this case are the principle of this form of residential development and, if this is accepted, the impact of the specific scheme on the character of the area, residential amenity, the protected tree, wildlife and highway safety.
- 6.2 Regarding the principle, the site lies within an Established Residential Area where residential development is appropriate in accordance with Local Plan policy. The site is presently occupied by flats, albeit in a converted house, and further flats are located over the shops to the side. Redevelopment of the site to provide flats is, therefore, considered appropriate in this particular location and would not be out of keeping with existing development.
- 6.3 Regarding amenity, Policy H12 of the Local Plan requires the environmental character and amenity of the established residential areas to be protected and, where appropriate, enhanced. Policies H13 and H14 set out specific criteria requiring, in particular, appropriate relationships between proposed and existing developments, adequate means of access and servicing and an appropriate impact on the overall character of the area.
- 6.4 Having regard to the policy requirements, the proposal is considered to be acceptable within its particular context. The number of proposed flats represents a significant increase over that existing. However, the specific proposal demonstrates that this number can be accommodated, making the best use of the land without detriment to the character of the area or amenity. Specifically, the proposed building is positioned on the site with adequate margins to the boundaries to ensure no adverse overlooking of adjoining properties (approx. 22 metre gap with No. 32 Folly Lane and 16 metre gap with the parade of shops). A 13 metre back to flank distance would be achieved with the properties in Whittern Way with the new building reducing to two storeys at its closest point to the boundary to avoid an overbearing relationship. The overall height would be slightly greater than the existing building although this would be neither overbearing nor discordant within the street scene.
- 6.5 The principal front portion of the building would be positioned largely on the footprint of the existing house, thus avoiding any adverse encroachment under the canopy of the protected tree.
- 6.6 Adequate parking is provided in accordance with sustainable 'city-living' principles amounting to one space per unit and one visitor space. Margins to the side of the parking area and driveway would ensure no adverse impact on the amenities of No. 32 Folly Lane. Likewise, the existing boundary wall with adjoining properties in Whittern Way would be retained to safeguard the privacy of these properties. The access drive itself would be widened and generally improved to ensure safety is maximised.
- 6.7 Regarding wildlife, the application is supported by a protected species survey which concludes that no protected species would be adversely affected.

- 6.8 Planning conditions are recommended to ensure that the boundary wall with Whittern Way is retained and that the preserved tree is protected during site works. Conditions are also recommended to reserve the location and details of the bin store and to require a further bat survey to address third party concerns. With these additional safeguards, approval is recommended.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1 The development hereby permitted shall be begun before the expiration of five years from the date of this permission.**

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

- 2 The development shall be carried out in all respects strictly in accordance with the approved plans (drawing Nos. 0410-05A, 0410-01, 0410-02, 0410-03), except where otherwise stipulated by conditions attached to this permission.**

Reason: To ensure adherence to the approved plans in the interests of a satisfactory form of development.

- 3 No development shall take place until details or samples of materials to be used externally on walls and roofs have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.**

Reason: To ensure that the materials harmonise with the surroundings.

- 4 During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times: Monday-Friday 7.00 am-6.00pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.**

Reason: To protect the amenity of local residents.

- 5 Foul water and surface water discharges must be drained separately from the site. No surface water and / or land drainage run off shall be allowed to connect, either directly or indirectly, to the public sewerage system.**

Reason: To protect the integrity of the public sewerage system.

- 6 Notwithstanding the approved drawings, prior to the commencement of development a scheme for the provision of storage, prior to disposal, of refuse and all other waste materials shall be submitted for the approval of the local planning authority. The approved scheme shall be implemented prior to the first occupation of the development hereby permitted.**

Reason: In the interests of amenity.

- 7 No materials or substances shall be incinerated within the application site during the construction phase.**

Reason: To safeguard residential amenity and prevent pollution.

- 8 Prior to the commencement of development, a detailed plan, showing the levels of the existing site, the proposed slab levels of the building approved and a datum point outside of the site, shall be submitted to and approved by the local planning authority. Development shall be carried out in accordance with the approved details.**

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

- 9 No development shall commence on site or machinery or materials brought onto the site for the purpose of development until a landscape design has been submitted to and approved by the local planning authority. The submitted design shall include drawings at a scale of 1:200 or 1:500 and a written specification clearly describing the species, sizes, densities and planting numbers. Drawings must include accurate details of all existing trees and hedgerows with their location, species, size, condition, any proposed tree surgery and an indication of which are to be retained and which are to be removed.**

Reason: To ensure a satisfactory and well planned development and to preserve and enhance the quality of the environment.

- 10 The landscaping scheme [approved under condition 9 above shall be carried out concurrently with the development hereby permitted and shall be completed no later than the first planting season following the completion of the development. The landscaping shall be maintained for a period of 5 years. During this time any trees, shrubs or other plants which are removed, die, or are seriously retarded shall be replaced during the next planting season with others of similar size and species unless the local planning authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5 year maintenance period.**

Reason: To ensure a satisfactory and well planned development and to preserve and enhance the quality of the environment.

- 11 The boundary wall between the site and properties in Whittern Way shall be permanently retained and repaired / made good where required.**

Reason: To accord with the terms of the application and safeguard residential amenity.

- 12 This permission does not authorise any works to trees included in the Tree Preservation Order. Any work shall be the subject of an application for consent to the local planning authority, in accordance with the provisions of the Tree Preservation Order and the law on Tree Preservation Orders in force at the time of the application.**

Reason: To ensure the proper care and maintenance of the trees.

- 13 In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b)**

below shall have effect until the expiration of 1 year from the date of the occupation of the building.

- (a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).
- (b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
- (c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the local planning authority.

Reason: In order to preserve the character and amenity of the area.

- 14 Details of any excavations or trenches beneath the canopy of any trees to be retained shall be submitted to and agreed in writing with the local planning authority. Where excavations are carried out beneath the canopy of any tree to be retained on land or on adjoining land, no roots of those trees of a diameter of 2.5 cm or more shall be severed, without the agreement of the local planning authority. In order to achieve this requirement all excavations shall be carried out by hand tools. The excavations shall be backfilled with sub-soil and a minimum depth of 600 mm good quality stone free loamy top soil of similar p.h. to the original. Any subsequent settlement shall be made good with similar top soil.

Reason: To prevent the unnecessary damage to or loss of trees.

- 15 Prior to demolition of the buildings on the site, hereby approved, a further survey for bats shall be carried out during late spring / early summer and the results submitted for approval, in writing, by the Council. No demolition works shall commence until such written approval is given.

Reason: To safeguard the wild life interests of the site.

- 16 The development hereby permitted shall not be brought into use until the access, turning area and parking facilities shown on the approved plan have been properly consolidated, surfaced, drained and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority and these areas shall thereafter be retained and kept available for those uses at all times.

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway.

Informatives:

- 1 This permission does not imply any rights of entry to any adjoining property nor does it imply that the development may extend into or project over or under any adjoining boundary.**
- 2 Notwithstanding that planning permission has been granted for residential development the applicant is strongly advised to contact the Council's Private Sector Housing Team on 01432-261913 or 01432-261914 to ensure that the development complies with the requirements of Fitness for Human Habitation under the Housing Act 1985.**
- 3 Your attention is drawn to Section 80 of the Building Act 1984 whereby no demolition may be carried out without proper notice to the local authority and a counter notice issued under Section 81.**
- 4 Your attention is drawn to the Party Wall Act 1996. The Act will apply where work is to be carried out on the following:**

**Work on an existing wall or structure shared with another property
Building a free standing wall or a wall of a building up to or astride the boundary with a neighbouring property
Excavating near a neighbouring building.**

The legal requirements of this Act lies with the building/site owner, they must find out whether the works subject of this planning permission falls within the terms of the Party Wall Act. There are no requirements or duty on the part of the local authority in such matters. Further information can be obtained from the DETR publication The Party Wall Act 1996 - explanatory booklet. Copies are available from the Planning Reception, Blueschool House, Blueschool Street, Hereford.

- 5 The decision to grant planning permission has been taken having regard to the policies and proposals in the Hereford Local Plan set out below, and to all relevant material considerations including Supplementary Planning Guidance:**

ENV14 - Design**H3 - Design of new residential development****H12 - Established residential areas - character and amenity****H13 - Established residential areas - loss of features****H14 - Established residential areas - site factors****CON21 - Protection of trees**

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).

- 6 The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site or any works pertaining thereto.**
- 7 This planning permission does not authorise the applicant to carry out works within the publicly maintained highway and Mr. A.G. Culley, Divisional Surveyor**

(South), Unit 3, Thorn Business Park, Rotherwas, Hereford Tel: 01432-261955, shall be given at least 28 days' notice of the applicant's intention to commence any works affecting the public highway so that the applicant can be provided with an approved specification for the works together with a list of approved contractors.

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.